

Draft Rule Change Report:
Managing Market Information (RC_2014_09)

Standard Rule Change Process

18 October 2019

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1. Rule Change Proposal, Process and Timeline

On 13 March 2015, the Independent Market Operator (**IMO**) submitted a Rule Change Proposal titled “Managing Market Information” (RC_2014_09).

The administration of the Market Rules involves the production and exchange of a large volume of information. The Rule Change Proposal seeks to replace the current framework for managing market information, with a new framework that was purported by the IMO to promote greater disclosure and transparency of market information relating to the Wholesale Electricity Market (**WEM**).

The Rule Change Proposal is being processed via the Standard Rule Change Process described in section 2.7 of the Market Rules. The timeframes for the first submission period and the preparation of the Draft Rule Change Report were extended by the IMO under clause 2.5.10; and the timeframe for the preparation of the Draft Rule Change Report was further extended by the Rule Change Panel under clauses 1.18.3(b) and 2.5.10. Further details of the extensions are available on the Rule Change Panel’s website.

The Rule Change Panel published a call for further submissions (**CFFS**) on 21 January 2019. The further submission period closed on 1 March 2019.

The key dates for progressing the Rule Change Proposal, as amended in the extension notices, are:



All documents related to the Rule Change Proposal can be found on the Rule Change Panel’s website at https://www.erawa.com.au/rule-change-panel/market-rule-changes/rule-change-rc_2014_09.

1.1 Key Terms

For the purposes of this Draft Rule Change Report, the following key terms are used:

- **market information** refers to information and documents that have been produced or exchanged in accordance with the Market Rules or Market Procedures.
- **other market information** refers to information and documents that relate to the WEM but have not been produced or exchanged in accordance with the Market Rules or Market Procedures. For example, a piece of information given by a Rule Participant to AEMO that it was not obliged or required to provide in accordance with the Market Rules or Market Procedures.
- **market-related information** is a reference to market information and other market information, collectively.

2. The Rule Change Panel's Draft Decision

The Rule Change Panel's draft decision is to reject the Rule Change Proposal.

2.1 Reason for the Rule Change Panel's Draft Decision

The Rule Change Panel has considered the issues raised in the Rule Change Proposal and has not seen any compelling evidence that demonstrates that the current framework is deficient. However, the Rule Change Panel considers the effectiveness of the current framework depends on how AEMO implements its obligations under clause 10.2.1 to assign a confidentiality status for each type of market information.¹

The Rule Change Panel has determined that there are serious issues with the proposed framework, and therefore considers that the proposed Amending Rules do not better achieve, and may be inconsistent with, the Wholesale Market Objectives.

The reasons for the Rule Change Panel's draft decision are that the Rule Change Panel considers that:

- The proposed amendments do not better achieve, and may be inconsistent with, Wholesale Market Objectives (a), (b) and (d).²
- The proposed framework will not increase the transparency of market information. Instead, it may have the contrary effect in that AEMO would have the discretion to decide what market-related information and documents are published, when they are published and, as applicable, how often published information is updated.³
- The proposed framework will not ensure that the number of confidentiality classes is simplified. This is because AEMO would have the ability to place conditions on the disclosure of confidential market-related information such that the number of persons, or combination of persons, to which confidential market-related information could be disclosed is actually increased. This would, in effect, create additional confidentiality classes that may not be transparent to stakeholders.
- The proposed framework lacks certainty regarding who would be entitled to use or receive confidential market information:
 - Proposed clause 10.2.11(c) would give AEMO the discretion to specify conditions that would:
 - enable confidential market information to be used by, or disclosed to, a person other than a person in the list of prescribed persons in proposed clause 10.2.3; or
 - preclude confidential market information being used by, or disclosed to, a person in the list of prescribed persons entitled to receive confidential market information in proposed clause 10.2.3.
 - Proposed clause 10.2.4 would prevent a person who received confidential market-related information (including a person in the list of prescribed persons

¹ See section 6.1.2.1.

² The Wholesale Market Objectives are contained in section 1.2 of the Market Rules and reproduced at section 6.3 of this report.

³ The exception is where specific Market Rules require market information or documents to be published on the Market Web Site.

entitled to receive confidential market-related information in proposed clause 10.2.3) from using the information it received, except to the extent the use:

- is authorised by each person to whom the confidential market-related information relates; or
- is permitted by AEMO under a condition pursuant to proposed clause 10.2.11.

This would create risks for Rule Participants that confidential market information may be inappropriately disclosed, or may not be available to those stakeholders that require confidential market information to perform their functions in the WEM, and increase the administrative burden for AEMO and other relevant stakeholders to manage market information.

- Extending the scope of the market information⁴ governed by the proposed framework would create risks for Rule Participants that market-related information may be inappropriately disclosed. It may also lead to inconsistencies between the treatment of other market information under the proposed framework and the confidentiality status of that other market information under other regulatory instruments and laws.
- The proposed framework would increase risks to Rule Participants of inappropriate disclosure of confidential market information by classifying all market-related information as public by default.
- The proposed framework would remove some of the existing protections for Rule Participants against their confidential market information being inappropriately disclosed. For example, the proposed deletion of provisions in the current framework that require a specific confidentiality status be assigned to certain market information.
- The proposed framework would require AEMO to undertake a significant program of work without delivering a robust and improved framework for managing market information.

The analysis supporting the Rule Change Panel's draft decision is set out in section 6 of this report.

3. Call for Second Round Submissions

The Rule Change Panel invites interested stakeholders to make submissions on this Draft Rule Change Report.

The Rule Change Panel published a CFFS on 21 January 2019 and sought submissions from stakeholders to help the Rule Change Panel better understand the problems with the current framework that the Rule Change Proposal purported to address. No stakeholders raised any specific material problems with the current framework in response to the CFFS, although Perth Energy supported the proposed framework.

While the Rule Change Panel invites submissions on its draft decision in this report generally, the Rule Change Panel again invites stakeholders to provide evidence of any specific material problems with the current framework that have not already been considered in this report, preferably supported by specific examples.

⁴ The proposed framework seeks to regulate the confidentiality status of other market information.

The submission period is 20 Business Days from the Draft Rule Change Report publication date. Submissions must be delivered to the Rule Change Panel by **5:00 PM** on **Monday 15 November 2019**.

The Rule Change Panel prefers to receive submissions by email, using the submission form available at: <https://www.erawa.com.au/rule-change-panel/make-a-rule-change-submission> sent to support@rcpwa.com.au.

Submissions may also be sent to the Rule Change Panel by post, addressed to:

Rule Change Panel
Attn: Executive Officer
C/o Economic Regulation Authority
PO Box 8469
PERTH BC WA 6849

4. Proposed Amendments

4.1 The Rule Change Proposal

This section 4.1 provides a summary of the key issues and the proposed amendments to the Market Rules specified in the Rule Change Proposal. Full details of the Rule Change Proposal are available on the Rule Change Panel's website.

4.1.1 Overview

The purpose of the Rule Change Proposal is to replace the current framework for managing market information with a new framework. The Rule Change Proposal also seeks to extend the new framework to include other market information.

The IMO considered that the proposed framework would reduce the administrative effort of determining the appropriate treatment of market information; and would increase the transparency of market-related information in the WEM, which would support more efficient decision-making and improve risk management.

The IMO stated that it faced considerable challenges in managing market information under the current framework. Consequently, the IMO reviewed the efficiency and effectiveness of the current framework by assessing it against a range of requirements that the IMO considered were key to an efficient and effective confidentiality framework.⁵

As a result of its review, the IMO determined that the current framework met only some of the requirements for an efficient and effective information management regime. The requirements the IMO considered were not met are summarised in Table 1.

Table 1: IMO's Assessment of the WEM Confidentiality Framework

IMO's Requirement	IMO's Assessment
The current framework was not simple to use and easy to understand.	Different confidentiality classes made administration complex.
	The interaction between the Market Rules, the Market Procedure and the confidentiality list was unclear.
	The determination process was not well defined.
The current framework did not maximise the release of market information.	The complexities of the framework created uncertainty with regard to the status of market information.
	Inconsistencies between governance documents led to the conservative application of the framework.

⁵ The IMO stated that it had researched confidentiality frameworks in similar markets, including the National Electricity Law and Rules, the National Gas Law and Rules and the Australian Stock Exchange.

IMO's Requirement	IMO's Assessment
The current framework did not treat all market information and participants equitably.	Initially developed to focus on supply-side information.
	The different treatment of information between Facility types.
	Demand-side information not adequately covered.
The current framework was not consistent with other applicable laws and regulations as well as the Market Rules, to the extent possible.	Inconsistencies between the governance documents.

The IMO also identified a number of specific issues with the current framework during its review. These are summarised in Table 2.

Table 2: Specific Issues Identified by the IMO

IMO's Specific Issue	IMO's Description of Specific Issue	IMO's Example in Support (if any)
The numerous confidentiality classes made the framework complex to administer and the distinction between some categories was redundant.	Some categories of data are given a confidentiality status under a generic clause that is inconsistent with the confidentiality status of a specific piece of data that falls under that category.	System Management provides SCADA temperature data for a generating system. All information provided by System Management to the IMO is classified as System Management Confidential but clause 7.13.1(cB) of the Market Rules specifies that this information is Public.
	Some categories of data are given a confidentiality status that excludes particular parties that should have access to that data.	Clause 3.13.1A of the Market Rules requires System Management to provide the IMO with settlement information for Ancillary Service Contracts. This clause is currently classified as System Management Confidential, which excludes the Rule Participant to which that information belongs from having access to this information.

IMO's Specific Issue	IMO's Description of Specific Issue	IMO's Example in Support (if any)
There was no distinction between the status of a document and the information in that document.	Where a document has a confidentiality status that is different to the information contained in it, or where a document has information of different classes in it, it becomes difficult to assign a confidentiality status, in particular in advance.	
The framework focused on information relating to the supply-side of the WEM and did not adequately cover demand-side information.	The parties considered in the current confidentiality framework do not include Meter Data Agents, which makes it unclear as to how the IMO should treat the information produced or transferred from Meter Data Agents.	
The purpose of the Market Procedure was unclear.	The Market Procedure currently duplicates clauses of the Market Rules and does not add any further details or provide a process by which the IMO should determine the confidentiality status of market information. The lack of a robust process for the IMO to assess the confidentiality status of market information has resulted in new and amended information not being assessed and/or not being included in the confidentiality list.	
Inconsistent confidentiality status of types of market information.	The information in the confidentiality list published on the Market Web Site contains a number of inconsistencies between the list and the Market Rules, and within the confidentiality list, with different statuses assigned to the same information under different clauses.	The requirement for the IMO to set the confidentiality status of the real-time outage information under clause 10.5.3 of the Market Rules contradicts the confidentiality status of clauses such as 3.21.11 which is System Management Confidential.

The IMO asserted that the issues outlined in Tables 1 and 2 had:

- resulted in difficulty for the IMO and other Rule Participants in understanding and using the current framework to determine the confidentiality status of new or amended market information; and

- led to inconsistent interpretations and outcomes between applications and governing documents, and an out of date list of confidentiality statuses, which resulted in operational inefficiencies, an increased risk of non-compliance with the Market Rules by the IMO and other Rule Participants, and an overly conservative approach to sharing information that should have been made available.

4.1.2 Proposed Amendments

The Rule Change Proposal seeks to replace the current framework for managing market information with a new framework that was purported by the IMO to promote greater disclosure and transparency of market-related information relating to the WEM.

Except for the proposed amendments to section 10.3, the IMO's drafting approach was to delete sections 10.2 to 10.8 in their entirety, and replace them with new clauses giving effect to the proposed framework. The proposed Amending Rules (updated to reflect the changes made to the Market Rules since the Rule Change Proposal was published) are set out in Part B of Appendix D of this report.

4.1.2.1 Administration of the Framework for Managing Market-Related Information

The IMO's proposed amendments to the Market Rules to give effect to the proposed framework for managing market-related information in the WEM are described in Table 3.

Table 3: Proposed Amendments – Administration of the Framework for Managing Market Information and Related Administrative Changes

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
General head of power	Amend the IMO's existing head of power to determine for each type of market information whether it is Public Information or Confidential Information.	Delete clause 10.2.1 and replace it with new clause 10.2.1(a)	Retain the obligation for the IMO to determine the confidentiality status of market information that has been produced or exchanged under the Market Rules or Market Procedures.
Extend scope of market information	Introduce a new head of power for the IMO to determine for each type of other market information whether it is Public Information or Confidential Information.	Proposed clause 10.2.1(b)	
Reassessment of confidentiality status of	Introduce a head of power for the IMO to revise a previous determination under clause 10.2.1 at any time.	Proposed clause 10.2.1 (last sentence)	

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
market-related information	Introduce the ability for a person to request the IMO to determine whether market-related information is Public Information or Confidential Information, or to revise a previous determination.	Proposed clause 10.2.7 ⁶	To ensure that all market-related information could be assessed for disclosure.
Market-related information is public by default	Market-related information, other than information that is determined to be Confidential Information under clause 10.2.1, is Public Information and could be disclosed to any person.	Proposed clause 10.2.6	

4.1.2.2 Consolidation of Confidentiality Classes

The IMO proposed to consolidate the six different confidentiality classes specified in clause 10.2.2 into two classes – Public Information or Confidential Information. The confidentiality status of market information dictates the parties to whom certain market information may be disclosed. The amendments to give effect to the proposed change are described in Table 4.

Table 4: Proposed Amendments: Consolidation of Confidentiality Classes and Related Administrative Changes

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
Classification of market information	Amend the existing head of power for the IMO to determine for each type of market-related information whether it is Public Information or Confidential Information.	Proposed clause 10.2.1(a)	Different confidentiality classes made administration complex.
	Remove the existing defined classes of confidentiality statuses.	Delete clause 10.2.2	Consequential changes.
Consequential amendments	Amend glossary definition of Public to Public Information.	Chapter 11	Consequential changes.

⁶ The changes being introduced by proposed clause 10.2.7 are broader than the IMO described in the Rule Change Proposal. See section 6.1.1.3 of this report.

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
	Introduce new glossary definition of Confidential Information.	Chapter 11	Consequential changes.
	Remove the requirement for the IMO to set the status of certain market information as Rule Participant Market Restricted.	Delete section 10.7	Consequential changes.
	Remove the requirement for the IMO to set the status of certain market information as Rule Participant Dispatch Restricted.	Delete section 10.8	Consequential changes.
	Remove glossary definitions that refer to each of the confidentiality statuses in clause 10.2.2.	Chapter 11	Drafting approach to introduce the new framework.

4.1.2.3 *Determining whether Market-Related Information is Confidential*

Clause 10.2.3 describes the principles that the IMO must have regard to when setting the confidentiality status of market information. In place of this, the IMO proposed to introduce a list of considerations in proposed clause 10.2.2 that would inform the IMO's decision as to whether market-related information should be disclosed.

The IMO's proposed amendments to the Market Rules with respect to determining whether market-related information is Confidential Information, as opposed to Public Information, are described in Table 5.

Table 5: Proposed Amendments: Determining whether Market Information would be Confidential and Related Administrative Changes

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
Compliance with market procedure	Move the requirement for the IMO to comply with the relevant Market Procedure.	Insert proposed clause 10.2.2(a)	
Application of Wholesale Market	Introduce a requirement for the IMO to seek to promote the Wholesale Market Objectives.	Proposed clause 10.2.2(b)	

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
Objectives to determinations			
Matters the IMO must have regard to when making determinations	<p>Replace the existing principles that the IMO must have regard to with the following matters that the IMO must have regard to when making a determination of whether market-related information is Confidential Information or Public Information:</p> <ul style="list-style-type: none"> • whether the use or disclosure of the market-related information is reasonably required to ensure that the South West Interconnected System (SWIS) is operated in a safe, secure and reliable manner; • whether the market-related information is publicly available from a source that, as far as the IMO is aware, is not subject to any confidentiality obligation; • whether a written law (other than the Market Rules) prohibits the disclosure of the market-related information or limits the extent to which the market information may be used or disclosed; • whether the disclosure of the market-related information would cause detriment to the person who gives it or to the person from whom that person receives it; • whether, although the disclosure of the 	Delete clause 10.2.3 and insert proposed clause 10.2.2(d)	The IMO noted that these high-level matters were consistent with the National Electricity Law, National Gas Law and the Australian Stock Exchange Rules. The IMO stated that it adapted the generic public benefit test to specifically refer to better achieving the Wholesale Market Objectives.

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
	<p>information would cause detriment to a person, the benefit to the market in disclosing it (determined by assessing the achievement of the Wholesale Market Objectives) outweighs that detriment;</p> <ul style="list-style-type: none"> • whether the information is required to be provided under the Market Rules or Market Procedures or is provided voluntarily; and • whether (having regard to the nature of the market-related information) a reasonable person would expect it to be disclosed. 		
Conditions when publishing confidential market-related information	Give the IMO and System Management the ability to publish or disclose a document that contains Confidential Information if they take reasonable steps to ensure that the document does not identify the person to whom the Confidential Information relates or enable that person to be identified; or publish or disclose a public version of the document with the Confidential Information omitted or redacted.	Proposed clause 10.2.5	To enable the IMO to disclose Confidential Information subject to conditions.
Requirement for Market Procedure	Specify the matters the IMO must document in a Market Procedure, including the processes to be followed with respect to: <ul style="list-style-type: none"> • the IMO making a determination under clause 10.2.1; 	Delete clause 10.2.7 and insert proposed clause 10.2.9	To move the IMO's obligation to document the process it follows in setting the confidentiality status of market information to new clause 10.2.9 and to better articulate the processes to be documented.

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
	<ul style="list-style-type: none"> requests under new clause 10.2.7; and the IMO when it specifies conditions under new clause 10.2.11. 		
Confidentiality list	Introduce a requirement for the IMO to publish a list of market-related information it had determined to be Confidential Information on the Market Website.	Proposed clause 10.2.10	To replace the obligation under clause 10.2.1 for the IMO to publish the confidentiality status of each type of market information. The IMO considered that the publication of only information it determined was Confidential Information should increase the ease of administration of the framework for the IMO and other Rule Participants.

4.1.2.4 Disclosure of Confidential Information

The IMO proposed to introduce new clauses that dealt with the rights and obligations of recipients of Confidential Information. These proposed amendments are set out in Table 6.

Table 6: Proposed Amendments: Disclosure of Confidential Information and Related Administrative Changes

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
Persons entitled to confidential information – general principle	<p>Confidential Information must not be used by, or disclosed to, persons other than:</p> <ul style="list-style-type: none"> a person to whom the market-related information relates; the IMO; System Management; the Minister; the Public Utilities Office (PUO) in its capacity as the government agency 	Proposed clause 10.2.3	Recognised the need for some persons to have access to certain information to perform their functions related to the WEM.

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
	<p>responsible for advising the Minister in relation to the WEM;⁷</p> <ul style="list-style-type: none"> the Economic Regulation Authority (ERA); and the Electricity Review Board and courts and tribunals for the purposes of civil or criminal proceedings. 		
Obligation to maintain confidentiality, including restrictions on use	<p>Introduce an explicit requirement for a person who receives Confidential Information to not use or disclose it to any other person, except to the extent that:</p> <ul style="list-style-type: none"> the use or disclosure is authorised by each person to whom the Confidential Information relates; the disclosure is required under a written law; or the use or disclosure is permitted under a condition specified in accordance with proposed clause 10.2.11. 	Delete clause 10.2.4 and replace it with proposed clause 10.2.4	
Head of power to place certain types of conditions on the use or disclosure of Confidential Information	<p>Give the IMO the ability to specify conditions with respect to the use or disclosure of Confidential Information. The conditions may specify that Confidential Information (or any part of it):</p> <ul style="list-style-type: none"> must not be used by, or disclosed to, a person in the list of persons that Confidential Information 	Proposed clause 10.2.11	

⁷ On 5 September 2019, the Minister for Energy established Energy Policy WA (**EPWA**) as a standalone sub-department of the Department of Mines, Industry Regulation and Safety. EPWA reports directly to the Minister for Energy and incorporates the former PUO and the Energy Transformation Implementation Unit.

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
	<p>can be used by or disclosed to, under any circumstances;</p> <ul style="list-style-type: none"> • may only be used by, or disclosed to, a person on the list of persons that Confidential Information can be used by or disclosed to, in certain circumstances; • may be used by, or disclosed to, a person other than a person in the list of persons that Confidential Information can be used by or disclosed to, in certain circumstances; and • becomes Public Information after a specified period of time. 		
Consequential amendments	Remove the exceptions set out in clause 10.2.5 to the prohibition in clause 10.2.4 that a Rule Participant must not provide information or documents of a given confidentiality status to any person.	Delete clause 10.2.5	

4.1.2.5 Availability of Public Information

The IMO proposed a number of amendments relating to the availability of market information based on its proposed amendment to relocate the requirement for the IMO to seek to maximise the number of parties to which market information is made available from clause 10.2.3(g) to new clause 10.2.2(c). These proposed amendments are set out in Table 7.

Table 7: Proposed Amendments: Availability of Public Information and Related Administrative Changes

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
Maximise the availability of market information	Relocate a requirement for the IMO to seek to maximise the extent to which market information is available to, and accessible by, Rule Participants and other interested stakeholders.	Delete clause 10.2.3(g) and insert proposed clause 10.2.2(c)	
Disclosure of public information	Retain the ability in clause 10.2.6(a) for parties to disclose Public Information to any person. ⁸	Delete clause 10.2.6 and replace it with proposed clause 10.2.6	
Publication requirements	Delete the clauses in section 10.5. ⁹	Delete section 10.5	The section contained unnecessary prescription and was redundant under the new framework.
	Remove the requirement in clause 1.7.1 for the IMO to make information or documents that it is required to publish or release available on the Market Web Site, in a	Delete clause 1.7.1; insert proposed clause 10.2.8	

⁸ Whilst clause 10.2.6(a) is similar to proposed clause 10.2.6, the clause contains two further subclauses that will also be deleted:

- clause 10.2.6(b) allows a Rule Participant to disclose information or a document to the specific Rule Participant able to receive that information or document in accordance with the confidentiality statuses Rule Participant Market Restricted or Rule Participant Dispatch Restricted; and
- clause 10.2.6(d) allows a Rule Participant to disclose information or a document to a 'Representative' of the Rule Participant or a Representative of any person able to receive the information or document under clauses 10.2.6(a), (b) or (c).

⁹ Section 10.5 contains three clauses:

- clause 10.5.1 comprises a list of market information that AEMO is required to assign a confidentiality status of public and makes each item of information available from or via the Market Website after the item of information becomes available to AEMO;
- clause 10.5.2 specifies market information that the IMO is required to assign a confidentiality status as public, but does not expressly require the information to be published (although there is nothing to prevent AEMO from doing so); and
- clause 10.5.3 specifies market information that AEMO is required to assign a confidentiality status of public and to make available to Market Participants via the Market Participant Interface and web services as soon as practicable and available to the public weekly via the Market Web Site.

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
	<p>place which is generally accessible by members of the class of persons entitled to access that document or information given AEMO's determination of its confidentiality status in accordance with section 10.2. Replace the requirement in clause 1.7.1 with the requirement in proposed clause 10.2.8 for Public Information to be made available by the IMO on the Market Web Site or in an alternative form that is available to, and accessible by, Rule Participants and other interested stakeholders.</p>		
Requests for Public Information	<p>Amend clause 10.4.1 to require the IMO to make Public Information available to any Rule Participant or other interested stakeholder on request.</p>	<p>Delete clause 10.4.1 and replace it with proposed clause 10.4.1</p>	<p>To clarify the drafting with respect to the IMO's obligation to make Public Information available on request.</p>
	<p>Amend clause 10.4.2 to clarify the IMO may require a person making a request under clause 10.4.1 to pay a fee for obtaining the Public Information and the amount of the fee.</p>	<p>Delete clause 10.4.2 and replace it with proposed clause 10.4.2</p>	<p>To clarify the fees the IMO may charge to recover the costs associated with the provision of Public Information on request.</p>

4.1.2.6 Minor Administrative Changes

The IMO proposed some minor administrative changes which are described in Table 8.

Table 8: Proposed Amendments: Minor Administrative Changes

Description	Proposed Amendment	Change to Market Rules	IMO's Reason for Proposed Amendment (if any)
Removal of System Management's ability to post to the Market Web Site	Remove the clauses relating to the IMO delegating to System Management the ability to directly post information and documents on the Market Web Site.	Delete clause 10.3.3, 10.3.4 and 10.3.5	As the IMO published all documents required to be published on the Market Web Site on behalf of System Management, these clauses are to be deleted to align the Market Rules to the current practice and remove the redundant clauses.
Specific drafting improvements	Remove section 10.6.	Delete section 10.6	Consequential amendment as a result of the proposed deletion of sections 10.7 and 10.8.
	Clarify the obligations in clauses 10.3.1 and 10.3.2.	Amend clauses 10.3.1 and 10.3.2	Minor clarifications to the drafting.

4.2 The IMO's Initial Assessment of the Proposal

The IMO decided to progress the Rule Change Proposal because it considered that the proposed changes would improve the operation and administration of the market by introducing a confidentiality framework for the WEM that was easier to use and administer and would increase the transparency of information in the WEM. The IMO considered that Rule Participants should be given an opportunity to provide submissions as part of the Standard Rule Change Process; and that it would be beneficial to commence consultation prior to the completion of the State Government's Electricity Market Review (**EMR**).

5. Consultation

Although the Rule Change Panel has summarised the submissions received in the first and further submission periods and the views expressed by the Market Advisory Committee (MAC) in accordance with clause 2.7.7, the Rule Change Panel has reviewed this information in its entirety and taken into account each matter raised by stakeholders and the MAC in making its decision on the Rule Change Proposal.

5.1 The Market Advisory Committee

The Rule Change Proposal was discussed with the MAC on 3 December 2014 as a Concept Paper, and on 12 February 2015 as a Pre-Rule Change Proposal. An extract of the summary of the key points discussed at each meeting is set out in Appendix A of this report. The Rule Change Proposal has not been discussed with the MAC since then.

The IMO Procedure Change and Development Working Group discussed a draft Procedure Change Proposal (PC_2015_02) with respect to the processes specified in proposed clause 10.2.9 at its 22 April 2015 meeting. However, no minutes of the meeting are available and the Procedure Change Proposal was not formally submitted into the Procedure Change Process in accordance with section 2.10 of the Market Rules.

5.2 Submissions Received During the First Submission Period

The first submission period took place between 16 March 2015 and 13 May 2015. Submissions were received from Community Electricity, Perth Energy and Alinta Energy.¹⁰

The submissions generally supported the proposed new framework for reasons including that it seeks to improve the transparency of market information, while removing some of the complexity of the current framework.

Community Electricity

Community Electricity supported the principle of publishing everything except where the market would be enhanced by observing confidentiality, and considered the proposal would clarify, streamline and simplify the administration of market information.

Perth Energy

Perth Energy agreed with the IMO that the current confidentiality provisions in the Market Rules are complex and cumbersome, which may lead to confusion and unnecessarily restrict availability of information that could potentially aid in achieving more efficient outcomes in the WEM. Perth Energy considered that the proposal to use high-level principles to determine whether information was public or confidential as opposed to the case-by-case prescription in the Market Rules to be a significant improvement. Perth Energy asserted that a principles-based approach was more flexible and should be more predictable and consistent in application compared to the 'hard wired' approach in the Market Rules, and should lead to more clarity for all parties as to the application of the confidentiality provisions of the Market Rules.

Perth Energy also supported the move away from six confidentiality classes to only 'confidential' and 'public' information and suggested that this would further remove unnecessary complexity from the Market Rules.

¹⁰ Alinta's submission was received out of session.

Alinta

Alinta generally supported the IMO's new framework for the treatment of information as it appropriately sought to improve transparency in the WEM while removing some of the complexity of the existing arrangements. Alinta considered that transparency was fundamental to the delivery of competitive electricity markets through ensuring cost-effective investment and operating decisions and increasing market confidence.

While Alinta generally supported the proposed guiding principles, it was concerned that the broad discretion afforded to the IMO under the new framework created a risk to Market Participants that commercially sensitive information could be released.

Alinta expressed concerns regarding the potential retrospective application of any changes in the status of commercially sensitive information that was directly provided by participants to the IMO. Alinta stated that it did not support retrospective application of changes to any legislative document that would impact upon a substantive right of a participant. Further, Alinta raised specific concerns regarding commercially sensitive information that had previously been provided based on clearly defined assumptions, subsequently having its status changed as part of a reassessment process from being confidential to being available to the market or more broadly to other regulatory bodies, in a manner contrary to the assumptions and intention underlying its original disclosure. Alinta also stated that the proposed new provisions to release information when the IMO considered it to be in the public interest creates a further risk (real or perceived) to participants that commercially sensitive information may be deemed public in the future even if its status is not amended during the re-assessment of all the information in the WEM.

Assessment Against the Wholesale Market Objectives

The assessment by submitting parties as to whether the Rule Change Proposal would better achieve the Wholesale Market Objectives is summarised in Table 9.

Table 9: Submitters' Comments on the Wholesale Market Objectives (First Submission Period)

Submitter	Wholesale Market Objective Assessment
Community Electricity	Community Electricity supported the IMO's contention that the Rule Change Proposal will promote Wholesale Market Objectives (a) [efficiency], (b) [competition], (c) [non-discrimination] and (d) [minimising costs].
Perth Energy	Perth Energy considered the proposed changes were likely to improve the clarity and transparency of the process of classifying the confidentiality status of market information. Perth Energy considered the proposed changes were likely to lead to more relevant information being made available to a wider audience and in a timelier manner, and that improving the information flow in the WEM was likely to improve overall efficiency of the market and to positively influence competition both in generation and retail. Perth Energy stated that this should lead to downwards pressure on prices in the longer run, to the benefit of all customers in the SWIS. Perth Energy also believed the proposed changes were likely to bring a more balanced approach to the way that information relating to supply and demand side was treated.

Submitter	Wholesale Market Objective Assessment
	For all of those reasons, Perth Energy stated that it believed that the proposed changes were likely to positively impact the ability to achieve Wholesale Market Objectives (a), (b) and (d). Perth Energy also stated that it had not identified any impacts on the remaining Wholesale Market Objectives.
Alinta	No assessment was provided.

Copies of all submissions received during the first submission period are available on the Rule Change Panel's website.

5.3 The Rule Change Panel's Response to Submissions Received During the First Submission Period

The Rule Change Panel's response to each of the specific issues raised in the first submission period is presented in Appendix B of this report. A more general discussion of the Rule Change Proposal, which addresses the main issues raised in submissions and the Rule Change Panel's response to these issues, is presented in section 6.1 of this report.

5.4 Call for Further Submissions

The Rule Change Panel published a CFFS on 21 January 2019 because a significant period of time had passed since the IMO consulted on the Rule Change Proposal, and the Market Rules had undergone numerous changes since the Rule Change Proposal was published.

The Rule Change Panel sought submissions from stakeholders on the Rule Change Proposal generally, and feedback on specific questions that would help the Rule Change Panel better understand the problems with the current framework that the Rule Change Proposal purported to address.

The specific questions the Rule Change Panel sought feedback on in the CFFS are set out in section 5.5 of this report. A copy of the CFFS is available on the Rule Change Panel's website.

In the CFFS, amendments were made to the proposed Amending Rules to reflect the changes to the Market Rules since the Rule Change Proposal was published. A summary of the changes is set out in Part A of Appendix D of this report.

5.5 Submissions Received During the Further Submission Period

The further submission period was held between 21 January 2019 and 1 March 2019.¹¹ The Rule Change Panel received submissions from AEMO, Synergy, Western Power and Perth Energy.¹²

AEMO

AEMO stated that the Rule Change Proposal should not proceed due to timing constraints and issues AEMO had identified with the new framework.

¹¹ At the request of AEMO, the Rule Change Panel extended the end of the further submission period from 15 February 2019 to 1 March 2019.

¹² Perth Energy's submission was received out of session.

AEMO considered the appropriateness of a new framework in the Market Rules should be dealt with as part of the broader WEM reforms; and that the new framework was incomplete and did not appropriately consider a range of matters. These matters included that the principle that all information would be public unless it was classified as confidential may result in the inadvertent release of information that should be confidential. AEMO stated that the reverse of this principle (that information would be confidential unless it was classified as public) would safeguard against this risk.

AEMO also expressed concerns that an obligation for AEMO to provide public data (that is not published) to any interested stakeholder may require it to dedicate resources to support the obligation, which could be onerous, and the relative effort would depend on the type of information requested. AEMO stated that this may make the fee proposed in new clause 10.4.2 difficult to administer and not cost reflective. As an interim measure (prior to completion of WEM reform), AEMO proposed that if there was sufficient industry support to classify certain information as public, a rule change could be raised that modified clause 10.5.1 to enable the provision of the information.

AEMO considered that, unless these shortcomings were addressed, the Rule Change Proposal would result in a more inefficient framework, introduce various operational issues and increase the associated administration costs.

Synergy

Synergy expressed support for the intent of the Rule Change Proposal to make the framework more efficient and simpler to administer, but raised several issues with the new framework for further consideration. These issues included the proposal for retrospective changes to the confidentiality status of market information, the new public benefits test with respect to disclosure of confidential information in proposed clause 10.2.2(d)(v), AEMO's ability to create conditions for the disclosure of confidential information and confidential information being disclosed to certain entities by default.

Synergy also stated that it did not support proposed new clause 10.2.6, which would deem information 'produced or exchanged' in accordance with the Market Rules to be public information unless AEMO decided, or if the Market Rules expressly stated that the information was confidential. Synergy stated that it would be difficult (or impossible) to make information confidential once it became public and was disclosed. Synergy considered that this exposed Market Participants to an unnecessary risk that their sensitive information would be disclosed. Synergy suggested that to prevent this outcome certain information should continue to be treated as confidential by being deemed to be confidential under the new framework, such as information that indicated Market Participants' short run marginal cost (**SRMC**).

Western Power

Western Power generally supported the proposed changes based on its understanding that the Rule Change Proposal aimed to remove some of the complexities of the current framework and would increase the market information available in the WEM. However, Western Power stated that it would require further clarification on a number of matters before it could make a holistic assessment of the new framework, including the processes AEMO would undertake in exercising its powers under the new framework, and the difference between the type of 'market information' and 'other market information' referred to in proposed clause 10.2.1, as the terms were undefined.

Perth Energy

Perth Energy reiterated its support for the Rule Change Proposal on the basis that the current framework was complex and cumbersome, which may lead to confusion and unnecessarily restrict availability of information. Perth Energy expressed the view that the use of high-level principles as the basis for determining whether information was public or confidential, as opposed to the case-by-case prescription in the Market Rules, would provide greater flexibility and thereby deliver more predictable and consistent categorisation.

Perth Energy stated that it broadly agreed that the entities identified by the IMO in the Rule Change Proposal to whom confidential information may be used by or disclosed to may from time to time need access to information that would be classified as confidential to perform their duties. However, Perth Energy expressed the view that it would expect that these entities would only be given access to confidential information when a genuine and formally justified need existed rather than having carte blanche access.

Specific Questions in the Call for Further Submissions

Perth Energy and Western Power provided responses to the specific questions in the CFFS (except question four in the case of Western Power). The questions and responses are summarised in Table 10.

Table 10: Specific Questions and Stakeholders' Responses in the Call for Further Submissions

Question	Response
Whether some of the problems with the current framework are caused by the current approach of setting the confidentiality status of market information by reference to a specific clause in the Market Rules, instead of for each category of market information.	Perth Energy did not consider the suggested grouping of information into categories added any value on the basis that the confidentiality status of each piece of market information was required to be assessed and stated, and the categorisation of market information without identifying exactly what information was in each category was likely to cause more uncertainty and complexity. Western Power stated that there was no longer a need for AEMO to set the confidentiality status of market information by reference to a specific clause in the Market Rules for the new framework. Western Power expressed the view that the current approach unnecessarily increased the complexities of managing market information and the likelihood of inconsistencies occurring. Western Power stated that the consolidation of the six confidentiality classes to two categories of market information would remove some of the complexities.

Question	Response
<p>Do stakeholders consider that some of the problems identified in the Rule Change Proposal with the current framework could be addressed by introducing timeframes in the Market Rules for AEMO to:</p> <ul style="list-style-type: none"> (a) set the confidentiality status of new or amended market information; and (b) regularly publish an amended confidentiality status list, and/or amend the confidentiality list whenever it sets the confidentiality status of new or amended market information? 	<p>Perth Energy and Western Power generally supported the introduction of timeframes. However, Western Power noted that the timeframes enforced upon AEMO must strike a balance between the need for a robust process and the amount of effort required for AEMO to carry out the process.</p>
<p>Do stakeholders consider that amending the Market Procedure to document the process AEMO follows in setting and publishing the confidentiality status of market information will address or reduce some of the perceived problems with the current framework?</p>	<p>Perth Energy stated that it did not consider outlining the procedural steps that AEMO must take in assigning a confidentiality status to market information in a Market Procedure would adequately address the issues raised by the IMO in the Rule Change Proposal. Further, updating the Market Procedure alone would not deliver the fundamental change in principle designed to increase transparency.</p> <p>Western Power expressed the view that the current Market Procedure would need to be updated to clearly set out AEMO's process in assigning and publishing the confidentiality status of market information; and that following proper stakeholder consultation, would increase the transparency of AEMO's processes and assist in achieving consistent and certain outcomes.</p>
<p>What demand-side information do stakeholders consider should be public but the Market Rules, as currently drafted, prevent from being made public.</p>	<p>Perth Energy stated that the Market Rules are largely silent on the treatment of any demand-side information and on that basis, the IMO and AEMO had taken a conservative view, and failed to publish demand-side (retail information). Perth Energy considered that the proposed principles to maximise transparency should equally apply to retail information, with a systematic and thorough assessment of all information to be undertaken.</p>

AEMO and Synergy did not specifically respond in their further submissions to the specific questions raised in the CFFS.

Assessment Against the Wholesale Market Objectives

The assessment by submitting parties as to whether the Rule Change Proposal would better achieve the Wholesale Market Objectives is summarised in Table 11.

Table 11: Submitters' Comments on the Wholesale Market Objectives (Further Submission Period)

Submitter	Wholesale Market Objective Assessment
AEMO	<p>AEMO agreed, in principle, with the intent of the Rule Change Proposal, but considered that the proposed amendments would not better achieve Wholesale Market Objective (d).</p> <p>In the absence of addressing the issues stated in its submission, AEMO considered that the Amending Rules in the CFFS would result in a more inefficient confidentiality framework and would likely introduce several operational issues, as outlined in its submission. It was AEMO's view that this framework would result in increased administration costs and considered the costs to implement the Rule Change Proposal to be avoidable, due to the impending WEM reforms.</p>
Synergy	<p>No assessment was provided.</p>
Western Power	<p>Western Power considered that the Rule Change Proposal would better facilitate the achievement of the Wholesale Market Objectives. However, it noted that Western Power was unable to make a holistic assessment until the matters raised in its submission were further clarified.</p>
Perth Energy	<p>Perth Energy believed that with the improved clarity, it should be possible to make more market information available to a wider audience in a timelier manner compared to the current practice. Having relevant and readily available data provided was key to achieving efficient outcomes in most markets, including the WEM. For this reason, Perth Energy believed the proposed amendments were likely to improve the efficiency of the WEM and improve competition to the ultimate benefit of consumers in the SWIS.</p> <p>Perth Energy also believed the proposed changes were likely to bring a more balanced approach to the way that information relating to the supply and demand side was treated.</p> <p>For these reasons Perth Energy believed that the new framework in its entirety (including the IMO's proposed updated Market Procedure) was likely to positively impact the ability to achieve Wholesale Market Objectives (a), (b) and (d).</p>

Copies of the submissions received during the further submission period are available on the Rule Change Panel's website.

5.6 The Rule Change Panel's Response to Submissions Received During the Further Submission Period

The Rule Change Panel's response to each of the specific issues raised in the further submission period is presented in Appendix C of this report. A more general discussion of the Rule Change Proposal, which addresses the main issues raised in submissions and the Rule Change Panel's response to these issues, is presented in section 6.1 of this report

5.7 Public Forums and Workshops

No public forums or workshops were held regarding the Rule Change Proposal.

6. The Rule Change Panel's Draft Assessment

In preparing a Draft Rule Change Report, the Rule Change Panel must assess the Rule Change Proposal in light of clauses 2.4.2 and 2.4.3.

Clause 2.4.2 states that the Rule Change Panel “*must not make Amending Rules unless it is satisfied that the Market Rules, as proposed to be amended or replaced, are consistent with the Wholesale Market Objectives*”. Additionally, clause 2.4.3 states that, when deciding whether to make Amending Rules, the Rule Change Panel must have regard to:

- any applicable statement of policy principles the Minister has issued to the Rule Change Panel under clause 2.5.2;
- the practicality and cost of implementing the proposal;
- the views expressed in submissions and by the MAC; and
- any technical studies that the Rule Change Panel considers necessary to assist in assessing the Rule Change Proposal.

When making its draft decision, the Rule Change Panel has had regard to each of the matters identified in clauses 2.4.2 and 2.4.3 as follows:

- the Rule Change Panel's assessment of the Rule Change Proposal against the Wholesale Market Objectives is available in section 6.3 of this report;
- the Rule Change Panel notes that there has not been any applicable statement of policy principles from the Minister in respect of the Rule Change Proposal;
- the Rule Change Panel's assessment of the practicality and cost of implementing the Rule Change Proposal is available in section 6.5 of this report;
- a summary of the views expressed in submissions and by the MAC is available in section 5 of this report. The Rule Change Panel's response to these views is available in sections 5.3 and 5.5, and in Appendices B and C of this report; and
- the Rule Change Panel does not believe a technical study in respect of the Rule Change Proposal is required and therefore has not commissioned one.

The Rule Change Panel's assessment is presented in the following sections.

6.1 Assessment of the Proposed Changes

This section presents the Rule Change Panel's assessment of the issues raised in the Rule Change Proposal and the amendments that were proposed by the IMO to address those issues.

The Rule Change Proposal purported that there were a number of issues with the current confidentiality framework and proposed Amending Rules for a new confidentiality framework, but there was sometimes no clear link between the issues identified and the proposed amendments. In assessing the proposed amendments, the Rule Change Panel has tried to align issues identified with proposed amendments. Any remaining issues are dealt with in section 6.1.7 of this report. The Rule Change Panel's assessment of some of the IMO's proposed amendments are addressed in more than one section.

6.1.1 Administration of the Framework for Managing Market-Related Information

The IMO proposed changes to how market-related information would be managed in the WEM, including what information and documents would be governed by the confidentiality framework.

6.1.1.1 General head of power to make determinations

Current clause 10.2.1 requires AEMO to assign one of the six confidentiality statuses to each type of market information and to publish its determination.¹³ The IMO's proposed clause 10.2.1(a) is conceptually the same as the current clause 10.2.1, but would require AEMO to assign one of two confidentiality statuses (Public Information or Confidential Information) to each type of market information and to publish its determination.

Since the Rule Change Panel's draft decision is to reject moving from six confidentiality statuses to two confidentiality statuses,¹⁴ the Rule Change Panel rejects changing the head of power for AEMO to make determinations in clause 10.2.1 to refer to the two proposed confidentiality statuses.

6.1.1.2 Extend the scope of market information

The IMO sought to extend the scope of information governed by the current framework in the Market Rules. The effect of proposed clause 10.2.1(b) is to give the IMO a new head of power to determine whether any other market information would be Public Information or Confidential Information. The IMO described this other market information in the Rule Change Proposal as "information not explicitly provided for under the Market Rules or Market Procedures".

The Rule Change Proposal contains a general statement by the IMO that it proposed to replace the current confidentiality framework in the Market Rules with a new framework designed to promote the disclosure of market-related information. The IMO stated that proposed clause 10.2.1(b) would ensure that all market-related information could be assessed with respect to its appropriate disclosure. However, the Rule Change Proposal does not contain any clearer statement by the IMO that would explain the need for, or the intent of, extending the scope of information and documents regulated by the framework in the Market Rules.

The Rule Change Panel has the following concerns with the proposal to extend the framework in the Market Rules to other market information:

- The confidentiality status assigned by AEMO to an item of other market information pursuant to the Market Rules could conflict with the confidentiality status of that information under another regulatory instrument or law.

As noted in Table 1, the IMO considered that one of the requirements of an efficient and effective framework is that it is consistent with other applicable laws and regulations. The Rule Change Panel considers that extending the scope of information to be covered by the confidentiality framework in the Market Rules to include information and documents not produced or exchanged under the Market Rules or Market Procedures would increase the risk of this requirement not being met.

¹³ The confidentiality statuses are set out in clause 10.2.2 and are referred to in section 6.1.2 of this report.

¹⁴ See section 6.1.2.1 of this report for the Rule Change Panel's draft decision regarding the IMO's proposed amendment to consolidate the confidentiality statuses.

- The Market Rules should not be used as a means to displace any obligations of confidence under the common law regarding other market information. To do so could expose AEMO, Rule Participants and third parties to whom the information relates to or affects, to unnecessary risks of confidential information being inappropriately disclosed. If AEMO considered that Market Participants had other market information that was critical to the WEM, AEMO could submit a Rule Change Proposal seeking to require the information to be provided to AEMO. This would enable consultation on the merits of bringing that other market information under the Market Rules.
- The absence of a clear definition of what constitutes other market information for the purposes of proposed clause 10.2.1(b) could lead to confusion, uncertainty, increased risk of inappropriate disclosure of other market information, and potentially result in AEMO making a determination beyond the scope of its power if a piece of information or document was ultimately not other market information.
- The volume of the potential other market information may be significant. This would increase AEMO's costs of administering the framework regardless of whether the other market information is of any material benefit to the WEM.

As a result of its concerns and the lack of any compelling reason for extending the scope of the market information to be governed by the new framework to other market information, the Rule Change Panel does not support proposed clause 10.2.1(b).

6.1.1.3 Reassessment of the confidentiality status of market-related information

Proposed clause 10.2.1 (last line) provided a head of power for the IMO to revise a previous determination of whether market-related information is Public Information or Confidential Information. The proposed framework made provision for the IMO to undertake a reassessment at any time, or in response to a request made under proposed clause 10.2.7(b).

The IMO stated that proposed clause 10.2.7 was being introduced to give Market Participants the ability to request, and the IMO to determine (in accordance with proposed clause 10.2.1(b)), whether information not explicitly provided for under the Market Rules or Market Procedures would be public or confidential. The Rule Change Panel notes that the effect of proposed clause 10.2.7 is broader than stated by the IMO. A Market Participant could also request the IMO to determine the confidentiality status of a type of market information that is produced or exchanged under the Market Rules – which, in any event, AEMO would be obliged to determine in accordance with proposed clause 10.2.1(a) – or to revise a previous determination.¹⁵

Even though there is no explicit provision in the current framework for AEMO to reassess the confidentiality status assigned to each type of market information, the Rule Change Panel notes that there is nothing currently in the Market Rules that prevents AEMO from doing so, or that prevents a Market Participant or other interested stakeholder from requesting AEMO to undertake a reassessment. Neither the Rule Change Proposal, nor any of the first period or further submissions, indicated that the absence of such an express obligation on AEMO was causing any issues with the administration of the current framework.

¹⁵ The Rule Change Panel also notes that the IMO's ability to determine (or revise a previous determination of) the confidentiality status of a type of market information that was not produced or exchanged under the Market Rules or Market Procedures would not have been dependent upon a request by a Market Participant to do so under proposed clause 10.2.7. This is because the IMO's ability to have made such a determination with respect to the confidentiality status of that type of market information constituted an independent head of power in proposed clause 10.2.1(b).

Therefore, the Rule Change Panel does not consider that there is any need to include specific clauses in the Market Rules to allow reassessments to be requested or undertaken.

In its first period submission, Alinta expressed concerns regarding the retrospective application of a change to the confidentiality status of commercially sensitive market information that was directly provided to the IMO by Market Participants, from confidential to public. More specifically, Alinta stated that it would be concerned if a piece of commercially sensitive information that it had previously provided to the IMO on the basis of clearly defined assumptions, subsequently had its status changed as part of a reassessment process from being confidential to become available to the market or more broadly to other regulatory bodies in a manner contrary to the assumptions and intention underlying its original disclosure.

In its further period submission, Synergy suggested that Confidential Information should not be retrospectively made public (regardless of any redactions of confidential material in accordance with proposed clause 10.2.5¹⁶) unless the Market Participant to which the information relates authorises its disclosure.

Perth Energy also expressed concerns in its first period submission regarding the reclassification of confidential information. More specifically, Perth Energy suggested that information that had been submitted to the IMO on the basis that it would be treated as confidential should continue to be treated as confidential even if the information would not be classified as confidential under the proposed framework.

The Market Rules allow AEMO to reclassify information that has been assigned a 'confidential' status as 'public'. Such a determination will apply to all information of that type, including information provided prior to the change in confidentiality status.

However, the Market Rules require AEMO to have regard to the principles specified in clause 10.2.3 when assessing the confidentiality status of information and these principles also apply to any reassessment. Clause 10.2.3(a) requires AEMO to not make any commercially sensitive information public, so there is low risk that AEMO will reassess a piece of commercially sensitive information from 'confidential' to 'public'

Further, the Market Rules specify that some specific commercially sensitive market information is confidential, which protects that information from being reclassified as public.¹⁷ The confidentiality status of such information can only be changed via the rule change process.

The Rule Change Panel also notes that, in practical terms, market information that is reassessed from public to confidential may only be confidential from the date the reassessment took effect, as it would be practicably impossible for market information to be made confidential where it was previously public and had been disclosed. This would be the outcome under the current framework and the proposed new framework.

6.1.1.4 Market-related information is public by default

Proposed clause 10.2.6 provides that all market-related information, other than market-related information that is determined by AEMO to be Confidential Information under proposed clause 10.2.1, is Public Information and can be disclosed to any person. The effect of this proposed clause is that all market-related information is public by default. This would

¹⁶ See section 6.1.3 of this report for the Rule Change Panel's assessment of proposed clause 10.2.5.

¹⁷ Sections 10.7 and 10.8 prescribe information that is not to be made public, which includes commercially sensitive information.

include market-related information that AEMO has not yet assessed to determine if it should be classed as Confidential Information.

The Rule Change Panel considers the default classification of market-related information as public unnecessarily increases the risk to Rule Participants that market-related information, including commercially sensitive market-related information, may be inappropriately disclosed. As Synergy stated in its further period submission, once information is public and disclosed, it is practically impossible to subsequently make that information confidential.

In their further period submissions, Synergy and AEMO did not support the principle in proposed clause 10.2.6. Instead, they suggested reversing the principle so that market information, or certain types of market information in the case of Synergy (i.e. SRMC information¹⁸), be deemed to be Confidential Information until it has been assessed by AEMO and determined to be Public Information. The Rule Change Panel agrees with Synergy and AEMO that such an approach would safeguard against the risk of market information being inappropriately disclosed solely by reason of the application of the default confidentiality classification.

While the current framework is silent on the confidentiality status of market information that AEMO is yet to assign a confidentiality status to, until an assessment has been made, AEMO is unlikely to release the market information. Therefore, in practical terms, such 'unassessed' market information is treated as if it was confidential. This default position – that market information that has not yet been assigned confidentiality status is treated as confidential until AEMO has assigned a status to it – protects Rule Participants from the risk of inappropriate disclosure of market information that is subsequently assessed as confidential.¹⁹ The Rule Change Panel supports the continuation of this approach.

Therefore, the Rule Change Panel does not support proposed clause 10.2.6 because it would expose Rule Participants to unnecessary and unjustified risks.

6.1.1.5 Demand-side information is not adequately covered

The IMO stated that the current framework was initially developed to focus on supply-side information in the WEM and did not adequately cover demand-side information. Further, information between Facility types was treated differently and not equitably between participants.

The Rule Change Panel is not aware of any evidence to suggest that the Market Rules were intentionally drafted to focus on supply-side information or that the current framework treats information between Facility types and from participants differently or inequitably. Whilst the Rule Change Panel notes that the required activities and processes regulated by the Market Rules result in the production or exchange of more supply-side market information than demand-side information, that does not in of itself mean that the result was unintentional.

The example cited by the IMO in support of its contention that the current framework does not adequately cover demand-side information was that Meter Data Agents are not considered in the current framework, which made it unclear as to how the IMO should treat the information produced or transferred from Meter Data Agents.

¹⁸ See section 5.5 of this report.

¹⁹ However, each type of market information referred to in clause 10.2.1 that has not yet been formally assessed by AEMO must be assigned one of the six confidentiality statuses specified in clause 10.2.2, any party that is specified in each of those confidentiality statuses would be able to request access to the unclassified information.

The Rule Change Panel does not consider the example cited by the IMO demonstrates a problem with the current framework. This is because AEMO is required to set and publish the confidentiality status of each type of market information produced or exchanged in accordance with the Market Rules, which includes the information required to be provided by Meter Data Agents to AEMO under the Market Rules. In other words, the current framework deals with this type of market information in the same way it deals with supply-side market information.

The minutes of the 3 December 2014 MAC meeting (extracted at Appendix A of this report) recorded the Chair of the MAC as having stated that the Market Rules had been drafted with a supply-side focus and the same principles had not been applied to demand-side information, such as meter data. However, the Rule Change Panel notes that clause 10.2.1 requires AEMO to set the confidentiality status of all market information in accordance with the principles specified in clause 10.2.3, and that these principles apply equally to supply-side and demand-side information.

In its further period submission, Perth Energy stated that the Market Rules are largely silent on the treatment of any demand-side information and on this basis, the IMO and AEMO had taken a conservative view and failed to publish demand-side (retail) information.

The Rule Change Panel notes that neither Perth Energy nor any other submitters responding to the CFFS provided any examples of demand-side information that Rule Participants and other stakeholders considered should be public and was not public; or that the current framework, and specifically the principles in clause 10.2.3, prevented from being made public.

Having regard to the commercially sensitive nature of meter data, the Rule Change Panel considers that the merits of whether meter data should be made public should be considered under a separate Rule Change Proposal.

The Rule Change Panel also considers that it may not be appropriate for the Market Rules to dictate the extent to which retail information, such as meter readings for individual loads, is disclosed. Instead, the information policy regime for retail market data may be better addressed in the regulatory instruments governing the retail markets.

Therefore, the Rule Change Panel does not agree that the current framework impedes AEMO's ability to determine the confidentiality status to be assigned to any demand-side market information, or that it operates to intentionally reduce the disclosure of demand-side information that it would be appropriate to disclose.

6.1.2 Consolidation of Confidentiality Classes

Clause 10.2.1 requires AEMO to assign a confidentiality status to each type of market information, and clause 10.2.2 describes six classes of confidentiality status.²⁰ There are two exceptions to AEMO's obligation:

- where documents and information are prescribed a specific status in accordance with sections 10.5 (Public Information), 10.7 (Rule Participant Market Restricted Information),

²⁰ The confidentiality statuses at the time the Rule Change Proposal was published were:

- Public;
- Rule Participant Market Restricted;
- Rule Participant Dispatch Restricted;
- System Management Confidential;
- IMO Confidential; and
- Rule Participant Network Restricted.

Since that time, 'IMO Confidential' has been deleted and 'AEMO Confidential' has been added.

section 10.8 (Rule Participant Dispatch Restricted Information) and section 10.9 (System Management Confidential Information); and

- where other clauses require specific information or documents to be published on the Market Web Site, which would result in a default confidentiality status of public.

Under proposed clause 10.2.1, the IMO sought to consolidate the existing classes of confidentiality status into only two classes – Confidential Information or Public Information.

6.1.2.1 Classification of market information

The IMO stated that the six confidentiality statuses made the framework for managing market information complex to administer, the complexities created uncertainty regarding the confidentiality status of market information, and the distinction between some categories was redundant. The IMO also considered that the information in the confidentiality list published on the Market Web Site contained a number of inconsistencies between the list and the Market Rules, and within the confidentiality list, with different statuses assigned to the same market information under different clauses.

The IMO described the following examples in the Rule Change Proposal to demonstrate these issues:

- some categories of data were assigned a confidentiality status under a generic clause, and in some instances, the confidentiality status was inconsistent with the confidentiality status assigned to a specific piece of data under a separate clause. The IMO stated that where this occurred, it was unclear which confidentiality status was meant to prevail;
- some categories of data were given a confidentiality status that excluded parties that should have had access to the data;
- there was no distinction between the status of a document and the information in the document. That is, where a document had a specific confidentiality status that was different to the confidentiality status of information contained in the document, it became difficult to assign a confidentiality status to the document; and
- the requirement for the IMO to set the confidentiality status of the real-time outage information under clause 10.5.3 of the Market Rules contradicts the confidentiality status of clauses such as 3.21.11, which was System Management Confidential.

The Rule Change Panel considers that the issues described in these examples were not caused by deficiencies in the current framework. Instead, they can be attributed to the approach the IMO took to implement its obligations under clause 10.2.1 and to administer the framework.

The IMO's approach was to assign one of the six confidentiality statuses in clause 10.2.2 to each clause in the Market Rules or Market Procedures under which market information or documents were produced or exchanged.²¹ The IMO took this approach even if the relevant clause contained more than one type of market information, or involved a document that contained information that had been produced or exchanged under other clauses that had been assigned to one or more different confidentiality statuses. As a consequence, it was the

²¹ The Confidentiality List that is published on the Market Web Site pursuant to clause 10.2.1 has been updated to reflect the transfer of market functions from the IMO to AEMO on 30 November 2015, but has not been substantially updated since 1 July 2012. As the list has not been substantially updated by AEMO since that time, the Rule Change Panel does not know whether AEMO will adopt the same approach as the IMO when assigning one of the confidentiality statuses in clause 10.2.2 to each type of market information that has been produced or exchanged under new Market Rules or Market Procedures.

IMO's approach to assign confidentiality statuses by clause number that resulted in many of the difficulties it identified in administering the framework.

Clause 10.2.1 requires AEMO to assign a confidentiality status to each 'type' of market information. The Rule Change Panel considers that the effort required by AEMO to administer the framework would be reduced if AEMO defined each 'type' of market information so that the kinds of market information that fell within each 'type' is clear and unambiguous. This would also reduce the risk of inconsistencies between the different 'types' of market information being assigned different confidentiality statuses because AEMO could define the specific 'types' to the extent necessary. For example, a Non-STEM Settlement Statement could be specified as a 'type' of document that is confidential, but the value of any constrained on or constrained off payments specified in it may be a 'type' of settlement information that is public. This would allow Non-STEM Settlement Statements to be treated as confidential while also allowing details of the constraint payments to be published separately.

As indicated above, the IMO stated that some categories of data were assigned a confidentiality status that excluded parties that should have had access to the data. The example cited by the IMO was clause 3.13.1A. This clause (which no longer exists) required System Management to provide settlement information relating to Ancillary Service Contracts to the IMO. The IMO had assigned a confidentiality status to the information described in clause 3.13.1A of System Management Confidential, which excluded the Rule Participant to which some of that information related from having access to it. If the IMO had assigned a confidentiality status based on the 'type' of data provided by System Management to the IMO under the clause, the IMO could have assigned a confidentiality status of System Management Confidential to the data that should be kept confidential, and a confidentiality status of Rule Participant Market Restricted to that data that a specific Rule Participant should have been able to access.

The Rule Change Panel notes that no examples were offered by submitters in responses to the CFFS to demonstrate how the issues that were identified by the IMO could not be resolved if AEMO assigned a confidentiality status to each 'type' of market information and document, as opposed to the IMO's historical approach of assigning a confidentiality status to each clause in the Market Rules or Market Procedures.

Perth Energy stated in its further period submission that categorising market information without identifying exactly what information is in each category would likely cause more uncertainty and complexity. On that basis, Perth Energy did not consider the suggested grouping of information into categories would add any value.

The Rule Change Panel agrees with Perth Energy that failure by AEMO to identify what kinds of market information would fall into each 'type' would likely cause more uncertainty and complexity. However, the Rule Change Panel considers that, provided AEMO defined the 'types' of market information in a sufficiently granular and unambiguous manner, then an appropriate confidentiality status could be assigned to each 'type' of market information, which would result in greater clarity for Rule Participants and other stakeholders and less complexity for AEMO to administer the framework. By focussing on the 'type' of market information or documents, AEMO would have greater flexibility to assign an appropriate confidentiality status to the market information or documents, particularly where more than one type of market information is produced or exchanged under a single clause. Market Participants would also have greater certainty that a 'type' of market information that was produced or exchanged under more than one clause would carry the same confidentiality status.

The Rule Change Panel also notes that, pursuant to proposed clause 10.2.11, AEMO would have the ability to specify the following conditions with respect to the use or disclosure of specific Confidential Information:

- that the Confidential Information (or any part of it) must not be used by, or disclosed to, a person referred to in proposed clause 10.2.3, under any circumstances;
- that the Confidential Information (or any part of it) may only be used by, or disclosed to, a person referred to in proposed clause 10.2.3, in certain circumstances;
- that the Confidential Information (or any part of it) may be used by, or disclosed to, a person other than those referred to in proposed clause 10.2.3, in certain circumstances; or
- that the Confidential Information becomes public after a specified period of time.

The Rule Change Panel's assessment of proposed clause 10.2.11 is dealt with in section 6.1.4.3 of this report. However, for present purposes, the Rule Change Panel notes that applying proposed clause 10.2.11 could result in many different classes of persons being given access to Confidential Information, which increases the effective number of confidentiality classes – to potentially many more than the six confidentiality statuses specified in clause 10.2.2 of the current framework – and would thereby increase the complexity of the new framework.

The Rule Change Panel does not consider the new framework achieves the intent of consolidating the number of confidentiality classes that exist under the current framework to simplify the administrative effort in administering the framework, and therefore does not support proposed clause 10.2.1 insofar as market information is to be determined as either Confidential Information or Public Information.

6.1.2.2 Consequential amendments

The IMO proposed the following consequential amendments relating to the classification of market information as Confidential Information or Public Information:

- Delete clause 10.2.2. This clause sets out the six confidentiality statuses that could be assigned to each type of market information that has been produced or exchanged under the Market Rules or Market Procedures.
- Amend the glossary definition of 'Public' to 'Public Information' in Chapter 11.
- Introduce a new glossary definition of Confidential Information.
- Delete section 10.7 to remove the requirement for the IMO to set the status of certain market information as Rule Participant Market Restricted.
- Delete section 10.8 to remove the requirement for the IMO to set the status of certain market information as Rule Participant Dispatch Restricted.
- Delete the glossary definitions in Chapter 11 that refer to each of the confidentiality statuses specified in clause 10.2.2.

As the Rule Change Panel does not support the IMO's proposed amendments to clause 10.2.1 to classify market information as Confidential Information or Public Information, the Rule Change Panel does not support the above consequential changes.

6.1.3 Determining Whether Market-Related Information is Confidential

Clause 10.2.3 sets out the principles that AEMO must have regard to when determining the confidentiality status to assign to market information. The IMO proposed to replace these principles with a new clause 10.2.2 to set out the matters that AEMO must have regard to when deciding the confidentiality status of market-related information.

6.1.3.1 Matters the IMO must have regard to when making determinations

Proposed clause 10.2.2 comprises a list of requirements or matters that AEMO would be required comply with, seek to achieve or have regard to when making a determination in accordance with proposed clause 10.2.1 regarding whether market-related information is to be Confidential Information or Public Information.

(a) Application of the Wholesale Market Objectives to determinations

Proposed clause 10.2.2(b) would require AEMO to seek to promote the Wholesale Market Objectives²² when making a determination on the confidentiality status of market information under clause 10.2.1.

The Rule Change Panel does not consider that an explicit requirement for AEMO to seek to promote the Wholesale Market Objectives when assigning a confidentiality status to market information is necessary because:

- the existing principles in clauses 10.2.3(b)²³ and 10.2.3(g)²⁴ already guide AEMO to make determinations that promote the Wholesale Market Objectives;
- AEMO's Market Procedure is already required under clause 2.9.3(a)(ii) to be consistent with the Wholesale Market Objectives; and
- the inclusion of a requirement to seek to promote the Wholesale Market Objectives does not, in itself, resolve the potential conflict between the benefits and risks of disclosing commercially sensitive information where disclosure of that information would cause detriment to the person who gave that information to AEMO, or to whom the information relates.

In practical terms, the Rule Change Panel anticipates that the most contentious decisions will involve AEMO's determination of whether a Rule Participant's commercially sensitive market information should be made public as a result of promoting the Wholesale Market Objectives, regardless of the damage the disclosure could cause to the person who gave the information to AEMO, or to whom the information relates.

The Rule Change Panel notes that, if AEMO determined that the disclosure of market information would cause detriment to a person, then proposed clause 10.2.2(d)(v) would allow AEMO to decide whether the benefits to the market (determined by assessing the achievement of the Wholesale Market Objectives) outweigh that detriment; where currently such decisions would be subject to the rule change process.

²² The Wholesale Market Objectives are contained in section 1.2 of the Market Rules and are reproduced at section 6.3 of this report.

²³ Clause 10.2.3(b) provides that Rule Participants are to have access to information pertaining to the current and future conditions of the power system that may impact on their ability to trade, deliver or consume energy.

²⁴ Clause 10.2.3(g) provides that the confidentiality status assigned to market information must seek to maximise the number of parties that may view the information or document.

The Rule Change Panel considers that, in such circumstances, there is a risk that:

- AEMO will take a conservative approach having regard to the claims of potential damage by the relevant Rule Participant if the information is disclosed; or
- the potential for disclosure of commercially sensitive information may discourage competition in the WEM, as new entrants may be concerned about the risk of their commercially sensitive information being disclosed by AEMO as a result of the requirement to promote the Wholesale Market Objectives in its determinations under clause 10.2.1.

The Rule Change Panel considers that decisions on the proposed release of commercially sensitive information should be made via the rule change process, not as an administrative decision by AEMO. This is because the rule change process will enable the merits of the proposed disclosure to be carefully considered, including two rounds of open consultation with stakeholders. The Rule Change Panel notes that the creation of new types of market information that should be made public despite material detriment being caused to a person would occur infrequently.

Accordingly, the Rule Change Panel does not consider there is a convincing case for the inclusion of proposed clause 10.2.2(b).

(b) Maximise the availability of market information

Proposed clause 10.2.2(c) would require AEMO to maximise the extent to which market-related information is available to, and accessible by, Rule Participants and other interested stakeholders.

The Rule Change Panel considers that it is appropriate for an information policy regime to contain a principle which fosters transparency of information. However, the Rule Change Panel considers that the principle in current clause 10.2.3(g), which states that subject to the other principles in clause 10.2.3, the confidentiality status must seek to maximise the number of parties that may view the information or document, is adequate. Therefore, the Rule Change Panel does not consider proposed clause 10.2.2(c) is necessary.

(c) Matters the IMO is required to have regard to

Proposed clause 10.2.2(d) specifies a number of guiding principles and other matters that AEMO would be required to have regard to when making a determination of the confidentiality status of market-related information under clause 10.2.1. These principles and other matters and the Rule Change Panel’s assessment of each of them are provided in Table 12.

Table 12: Guiding Principles for Determining Whether Market Information is Public Information or Confidential Information

Proposed Amendment	Rule Change Panel’s Assessment
Clause 10.2.2(d) requires the IMO to have regard to:	
(i) whether the use or disclosure of the market-related information is reasonably required to ensure that the SWIS is operated in a safe, secure and reliable manner;	The IMO did not provide any specific reason in the Rule Change Proposal to explain the intent of this principle. The Rule Change Panel agrees that stakeholders should have access to market information which

Proposed Amendment	Rule Change Panel's Assessment
	<p>they reasonably require to ensure that the SWIS is operated in a safe, secure and reliable manner.</p> <p>However, the Rule Change Panel considers the existing processes in the Market Rules are sufficient to deal with the disclosure of such market information, and therefore an explicit principle in the Market Rules is not required.</p> <p>These processes include AEMO assigning an appropriate confidentiality status to the market information in accordance with clause 10.2.1, or to the extent the market information involves commercially sensitive information that may cause detriment to the party who gives the information or to whom it relates, through the rule change process.</p> <p>The Rule Change Panel also notes that there is nothing in the Rule Change Proposal or any of the first period or further submissions to suggest that power system security and reliability is being compromised by the current confidentiality rules. Further, new types of market information (what must be created or exchanged under the Market Rules and Market Procedures) do not occur so frequently that they could not be managed through the existing processes.</p>
<p>(ii) whether the market information is publicly available from a source that, as far as the IMO is aware, is not subject to any confidentiality obligation;</p>	<p>The IMO did not provide any specific reason in the Rule Change Proposal to explain the intent of this principle.</p> <p>The Rule Change Panel notes that:</p> <ul style="list-style-type: none"> • the 'source' of the information may not be subject to any confidentiality obligations, but nonetheless the information could still be publicly available from the source as a result of a breach of confidentiality obligations; and • the proposed amendment does not specify the standard of enquiry that would be required by AEMO when satisfying itself of whether it was 'aware' that a piece of market information was not subject to any confidentiality obligations. For example, should there be a threshold standard such as AEMO having made 'reasonable' or 'due' enquiries. <p>By contrast, under the current framework, a Rule Participant is precluded from providing information or documents of a given confidentiality status to any person unless the information or documents</p>

Proposed Amendment	Rule Change Panel's Assessment
	<p>are or become available in the public domain; or are or become known to the person receiving it, other than as a result of a breach of confidentiality obligations.²⁵</p> <p>The Rule Change Panel considers that the proposed principle potentially dilutes the protection afforded to Rule Participants by the current framework with respect to their market information that should be kept confidential.</p> <p>In the absence of any compelling reason justifying the proposed change, the Rule Change Panel does not support the proposed new principle.</p>
<p>(iii) whether a written law (other than the Market Rules or Market Procedures) prohibits the disclosure of the market information or limits the extent to which the market information may be used or disclosed;</p>	<p>As this principle reflects AEMO's inherent obligation to comply with all laws applicable to it, the Rule Change Panel does not consider the proposed amendment is required.</p>
<p>(iv) whether the disclosure of the market information would cause detriment to the person who gives it or to the person from whom that person receives it;</p>	<p>See section 6.1.3.1(e) of this report.</p>
<p>(v) whether, although the disclosure of the market information would cause detriment to a person referred to in clause 10.2.2(b)(iv), the benefit to the WEM in disclosing the information outweighs that detriment;</p>	
<p>(vi) whether the market information is required to be provided under the Market Rules or Market Procedures or is provided voluntarily; and</p>	<p>The IMO did not provide any specific reason in the Rule Change Proposal to explain the intent of this principle.</p> <p>The Rule Change Panel is concerned about the utility and relevance of this proposed new principle.</p> <p>The IMO may have considered the proposed new principle would have some significance in relation to the proposal to extend the Market Rules to regulate the confidentiality status of other market information (pursuant to clause 10.2.1(b), which is</p>

²⁵ Clauses 10.2.4 and 10.2.5(a) and (b).

Proposed Amendment	Rule Change Panel's Assessment
	<p>not supported by the Rule Change Panel for the reasons discussed in section 6.1.1.2 of this report.</p> <p>The Rule Change Panel acknowledges that information may be provided to a Rule Participant or other interested stakeholder in excess of a requirement in the Market Rules. For example, more detail may be provided in support of an application than is strictly necessary. However, as such information is provided or exchanged under the Market Rules then it would qualify as market information to which the confidentiality rules would apply.</p> <p>Accordingly, the Rule Change Panel does not consider the proposed new principle is required.</p>
<p>(vii) whether (having regard to the nature of the market information) a reasonable person would expect it to be disclosed.</p>	<p>The IMO did not provide any specific reason in the Rule Change Proposal to explain the intent of this principle.</p> <p>The reference to a 'reasonable person' is a legal expression that is frequently used in law to denote a hypothetical 'person' in society who exercises average care, skill, and judgment in conduct and who serves as a comparative standard.</p> <p>The Rule Change Panel considers that the proposed principle is redundant on the basis that, in performing its functions – to determine whether market information is confidential or public – AEMO would be expected to act reasonably. Therefore, a specific market rule requiring a determination by AEMO to be informed by a 'reasonable person' test should not be required.</p> <p>Accordingly, the Rule Change Panel does not support the proposed new principle.</p>

(d) Public benefits test

Proposed clauses 10.2.2(d)(iv) and (v) seek to introduce a 'public benefits' style test when determining whether market-related information should be classified as Confidential Information or Public Information. The effect of these proposed clauses is that, in circumstances where a Rule Participant may suffer a detriment if confidential information was disclosed, AEMO would be able to disclose the information if it considered the benefit to the WEM in disclosing the information outweighed the detriment to the person who gave the information or to the person from whom the information was received.

The Rule Change Panel notes that the IMO stated that it adapted the generic public benefit test in proposed clause 10.2.2(d)(v) to specifically refer to better achieving the Wholesale

Market Objectives. However, the proposed amendment refers to the WEM, and not to the Wholesale Market Objectives, which may result in a wider test.

The proposed new principle generally reflects section 54H of the National Electricity Law (NEL)²⁶ which also incorporates prescribed processes with respect to an intention to disclose information that will cause detriment and statutory protections for such decisions.

Synergy considered that this is a broad and abstract requirement that would be difficult for AEMO to administer. The Rule Change Panel agrees with Synergy and also considers that AEMO should not be placed in a position where it is making these kinds of decisions with respect to the disclosure of commercially sensitive information.

The Rule Change Panel considers that decisions to disclose commercially sensitive market information that would cause detriment to a person should be managed through the rule change process, as the process involves appropriate scrutiny and two opportunities for open consultation. Therefore, the Rule Change Panel does not support the introduction of proposed clauses 10.2.2(d)(iv) and (v).

6.1.3.2 Conditions when publishing confidential market-related information

Proposed clause 10.2.5 provided for the IMO and System Management to:

- publish or disclose a document that contains Confidential Information if it took reasonable steps to ensure the document did not identify the person to whom the Confidential Information relates or enable that person to be identified; or
- publish or disclose a public version of the document with the Confidential Information omitted or redacted.

Clause 10.2.3 sets out the principles AEMO is required to take into account when assigning a confidentiality status to market information. Relevantly, clause 10.2.3(k) provides that information that may be aggregated or provided in a form that does not disclose material that would otherwise be confidential, is to be made public.

The effect of the principle in clause 10.2.3(k) is that AEMO is able to do the things specified in proposed clause 10.2.5. As such, proposed clause 10.2.5 is not required and therefore not supported by the Rule Change Panel.

6.1.3.3 Requirement for Market Procedure

The IMO stated that the purpose of the Market Procedure was unclear, duplicated clauses of the Market Rules and did not add any further details or provide a process by which the IMO should determine the confidentiality status of market information. The IMO asserted that the lack of a robust process for it to assess the confidentiality status of market information resulted in new and amended information not being assessed and/or included on the confidentiality list.

²⁶ The NEL provides that protected information (as defined in section 54(1) of the NEL) can be disclosed if:

- the disclosure does not cause detriment to the person who has given it or from whom that person received it; or
- that, although the disclosure of the information would cause detriment to such a person, the public benefit in disclosing it outweighs the detriment.

Proposed clause 10.2.9 would require AEMO to specify the following matters in a Market Procedure:

- (a) the processes that AEMO would follow when making a determination of whether market-related information is Confidential Information or Public Information;
- (b) the processes to be followed by a person who makes a request under proposed clause 10.2.7 (i.e. for AEMO to make a determination or redetermination of whether market-related information is Confidential Information or Public Information);
- (c) the processes to be followed by AEMO when it receives a request from a person under clause 10.2.7;
- (d) the processes that AEMO would follow when it specified a condition with respect to the use or disclosure of any type of Confidential Information specified in the confidentiality list referred to in proposed clause 10.2.11; and
- (e) any other matters relating to information confidentiality that AEMO considered relevant.

Clause 10.2.9(a) is not materially different to the current obligation in clause 10.2.7 which requires AEMO to document in a Market Procedure the processes it follows in setting and publishing the confidentiality status of market information in section 10.2.

Proposed clauses 10.2.9(b), (c) and (d) relate to provisions the Rule Change Panel does not support, and (e) is a generic catchall provision. The Rule Change Panel considers that the current version of the Market Procedure: Information Confidentiality is inadequate, but does not agree with the IMO that a failure by the IMO to properly document the relevant processes in a Market Procedure resulted in new and amended information not being assessed and/or included on the confidentiality list.

On the contrary, the IMO could have amended the Market Procedure at any time through the Procedure Change Process in the Market Rules to ensure that it clearly set out all of the processes that it must follow in setting and publishing the confidentiality status of market information. In other words, it was always open to the IMO, and is now open to AEMO, to put in place an appropriate and effective Market Procedure.

Therefore, the Rule Change Panel does not support proposed clause 10.2.9 as the obligation on AEMO to document a Market Procedure is already adequately covered in the Market Rules.

6.1.3.4 Confidentiality List

Clause 10.2.1 requires AEMO to set and publish the confidentiality status for each type of market information. The confidentiality list specifies each type of market information (by clause number as a consequence of the IMO's historical approach for setting the confidentiality status for market information) and the associated confidentiality status, including market information that is public.

Proposed clause 10.2.10 would require AEMO to prepare, maintain and publish on the Market Web Site, a list of all market information that AEMO had determined was Confidential Information in accordance with proposed clause 10.2.1. The Market Rules require AEMO to publish the confidentiality status of all market information, however, the proposed list would not specify market information that was determined to be Public Information.

The Rule Change Panel considers that a comprehensive list containing each type of market information would demonstrate that AEMO had identified and assessed each type of market information that was produced or exchanged under the Market Rules. As the list is merely a

record of the outcome of AEMO's assessment, the Rule Change Panel does not expect the requirement to record the outcome on a list and to publish it with other information would increase AEMO's costs or resources to prepare and maintain the list. Therefore, the Rule Change Panel does not support proposed clause 10.2.10 which limits the list to market information that AEMO has determined to be confidential.

6.1.4 Disclosure of Confidential Information

This section considers the proposed amendments that would dictate who Confidential Information could be used by or disclosed to, and any related exceptions.

6.1.4.1 Persons entitled to confidential information

Clause 10.2.2 describes six confidentiality statuses that dictate the persons to whom market information of a specific status can be disclosed. The lists of persons in each status are not identical, but several persons are listed in each status. This approach gives Rule Participants and other interested stakeholders certainty as to who is entitled to access market information of a given confidentiality status.²⁷

By contrast, proposed clause 10.2.3 provides that Confidential Information must not be used by or disclosed to any person other than:²⁸

- a person to whom the market information relates;
- the IMO;
- System Management;
- the Minister;
- the government agency responsible for advising the Minister for Energy in relation to the WEM;
- the ERA;
- the Energy Review Board; and
- courts and tribunals for the purposes of civil or criminal proceedings.

This approach appears to imply that these specified persons would be entitled to use or obtain any Confidential Information, but this is not the case. The entitlement of these persons to Confidential Information is subject to proposed clauses 10.2.4 and 10.2.5.

Clause 10.2.4 provides that a person who receives Confidential Information must maintain the confidentiality of the Confidential Information and must not use or disclose that Confidential Information to any other person, unless:

- the use or disclosure is authorised by each person to whom the Confidential Information relates;
- the disclosure is required under a written law; or

²⁷ There are some limited exceptions which are discussed in section 6.1.4.2 of this report.

²⁸ Since the Rule Change Proposal was published, the IMO has been dissolved and market-related functions have been conferred on other parties, resulting in certain market information under the current framework also being available to:

- AEMO (including in its capacity as System Management);
- the Rule Change Panel; and
- a System Operator (but only to the extent necessary for it to carry out activities as a System Operator).

- the use or disclosure is permitted under a condition specified for the purposes of proposed clause 10.2.11.

Proposed clause 10.2.11 is discussed in section 6.1.4.3 of this report. However, for present purposes, proposed clause 10.2.11 would give AEMO a head of power to place conditions on the use and disclosure of Confidential Information, including that a person specified in the list in proposed clause 10.2.2 is precluded from using or obtaining Confidential Information, or allowing a person who is not specified in the list of persons in proposed clause 10.2.2 to use or obtain Confidential Information.

In practical terms, this means that, before a person specified in the list of persons in proposed clause 10.2.3 would be able to use or obtain Confidential Information:

- the use or disclosure would need to be authorised by each person to whom the Confidential Information relates, which is impractical in that withholding consent could prevent or frustrate persons from carrying out their functions under the Market Rules; or
- AEMO would need to place a condition on the Confidential Information permitting the person to use or obtain the Confidential Information.

In the Rule Change Panel's view, AEMO would be using conditions created under proposed clause 10.2.11 to compensate for the removal of appropriate confidentiality classes.

In its further submission, Western Power noted that it may require access to types of market information to carry out its functions under the Market Rules and to operate its transmission and distribution systems.²⁹ The Rule Change Panel notes that a condition would be required to make any non-public market information available to a Network Operator and that having to use conditions to classify information that Western Power can use or obtain is not more efficient than having defined classes for that purpose. A similar issue applies to System Operators (to the extent they require non-public market information to carry out their functions).

In its further period submission, AEMO expressed concerns that clause 10.2.3 did not appropriately consider all types of information. For instance, a Rule Participant who is the subject of a breach notice could potentially argue that it is entitled to know who lodged the notification of breach under clause 2.13.4 on that basis it is "a person to whom the market information relates." The Rule Change Panel agrees that, even where the market information 'relates' to a specific Rule Participant, it does not follow that the relevant Rule Participant should always be entitled to that market information. This is another example of a condition being required to prevent the inappropriate disclosure of market information.

Consequently, the Rule Change Panel considers that the proposed framework is inconsistent with the stated intent to reduce administrative complexity, and introduces a lack of transparency and creates uncertainty with respect to who is entitled to use or obtain non-public market information.

Other than a general statement that the IMO recognised the need for some persons to have access to information to perform their WEM-related functions, there was no specific reason in the Rule Change Proposal for including the Minister or the PUO³⁰ in the list of persons in proposed clause 10.2.3.

²⁹ The example provided by Western Power in its submission was that it would need to understand the costs and operational impacts of network constraints to ensure that it appropriately plans and delivers network augmentation, and that this information may be Confidential Information under the new framework.

³⁰ Whilst the PUO (now EPWA) has no specific functions under the Market Rules, in some situations, it may be more efficient for EPWA to be able to obtain market information from AEMO rather than the Minister.

The Rule Change Panel considers it credible that the omission of the Minister and the PUO from the persons entitled to market information under the current confidentiality framework was an intentional policy decision because of the State Government's interests in Synergy and Western Power (and Verve Energy at the time). Given the Government's continued ownership of these entities, the Rule Change Panel considers that a decision to make all market information available to the Minister and the PUO (now EPWA) should not be made by the Rule Change Panel. Instead, this is a policy matter that the Minister may choose to progress at his discretion.

For these reasons, the Rule Change Panel does not support the proposed changes to clause 10.2.2 or the proposed deletion of clause 10.2.2.

6.1.4.2 Exceptions to requirement to maintain confidentiality

Under the current framework, a Rule Participant must not provide information or documents of a given confidentiality status to any person, unless one of the circumstances in clauses 10.2.5, 10.2.6 or 10.4.1 applies. These clauses are proposed to be deleted to give effect to the proposed new framework.

Clause 10.2.5 provides that the obligation to maintain confidentiality in clause 10.2.4 does not apply to market information that:

- is or becomes publicly available, other than as a result of a breach of confidentiality obligations;
- is or becomes known to the person, other than as a result of a breach of confidentiality obligations;
- is required to be provided by a law or stock exchange having jurisdiction over the Rule Participant;
- is required in connection with resolving a legal dispute; or
- would otherwise be confidential, where AEMO is satisfied disclosure is with the consent of the party to whom the information is confidential.

Clause 10.2.6 is discussed in section 6.1.5.2 of this report, but for present purposes, it provides that a Rule Participant may disclose information or a document to:

- any person (including another Rule Participant) where the confidentiality status of the information or document is set as Public by AEMO under clause 10.2.1;
- the specific Rule Participant able to receive the information or document in accordance with the confidentiality status, where the confidentiality status of the information or document is set as either Rule Participant Market Restricted or Rule Participant Dispatch Restricted by AEMO under clause 10.2.1; or
- a 'representative' of the Rule Participant or of any person able to receive the information or document under clause 10.2.6.

Clause 10.4.1 provides that AEMO must make information and documents available on application by any person subject to that person being a member of the class of persons able to receive information or documents in accordance with the relevant confidentiality status.

The exceptions to the requirement to maintain confidentiality in respect of the proposed framework are contained in proposed clauses 10.2.4 and 10.2.5, which are considered in sections 6.1.4.1 and 6.1.3.2 of this report, respectively. For the reasons specified in those sections, neither of these proposed clauses are supported by the Rule Change Panel.

Therefore, the Rule Change Panel does not support the removal of clauses 10.2.5, 10.2.6 or 10.4.1.

6.1.4.3 *Head of power to place conditions on disclosure of confidential information and consequential amendments*

Proposed clause 10.2.11 would give AEMO a very broad discretion to place conditions on the use or disclosure of Confidential Information. The potential conditions include:

- precluding a recipient specified in proposed clause 10.2.3 from receiving Confidential Information (e.g. where AEMO determines there may be a conflict of interest);
- Confidential Information can only be used by, or disclosed to, a person in proposed clause 10.2.3 in certain circumstances (e.g. the use of information for a particular review or investigation);
- Confidential Information may be used by or disclosed to a person that is not listed in proposed clause 10.2.3 (e.g. where information is required by a Network Operator to perform its functions); and
- Confidential Information is to be classified as Public Information after a specified period of time (e.g. where the lapsing of time mitigates any detriment caused by the disclosure of the information).

Synergy expressed concerns that proposed clause 10.2.11 would allow AEMO to create unseen conditions that circumvent the proposed authorised disclosure of Confidential Information in accordance with proposed clauses 10.2.3, 10.2.4³¹ and 10.2.5.³²

The Rule Change Panel agrees with Synergy, and considers the proposed clause 10.2.11:

- creates ambiguity and confusion as to whom is entitled to use or receive Confidential Information;
- could result in many different classes of persons being given access to Confidential Information, which increases the number of effective confidentiality classes – potentially to many more than the six confidentiality statuses under the current framework – and the complexity of the new framework, which is in conflict with the stated intent to reduce administrative complexity;
- subverts proposed clause 10.2.3, which lists the persons entitled to access or receive Confidential Information;
- compromises the integrity of an information framework that should provide certainty to Rule Participants, in advance, about to whom their Confidential Information could be disclosed;
- may inappropriately impede entities with functions under the Market Rules from accessing all the market information that they need to fully and effectively carry out their functions, which could result in increased risks of non-compliance with their respective obligations; and
- lacks transparency in that there is no requirement in the new framework for AEMO to publish the conditions AEMO has placed on the Confidential Information and its reasons

³¹ Proposed clause 10.2.4 requires persons who receive Confidential Information to keep it confidential, except to the extent that the use or disclosure is authorised by each person to whom the Confidential Information related, is required to be disclosed under a written law, or the use or disclosure of it is permitted under a condition specified for the purposes of proposed clause 10.2.11.

³² See section 6.1.3.2 of this report.

for doing so, or at a minimum, to inform the Rule Participants to whom the Confidential Information relates what conditions AEMO has placed on release of the Confidential Information.

The Rule Change Panel considers the proposed new framework relies too heavily on AEMO exercising its discretion under proposed clause 10.2.11 to place conditions on the availability of Confidential Information as may be appropriate to reduce the risk of Rule Participants' commercially sensitive information being inappropriately disclosed.

The Rule Change Panel notes that a determination by AEMO in accordance with proposed clause 10.2.1(a), as to whether market information produced or exchanged in accordance with the Market Rules and Market Procedures is confidential or public, would be a Reviewable Decision; but AEMO's decision to place conditions on Confidential Information in accordance with proposed clause 10.2.11 was not proposed to be a Reviewable Decision.

For these reasons, the Rule Change Panel does not support proposed clause 10.2.11.

6.1.5 Availability of Public Information

The IMO proposed a number of amendments to the current framework to give effect to its intent for the new framework to maximise the release of market information by maximising the number of parties to which market information would be made available.

6.1.5.1 Maximise the availability of public information

The IMO stated that it had relocated the requirement for the IMO to seek to maximise the number of parties to which market related information is made available from clause 10.2.3(g) to proposed clause 10.2.2(c).

Current clause 10.2.3(g) requires that the confidentiality status assigned to market information by AEMO must seek to maximise the number of parties that may view the information or document, subject to the other matters listed in clause 10.2.3 that AEMO must have regard to when assigning a confidentiality status to market information in accordance with clause 10.2.1.

Proposed clause 10.2.2(c) provides that, when making a determination about whether market information should be Public Information or Confidential Information, AEMO would be required to seek to maximise the extent to which market information is available to, and accessible by Rule Participants and other interested stakeholders.

The Rule Change Panel notes that the two principles are not the same. Maximising the extent to which market information is available to, and accessible by Rule Participants and other interested stakeholders could be taken to mean active publication on the Market Web Site. However, because clause 10.2.3(g) and proposed clause 10.2.2(c) relate only to setting a confidentiality class and not to decisions on whether to publish information, effectively the inclusion of a requirement to maximise the extent to which information is accessible is futile, because the classification does not determine whether the market information is published.

Despite this, and because there are other clauses in the current framework that specify what market information must be published, the Rule Change Panel considers clause 10.2.3(g) to be adequate, so proposed clause 10.2.2(c) is not required.

6.1.5.2 Disclosure of public information

The IMO sought to replace clause 10.2.6 with a new clause 10.2.6 that provides that market information, other than information determined to be Confidential Information under proposed clauses 10.2.1. or 10.2.7, is Public Information and can be disclosed to any person.³³

Clause 10.2.6(a) allows a Rule Participant to disclose information or a document to any person (including another Rule Participant) where the confidentiality status assigned to the information or document in accordance with clause 10.2.1 is public. The Rule Change Panel considers that proposed clause 10.2.6, in so far as it allows Public Information to be disclosed to any person, is not materially different to clause 10.2.6(a). Therefore, the Rule Change Panel does not see a case for the proposed change.

The Rule Change Panel notes there are two further limbs to the current clause 10.2.6 that would be removed by the proposed replacement of this clause:

- Firstly, clause 10.2.6(c), which states that a Rule Participant may disclose information or a document to the specific Rule Participant able to receive the information or document in accordance with the confidentiality status, where the confidentiality status assigned to the information or document is Rule Participant Market Restricted or Rule Participant Dispatch Restricted.

The IMO considered this requirement did not need to be reflected in the proposed new framework as it is specific to the confidentiality statuses in the current framework. The Rule Change Panel supports the retention of this clause as it allows for the efficient sharing of information between persons entitled to receive the information.

- Secondly, clause 10.2.6(d), which provides that a Rule Participant may disclose information or a document to a Representative of the Rule Participant or of any person able to receive the information or document of a specific confidentiality status.³⁴

The Rule Change Panel notes that, whilst some of these persons may be entitled to receive information at law – for example, persons in their capacity as employees or directors of a corporate Rule Participant – that may not be the case for third parties, including auditors, advisors and consultants. The Rule Change Panel supports retention of this provision as it promotes efficiencies by AEMO being able to provide permitted information directly to those persons.

6.1.5.3 Publication requirements

The IMO stated that it was moving the express requirement for the IMO to publish market information that was not Confidential Information on the Market Web Site or an alternative place that is generally accessible to the parties that were intended to benefit from the disclosure of that information from clause 1.7.1 to the new clause 10.2.8. However, the Rule Change Panel notes that the IMO also proposed to modify the requirement.

In accordance with proposed clause 10.2.8, where the IMO would be required to publish or release market information, the IMO would be required to make that market information available on the Market Web Site or in an alternative form that is available to, or accessible by, Rule Participants and other interested stakeholders.

³³ See section 6.1.1.4 of this report with respect to effect of proposed clause 10.2.6 making market information public be default.

³⁴ A Representative is defined in Chapter 11 as “a representative of that person, including an employee, agent, officer, director, auditor, adviser, partner, consultant, joint venture partner or sub-contractor, of that person.”

In contrast, under clause 1.7.1, where AEMO is obliged by the Market Rules to publish or release market information, AEMO must make the market information available on the Market Web Site in a place that is generally accessible by members of the class of persons entitled to access that market information.

The effect of proposed clause 10.2.8 is that there would be no restrictions on where AEMO publishes the market information that it is required to publish. The Rule Change Panel considers this may make it difficult for stakeholders to find information.

The Market Rules also contain clauses specifying what market information is to be published and, in some cases the timeframes by when the market information must be published. More specifically:

- clause 10.5.1 requires AEMO to set the confidentiality status for the information specified in the clause as public, and to make the information available via the Market Web Site, after the information becomes available to AEMO;
- clause 10.5.2 requires AEMO to set the confidentiality status of the information specified in that clause as public but does not include a requirement to publish it;
- clause 10.5.3 requires AEMO to publish the information specified in that clause, but requires the information to be made available to Market Participants via the Market Participant Interface and web services as soon as practicable, and available to the public weekly via the Market Web Site; and
- other clauses throughout the Market Rules require the publication or disclosure of specific items of market information.

The Rule Change Proposal seeks to delete clauses 10.5.1, 10.5.2 and 10.5.3, which would remove the obligations on AEMO to publish or disclose certain market information, often with specific deadlines.

The Rule Change Panel does not support the removal of these obligations. The mandatory requirements to publish certain market information ensure that Rule Participants and other interested persons have access to market information they may require to carry out or perform their business processes, and the publication of some types of market information may be required as a matter of good policy.

If AEMO or another stakeholder forms the view that the mandatory publication of any specific item of market information is no longer useful to the WEM, then the obligation to publish that market information can be removed through the rule change process where the proposal can be scrutinised, including through two rounds of open consultation.

The mandatory requirement for AEMO to publish specific information on the Market Web Site under the current framework also resolves any potential issues with respect to publication of some market information which may be in the interests of stakeholders, but not necessarily in AEMO's interests, such as audit reports under clause 10.5.1(zF).

For these reasons, the Rule Change Panel does not support proposed clause 10.2.8 or the proposed deletion of clauses 1.7.1, 10.5.1, 10.5.2 and 10.5.3.

6.1.5.4 Requests for public information

Clause 10.4.1 requires AEMO to make information and documents available on application by any person, subject to that person being a member of the class of persons entitled to access or receive the requested information or documents, and that person paying a fee to

cover AEMO's costs of collating and providing the information or documents. The proposed new framework preserves this arrangement.

However, the Rule Change Proposal also deletes clause 10.5.1, which would remove the requirement for AEMO to publish the information specified in that clause. Removing clause 10.5.1 would effectively give AEMO discretion on whether and when to publish market information that:

- is required by Rule Participants to be able to operate in the market;³⁵
- helps Market Participants to compete in the market;³⁶ and
- should be published as a matter of good governance.³⁷

The Rule Change Panel is of the view that it would be inappropriate to give AEMO discretion on whether or when to publish the information specified in clause 10.5.1. Further, it would be inefficient for Rule Participants to need to apply to AEMO and pay a fee for access to the information specified in clause 10.5.1.

If clause 10.5.1 requires AEMO to publish information that is no longer required by Rule Participants or other stakeholders, then clause 10.5.1 can be amended via the rule change process to remove the obligation to publish the specific information.

Therefore, the Rule Change Panel does not support the removal of provisions that require AEMO to publish certain information.

6.1.6 Minor Administrative Changes

6.1.6.1 *Removal of System Management's ability to post to the Market Web Site*

Clauses 10.3.3, 10.3.4 and 10.3.5 relate to System Management posting material directly to the Market Web Site. These clauses have been deleted since the Rule Change Report was published.

6.1.6.2 *Specific drafting improvements*

The IMO proposed to delete section 10.6.(which is '[Blank]') as a drafting improvement on the basis it also proposed to delete sections 10.7 and 10.8 as part of its proposed amendments to introduce the new framework. As the Rule Change Panel's draft decision is to reject the deletion of sections 10.7 and 10.8 (see section 6.1.2.2 of this report), section 10.6 must remain.

6.1.7 Other issues

6.1.7.1 *IMO issues*

This section deals with the issues identified by the IMO in the Rule Change Proposal with the current framework for managing market information that have not been considered in other sections of this report.

³⁵ Such as the Reserve Capacity information specified in clause 10.5.1(f).

³⁶ Such as the STEM summary information specified in clause 10.5.1(i).

³⁷ Such as the audit reports specified in clause 10.5.1(zF).

(a) Interaction between the confidentiality list, the Market Rules and the Market Procedure

The IMO stated that the interaction between the Market Rules, the Market Procedure and the confidentiality list was unclear.

The Rule Change Panel does not agree with the IMO. The Rule Change Panel considers each of these documents serves a different and distinct purpose and the challenges experienced by the IMO are due to other reasons, including the lack of a clear and fit-for-purpose Market Procedure (see section 6.1.3.2 of this report), an out-of-date confidentiality list (see section 6.1.3.4 of this report) and the historical approach that the IMO took for assigning a confidentiality status to market information (see section 6.1.2.1 of this report).

In the Rule Change Panel's view, the Market Rules specify the framework that applies to the disclosure of market information; the Market Procedure should set out the processes to be followed by AEMO in setting and publishing the confidentiality status of market information in accordance with section 10.2; and the confidentiality list records each type of market information and the associated confidentiality status.

(b) Determination process not well defined

The IMO stated that the process to determine the confidentiality status of a type of information or document was not well defined. The Rule Change Proposal does not provide any further information or examples to explain the intent of the IMO's statement or that would assist the Rule Change Panel to better understand the issues identified by the IMO.

Regardless, the Rule Change Panel considers that the confidentiality framework provides sufficient certainty to inform a properly documented Market Procedure that sets out all relevant matters, including how AEMO makes its determinations when assigning a confidentiality status to each type of market information.

(c) Inconsistencies between governance documents

The IMO stated that the inconsistencies between the governance documents (the Market Rules, Market Procedures) did not meet the following requirements that the IMO considered to be key to an effective and efficient confidentiality framework (see Table 1 of this report):

- to maximise the release of market information; and
- to be consistent with other applicable laws and instruments.

The Rule Change Proposal does not provide any further information or examples to explain the intent of the IMO's statements or that would assist the Rule Change Panel to better understand the issues identified by the IMO.

The Rule Change Panel considers that the current framework does not preclude the release of market information that should be disclosed, and notes that none of the first period or further submissions provide any examples of how the current confidentiality rules are inconsistent with other relevant instruments.

6.1.7.2 Timeframes for Making Determinations

Neither the current framework nor the proposed new framework requires, or would require, AEMO to keep the confidentiality list up to date, or to assign a confidentiality status to new or

amended market information within a specific timeframe. The last substantially updated version of the confidentiality list was published by the IMO on 1 July 2012.³⁸

The Rule Change Panel considers that the lack of timely assessment of new or amended market information and the infrequency of updates to the confidentiality list may be contributing to the perceived problems with the current framework described in the Rule Change Proposal, including:

- the inconsistent classification of market information within the confidentiality list, and between the confidentiality list and the Market Rules and Market Procedures; and
- the uncertainty of the confidentiality status of market information that has not yet been assessed.

In their respective further submissions, Western Power and Perth Energy supported introducing timeframes for AEMO to assess the confidentiality status of new or amended market information and update the confidentiality list. Western Power also suggested that any timeframes imposed on AEMO must strike a balance between the need for a robust process and the amount of effort required for AEMO to carry out the process.

However, the Rule Change Panel notes that this Rule Change Proposal has been open since before AEMO became responsible for administering the confidentiality framework, and the lack of clarity from this Rule Change Proposal may have contributed to the delay in updating the confidentiality list. The Rule Change Panel does not propose to impose a timeline by which AEMO must update the confidentiality list because it has no reason to expect that AEMO will not update the confidentiality list as a business-as-usual function once a decision on this Rule Change Proposal has resolved the current lack of clarity.

6.1.7.3 Timing of Implementation of the New Framework

At the time the Rule Change Proposal was published, the State government was undertaking the EMR to reform the WEM. However, on 20 May 2019, the Minister for Energy established the Energy Transformation Taskforce (**Taskforce**) and made it responsible for the WEM reform program.

In its first period submission, Perth Energy queried whether it would be more efficient to await the outcome of the EMR before making a decision on this Rule Change Proposal. Perth Energy stated that if significant changes were made as a result of the review, a further review of new or amended market information would be required which could involve wasted effort classifying the confidentiality status of market information that may have become redundant as a result of the reforms. However, Perth Energy stated in its further submission that the new market design being considered by the Taskforce is still another three years away, so it cannot wait any longer to provide the much-needed transparency of market information to improve economic outcomes.

In its first period submission, Alinta considered that issues such as how market information was managed in the WEM was put on hold until the EMR was concluded.

In its further submission, AEMO considered that, having regard to the current proposed WEM reforms, it was not the opportune time to implement the Rule Change Proposal. AEMO stated that in the interests of avoiding duplication of effort and cost the Rule Change Proposal should not proceed at the present time.

³⁸ The confidentiality list has been updated Since 1 July 2012 to reflect administrative changes relating to the transfer of market functions from the IMO to AEMO, but has not been substantially updated.

The Rule Change Panel notes that pursuant to its proposed decision to reject the Rule Change Proposal the issues associated with the timing of introducing a proposed new framework for managing market information in the WEM no longer need to be considered.

6.2 Additional Amendments to the Proposed Amending Rules

As the Rule Change Panel's draft decision is to reject the Rule Change Proposal, the Rule Change Panel does not propose any further changes to the proposed Amending Rules.

6.3 Wholesale Market Objectives

The Wholesale Market Objectives 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;
- (b) to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors;
- (c) to avoid discrimination in that market against particular energy options and technologies, including sustainable energy options and technologies such as those that make use of renewable resources or that reduce overall greenhouse gas emissions;
- (d) to minimise the long-term cost of electricity supplied to customers from the South West interconnected system; and
- (e) to encourage the taking of measures to manage the amount of electricity used and when it is used.

The Rule Change Panel considers that the proposed amendments do not better achieve, and may be inconsistent with, Wholesale Market Objectives (a), (b), and (d). The Rule Change Panel's assessment is presented below.

Administration of the Framework for Managing Market-Related Information

The extension of the proposed framework to other market information would not minimise the long-term cost of electricity as it would increase the work required to be undertaken by AEMO without delivering a robust and improved framework for managing market information and would be less efficient (Wholesale Market Objectives (a) and (d)).

Consolidation of Confidentiality Statuses

The proposed framework could result in multiple classes of persons being entitled to use or receive Confidential Information (potentially more than the six statuses that exist under the current confidentiality framework), resulting in a more complex framework for AEMO to administer, which would lead to higher costs for AEMO and therefore not minimise the long-term cost of electricity (Wholesale Market Objective (d)).

Determining whether Market Information is Confidential

The potential risks to Rule Participants that market information that should be treated as confidential is either classified as public (by default or intentionally), or accessed before it is assessed by AEMO as confidential, may discourage competition in the SWIS (Wholesale Market Objective (b)).

Disclosure of Confidential Information

Proposed clause 10.2.11 could increase the number of persons, or combinations of persons, to which Confidential Information could be disclosed, increase the complexity of the new framework, and introduce risk and uncertainty for Rule Participants. Therefore, the Rule Change Panel considers this part of the new framework is economically inefficient, discourages competition and will potentially add to the long-term cost of electricity (Wholesale Market Objectives (a), (b) and (d)).

Availability of Public Information

The Rule Change Panel considers that enabling AEMO to exercise its discretion as to what Public Information is published and where and when it is published could reduce transparency of market information, which would be economically inefficient and potentially discourage competition (Wholesale Market Objectives (a), (b) and (d)).

6.4 Protected Provisions, Reviewable Decisions and Civil Penalties

The IMO proposed to amend clauses 1.7.1, 10.2.1, 10.3.1, 10.3.2, 10.3.3, 10.3.4, 10.3.5, 10.4.1 and 10.4.2 which are Protected Provisions. Under clause 2.8.13, the Amending Rules in the Rule Change Proposal must be approved by the Minister if they affect a Protected Provision. Clause 10.2.1 is also a Reviewable Decision. The proposed Amending Rules also include changes to clause 10.2.4, which is a civil penalty provision.

However, as the Rule Change Panel's draft decision is to reject the Rule Change Proposal, there are no Amending Rules for the Minister to approve, and consideration does not need to be given to the impact of the proposal on Reviewable Decisions or civil penalties.

6.5 Practicality and Cost of Implementation

6.5.1 Cost

In its further period submission, AEMO stated that, should the Rule Change Proposal be approved, AEMO would be required to undertake a significant volume of work to define and classify each 'type of market information'. AEMO stated that it had not budgeted for additional resources to undertake this task, nor obtained resources for the ongoing support of the new regime, and may require assistance from external resources.

AEMO stated that, in the absence of a fully developed framework, it was of the view that any cost estimate it provided may not accurately reflect the true implementation cost.

In its first period and further submissions, Perth Energy stated that it would not be impacted by the Rule Change Proposal from a cost perspective.

Community Electricity, Alinta, Synergy and Western Power did not express any views in their submissions about any potential impact of the Rule Change Proposal on costs for their respective organisations.

The Rule Change Panel notes that, pursuant to its proposed decision to reject the Rule Change Proposal, AEMO will not incur any implementation costs as a result of implementing the proposed new framework.

6.5.2 Practicality

In its further submission, AEMO stated that all market data that was published would need to be reviewed and system changes may be required to ensure that no confidential data was inadvertently published under the new confidentiality regime.

AEMO stated that it anticipated it may need to undertake an iterative process to refine the confidentiality framework through further amendments to the Market Rules. AEMO stated that it considered the implementation of the Rule Change Proposal was a large undertaking, requiring significant effort.

AEMO also stated that if the Rule Change Proposal was approved, it anticipated that it would require up to twelve months to create and implement the new framework and deliver the complementary procedural and system changes. AEMO anticipated that it would be able to commence this work in the first half of 2020 and deliver the necessary changes required by this Rule Change Proposal by the first half of 2021.

The Rule Change Panel received no other relevant comments about the practicality of implementing the Rule Change Proposal.

The Rule Change Panel notes that, pursuant to its proposed decision to reject the Rule Change Proposal, consideration of the practical issues raised by AEMO with respect to implementing the proposed new framework is no longer required.

6.5.3 Amendments to Associated Market Procedures and Associated Documents

The proposed Amending Rules would require AEMO to:

- update the Market Procedure: Information Confidentiality, to address the matters outlined in proposed clause 10.2.9 that are required to be dealt with in a Market Procedure; and
- publish a list of market information that AEMO had determined was ‘Confidential Information’ in accordance with proposed clause 10.2.10.

AEMO may also need to make changes to a range of market documents that it publishes, including market design summaries and user guides.

The Rule Change Panel notes that, pursuant to its proposed decision to reject the Rule Change Proposal, this work would not be required.

However, the Rule Change Panel does not consider the current Market Procedure: Information Confidentiality adequately sets out how AEMO performs its functions with respect to managing market information under the current framework, and notes the confidentiality list published on the Market Web Site was last updated on 1 July 2012.

The Panel has decided not to impose timelines or more explicit obligations on AEMO. Once the uncertainty about the outcome of the Rule Change Panel has been removed, the Rule Change Panel suggests that AEMO update the Market Procedure³⁹ and the confidentiality list as soon as possible, subject to budget and the availability of resources.

³⁹ The quality of the current Market Procedure is also discussed at section 6.1.3.2 of this report.

Appendix A. Extract of Summary of Market Advisory Committee Meetings

3 December 2014 MAC Meeting – Concept Paper

- Ms Erin Stone⁴⁰ provided an overview of the changes proposed.
- Mr Michael Zammit⁴¹ asked what deficiency was identified with respect to demand-side information. The Chair noted that the Market Rules had been drafted with a supply-side focus and the same principles had not been applied to demand-side information such as meter data.
- Mr Will Bargmann⁴² asked whether the principle related to protecting parties against the disclosure of information would also cover third parties. Ms Stone agreed that it would.
- The Chair clarified that the proposal to share information between governance parties related only to market information under the Market Rules and noted that information obtained for other purposes may be treated differently under other legislative instruments. Mr Geoff Gaston⁴³ asked for an example. The Chair provided an example that the ERA would have powers under the ERA Act under which they could obtain information that would not be covered by this proposal.
- The Chair clarified that just because a piece of information is public does not mean necessarily that it will be published on the IMO website, but that it can be made available publicly. Mr Bargmann asked whether it was up to the IMO's discretion as to what would be published. The Chair responded that the IMO would continue to publish useful information in a meaningful way.
- Mr Gaston asked whether the IMO would form a Working Group outside of the MAC to consider the initial confidentiality list. The Chair noted that the IMO had planned to establish the initial list over the Christmas period and had intended to bring it back to the MAC as it was unlikely to be a very long list but it could be taken to a Working Group instead if MAC members considered it necessary.
- Mr Gaston asked if there was a way to stage the process such that more time was available to ensure that there were no oversights. The Chair noted that the proposal included a process to determine the confidentiality of a piece of information as a result of a request from a Market Participant. Ms Stone further noted that the timeframes for the Standard Rule Change Process should allow sufficient time for Market Participants to consider the proposed status of each relevant piece of information.
- Mr Dean Sharafi⁴⁴ noted that System Management supported the proposal to clarify how information should be treated on the basis that the current inconsistencies with respect to the provision of information had led to issues in the past.
- Mr Peter Huxtable⁴⁵ noted that the release of demand-side information would be a significant shift from what is currently made public and questioned whether there were principles that the IMO proposed to apply. The Chair noted that the proposal intended to

⁴⁰ Presenter for IMO.

⁴¹ Representing Market Customers.

⁴² Representing Synergy.

⁴³ Representing Market Customers.

⁴⁴ Representing System Management.

⁴⁵ Representing Contestable Customers.

treat supply-side and demand-side information equitably. The Chair provided an example of meter data aggregated by Market Participant. Mr Zammit asked if the IMO was considering solar generation as well. The Chair noted that the IMO was investigating third party provision of solar generation data in the SWIS.

- Mr Brent Graham⁴⁶ asked if other markets also used a similar approach to that proposed by the IMO. The Chair noted that demand-side information is published in some other markets. He further noted that the WEM started with an unusually complex set of confidentiality provisions that had been somewhat simplified but still prevented the release of information that could be beneficial to the market. Ms Kate Ryan⁴⁷ noted that most other jurisdictions had a similar framework that balanced the public benefit of the release of information against any detriment to parties.
- Mr Huxtable noted that there were different ways of releasing information that could be considered confidential including omitting some information (for example publishing volume, but not information that enables energy intensity to be determined), this may be difficult if they are a single Market Participant. The Chair agreed noting that similar issues needed to be resolved in designing the Gas Services Information Rules, for example using delays in the release of information.
- Mr Bargmann asked if the IMO planned on making the decision subject to review. Ms Stone noted that the IMO could propose that the decision is made a Reviewable Decision.
- Mr Bargmann also raised a specific concern about the treatment of third-party information considered confidential under a contractual arrangement and the ability for the Market Rules to override such provisions. The Chair noted that such specific issues would be considered through the development of the initial confidentiality list.
- Mr Bargmann noted that the exercise to establish the initial confidentiality list would be resource intensive for each Market Participant to ensure that the list appropriately covered each piece of information.

12 February 2015 MAC Meeting – Pre-Rule Change Proposal

- Ms Erin Stone provided an overview of the Pre-Rule Change Proposal and examples of the initial assessments that the IMO had completed to date.
- The Chair clarified that the IMO's intent was to conduct a number of workshops for interested stakeholders to work through the status of each piece of information during the period that the IMO consulted on the Rule Change Proposal and associated Procedure Change Proposal.
- Mr Andrew Stevens⁴⁸ asked for an excel spreadsheet version so that interested stakeholders could search and filter the list. Ms Stone agreed to circulate a copy of the excel spreadsheet to MAC members.
- Mr Geoff Gaston asked whether the IMO would hold the workshops before it progressed the Rule Change Proposal and Procedure Change Proposal. The Chair clarified that the rule and procedure changes set the assessment framework that needs to be used to assess the information so it is appropriate to progress them in parallel and noted that if

⁴⁶ Observer for Alinta Energy.

⁴⁷ Representing IMO.

⁴⁸ Representing Market Generators.

the workshops identify areas for improvements, these can be included in the Draft and Final Rule Change Reports.

- Mr Gaston asked for an example where the IMO would need to exercise judgement with respect to an appropriate balance between the detriment and the bettering of the Wholesale Market Objectives caused by release of a piece of information. Ms Stone noted that a number of examples presented had reflected such a judgement call. The Chair noted that the circulation of the list in excel format would help stakeholders identify where these judgements had been made. Ms Stone agreed and noted that these pieces of information are likely to be the items discussed in some detail at the stakeholder workshops.
- Mr Gaston asked how this Rule Change Proposal would be affected by the Electricity Market Review (**EMR**). The Chair clarified that this proposal changed the assessment framework that the IMO uses to determine whether the information should be treated as confidential. Ms Stone clarified that if the Market Rules were substantially changed, the proposed assessment framework would remain, and it would only be the list of confidential information that would change. Ms Kate Ryan added that the development of a usable framework would make the assessment of any new rules much easier.
- The Chair reiterated that the IMO had proposed a process in the Market Rules and Market Procedure to allow a stakeholder to request the IMO to reassess the status of a piece of information.
- Mr Chris Campbell⁴⁹ asked whether a request for reassessment would only apply to the person who requested it. Ms Stone said that an assessment would result in a determination of the status of a piece of information that would apply generally to that information and to all participants (not just the person requesting the assessment). Mr Campbell noted that some information may have varying degrees of confidentiality for different Market Participants and asked whether the IMO intended to determine the status on the basis of the majority. The Chair responded that it was not a voting system but that the IMO would take those reasons into consideration in its assessment.
- The Chair noted that similar issues needed to be resolved when designing the Gas Services Information Rules and that the IMO worked with stakeholders to get an understanding of the reason behind the confidentiality of that information. He stated that the IMO was able to resolve the issues through mechanisms such as delays in the release of that information even where only one person had provided evidence of the potential detriment of the release. Ms Stone noted that the IMO had proposed similar conditions in the Rule Change Proposal such as aggregation, delays and omitting some information.
- Mr Simon Middleton⁵⁰ asked how the IMO would assess the status of the information with respect to the Wholesale Market Objectives. In particular he noted that the release of all information would increase efficiency of the market. The Chair noted that efficiency was only one test. Ms Stone also noted that each piece of information needed to be considered on its merits. Mr Middleton noted that it would be difficult for the IMO to compare the societal benefit to the detriment to an individual. The Chair agreed and reiterated that it was therefore crucial that participants articulate the reasons for that information being confidential so that the IMO can make a fully informed decision.

⁴⁹ Observer for Alinta Energy.

⁵⁰ Appointed by the Minister as an Observer.

- The Chair clarified that the IMO had also proposed a reassessment process and Ms Ryan noted that the IMO's decision was proposed to remain a Reviewable Decision.
- Mr Will Bargmann asked if the IMO also intended to release third party information or whether it was only information from Market Participants. The Chair clarified that the proposed framework only related to market-related information required to be provided under the Market Rules.⁵¹ Mr Bargmann asked if that included third party and contractual information. The Chair stated that the IMO did not have visibility over Market Participant contracts and could not answer that question.
- Mr Bargmann questioned whether the IMO had the statutory authority to disclose confidential information from a third party. The Chair noted that if there were such provisions in a contract it is unlikely that the information could be shared with the IMO or System Management under the current framework.
- Mr Cremin⁵² noted that this Rule Change Proposal only established a procedure under which the IMO could determine whether information is confidential and reiterated that the process had already resulted in information that was public that should be treated as confidential. Mr Cremin noted that the process would result in the strengthened protections for participants.
- Mr Bargmann noted that the Rule Change Proposal reflected the IMO's intention to release confidential third-party information where it is in the public interest. Mr Stevens noted that if Mr Bargmann was concerned about specific pieces of information, he could provide that information to the IMO to consider when making its decision. Mr Bargmann disagreed stating that the way that the provisions were drafted, that the IMO would have regard to a number of circumstances meant that the IMO would override any other prohibition of release. Mr Cremin noted that the wording could be changed if it was a problem but that the process as a whole was robust. The Chair requested that Mr Bargmann to clearly articulate the problem between the old and new frameworks and suggested changes in writing. Ms Stone noted that the IMO proposed to retain the requirement for any confidential information to continue to be treated as confidential information by parties to whom it may be disclosed.
- Mr Campbell noted Alinta Energy's concern that information previously considered confidential could now be released. Mr Campbell also noted his concern that information provided in the past of which participants had no record could be released. The Chair invited Mr Campbell to articulate his concerns in writing.
- Mr Matthew Cronin⁵³ suggested that the IMO should continue to treat all information previously provided as confidential, as confidential. Ms Ryan noted that this was not consistent with the intention of this process. The Chair noted that the IMO could investigate an option to cover historical confidential information on a case-by-case basis.
- Mr Bargmann asked if the IMO had changed its position on releasing information that is prohibited by law. Ms Ryan clarified that the IMO is required to comply with relevant laws. Mr Bargmann reiterated his point that the way the provisions were currently drafted, that the IMO would have regard to a number of circumstances meant that the IMO could override a law that prohibits disclosure. Ms Ryan considered that it was a

⁵¹ The Rule Change Panel notes that the effect of new clause 10.2.1(b) was that AEMO would have the ability to determine whether market information that was not produced or exchanged under the Market Rules or Market Procedures was Public Information or Confidential Information.

⁵² Representing Market Generators.

⁵³ Representing Western Power.

matter of interpretation of the drafting and was not the intention. Ms Stone clarified that the proposed Amending Rules needed to be read with the procedure which provided further advice on the application of the principles proposed in the Market Rules. Ms Stone noted that the IMO would consider the appropriate placement of such prescription and welcomed suggested drafting changes from Mr Bargmann through the Rule Change Process.

- Mr Peter Huxtable clarified the process for reassessment of information. The Chair clarified that any person could request a reassessment under the framework and that the decision and the reasons would be published by the IMO. Mr Ryan added that the reassessment was also a Reviewable Decision.

Appendix B. Responses to Submissions Received During the First Submission Period

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
1	Perth Energy	Perth Energy broadly agreed that the entities identified by the IMO may from time to time need access to information that would be classified as confidential in order to perform their duties. However, Perth Energy expected that those entities would only be given access to confidential information when a genuine need exists rather than having carte blanche access.	See sections 6.1.4.1 and 6.1.4.3 of this report.
2	Alinta	<p>... the broad discretion provided to the IMO under the proposed new provisions to release information when it considers it to be in the public interest creates a further risk to participants (real or perceived) that commercially sensitive information may in the future be deemed to be public even if its status is not amended during the IMO's current process of reassessing the status of all information in the WEM.⁵⁴</p> <p>If participants had known of these potential disclosure risks at the time of original disclosure they may have provided information in a different manner and/or form or, at least, they would have had the opportunity to take such steps as could reasonably be required to mitigate the negative consequences arising from the subsequent disclosure.</p>	See section 6.1.3.1 of this report regarding the public benefits test in proposed clause 10.2.2(d)(v). Also see section 6.1.1.3 of this report regarding reassessment of the confidentiality status of market information.

⁵⁴ At the time the Rule Change Proposal was published, in parallel with progressing the Rule Change Proposal, the IMO was also reassessing the status of all market information that was produced or exchanged under the Market Rules and Market Procedures in accordance with the proposed new framework.

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
3	Alinta	Alinta stated that it would be highly concerned if any SRMC information was made public at any stage. To this extent Alinta noted that the IMO's introduction of an ability to restrict which regulatory agencies could have access to information provided an important safeguard around SRMC related information.	<p>The Rule Change Panel agrees that the Market Rules should contain appropriate safeguards against commercially sensitive information becoming public.</p> <p>However, the Rule Change Panel does not agree that proposed clause 10.2.11 – which gives AEMO the power to specify conditions on the use or disclosure of Confidential Information that could, among other things, restrict the information available to regulatory agencies – would safeguard against the risk.</p> <p>See section 6.1.4.3 of this report regarding the Rule Change Panel's views on proposed clause 10.2.11.</p>
4	Perth Energy	Perth Energy noted that there was still potential for very significant changes to be introduced to the WEM via the EMR. If significant changes were made following the review, Perth Energy expected that a further thorough review of those new and amended sections of the Market Rules would need to be conducted to classify information flowing from those sections as confidential or public. Perth Energy queried whether it would be more efficient to await the outcome of the EMR before implementing the changes proposed in this Rule Change Proposal and potentially avoid some wasted effort with classifying the confidentiality status of sections of the current Market Rules that may become redundant.	See section 6.1.7.3 of this report.
5	Alinta	Alinta noted that the State Government was undertaking a review of the design and functions of the WEM which included a review of the design of the capacity mechanism. Alinta also stated that it was preferable that	

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
		<p>issues such as how market information was managed in the market were put on hold until such time as the review had been concluded. This would ensure that significant changes in the direction that the market was developing towards were not made in quick succession given the associated implementation costs and investment uncertainty that would create. On that basis Alinta recommended that the progression of this rule change and all associated processes be deferred until Phase 2 of the State Government's review had been completed.</p>	
6	Perth Energy	<p>Perth Energy welcomed the proposed mechanism whereby Market Participants could apply to get a ruling from the IMO on the confidentiality status of a particular piece of information, and that it should provide further flexibility and potential protection for Market Participants in cases where the generic principles may lead to unintended negative outcomes.</p>	<p>See sections 6.1.1.3 and 6.1.4.3 of this report.</p>
7	Perth Energy	<p>Perth Energy stated that it was also aware that a working group had been set up to examine certain transitional issues such as how to treat information that had been submitted under the current confidentiality provisions and afforded confidential status. It would seem reasonable that information that had been submitted on the basis that it would be treated as confidential continued to be treated as confidential under</p>	<p>There is nothing in the Market Rules that would preclude AEMO from reassessing the confidentiality status assigned to a piece of market information under the current framework. However, as the principles in clause 10.2.3 that AEMO is required to have regard to when assigning a confidentiality status to each type of market information have not materially changed since market start,⁵⁵ the risk of a different confidentiality status being</p>

⁵⁵ Clause 10.2.3 has been amended since market start by:

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
		any changed regime even if the new regime would not result in a confidential classification of the information. Perth Energy suggested that the IMO await the outcome of the deliberations of the working group before making a final decision in relation to this Rule Change Proposal.	assigned to commercially sensitive market information would be low. See also section 6.1.1.3 of this report.
8	Alinta	Alinta also stated that the one remaining area of concern to Alinta in respect of striking the right balance between greater transparency and protecting commercially sensitive information related to the potential retrospective application of any changes in the status of commercially sensitive information that was directly provided by participants. Alinta stated that its concern arose because, as a principle, Alinta did not support retrospective application of changes to any legislative document that would impact upon a substantive right of a participant.	
9	Alinta	Specifically with respect to this rule change, Alinta stated that it would be concerned if a piece of commercially sensitive information that it had previously provided on the basis of clearly defined assumptions, subsequently had its status changed from being confidential (as part of a reassessment process) and so became available to the market or more broadly to other regulatory bodies in	

- Rule Change Proposal RC_2011_10, which included expanding the type of information in clause 10.2.3(a) that was required to be kept confidential and inserting new clauses 10.2.3(h) to (k).
- Amending Rules gazetted by the Minister for Energy (2016/89 dated 27 November 2015, 2016/116 dated 1 July 2016 and 2016/209 dated 26 November 2016), which introduced new clauses 10.2.3(ca) and (cb) and made other changes to reflect the transfer of IMO functions under the Market Rules to other entities.

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
		<p>a manner contrary to the assumptions and intention underlying its original disclosure.</p>	
10	Alinta	<p>To avoid the disclosure risks noted by Alinta in its submission, Alinta recommended that the IMO incorporate the following general principle into the Market Rules:</p> <p><i>Where confidential information which is commercially sensitive to a participant and/or in respect of which the participant otherwise owes contractual obligations of confidentiality to another party has been provided directly by a participant to a regulatory body in the WEM under the reasonable expectation that it will be treated as confidential, then that specific piece of information should not be made available to the market (or to a broader group of regulatory bodies) as a result of any change in status. Any changed status should only apply to information that is provided by participants following the IMO's determination.</i></p>	
11	Alinta	<p>...Alinta noted that the guiding principles proposed by the IMO created a natural tension between maximising the release of information and providing reasonable protection against disclosure of information that could cause commercial detriment to affected individuals or entities. While Alinta was generally supportive of the proposed guiding principles the broad discretion afforded to the IMO under the new framework created a</p>	See section 6.1.3.1 of this report.

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
		potential risk to Market Participants that commercially sensitive information could be released.	

Appendix C. Responses to Submissions Received During the Further Submission Period

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
1	AEMO	With the broader changes being delivered in the WEM reform, AEMO considered that this was not the opportune time to implement this lower priority rule change. AEMO noted that this rule change was originally placed on hold due to the EMR, a time of similar planning for legislative change and reform to that currently being undertaken.	See section 6.1.7.3 of this report.
2	AEMO	As a part of delivering WEM Reform, the PUO and AEMO would need to assess the appropriateness of the market data confidentiality framework in the context of the new information produced or exchanged under the WEM Rules, including supplementary information stored by AEMO that is not captured by the current (or proposed) confidentiality framework. This assessment was necessary, irrespective of whether the current framework was maintained, or a new one was introduced through this rule change process. As such, AEMO's position was that, in the interests of avoiding duplicate effort and cost (which would ultimately be borne by Market Participants), this Rule Change Proposal should not proceed at this present time.	
3	AEMO	Information (in the proposed confidentiality framework) that was not 'produced or exchanged under the Market Rules' (Clause 10.2.1(a)) doesn't consider information such as email correspondence, telephone conversations, draft documents (including where the published	The Rule Change Panel considers that the framework for managing market information should be limited to market information produced or exchanged under the Market Rules and Market Procedures. See section 6.1.1.2 of this report.

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
		document was considered public), personal notes, meeting minutes etc.	
4	AEMO	The framework doesn't appropriately differentiate between a decision (e.g. appointment of an auditor under Clause 2.14.1, which was currently classified as public) and the information / documents used to reach the decision (e.g. AEMO views that its internal documentation used to appoint the auditor should remain confidential).	The Rule Change Panel considers that there is nothing in the proposed new framework, or the current framework, that would prevent AEMO from assigning a confidentiality status to information and documents used to reach a decision as it would constitute a 'type' of market information. See section 6.1.2.1 of this report regarding the Rule Change Panel's views on the historical approach to assigning a confidentiality status to market information.
5	AEMO	Proposed clause 10.2.3 does not appropriately consider all types of information, for instance, a Rule Participant who was the subject of the breach could potentially argue that it was entitled to know who lodged the notification of a breach under clause 2.13.4 on the basis that it was 'a person to whom the market information relates' (Clause 10.2.3(a)). AEMO considered that this would not be an appropriate outcome.	<p>The Rule Change Panel agrees that it may not be appropriate for market information that relates to a Rule Participant to be able to be used by or disclosed to that Rule Participant in some cases, by virtue of the Rule Participant being a person listed in proposed clause 10.2.3. To avoid this outcome, the effectiveness of the proposed new framework would rely on AEMO to exercise its discretion under proposed clause 10.2.11 to specify that the relevant market information not be made available to the relevant Market Participant in that instance.</p> <p>By contrast, under the current framework, not all of the six confidentiality statuses specified in clause 10.2.2 include the relevant specific Rule Participant, which means AEMO could assign a confidentiality status to the market information in appropriate circumstances that would mean it was not available to the relevant specific Rule Participant.</p>

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
6	AEMO	The principle that all information, not classified as confidential, is classified as public may result in information that should be confidential being inadvertently released. Reversing this principle (information is confidential unless it is classified as public) enabled a safeguard against this risk.	See section 6.1.1.4 of this report.
7	AEMO	The proposed framework does not consider the issues associated with the necessary provision of market information to the PUO.	RCP Support has clarified with AEMO that its comment related to providing confidential market information to the PUO under the current framework. AEMO confirmed that the proposed amendment to include the PUO in the list of persons in new clause 10.2.2 addressed its concerns. See section 6.1.4.1 of this report regarding Confidential Information being made available to the PUO (now EPWA) via the Market Rules.
8	AEMO	The obligation for AEMO to provide public data (that was not published) to any interested stakeholder may require dedicated resources to support this obligation. The provision of market information that was not published could be onerous and the relative effort will depend on the type of information requested. This may make the fee proposed in clause 10.4.2 difficult to administer and not cost reflective.	See section 6.1.5.4 of this report.
9	AEMO	AEMO stated that as an interim measure (prior to completion of the WEM reforms) if there was sufficient industry support to classify certain information as public, a rule change could be raised that modified clause 10.5.1 to enable the provision of this information.	The Rule Change Panel notes that modifying clause 10.5.1 (which lists information that AEMO must assign a confidentiality status of public and publish on the Market Web Site) should only be required where a Rule

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
			<p>Participant or other interested stakeholder forms the view that:</p> <ul style="list-style-type: none"> • a type of market information should be assigned a confidentiality status of public but AEMO has assigned a restricted confidentiality status to that type of market information; • AEMO has assigned a confidentiality status of public to a type of market information but does not consider the market information (for whatever reason including on the grounds of cost or practicality) should be published; or • the confidentiality status of a type of market information should be preserved as Public (as it could only be assigned a different confidentiality status via a Rule Change Proposal).
10	Synergy	<p>Synergy noted that Market Participants may only be able to disclose Confidential Information under certain conditions due to the potential risks of its disclosure for themselves and their counterparties. Synergy did not support proposed clauses 10.2.5 and 10.2.1 (specifically, that AEMO may revise a determination made under clause 10.2.1 at any time) as they would allow these conditions to be breached and for the information to be disclosed more widely than initially agreed.</p>	<p>Proposed clause 10.2.5 sets out the conditions that would enable AEMO or System Management to publish or disclose a document containing confidential information. The Rule Change Panel considers that these provisions are reasonable and consistent with clause 10.2.3(k). See section 6.1.1.3 of this report regarding reassessment of the confidentiality status of market information.</p>
11	Synergy	<p>Proposed new clause 10.2.2(d)(v) would require AEMO to publicly release Market Participants' sensitive information where it considered the benefits to the market</p>	<p>See section 6.1.3.1 of this report.</p>

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
		<p>produced by disclosing the information would outweigh any detriment to the information-owner.</p> <p>Synergy considered that this is a broad and abstract requirement that would be difficult for AEMO to administer and for Market Participants to anticipate.</p>	
12	Synergy	<p>Synergy stated that AEMO's determinations based on 10.2.2(d)(v) may result in outcomes that are inequitable for the Market Participant to which the information related despite the potential benefits to other Market Participants 'out-weighting' its detriment.</p> <p>As a result, Synergy considered that if enacted, 10.2.2(d)(v) would expose Market Participants to a broad risk of their sensitive information being disclosed publicly.</p>	
13	Synergy	<p>Synergy stated that it understood that a key purpose of this Rule Change Proposal was to clearly specify conditions for the disclosure of Confidential Information. For example, the proposed definition for Confidential Information stated that Confidential Information 'must not be used or disclosed except in accordance with clauses 10.2.3, 10.2.4 or 10.2.5.' However, Synergy considered that the proposed clause 10.2.11 would allow AEMO to create potentially unseen conditions that circumvent these rules.</p> <p>Proposed clause 10.2.11 states, AEMO may, 'for any type of Confidential Information specified in the list referred to in clause 10.2.10, specify conditions with respect to the use or disclosure of that Confidential Information.' As currently drafted, the rule change</p>	See section 6.1.4.3 of this report.

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
		<p>proposal does not limit the scope of these potential conditions. Instead, proposed clause 10.2.4 states that anyone who receives Confidential Information may disclose it, if it is authorised by conditions specified for the purposes of clause 10.2.11. Synergy considered that the proposed clauses, 10.2.11, 10.2.4 and 10.2.9 would result in power being vested in (potentially unseen) AEMO-appointed conditions or a Market Procedure that that may circumvent the proposed Market Rules in this Rule Change Proposal.</p>	
14	Synergy	<p>Synergy did not support proposed clause 10.2.6 which would deem information 'produced or exchanged' under the WEM Rules to be Public Information unless AEMO decided, or the WEM Rules expressly stated, the information is Confidential. This is because once information becomes public and is disclosed, it will be difficult (or impossible) to make confidential.</p> <p>Synergy considered that this exposed Market Participants to an unnecessary risk that their sensitive information will be disclosed.</p>	See section 6.1.1.4 of this report.
15	Synergy	<p>Synergy did not support proposed clause 10.2.3, considering that it appears to allow for Confidential Information to be disclosed to AEMO, the Rule Change Panel, the Minister, the PUO, the ERA and the ERB by default regardless of its confidentiality. This exposed Market Participants to an unnecessary risk of their Confidential Information being breached by allowing</p>	<p>See section 6.1.4.1 regarding the Rule Change Panel's position with respect to proposed clause 10.2.3.</p> <p>The Rule Change Panel notes that the general principles described by Synergy as applying to the disclosure of confidential information under Chapter 10 do not exist. Under the current framework, each party listed under a specific confidentiality status in clause 10.2.2 is entitled to</p>

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
		<p>Confidential Information to be disclosed to these entities even where there was no requirement for its disclosure.</p> <p>Synergy considered this proposed clause contravenes the general principles that the Market Rules currently apply to the disclosure of Confidential Information – that is, Confidential Information is only disclosed where:</p> <ol style="list-style-type: none"> 1. it is for a genuine purpose relating to a function conferred to an entity under the Market Rules; 2. its use is limited to the purpose for which it was disclosed; and 3. the relevant entity must formally request from the relevant Market Participant the Confidential Information it requires. <p>These principles are exemplified by rules including clause 2.16.6 which only allows the ERA to require information from market participants where it serves its functions stipulated under 2.16.</p> <p>Synergy suggested that the proposed clauses should be amended such that the WEM Rules continue to uphold these principles and limit the disclosure of Confidential Information to the service of the purposes stipulated in the WEM Rules.</p>	<p>receive each type of market information that AEMO has assigned that confidentiality status to.</p> <p>Section 2.16 deals with the ERA's function to monitor the effectiveness of the market and establishes the Market Surveillance Data Catalogue. Section 2.16 is not indicative of the principles described by Synergy and is inconsistent with the information policy regime in Chapter 10. The ERA has proposed changes to section 2.16 (among others) to remove the unnecessary information barrier created in section 2.16 – see Rule Change Proposal RC_2018_05. In its Final Rule Change Report, the Rule Change Panel agreed that clause 2.16.14 places unnecessary restrictions on the ERA's use of information obtained under section 2.16 for reasons including that it was inconsistent with the information policy regime in Chapter 10. As the ERA is listed as having access to all of the confidentiality classes specified in clause 10.2.2, the ERA can obtain from AEMO all information and documents produced or exchanged under the Market Rules or Market Procedures. Copies of Rule Change Proposal RC_2018_05 and the Rule Change Panel's Final Rule Change Report are available on the Rule Change Panel's website at https://www.erawa.com.au/rule-change-panel/market-rule-changes/rule-change-rc_2018_05.</p>
16	Western Power	The 'type of market information' and 'other type of market information' referred to under clause 10.2.1 of the proposed amending WEM Rules are undefined. As AEMO is required to determine 'each type market	The Rule Change Panel considers that market information that falls under proposed clause 10.2.1(a) is information and documents that are produced or

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
		information' but has the option of determining 'any other type of market information', clarifying the difference between the two types of market information was essential. Without this clarification, there may be confusion as to whether a piece of market information must be assessed by AEMO.	exchanged under the Market Rules or Market Procedures. See section 6.1.1.2 of this report regarding information and documents which fall under proposed clause 10.2.1(b). The Rule Change Panel agrees that the boundaries on what information might be considered other market information and fall within the scope of the proposed framework are unclear.
17	Western Power	There does not appear to be clear boundaries on the type of information that would be considered as market information. Further clarity on what would be market information would be beneficial.	
18	Western Power	Under clause 10.2.1 of the proposed amending WEM Rules, AEMO can revise a past determination at any time. Under clause 10.2.7 of the proposed amending WEM Rules, a person can request AEMO to revise a determination it has previously made. Western Power is uncertain as to the practical application of the above clauses. For example, in situations where market information had been determined by AEMO to be Public Information and that information was made available to the public. Should this information be re-classified by AEMO as Confidential Information, the information would have already been disclosed to the public and this makes the revised determination process redundant.	The Rule Change Panel agrees that market information that is reassessed from Public Information to Confidential Information would, in practical terms, only be confidential from the time the market information confidentiality status was reassessed. See section 6.1.1.3 of this report regarding market information that is reassessed from Confidential Information to Public Information.
19	Western Power	Further information was required on the process that AEMO would use to determine whether a type of market information is Public Information or Confidential Information.	These processes would be documented in a Market Procedure by AEMO as required by proposed clause 10.2.9.

Issue	Submitter	Comment/Issue Raised	Rule Change Panel's Response
20	Western Power	Further information was required on the process that AEMO proposes to undertake when determining whether conditions should be placed on the disclosure of Confidential Information, and the types of conditions that can be placed by AEMO.	
21	Western Power	Western Power noted that it was not included in the list of persons that have access to Confidential Information under clause 10.2.3 of the proposed amending WEM Rules. To carry out its Network Operator functions under the WEM Rules and operate its transmission and distribution systems, Western Power may require access to types of market information or other types of market information that are deemed to be Confidential Information.	The six existing confidentiality statuses (which the Rule Change Panel is proposing to retain) include statuses that give access to Western Power in its capacity as either a Network Operator or a System Operator role (but only to the extent necessary for it to carry out activities as a System Operator).

Appendix D. Updated Proposed Amending Rules

Part A: Summary of Drafting Updates

The Rule Change Panel has developed an updated version of the proposed Amending Rules in the Rule Change Proposal to reflect the changes made to the Market Rules since the Rule Change Proposal was published. The updated version includes the following changes.

Market Rule	Description of Change
1.7	Amended the proposed deletion of the heading 'Publication' to replace it with '[Blank]' as subsequent clauses, namely clauses 1.7.2 and 1.7.3, have been inserted in the Market Rules since the Rule Change Proposal was submitted. ⁵⁶
10.2.3A, 10.2.3B	Amended for consistency with proposed amendments to clause 10.2.1.
10.2.7	Amended by Rule Change Proposal RC_2015_01: Removal of Market Operation Market Procedures which commenced on 1 August 2019.
10.3.1(c)	Amended to correct a typographical error in the Rule Change Proposal.
10.3.3, 10.3.4, 10.3.5	These clauses have been deleted since the Rule Change Proposal was submitted.
10.5.1(zl) and (zJ), section 10.9, Glossary: AEMO Confidential	These clauses and terms have been inserted into the Market Rules since the Rule Change Proposal was submitted and are proposed to be deleted for consistency with the proposed Amending Rules.
10.5.1(h), (iA), (iB), (j), (jA) and (v), 10.7.1	Amended by Rule Change Proposal RC_2014_06: Removal of Resource Plans and Dispatchable Loads which commenced on 1 July 2019.
Multiple clauses and Glossary definitions	Amended to reflect the transfer of functions from the IMO to AEMO and the Rule Change Panel, and from System Management to AEMO.
Table of Contents	Removed proposed amendments as updates to the Table of Contents is an administrative matter.

⁵⁶ Clause 1.7.2 was subsequently deleted on 28 April 2018.

Part B: Updated Proposed Amending Rules

The proposed Amending Rules, updated to reflect the changes made to the Market Rules since the Rule Change Proposal was published, are (~~deleted text~~, added text):

1.7. Publication

~~1.7.1. Where AEMO is required by these Market Rules to publish or release a document or information, then AEMO must make that document or information available on the Market Web Site, in a place which is generally accessible by members of the class of persons entitled to access that document or information given AEMO's determination of its confidentiality status in accordance with clause 10.2.[Blank]~~

...
...

10.2. Information Confidentiality Status

10.2.1. AEMO:

(a) must determine, for each type of market information that is produced or exchanged under the Market Rules or Market Procedures, whether the market information is Public Information or Confidential Information; and

(b) may determine, for any other type of market information, whether the market information is Public Information or Confidential Information.

AEMO may revise a determination made under this clause 10.2.1 at any time.

10.2.2. When making a determination under clause 10.2.1 AEMO must:

(a) comply with the Market Procedure referred to in clause 10.2.9;

(b) seek to promote the Wholesale Market Objectives;

(c) seek to maximise the extent to which market information is available to, and accessible by, Rule Participants and other interested stakeholders; and

(d) have regard to the following matters:

i. whether the use or disclosure of the market information is reasonably required to ensure that the SWIS is operated in a safe, secure and reliable manner;

ii. whether the market information is publicly available from a source that, as far as AEMO is aware, is not subject to any confidentiality obligation;

iii. whether a written law (other than the Market Rules or Market Procedures) prohibits the disclosure of the market information or limits the extent to which the market information may be used or disclosed;

- iv. whether the disclosure of the market information would cause detriment to the person who gives it or to the person from whom that person receives it;
- v. whether, although the disclosure of the market information would cause detriment to a person referred to in clause 10.2.2(b)(iv), the benefit to the Wholesale Electricity Market in disclosing the information outweighs that detriment;
- vi. whether the market information is required to be provided under the Market Rules or Market Procedures or is provided voluntarily; and
- vii. whether (having regard to the nature of the market information) a reasonable person would expect it to be disclosed.

10.2.3. Subject to clauses 10.2.4 and 10.2.5, Confidential Information must not be used by, or disclosed to, any person other than:

- (a) a person to whom the market information relates;
- (b) AEMO (including in its capacity as System Management);
- (c) the Rule Change Panel;
- (d) the Minister;
- (e) the government agency responsible for advising the Minister in relation to the Wholesale Electricity Market;
- (f) the Economic Regulation Authority;
- (g) the Electricity Review Board; and
- (h) courts and tribunals for the purposes of civil or criminal proceedings.

10.2.4. A person who receives Confidential Information from another person must maintain the confidentiality of that Confidential Information, and must not use or disclose that Confidential Information to any other person, except to the extent that:

- (a) the use or disclosure is authorised by each person to whom the Confidential Information relates;
- (b) the disclosure is required under a written law; or
- (c) the use or disclosure is permitted under a condition specified for the purposes of clause 10.2.11.

10.2.5. AEMO, including in its capacity as System Management, may publish or disclose a document that contains Confidential Information if it:

- (a) takes reasonable steps (including by presenting the Confidential Information in an aggregated or generalised form) to ensure that the document does not:
 - i. identify the person to whom the Confidential Information relates; or

- ii. enable that person to be identified; or
- (b) publishes or discloses a public version of the document with the Confidential Information:
 - i. omitted; or
 - ii. redacted and marked as having been removed from the public version.

10.2.6. Market information, other than information which is determined to be Confidential Information under clause 10.2.1 or clause 10.2.7, is Public Information and can be disclosed to any person.

10.2.7. Any person may request that AEMO:

- (a) make a determination under clause 10.2.1; or
- (b) revise a determination previously made under clause 10.2.1.

The person and AEMO must comply with the Market Procedure referred to in clause 10.2.9 in relation to a request made under this clause 10.2.7.

10.2.8. Where AEMO is required by these Market Rules to publish or disclose market information, then it must make that market information available on the Market Web Site or in an alternative form that is available to, and accessible by, Rule Participants and other interested stakeholders.

10.2.9. AEMO must specify the following matters in a Market Procedure:

- (a) the processes to be followed by AEMO when it makes a determination under clause 10.2.1;
- (b) the processes to be followed by a person who makes a request under clause 10.2.7;
- (c) the processes to be followed by AEMO when it receives a request under clause 10.2.7;
- (d) the processes to be followed by AEMO when it specifies conditions with respect to the use or disclosure of any type of Confidential Information specified in the list referred to in clause 10.2.10; and
- (e) any other matters relating to information confidentiality that AEMO considers relevant.

10.2.10. AEMO must:

- (a) prepare and maintain a current list of all market information that it determines is Confidential Information under clause 10.2.1 or clause 10.2.7; and
- (b) publish the list on the Market Web Site.

10.2.11. AEMO may, for any type of Confidential Information specified in the list referred to in clause 10.2.10, specify conditions with respect to the use or disclosure of that Confidential Information. The conditions may specify that:

- (a) the Confidential Information (or part of the Confidential Information) must not be used by, or disclosed to, a person referred to in clause 10.2.3 under any circumstances;
- (b) the Confidential Information (or part of the Confidential Information) may only be used by, or disclosed to, a person referred to in clause 10.2.3 in certain circumstances;
- (c) the Confidential Information (or part of the Confidential Information) may be used by, or disclosed to, a person other than those referred to in clause 10.2.3 in certain circumstances; or
- (d) the Confidential Information becomes Public Information after a specified period of time.

~~10.2.1. AEMO must, in accordance with the Market Rules and Market Procedures, set and publish the confidentiality status for each type of market related information and document produced or exchanged in accordance with the Market Rules or Market Procedures.~~

~~10.2.2. The classes of confidentiality status are:~~

- ~~(a) Public, in which case the relevant information or documents may be made available to any person by any person;~~
- ~~(b) [Blank]~~
- ~~(c) Rule Participant Market Restricted, in which case the relevant information or documents may only be made available to:~~
 - ~~i. a specific Rule Participant;~~
 - ~~ii. [Blank]~~
 - ~~iiA. AEMO (including in its capacity as System Management);~~
 - ~~iiB. [Blank]~~
 - ~~iiC. the Rule Change Panel;~~
 - ~~iii. the Electricity Review Board;~~
 - ~~iv. the Economic Regulation Authority; and~~
 - ~~v. other Regulatory or Government Agencies in accordance with applicable laws;~~
- ~~(d) Rule Participant Dispatch Restricted, in which case the relevant information or documents may only be made available to:~~
 - ~~i. a specific Rule Participant;~~
 - ~~ii. [Blank]~~

- iiA. ~~a System Operator (but only to the extent necessary for it to carry out activities as a System Operator);~~
 - iii. ~~[Blank]~~
 - iiiA. ~~AEMO (including in its capacity as System Management);~~
 - iiiB. ~~the Rule Change Panel;~~
 - iv. ~~the Electricity Review Board;~~
 - v. ~~the Economic Regulation Authority; and~~
 - vi. ~~other Regulatory or Government Agencies in accordance with applicable laws;~~
- (e) ~~System Management Confidential, in which case the relevant information or documents may only be made available to:~~
 - i. ~~AEMO (including in its capacity as System Management);~~
 - iA. ~~a System Operator (but only to the extent necessary for it to carry out activities as a System Operator);~~
 - ii. ~~[Blank]~~
 - iiA. ~~the Rule Change Panel;~~
 - iii. ~~the Electricity Review Board;~~
 - iv. ~~the Economic Regulation Authority; and~~
 - v. ~~other Regulatory or Government Agencies in accordance with applicable laws;~~
- (f) ~~AEMO Confidential, in which case the relevant information or documents may only be made available to:~~
 - i. ~~[Blank]~~
 - ii. ~~the Electricity Review Board;~~
 - iiA. ~~AEMO (including in its capacity as System Management);~~
 - iiB. ~~the Rule Change Panel;~~
 - iii. ~~the Economic Regulation Authority; and~~
 - iv. ~~other Regulatory or Government Agencies in accordance with applicable laws; and~~
- (g) ~~Rule Participant Network Restricted, in which case the relevant information or documents may only be made available to:~~
 - i. ~~a specific Rule Participant;~~
 - ii. ~~a relevant Network Operator;~~
 - iii. ~~AEMO (including in its capacity as System Management);~~
 - iiiA. ~~a System Operator (but only to the extent necessary for it to carry out activities as a System Operator);~~

- iv. ~~_____ [Blank]~~
- ivA. ~~_____ the Rule Change Panel;~~
- v. ~~_____ the Electricity Review Board;~~
- vi. ~~_____ the Economic Regulation Authority; and~~
- ~~_____ vii. _____ any other Regulatory or Government Agencies in accordance with applicable laws.~~

~~10.2.3. In setting the confidentiality status of a type of market related information or document under clause 10.2.1, AEMO must have regard to the following principles:~~

- ~~(a) information that discloses the price of electricity, capacity or any related service, equipment, or plant, or commercially sensitive or potentially defamatory information pertaining to a Rule Participant is not made public or revealed to other Rule Participants except in accordance with legal requirements or requirements of these Market Rules;~~
- ~~(b) subject to clause 10.2.3(a), Rule Participants are to have access to information pertaining to current and expected future conditions of the power system that may impact on their ability to trade, deliver, or consume energy;~~
- ~~(c) AEMO may make available to a person information if AEMO is required to do so by law or these Market Rules;~~
- ~~(ca) the Economic Regulation Authority may make available to a person information if the Economic Regulation Authority is required to do so by law or these Market Rules;~~
- ~~(cb) the Rule Change Panel may make available to a person information if the Rule Change Panel is required to do so by law or these Market Rules;~~
- ~~(d) AEMO may restrict the availability of information to a person where this is required by law, or these Market Rules;~~
- ~~(e) AEMO may declare incomplete working documents to be AEMO Confidential;~~
- ~~(f) AEMO may declare incomplete working documents relating to System Management to be System Management Confidential;~~
- ~~(g) subject to this clause 10.2.3, the confidentiality status must seek to maximise the number of parties that may view the information or document;~~
- ~~(h) information already in the public domain, other than by reason of a breach of existing confidentiality obligations, has a confidentiality status of Public;~~
- ~~(i) information already known to a person, other than by reason of a breach of existing confidentiality obligations, is available to that person;~~

- ~~(j) — information that would otherwise be confidential may be disclosed to the extent that AEMO is satisfied its disclosure is with the consent of the party to whom the information is confidential; and~~
- ~~(k) — information that may be aggregated or provided in a form that does not disclose material that would otherwise be confidential, is to be Public.~~

10.2.3A. AEMO must consult with the Economic Regulation Authority and obtain the Economic Regulation Authority's consent, prior to ~~setting the confidentiality status of~~ determining, in accordance with clause 10.2.1, whether a type of market ~~related information or document under clause 10.2.1~~ relating to functions of the Economic Regulation Authority under these Market Rules is Public Information or Confidential Information.

10.2.3B. AEMO must consult with the Rule Change Panel and obtain the Rule Change Panel's consent, prior to ~~setting the confidentiality status of~~ determining, in accordance with clause 10.2.1, whether a type of market ~~related information or document under clause 10.2.1~~ relating to functions of the Rule Change Panel under these Market Rules is Public Information or Confidential Information.

...

~~10.2.4. — Subject to clauses 10.2.5, 10.2.6 and 10.4.1, a Rule Participant must not provide information or documents of a given confidentiality status to any person.~~

~~10.2.5. — Clause 10.2.4 does not apply to information or documents:~~

- ~~(a) — that, other than as a result of a breach of confidentiality obligations, is or becomes available in the public domain;~~
- ~~(b) — that, other than as a result of a breach of confidentiality obligations, is or becomes known to a person receiving it;~~
- ~~(c) — required to be provided by law or a stock exchange having jurisdiction over the Rule Participant;~~
- ~~(d) — required in connection with resolving a legal dispute; or~~
- ~~(e) — that would otherwise be confidential, where AEMO is satisfied disclosure is with the consent of the party to whom the information is confidential.~~

~~10.2.6. — A Rule Participant may disclose information or a document to:~~

- ~~(a) — any person (including another Rule Participant) where the confidentiality status of the information or document is set as Public by AEMO under clause 10.2.1;~~
- ~~(b) — [Blank]~~
- ~~(c) — the specific Rule Participant able to receive the information or document in accordance with the confidentiality status, where the confidentiality status of the information or document is set as either Rule Participant Market~~

~~Restricted or Rule Participant Dispatch Restricted by AEMO under clause 10.2.1; or~~

- ~~(d) a Representative of the Rule Participant or a Representative of any person able to receive the information or document under clauses 10.2.6(a), 10.2.6(b) or 10.2.6(c).~~

~~10.2.7 AEMO must document the Market Procedure it follows in setting and publishing the confidentiality status of information in clause 10.2.~~

10.3. The Market Web Site

10.3.1. AEMO must maintain a Market Web Site for the purposes of:

- (a) providing information on the nature and operation of the Wholesale Electricity Market;
- (b) providing information on market performance; and
- (c) ~~disseminating publishing~~ reports and documents.

10.3.2. Subject to clause 10.4.2, the Rule Change Panel, AEMO or the Economic Regulation Authority must not ~~require a fee for information or documents released by the Rule Change Panel, AEMO or the Economic Regulation Authority charge a fee for providing information or documents~~ via the Market Web Site.

10.3.3. [Blank]

10.3.4. [Blank]

10.3.5. [Blank]

10.4. Public Information to be Released on Request Application

10.4.1. AEMO must make Public Information (including market information that is not required to be produced or exchanged under the Market Rules or Market Procedures where AEMO has determined, under clause 10.2.1 or clause 10.2.7, that the market information is Public Information) available to any Rule Participant or other interested stakeholder on request.

10.4.2. AEMO may require the person making a request under clause 10.4.1 to pay a fee for obtaining the Public Information. The amount of the fee must not exceed the reasonable costs that AEMO incurs (and which are not otherwise included in AEMO's budget under section 2.22) in connection with:

- (a) searching for, obtaining and collating the Public Information; and
- (b) providing the Public Information to the person making the request.

~~10.4.1. AEMO must make information and documents available on application by any person subject to that person being a member of the class of persons able to receive information or documents in accordance with the relevant confidentiality status.~~

~~10.4.2. AEMO may charge a person a fee for providing information or documents provided in accordance with clause 10.4.1, where that fee may not exceed AEMO's costs, not otherwise included in AEMO's budget, of:~~

- ~~(a) collating and transmission of information or documents; and~~
- ~~(b) preparing documents not otherwise required by the Market Rules, applicable law or regulation.~~

Information to be Released via the Market Web Site

10.5. Public Information

~~10.5.1. AEMO must set the class of confidentiality status for the following information under clause 10.2.1 as Public and AEMO must make each item of information available from or via the Market Web Site after that item of information becomes available to AEMO:~~

- ~~(a) the following Market Rule and Market Procedure information and documents:
 - ~~i. information on the records that must be maintained by Rule Participants;~~
 - ~~ii. the list of the confidentiality status of information and documents pertaining to the Wholesale Electricity Market developed by AEMO in accordance with clause 10.2.1;~~
 - ~~iii. the current version of the Market Rules;~~
 - ~~iv. information on any Amending Rules that have been made in accordance with the Rule Change Process but are yet to commence or to be included in the current version of the Market Rules, including the date those Amending Rules will take effect;~~
 - ~~v. any Rule Change Proposals that are open to public comment;~~
 - ~~vi. the current version of Market Procedures;~~
 - ~~vii. information on any changes to any Market Procedures that have been made in accordance with the Procedure Change Process but are yet to commence or to be included in the current version of the applicable Market Procedure, including the date those Market Procedure changes will take effect;~~
 - ~~viii. any Procedure Change Proposals that are open to public comment; and~~
 - ~~ix. a document summarising all Rule Change Proposals and Procedure Change Proposals that are no longer open to public comment and whether or not those proposals were accepted or rejected;~~~~
- ~~(b) instructions as to how to initiate a rule change process and Procedure Change Process;~~
- ~~(c) details of all Rule Participants including:~~

- i. ~~name;~~
 - ii. ~~mailing address, telephone and facsimile number;~~
 - iii. ~~the name and title of a contact person;~~
 - iv. ~~details of applicable licenses held;~~
 - v. ~~applicable Rule Participant classes;~~
 - vi. ~~applicable Market Participant classes; and~~
 - vii. ~~names and capacities of Registered Facilities;~~
- (d) ~~the precise basis for determining the Bank Bill Rate;~~
- (e) ~~details of bid, offer and clearing price limits as approved by the Economic Regulation Authority including:~~
- i. ~~the Benchmark Reserve Capacity Price;~~
 - ii. ~~the Maximum STEM Price; and~~
 - iii. ~~the Alternative Maximum STEM Price,~~
- ~~including rules that could cause different values to apply at different times;~~
- (f) ~~the following Reserve Capacity information (if applicable):~~
- i. ~~Requests for Expressions of Interest described in clause 4.2.3 for the previous five Reserve Capacity Cycles;~~
 - ii. ~~the summary of Requests for Expressions of Interest described in clause 4.2.7 for the previous five Reserve Capacity Cycles;~~
 - iii. ~~the Reserve Capacity Information Pack published in accordance with clause 4.7.2 for the previous five Reserve Capacity Cycles;~~
 - iiiA. ~~for each Market Participant that was assigned Certified Reserve Capacity, the level of Certified Reserve Capacity assigned to each Facility for each Reserve Capacity Cycle;~~
 - iv. ~~for each Market Participant holding Capacity Credits, the Capacity Credits provided by each Facility for each Reserve Capacity Cycle;~~
 - v. ~~the identity of each Market Participant from which AEMO procured Capacity Credits in the most recent Reserve Capacity Auction, and the total amount procured, where this information is to be published by January 7th of the year following the Reserve Capacity Auction;~~
 - vi. ~~for each Special Price Arrangement for each Registered Facility:~~
 - 1. ~~the amount of Reserve Capacity covered;~~
 - 2. ~~the term of the Special Price Arrangement; and~~
 - 3. ~~the Special Reserve Capacity Price applicable to the Special Price Arrangement,~~

~~where this information is to be current as at, and published on, January 7th of each year;~~

- ~~vii. all Reserve Capacity Offer quantities and prices, including details of the bidder and facility, for a Reserve Capacity Auction, where this information is to be published by January 7th of the year following the Reserve Capacity Auction;~~
- ~~viii. reports summarising the outcomes of Reserve Capacity Tests and reasons for delays in those tests, as required by clause 4.25.11;~~
- ~~ix. the following annually calculated and monthly adjusted ratios:
 - ~~1. NTDL_Ratio as calculated in accordance with Appendix 5, Step 8;~~
 - ~~2. TDL_Ratio as calculated in accordance with Appendix 5, Step 8; and~~
 - ~~3. Total_Ratio as calculated in accordance with Appendix 5, Step 10;~~~~
- ~~x. the following information identified for a Reserve Capacity Cycle under the Relevant Level Methodology:
 - ~~1. the Existing Facility Load for Scheduled Generation for each Trading Interval in the five year period determined under Step 1(a) of Appendix 9; and~~
 - ~~2. the 12 Trading Intervals occurring on separate Trading Days with the highest Existing Facility Load for Scheduled Generation for each 12 month period in the five year period; and~~~~
- ~~xi. for a Facility that has had its Capacity Credits cancelled for the Capacity Year, the information specified in clause 4.20.12(a), 4.20.12(c) and 4.20.12(d);~~
- ~~(g) the Ancillary Service report referred to in clause 3.11.11;~~
- ~~(h) for each Trading Interval in each completed Trading Day in the previous 12 calendar months:
 - ~~i. the sum of the Metered Schedule generation for Scheduled Generators and Non-Scheduled Generators registered to Synergy; and~~
 - ~~ii. the sum of the Metered Schedule generation for Scheduled Generators and Non-Scheduled Generators registered to Market Participants other than Synergy;~~~~
- ~~(i) the following STEM summary information:
 - ~~i. for each Trading Interval in each completed Trading Day in the previous 12 calendar months:
 - ~~1. the total STEM Offer quantity;~~
 - ~~2. the total STEM Bid quantity;~~~~~~

3. ~~whether the STEM was suspended in relation to the relevant Trading Interval;~~
 4. ~~where the STEM was not suspended, the STEM quantity purchased by AEMO; and~~
 5. ~~where the STEM was not suspended, the STEM Clearing Price;~~
- ii. ~~for each Trading Interval in each Trading Day during the 12 calendar months, before the end of the seventh day from the start of the Trading Day:~~
 1. ~~the STEM Offers by Market Participant;~~
 2. ~~the STEM Bids by Market Participant;~~
 3. ~~the quantity bought or sold in the STEM by Market Participant; and~~
 4. ~~the Fuel Declaration, Availability Declaration and, if applicable, Ancillary Service Declaration made by Market Participant;~~
- (iA) ~~the following Balancing Market summary information:~~
- i. ~~for each Trading Interval in each completed Trading Day in the previous 12 calendar months:~~
 1. ~~where available, each Balancing Forecast;~~
 2. ~~where available, the most recent Forecast BMO, excluding information that would identify specific Market Participants;~~
 3. ~~where available, the Relevant Dispatch Quantity; and~~
 4. ~~where available, the Balancing Price; and~~
 - ii. ~~for each Trading Interval in each completed Trading Day in the previous 12 calendar months, before the end of the seventh day from the start of the Trading Day, full details of the most recent Balancing Submissions submitted for each Balancing Facility and the Balancing Portfolio;~~
- (iB) ~~the following LFAS summary information for each Trading Interval in each completed Trading Day in the previous 12 calendar months:~~
- i. ~~the Downwards LFAS Merit Order;~~
 - ii. ~~the Upwards LFAS Merit Order;~~
 - iii. ~~where available, the Upwards LFAS Quantity and the Downwards LFAS Quantity; and~~
 - iv. ~~where available, the Upwards LFAS Price and the Downwards LFAS Price;~~

- ~~(iC) — for each Trading Interval in each completed Trading Day in the previous 12 calendar months, before the end of the seventh day from the start of the Trading Day, the LFAS Submissions by Market Participant;~~
- ~~(j) — for each Trading Interval in each completed Trading Day in the previous 12 calendar months the following dispatch summary information:

 - ~~i. — the LFAS Prices and the Backup LFAS Prices;~~
 - ~~ii. — the Load Forecast prepared by AEMO (in its capacity as System Management) in accordance with clause 7.2.1;~~
 - ~~iii. — the sum of the Metered Schedule load for all Non-Dispatchable Load and Interruptible Load;~~
 - ~~iv. — estimates of the energy not served due to involuntary load curtailment; and~~
 - ~~v. — any shortfalls in Ancillary Services;~~~~
- ~~(jA) —

 - ~~i. — for each Trading Interval in each completed Trading Day in the previous 12 calendar months, before the end of the seventh day from the start of the Trading Day, any changes to a Facility's Consumption Decrease Price or Extra Consumption Decrease Price; and~~
 - ~~ii. — the values of any Consumption Decrease Price or Extra Consumption Decrease Price of a Facility that has been dispatched pursuant to a Dispatch Instruction, as soon as practicable;~~~~
- ~~(jB) — for each Trading Month which has been settled under Chapter 9, reports providing the MWh quantities of energy dispatched under Network Control Service Contracts, by Facility, and by Trading Interval, as specified by System Management in accordance with clause 7.13.1(dA);~~
- ~~(k) — any Market Advisories and Dispatch Advisories released in the previous 12 months;~~
- ~~(l) — Loss Factors for each network connection point in accordance with section 2.27;~~
- ~~(m) — the most current Statement of Opportunities Report;~~
- ~~(n) — the medium term PASA report described in clause 3.16.9;~~
- ~~(o) — the Short Term PASA report described in clause 3.17.9;~~
- ~~(p) — details of resolved Disputes, including all Public Information associated with the dispute, but not aspects of the resolution or information associated with the resolution which, in accordance with its confidentiality status class, cannot be made public;~~
- ~~(q) — public consultation proceedings;~~
- ~~(r) — public reports pertaining to the Wholesale Electricity Market issued by:~~

- ~~i. the Rule Change Panel;~~
- ~~iA. AEMO;~~
- ~~ii. System Management;~~
- ~~iii. the Electricity Review Board;~~
- ~~iv. the Economic Regulation Authority; or~~
- ~~v. the Minister;~~
- ~~(s) event reports explaining what happened during unusual market or dispatch events but not aspects of such reports which, in accordance with its confidentiality status class, cannot be made public;~~
- ~~(t) AEMO budget information for the current financial year;~~
- ~~(u) a schedule of fees for services provided by AEMO;~~
- ~~(v) summary information pertaining to the account maintained by AEMO for market settlement for the preceding 24 calendar months, including:

 - ~~i. the end of month balance;~~
 - ~~ii. the total income received for transactions in each of the Reserve Capacity Mechanism, the STEM, Balancing Settlement, Market Fees, System Management Fees, Regulator Fees and a single value for all other income;~~
 - ~~iii. the total outgoings paid for transactions in each of the Reserve Capacity Mechanism (excluding Supplementary Capacity Contracts), Supplementary Capacity Contracts, the STEM, Balancing Settlement and a single value for all other expenses; and~~
 - ~~iv. Service Fee Settlement Amount paid to AEMO and the Economic Regulation Authority;~~~~
- ~~(vA) reports providing the MWh of non-compliance of Synergy by Trading Interval, as specified by System Management in accordance with clause 7.13.1A(a), for each Trading Month which has been settled;~~
- ~~(w) the STEM Price for each Trading Interval of the current Trading Month for which STEM auction results have been released to Market Participants;~~
- ~~(x) for each Trading Interval of the current Trading Month for which Balancing Price results have been released to Market Participants, the value of the Balancing Price;~~
- ~~(y) as soon as practicable after a Trading Interval:

 - ~~i. the total generation in that Trading Interval;~~
 - ~~ii. the total Spinning Reserve in that Trading Interval; and~~
 - ~~iii. an initial value of the Operational System Load Estimate,~~
 where these values are to be available from the Market Web Site for each Trading Interval in the previous 12 calendar months;~~

- ~~(z) — as soon as practicable after real time:

 - ~~i. — the total generation; and~~
 - ~~ii. — the total Spinning Reserve;~~
 where these values are not required to be maintained on the Market Web Site after their initial publication;~~
- ~~(zA) — the current Tolerance Range determined by System Management in accordance with clause 2.13.6D;~~
- ~~(zB) — any Facility Tolerance Ranges determined by System Management in accordance with clause 2.13.6E, and, if applicable, any Facility Tolerance Ranges which System Management has varied in accordance with clause 2.13.6H;~~
- ~~(zC) — summary information on Disputes in progress that may impact other Rule Participants;~~
- ~~(zD) — [Blank]~~
- ~~(zE) — the Non-Balancing Dispatch Merit Orders;~~
- ~~(zF) — audit reports;~~
- ~~(zG) — documentation of the functionality of:

 - ~~i. — any software used to run the Reserve Capacity Auction;~~
 - ~~ii. — the STEM Auction software; and~~
 - ~~iii. — the Settlement System software;~~~~
- ~~(zH) — information relating to Commissioning Tests;~~
- ~~(zI) — the Refund Exempt Planned Outage Count for each Scheduled Generator for each of the 1,000 Trading Days up to and including the most recent Trading Day which System Management has recorded in accordance with clause 7.13.1A(b); and~~
- ~~(zJ) — as soon as practicable, the consumption data information under clause 7.13.1(eH).~~

~~10.5.2. — AEMO must set the class of confidentiality status for the following information under clause 10.2.1, as Public:~~

- ~~(a) — SCADA data by Facility;~~
- ~~(b) — the sum of each LF_Up_Market_Payment referred to in clause 9.9.2(a) that was made in a Trading Month;~~
- ~~(c) — the sum of each LF_Down_Market_Payment referred to in clause 9.9.2(b) that was made in a Trading Month;~~
- ~~(d) — the sum of each total Trading Month LF_Market_Payment referred to in clause 9.9.2(d) that was made in a Trading Month;~~

- ~~(e) — the payment referred to in clause 9.9.2(e) for each Trading Interval in a Trading Month;~~
- ~~(f) — the payment referred to in clause 9.9.2(f) for each Trading Interval in a Trading Month;~~
- ~~(g) — the payment referred to in clause 9.9.2(g);~~
- ~~(h) — the cost referred to in clause 9.9.2(h) for each Trading Interval in a Trading Month;~~
- ~~(i) — the cost referred to in clause 9.9.2(i) for each Trading Interval in a Trading Month;~~
- ~~(j) — the cost referred to in clause 9.9.2(m);~~
- ~~(k) — the cost referred to in clause 9.9.2(o); and~~
- ~~(l) — the cost referred to in clause 9.9.2(p).~~

~~10.5.3. — AEMO must under clause 10.2.1 set the class of confidentiality status for the information outlined in clauses 7.13.1E and 7.13.1G as Public and after that information becomes available to AEMO, AEMO must make each item of information available to Market Participants via the Market Participant Interface and web services as soon as practicable and available to the public weekly via the Market Web Site.~~

~~10.6. — [Blank]~~

~~10.7. — Rule Participant Market Restricted Information~~

~~10.7.1. — AEMO must set the class of confidentiality status for the following information under clause 10.2.1, as Rule Participant Market Restricted and AEMO must make this information available from the Market Web Site:~~

- ~~(a) — all Reserve Capacity Offer information issued by that Market Participant and all details of Special Price Arrangements for that Market Participant prior to the publication of that information in accordance with clause 10.5.1(f);~~
- ~~(b) — Market Participant specific Reserve Capacity Obligations;~~
- ~~(c) — Market Customer specified Individual Reserve Capacity Requirements partitioned into those associated with Intermittent Loads and those not associated with Intermittent Loads;~~
- ~~(d) — for each completed Trading Day for the past 12 months:

 - ~~i. — Market Participant specific Bilateral Submissions; and~~
 - ~~ii. — Market Participant specific STEM Submissions and Standing STEM Submissions used in the absence of a STEM Submission except that information published in accordance with clause 10.5.1(i); and~~~~
- ~~(e) — for the past 12 months:~~

- i. ~~Non-STEM Settlement Statements; and~~
- ii. ~~STEM Settlement Statements.~~

10.8. ~~Rule Participant Dispatch Restricted Information~~

10.8.1. ~~[Blank]~~

10.8.2. ~~AEMO must set the class of confidentiality status for all Synergy information specified in clause 7.6A as Rule Participant Dispatch Restricted Information with the exception of information specified by Synergy under clauses 7.6A.2(g) and 7.6A.3(e).~~

10.9. ~~System Management Confidential Information~~

10.9.1. ~~AEMO must set the class of confidentiality status for all information provided by a Network Operator under clause 2.28.3B and clause 2.28.3C as System Management Confidential.~~

11 Glossary

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Confidential Information: Market information (including information that is derived from market information) that AEMO has determined is confidential, non-public or proprietary information for the purposes of clause 10.2.1 or 10.2.7, as applicable, and which must not be used or disclosed except in accordance with clauses 10.2.3, 10.2.4 or 10.2.5.

...

~~AEMO Confidential:~~ ~~An information confidentiality status whereby information or documents, and any information or documents to which a confidentiality status under clause 10.2.2(f) may only be made available to the parties described in clause 10.2.2(f).~~

~~This includes an information confidentiality status which was set by the IMO under clause 10.2.2(f) prior to its abolition on the day the *Electricity Industry (Independent Market Operator) Repeal Regulations 2018* commenced⁴.~~

⁴~~Note: the *Electricity Industry (Independent Market Operator) Repeal Regulations 2018* commenced on 10 April 2018.~~

...

Prudential Obligations: In respect of a Market Participant, the obligations set out in clauses 2.37 to 2.43.

~~Public:~~ ~~When used in reference to information confidentiality, information or documents that are not confidential and may be made available to any person.~~

Public Information: Market information (including information that is derived from market information) that AEMO has determined is public information for the purposes of clause 10.2.1 or 10.2.7, as applicable, and which may be used by, or disclosed to, any person.

...

~~**Rule Participant Dispatch Restricted:** An information confidentiality status whereby information or documents may only be made available to the parties described in clause 10.2.2(d).~~

~~**Rule Participant Market Restricted:** An information confidentiality status whereby information or documents may only be made available to the parties described in clause 10.2.2(e).~~

...

~~**System Management Confidential:** An information confidentiality status whereby information or documents may only be made available to the parties described in clause 10.2.2(e).~~