

# Implementing retailer default

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## Decisions and reasons

22 December 2014





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# **1. The Authority's decisions**

## **1.1 Introduction**

- 1.1.1 The Electricity Authority (Authority) is an independent Crown entity charged with promoting competition in, reliable supply by, and the efficient operation of the electricity industry for the long-term benefit of consumers.
- 1.1.2 Electricity is a somewhat unique product because supply is not easily interrupted if a party in the contractual chain (other than the consumer) fails to meet financial commitments. This means an on-going failure by a retailer to pay for electricity or distribution services can lead to increasing financial losses by generators and distributors (a retailer default situation).
- 1.1.3 To address this issue, in December 2013 the Authority introduced a retailer default regime. Since then, the Authority has identified areas of the retailer default regime that need to be further developed so the new arrangements can operate more effectively. In August 2014, the Authority consulted on a proposal to amend the Electricity Industry Participation Code 2010 (Code) that would make these further changes.
- 1.1.4 The consultation paper is available on the Authority's website at <http://www.ea.govt.nz/development/work-programme/retail/managing-retailer-default-situations/>.
- 1.1.5 A summary of submissions is available on the Authority's website at <http://www.ea.govt.nz/development/work-programme/retail/managing-retailer-default-situations-/consultations/#c13823>.
- 1.1.6 This paper sets out:
  - (a) the Authority's decisions
  - (b) the Authority's reasons for its decisions
  - (c) the Authority's comments on themes raised in submissions
  - (d) the changes to be made to the Code.

## **1.2 The Authority's decisions on its proposals**

- 1.2.1 The Authority has made decisions on the four proposals it consulted on:
  - (a) identifying type 2 retailers
  - (b) 'trader' default rather than 'retailer' default

- (c) information about installation control points (ICPs) at which traders cannot trade
- (d) obtaining customer information.

### **Type 2 retailers will not be identified in the registry**

- 1.2.2 The Authority has decided not to require traders to populate the registry with type 2 retailer information. However, the Authority will further investigate the value of traders providing this information.
- 1.2.3 The reasons for not amending the Code are set out in section 3.1.

### **The default regime will refer to traders not retailers**

- 1.2.4 The Authority has decided to refer to 'trader' default rather than 'retailer' default. This is because only traders can commit an event of default, as defined in the Code.
- 1.2.5 The reasons for these changes are discussed in section 3.2.
- 1.2.6 In light of this change, the rest of this paper refers to "trader default" rather than "retailer default".
- 1.2.7 This part of the Code amendment will have effect from 28 February 2015.

### **Traders must provide information about ICPs at which they cannot trade**

- 1.2.8 The Authority will require traders to provide information about ICPs at which they cannot trade. This will reduce the risk that, if the Authority transfers customers to another trader, the receiving trader may breach the Code or have its financial viability threatened as a result of the transfer. Either of those possibilities could delay rectifying the event of trader default.
- 1.2.9 However, information about network supply points (NSPs) and ICPs will only need to be provided when a default occurs.
- 1.2.10 The Authority has also decided that the receiving trader will have three months in which to resolve any breach of the Code that results from the Authority assigning ICPs to it that have metering issues.
- 1.2.11 The Authority proposed that traders must arrange, in 20 business days, for the relevant distributor to provide line services. The Authority has decided not to proceed with this part of the proposal.

1.2.12 These are key changes from the initial proposal described in the consultation paper. The reasons for these changes are discussed in section 3.3.

1.2.13 This part of the Code amendment will have effect from 31 August 2015.

### **Customer information will not be populated or held in the registry**

1.2.14 The Authority has decided not to require all traders to provide the registry with customer information on a regular basis.

1.2.15 The Code provisions requiring the defaulting trader to provide customer information if requested by the Authority remain in force.

1.2.16 The reasons for not proceeding with this proposal are detailed in section 3.4.

### **Implementing the Code amendment**

1.2.17 The Code amendments that change references from 'retailer' to 'trader' will have effect from 28 February 2015. The requirement for traders to provide information about ICPs where they cannot trade will come into force on 31 August 2015.

1.2.18 The Authority will update the guideline on managing events of trader default to reflect the Code changes.

## **2. Background to the proposal**

### **2.1 The existing arrangements**

- 2.1.1 On 4 November 2013, the Authority amended the Code to include new provisions dealing with trader default. The new provisions allowed the Authority to manage a situation in which a trader did not meet its financial obligations or became insolvent.<sup>1</sup>
- 2.1.2 The trader default Code amendments came into force on 16 December 2013 and introduced a three-phase process for managing a trader event of default:
- (a) Phase 1. The Authority gives notice to a trader if it commits certain events of default.<sup>2</sup> The defaulting trader has seven days to either remedy the default by meeting its financial obligations or transfer its ICPs to another trader. The Authority may require the relevant distributors and registry manager to provide information about the defaulting trader's customers.<sup>3</sup>
  - (b) Phase 2. If the defaulting trader does not remedy the default or transfer its ICPs to another trader in seven days, the Authority will notify the defaulting trader's customers they have seven days to switch to another trader.<sup>4</sup> The Authority may also suspend the trader and apply to the Rulings Panel for a termination order.<sup>5</sup>
  - (c) Phase 3. If the defaulting trader still has customers or ICPs 17 days after the Authority gave notice of the event of default, the Authority may assign all remaining rights and obligations under the defaulting trader's customer contracts, and the defaulting retailer's ICPs, to other traders.<sup>6</sup> The Authority can require any trader to accept such an assignment.<sup>7</sup>

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<sup>1</sup> The relevant retail default provisions are clauses 11.15B, 11.15C, and Schedule 11.5 of Part 11 of the Code.

<sup>2</sup> The relevant events of default are those in paragraphs (a), (b), (f), and (h) of clause 14.55 (clause 2 of Schedule 11.5).

<sup>3</sup> Clause 3 of Schedule 11.5

<sup>4</sup> Clause 4 of Schedule 11.5

<sup>5</sup> Section 49 of the Electricity Industry Act 2010.

<sup>6</sup> Clause 5(2) of Schedule 11.5

<sup>7</sup> Clause 5(3) of Schedule 11.5

- 2.1.3 Before assigning contractual rights and obligations and ICPs to other traders, the Authority may seek expressions of interest from traders that wish to accept responsibility for the relevant ICPs and customer contracts. The Authority may do that by running a tender or other competitive process.<sup>8</sup>
- 2.1.4 The Authority may decide not to assign customer contracts or ICPs to a trader if doing so would pose a serious threat to the financial viability of the trader.<sup>9</sup>
- 2.1.5 The amended Code requires each trader to revise its customer contracts. Each contract must provide for the following:
- (a) the Authority may assign the trader's rights and obligations under the contract to another trader (the "recipient trader") if the trader commits an event of default<sup>10</sup>
  - (b) on assignment, the terms of the contracts may be amended to the standard terms the recipient trader would normally have offered to the customer (or more advantageous terms if the Authority and recipient trader agree)<sup>11</sup>
  - (c) on assignment, the terms of the contracts may be amended to include a minimum term during which the customer must pay to cancel the contract<sup>12</sup>
  - (d) the defaulting trader may give the contact details of the customers to the Authority, and the Authority may give that information to other traders if necessary<sup>13</sup>
  - (e) another trader may assign its rights and obligations under the customer contracts to another trader.<sup>14</sup>
- 2.1.6 Traders were required to update every customer contract, including those entered into before the Code amendments came into force on 16 December 2013, by 16 June 2014.<sup>15</sup>

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<sup>8</sup> Clause 5(8) of Schedule 11.5

<sup>9</sup> Clause 5(4) of Schedule 11.5

<sup>10</sup> Clause 11.15B(1)(a)

<sup>11</sup> Clause 11.15B(1)(b)

<sup>12</sup> Clause 11.15B(1)(c)

<sup>13</sup> Clause 11.15B(1)(d)

<sup>14</sup> Clause 11.15B(1)(e)

<sup>15</sup> Clause 11.15B(2)

## 2.2 Process the Authority followed

2.2.1 In August 2014 the Authority published a further consultation paper titled “Proposed Code amendment – implementing retailer default”.<sup>16</sup> The consultation paper proposed Code amendments to address the following four issues:

- (a) *identifying type 2 retailers*: Type 2 retailers are not required to provide information to the registry, and traders are not required to provide information to the registry about type 2 retailers. That means if a trader committed an event of default, the Authority had no way of knowing whether there were any type 2 retailers with customer supply contracts at the ICPs recorded in the registry against the defaulting trader’s name.
- (b) *trader default rather than retailer default*: The retail default provisions should apply to traders, not retailers. Only a trader can commit an event of default because only traders purchase electricity from the wholesale market and only traders have use-of-system agreements with distributors.
- (c) *information about ICPs at which traders cannot trade*: The Authority recognised some traders cannot trade at NSPs and ICPs with certain attributes. Accordingly, the Authority proposed to amend the Code to require traders to provide information about NSPs and ICPs at which they cannot trade for specified reasons. The Authority would consider that information when deciding what contracts and ICPs to assign to what trader.
- (d) *obtaining customer information*: The Authority recognised that a trader assigned the customer contracts of a defaulting trader would need to know how to contact the new customers. Although the Code provides the Authority may request information from the defaulting trader, the Authority recognised the defaulting trader might not be willing or able to provide the information.

2.2.2 The Authority received nine submissions on the November 2014 consultation paper. The list of submitters is provided in Table 1.

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<sup>16</sup> <http://www.ea.govt.nz/development/work-programme/retail/managing-retailer-default-situations/>

**Table 1 List of parties that provided submissions**

| <b>Retailers</b>                                                     | <b>Network companies</b>                                |
|----------------------------------------------------------------------|---------------------------------------------------------|
| Contact Energy                                                       | Electricity Networks Association                        |
| EMH Trade                                                            | Powerco Limited                                         |
| Genesis Energy                                                       | PricewaterhouseCoopers (on behalf of network companies) |
| Meridian Energy and Powershop New Zealand Limited (joint submission) |                                                         |
| Mighty River Power                                                   |                                                         |
| Trustpower Limited                                                   |                                                         |

2.2.3 The Authority has published the submissions on its website at <http://www.ea.govt.nz/development/work-programme/retail/managing-retailer-default-situations-/consultations/#c13823>.

### **3. The Authority's reasons for its decisions**

#### **3.1 Identifying type 2 retailers**

##### **Submitters were divided on the merits of populating type 2 retailer information on the registry**

- 3.1.1 Submitters were divided on the merits of populating type 2 retailer information on the registry, with:
- (a) two submitters supporting some of the proposal
  - (b) three submitters opposing the proposal
  - (c) the remaining four submitters not expressing a view.
- 3.1.2 The Authority's proposal required a trader to identify any ICPs retailed by a type 2 retailer the trader has a commercial arrangement with. This would be achieved by the trader requesting a participant identifier for the type 2 retailer and populating the participant identifier in a new 'retailer' field on the registry.
- 3.1.3 Submitters comments supporting some of the proposal included:
- (a) the timeframe for implementation should be extended to at least three months
  - (b) the obligation to procure a participant identifier should reside with the type 2 retailer and not the trader.
- 3.1.4 Submitters comments opposing the proposal centred on two main themes:
- (a) the commercial risk of doing business as, or with, a type 2 retailer
  - (b) there are other ways to identify type 2 retailers.

##### **Type 2 retailers should manage their commercial risks**

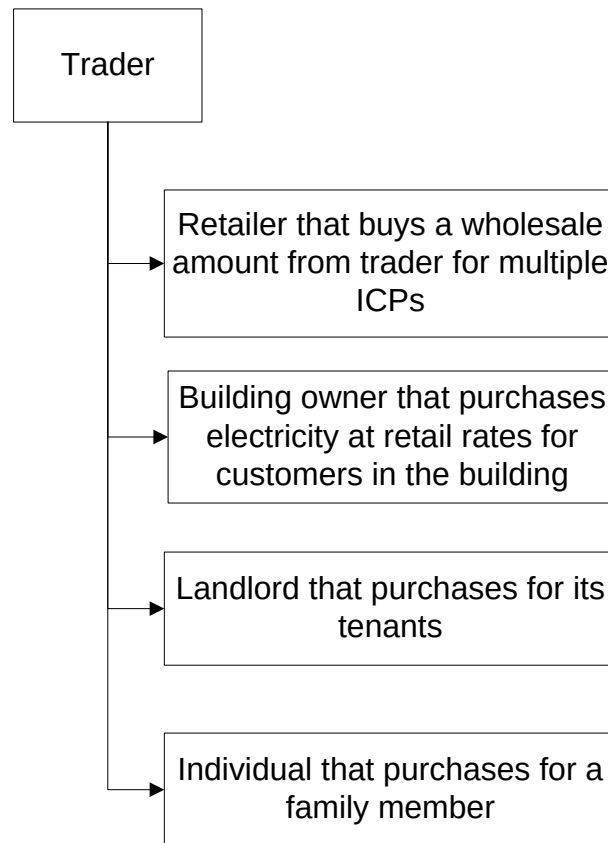
- 3.1.5 Three submitters opposed to this proposal noted:
- (a) traders should not be forced to do business with type 2 retailers as this raises a number of commercial and risk issues (including credit risk)
  - (b) the business risk of type 2 retailers should not be shifted to the trader and may reduce the amount of due diligence by type 2 retailers
  - (c) type 2 retailers should have contracts with traders that ensure the trader tells the type 2 retailers about a default. This gives type 2

retailers a strong incentive to either contract with another trader or contact the Authority so its ICPs are transferred appropriately.

### **Type 2 retailer information can be sourced from the defaulting trader**

- 3.1.6 One submitter commented that, in the event of a default, the Authority can gather type 2 retailer information from the defaulting trader's system. Gathering this information from the defaulting party would keep costs to the industry at a minimum.
- 3.1.7 Another submitter commented the Authority should proactively ensure type 2 retailers comply with the requirement to register with the Authority as a participant under the Electricity Industry Participation Act 2010 (Act). If type 2 retailers registered, there would be no need for traders to gather and maintain information on the registry about type 2 retailers.
- 3.1.8 The Authority agrees there are current provisions under the Code for the Authority to request information from a defaulting trader about its customers. However, there is no guarantee the defaulting trader will be willing, or able, to provide this information. Failing to comply with a request for information would be a breach of the Code. However, the usual remedy of seeking a penalty is unlikely to be effective where a participant is already in default and possibly facing insolvency.
- 3.1.9 The Authority agrees that type 2 retailers should register with the Authority as retailers, to meet their requirements under the Act. It is difficult to establish who all the type 2 retailers are and the Authority must rely on other methods to gather the information.
- 3.1.10 The reason it is difficult to establish who type 2 retailers are is because there are several different relationships type 2 retailers have with traders. The relationship that is most affected in a trader default situation is where there is a commercial arrangement between a type 2 retailer and a trader for a wholesale amount of electricity at multiple ICPs. Figure 1 illustrates some of the different relationships a type 2 retailer may have with a trader.

**Figure 1 Different relationships a type 2 retailer may have with a trader**



**The Authority has decided not to amend the Code to require traders to populate type 2 retailer information on the registry**

3.1.11 The Authority has decided not to proceed with the proposal to amend the Code to require traders to populate type 2 retailer information on the registry. The reasons for this decision are:

- (a) there would be a significant cost to traders to implement and maintain type 2 retailer information solely for the trader default regime
- (b) type 2 retailers and traders should include, in their commercial arrangements, a requirement for the trader to notify the type 2 retailer if the trader commits an event of default, and to provide the type 2 retailer with information about the Authority's trader default regime

- (c) if the trader that a type 2 retailer usually deals with commits an event of default, the onus should be on the type 2 retailer to either:
    - (i) make arrangements with another trader to transfer its ICPs to the other trader; or
    - (ii) contact the Authority to discuss options to have its ICPs transferred together.
- 3.1.12 However, the Authority believes identifying type 2 retailers is valuable and may have a positive impact on other areas of the Code. The Authority will further investigate the merits of identifying type 2 retailer information for the purposes of (but not limited to):
  - (a) the trader default regime
  - (b) the customer compensation scheme
  - (c) enhancing electricity market information published on the Authority's website.
- 3.1.13 The investigation will include several options for gathering the information and will not be limited to providing it to the registry.

## **3.2 Trader default rather than retailer default**

### **Submitters agreed retailer default should be amended to trader default**

- 3.2.1 All submitters agreed the Authority should amend the Code to correctly identify that it is the trader, not the retailer, to whom the default provisions apply.
- 3.2.2 The Authority will amend the Code so all references to "retailers" and retailer events of default are replaced with references to "traders" and trader events of default. The Authority will also make consequential amendments to other areas of the Code, as detailed in paragraph 4.1.1(a) to 4.1.1(d).

### **3.3 Information about ICPs at which traders cannot trade**

#### **Submitters were divided on the merits of providing information about their ICPs**

- 3.3.1 Submitters on the consultation paper were divided on the merits of providing information about ICPs at which traders cannot trade, with:
- (a) three submitters supporting some of the proposal
  - (b) six submitters opposing some of the proposal.
- 3.3.2 The Authority's proposed solution required traders to provide information to the registry about ICPs at which they could not trade. Under this approach traders would have to provide information and reasons where it could not trade at ICPs:
- (a) because it did not have an arrangement with the distributor on whose network the ICPs are located
  - (b) because of the type of meter at each ICP, which could be half hour, non-half hour or prepay
  - (c) with certain price category codes
  - (d) with metering installations of certain categories
  - (e) with certain installation types (B, L, or G).
- 3.3.3 The Authority also proposed to amend the Code to provide that, for the first 20 business days after the assignment, a trader assigned an ICP did not breach the following requirements:
- (a) to ensure there is at least 1 metering installation at the ICP<sup>17</sup>
  - (a) to ensure it or its customer has made any necessary arrangements for line function services to be provided in relation to the ICP.<sup>18</sup>
- 3.3.4 Submitters comments supporting some of the proposal included:
- (a) The time the trader has to resolve any issues should be at least three months.
  - (b) The timing of the information is unnecessary. Although there was benefit in the Authority having NSP and ICP information it could be

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<sup>17</sup> Clause 10.24(a)

<sup>18</sup> Clause 11.16

achieved at a fraction of the cost if it was provided when an event occurred.

- (c) Supplying the information in advance was pointless as:
  - (i) it will only be required from non-defaulting traders
  - (ii) it will be out of date soon afterwards
- (d) Only valid, technical reasons should be provided for not trading on an NSP.

3.3.5 Submissions opposing some of the proposal centred on three main themes:

- (a) it is a commercial matter as to why traders cannot trade on certain ICPs
- (b) it would be more logical for traders to provide information where traders are currently trading
- (c) arrangements for line services should not be included in the trader default regime.

**Traders should not be required to provide information that relates to commercial matters**

3.3.6 One submitter commented that it is unclear why the Authority is asking for information about which ICP characteristics a trader cannot trade on. And if the Authority does require this information, why it has been limited to only certain scenarios.

3.3.7 The submitter also disagreed with the requirement to provide a valid reason as to why the trader could not trade on certain ICP characteristics. The submitter's view was this is a commercial matter the Authority does not require.

3.3.8 The Authority has proposed the Code amendment to ensure that, in the event of the default, traders:

- (a) are not assigned ICPs the trader cannot trade on, potentially forcing them to breach the Code
- (b) are not placed in a position where assigning customers to them would pose a threat to a trader's financial viability.

3.3.9 The Code amendment will provide an efficient mechanism to assign customer contracts and minimise the amount of re-work required. The

streamlined process will enable the Authority to process the ICP allocation in the short timeframe specified in the Code.

- 3.3.10 The Authority has limited the eligible ICP attributes to those that may pose a threat to the trader's financial viability or put them in breach of the Code.

**Traders should provide information on ICPs where the trader currently trades**

- 3.3.11 Two submitters commented that it would be more logical for traders to provide information on NSPs and ICPs where traders currently trade. This is because:

- (a) the information is easily accessible in trader's systems
- (b) it would be very onerous for smaller traders to populate, as they only trade on one or two NSPs.

- 3.3.12 The Authority does appreciate there would be some work involved in providing the necessary information. The Authority does not favour a Code amendment where traders provide information at which they can trade because:

- (a) the trader would be required to provide every possible combination of ICP attributes the trader could accept
- (b) if the trader neglected to correctly provide every possible combination of ICP, the trader would not be assigned some ICPs
- (c) if the trader incorrectly populated the functional specification with ICPs it could trade on, the trader would be assigned customers at ICPs where it could not trade and that may pose a serious threat to its financial viability.

- 3.3.13 Accordingly, the Authority does not consider this alternative is viable.

**Arrangements for providing line owner services should be removed from the trader default regime**

- 3.3.14 The proposed Code amendment to allow traders 20 business days to enter into an arrangement with a line owner would only apply for mandatory assignment of ICPs, not during the tender phase of an event of trader default. During the tender phase, traders would submit bids for ICPs on its preferred NSPs.

- 3.3.15 Three submitters, representing all 29 line owners, commented that allowing the trader 20 business days to arrange for the line owner to

provide line services would affect the line owner's network liability. Line owners noted this was a departure from the process indicated in the initial consultation where mandatory assignment of ICPs would be based on market share at an NSP.

- 3.3.16 The Authority agrees this Code amendment is unnecessary during mandatory assignment if ICPs are allocated based on market share, as traders that are not trading on an NSP will have zero market share and will not be assigned any ICPs on the NSP. Market share is based on individual NSPs, which in turn is based on the following:
- (a) each trader serving customers with category 1 or 2 metering installations will be allocated customers with category 1 or 2 metering installations from the defaulting trader in proportion to the receiving trader's market share in the network area. Market share will be measured by the number of ICPs calculated prior to the tender
  - (b) each trader serving customers with category 3 or above metering installations will be allocated customers with category 3 or above metering installations from the defaulting trader in proportion to the receiving trader's market share in the network area. Market share will be measured by the number of ICPs calculated prior to the tender.
- 3.3.17 Accordingly, the Authority has decided not to proceed with this part of the Code amendment.

**Authority has decided to amend the Code to require traders to provide information about ICPs at which traders cannot trade**

- 3.3.18 The Authority has considered each of the submissions received and decided to amend the Code to require traders to provide information about ICPs at which they cannot trade. This will ensure traders are not:
- (a) assigned ICPs the trader cannot trade on, putting them in breach of the Code
  - (b) placed in a position where mandatory assignment may pose a threat to a trader's financial viability.
- 3.3.19 The Authority has decided the information will only be required in the event of a trader default. The Authority believes traders will provide this information to ensure they do not breach the Code and avoid situations where they are assigned groups of ICPs that may threaten their financial viability. This will minimise the costs for traders but still ensure the

information is current and provided by those traders not in a default situation.

- 3.3.20 The Authority has also decided to extend the time before a trader who is assigned an ICP must ensure there is at least 1 metering installation at the ICP.<sup>19</sup> This will be extended from 20 business days to three months.

## **3.4 Identifying customer information**

### **Submitters opposed identifying customer information on the registry**

- 3.4.1 Submitters were opposed to providing customer information to the registry.

- 3.4.2 The Authority put forward two options for identifying customer information in the event of a trader default:

- (a) Option 1: The information could be held in the registry itself, in fields visible only to the trader responsible for the ICP. The trader would have 20 business days from the date on which it became responsible for an ICP to update the information in the registry.<sup>20</sup> If the information changed, the trader would have 20 business days to update the registry<sup>21</sup>
- (b) Option 2: The information could be held in a secure location stored by, but separate from, the registry. The trader would provide this information to the registry on the first business day of each month<sup>22</sup>

- 3.4.3 Submitters comments opposing the proposal centred on three themes:

- (a) current trader default provisions are sufficient
- (b) privacy of customer information
- (c) low probability of a default not taken into account.

### **The current trader default provisions in the Code are sufficient**

- 3.4.4 Submitters agreed that, in the event of a trader default, customer information was required, but should only be provided by the defaulting trader.

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<sup>19</sup> Clause 10.24(a)

<sup>20</sup> Proposed clause 9(2A) of Schedule 11.1

<sup>21</sup> Proposed amendment to clause 10 of Schedule 11.1

<sup>22</sup> Proposed new clause 2B of clause 9 of Schedule 11.1

- 3.4.5 One submitter commented that providing customer information in advance would impose significant cost on traders and the information may be inaccurate at the time of the default, making it less useful.
- 3.4.6 Submitters suggested the Authority could prescribe a standard format which could be audited. In the event of a trader default, the Authority would receive the information it required in a format it could process quickly.
- 3.4.7 The Authority agrees a standard format would keep the processing time of customer information to a minimum. Auditing would ensure, in the event of a trader default, the defaulting trader could provide requested customer information.

**The consultation did not adequately address privacy of customer information**

- 3.4.8 Submitters expressed the view the registry was not designed to hold customer information and, before it made any Code amendments, the Authority should review the purpose of the registry.
- 3.4.9 Submitters also commented that privacy of customer information was very important and had not been adequately addressed in the consultation paper. Comments included:
- (a) Traders have a current obligation to keep customer information private. There had been no assurance about security for customer information and traders would need to rely solely on the Authority to provide these security measures.
  - (b) Adding customer information to the registry would create a national database of personal information which customers could not opt out of. At the very least, public consultation should have occurred.
  - (c) What would happen if the information was inadvertently released? Such an error could damage the reputation of the entire industry.
- 3.4.10 The Authority considers if customer information is stored in the registry, appropriate measures would be put in place. The registry manager would have to comply with the information privacy principles in the Privacy Act 1993 Act in respect of the collection, storage, use, and disclosure of the customer information.
- 3.4.11 However, the Authority has decided:

- (a) the current purpose of the registry is to hold ICP information and any further use should be investigated as a separate project
- (b) as trader's current contracts with customers make the traders responsible for ensuring the privacy of customer information, traders are best placed to ensure customer information is kept private.

### **An event of trader default has a low probability of occurring**

3.4.12 Submitters commented that, when the Authority performed its cost benefit analysis, it did not fully consider the probability of an event of trader default occurring. Submitters comments included:

- (a) Providing customer information would be very system-intensive for a situation that may never or rarely occur.
- (b) Providing customer information is the final step in a very comprehensive process, and also relies on the defaulting trader being unable to provide customer information. It is more likely the defaulting trader would have already dealt with the majority of ICPs itself. The problem therefore requires a solution with as low cost as possible.
- (c) The cost of dealing with security, legal, and privacy issues has not been thoroughly considered. The cost of having traders provide such a large amount of data is greater than is needed to accomplish the Authority's objective.
- (d) Lost revenue should be treated as a wealth transfer, rather than a cost for the purpose of a cost benefit analysis.
- (e) The proposed changes will deliver very little benefit, but there will be significant implementation costs.
- (f) There is not enough justification for providing customer information other than in the event of a trader default.

3.4.13 The Authority's cost benefit analysis estimated the cost to each trader at around \$30,000 to \$75,000 (depending on the trader's system) to build the process to generate the file containing customer information. The cost to the Authority was estimated at a one-off cost of \$100,000 for keeping customer information in the registry and \$40,000 for keeping the information in a file held by the registry.

3.4.14 The Authority does note that lost revenue ('estimated at risk revenue' in the consultation paper) was not part of the cost benefit analysis. The

Authority instead drew traders' attention to the potential for loss of revenue in the event of a trader default.

- 3.4.15 The Authority notes there is a risk of lost revenue due to traders not being able to identify, contact, or sign up their assigned customers, invoice, collect owed monies, or manage credit issues for unidentified occupants. The Authority understands from submitters' comments that they are willing to accept the revenue risk and that they consider the proposed approach to mitigate the revenue risk is not necessary.

**The Authority has decided not to amend the Code to require traders to provide customer information to registry**

- 3.4.16 The Authority has decided it will not amend the Code to require traders to provide customer information to the registry. The reasons for this are:
- (a) the current purpose of the registry is to hold ICP information and further use should be investigated as part of a separate project
  - (b) at this time, traders are best placed to ensure customer information is kept private
  - (c) there are lower cost ways to procure customer information such as requiring the information at the time of a default from the defaulting trader.
- 3.4.17 Although the Authority will not amend the Code to require traders to provide customer information to the registry, the Authority will:
- (a) prescribe a standard format for providing customer information<sup>23</sup>
  - (b) investigate a Code amendment to require the trader to include the prescribed format in the trader's annual audit for certification as a reconciliation participant.

---

<sup>23</sup> The Authority can prescribe a standard format under the current trader default Code provisions.

## 4. Summary of Code amendments

- 4.1.1 The Authority has decided to make the following Code amendments to reflect its decisions:
- (a) amend paragraph (e) of clause 11.1 (Contents of Part 11), clauses 11.15B and 11.15C, and the provisions in Schedule 11.5 so all references to "retailers" and retailer events of default are replaced with references to "traders" and trader events of default.
  - (b) amend paragraph (h) of clause 14.55 to refer to a "trader's use-of-system agreement", rather than a "retailer's use-of-system agreement"
  - (c) amend paragraph (b) of the definition of retailer so that it does not apply in respect of Part 11<sup>24</sup>
  - (d) amend clause 11.15B to clarify what type of default is applicable under Schedule 11.5
  - (e) insert a new clause 11.15D, which require traders to provide information about ICPs at which they cannot trade for specified reasons
  - (f) insert a new clause 5A of Schedule 11.5 to provide that a trader who is assigned an ICP does not breach the requirement in clause 10.24(a) of the Code to ensure there is at least 1 metering installation at the ICP.
- 4.1.2 These changes are shown in the marked-up extracts of Parts 1, 11 and 14 of the Code, in Appendix A.

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<sup>24</sup> A consequence of the proposed change in paragraph 4.1.1(a) is that the term "retailer" will no longer appear in Part 11. It is therefore unnecessary for paragraph (b) of the definition of "retailer" to include a reference to Part 11.

## **Appendix A Marked up copy of Code amendments**

## Changes to Part 1

### 1.1 Interpretation

- (1) In this Code, unless the context otherwise requires,—

**retailer** means as follows:

- (a) except as provided in paragraphs (b) and (c), a **participant** who supplies **electricity** to another person for any purpose other than for resupply by the other person;
- (b) in Parts 1 (except for the definition of specified participant), 8, ~~and 10, and 12~~ to 15, a **participant** who supplies **electricity** to a **consumer** or to another **retailer**;
- (c) in subpart 4 of Part 9, the **retailer** defined in paragraph (a) who is recorded by the **registry manager** as being responsible for the **ICP** described in clause 9.21(1)(b)

## Changes to Part 11

### 11.1 Contents of this Part

This Part—

- (a) provides for the management of information held by the **registry**; and
- (b) prescribes a process for switching **customers** and **embedded generators** between **traders**; and
- (c) prescribes a process for a **distributor** to change the record in the **registry** of an **ICP** so that the **ICP** is recorded as being usually connected to an **NSP** in the **distributor's network**; and
- (d) prescribes a process for switching responsibility for **metering installations** for **ICPs** between **metering equipment providers**; and
- (e) prescribes a process for dealing with ~~**trader-retailer**~~ **events of default**.

...

### 11.15B ~~Trader Retailer~~ contracts with customers to permit assignment by Authority

- (1) Each ~~**trader-retailer**~~ must at all times ensure that the terms of each contract under which a **customer** of the ~~**trader-retailer**~~ purchases **electricity** from the ~~**trader-retailer**~~ permit—
- (a) the **Authority** to assign the rights and obligations of the ~~**trader-retailer**~~ under the contract to another ~~**trader-retailer**~~ if the ~~**trader-retailer**~~ commits an **event of default** under paragraph (a) or (b) or (f) or (h) of clause 14.55; and
  - (b) the terms of the assigned contract to be amended on such an assignment to—
    - (i) the standard terms that the recipient ~~**trader-retailer**~~ would normally have offered to the **customer** immediately before the **event of default** occurred; or
    - (ii) such other terms that are more advantageous to the **customer** than the standard terms, as the recipient ~~**trader-retailer**~~ and the **Authority** agree; and

- (c) the terms of the assigned contract to be amended on such an assignment to include a minimum term in respect of which the **customer** must pay an amount for cancelling the contract before the expiry of the minimum term; and
  - (d) the ~~trader-retailer~~ to provide information about the **customer** to the **Authority** and for the **Authority** to provide the information to another ~~trader-retailer~~ if required under Schedule 11.5; and
  - (e) the ~~trader-retailer~~ to assign the rights and obligations of the ~~trader-retailer~~ to another ~~trader-retailer~~.
- (2) The terms specified in subclause (1) must—
- (a) be expressed to be for the benefit of the **Authority** for the purposes of the Contracts (Privity) Act 1982; and
  - (b) not be able to be amended without the consent of the **Authority**.
- ~~(3) This clause applies~~
- ~~(a) from 16 January 2014 to every **customer** contract entered into by a **retailer** after this clause comes into force; and~~
  - ~~(b) from 16 June 2014 to every **customer** contract entered into by a **retailer** before this clause comes into force.~~

#### **11.15C Process for trader-retailer events of default**

- (1) This clause applies if the **Authority** is satisfied that a ~~trader-retailer~~ has committed an **event of default** under paragraph (a) or (b) or (f) or (h) of clause 14.55.
- (2) The **Authority** and each **participant** must comply with Schedule 11.5.

...

#### **Schedule 11.5 (Process for trader-retailer event of default)**

##### **1 Purpose**

The purpose of this Schedule is to set out the process that the **Authority** and each **participant** must comply with ~~when a trader-retailer commits~~ when the **Authority** is satisfied that a **trader** has committed an **event of default** under paragraph (a) or (b) or (f) or (h) of clause 14.55.

##### **2 Notice to trader-retailer that has committed event of default**

- (1) ~~If a **retailer** ("defaulting **retailer**") commits~~ If the **Authority** is satisfied that a **trader** ("defaulting **trader**") has committed an **event of default** under paragraph (a) or (b) or (f) or (h) of clause 14.55 the **Authority** must give notice to the defaulting ~~**trader-retailer**~~ **trader** that—
- (a) the defaulting ~~**trader-retailer**~~ must—
  - (i) remedy the **event of default**; or
  - (ii) assign its rights and obligations under every contract under which a **customer** of the defaulting ~~**trader-retailer**~~ purchases **electricity** from the defaulting ~~**trader-retailer**~~ to another ~~**trader-retailer**~~, and assign to another ~~**trader-retailer**~~ all ICPs for which the defaulting ~~**trader-retailer**~~ is recorded in the **registry** as being responsible; and

- (b) if the defaulting ~~trader-retailer~~ does not comply with the requirements set out in paragraph (a) within 7 days of the notice, clause 4 will apply.
- (2) The **Authority** may require the defaulting ~~trader-retailer~~ to provide to the **Authority**, within a time specified by the **Authority**, information about the defaulting ~~trader's~~ **retailer's customers**.
- (3) The defaulting ~~trader-retailer~~ must provide the information requested by the **Authority** under subclause (2) within the time specified by the **Authority**.

### **3 Authority may require distributor and registry to provide information**

- (1) The **Authority** may, by notice in writing to a **distributor** on whose **network** a defaulting ~~trader-retailer~~ trades **electricity**, require the **distributor** to provide to the **Authority** the information about the defaulting ~~trader's~~ **retailer's customers** specified in the notice (if the **distributor** holds the information), within the period specified in the notice.
- (2) If the **distributor** holds the information, the **distributor** must provide the information requested by the **Authority** under subclause (1) within the time specified by the **Authority**.
- (3) The **Authority** may, by notice in writing to the **registry**, require the **registry** to provide to the **Authority** information about **ICPs** for which the defaulting ~~trader-retailer~~ is recorded in the **registry** as being responsible, within the period specified in the notice.
- (4) The **registry** must provide the information requested by the **Authority** under subclause (3) within the time specified by the **Authority**.

### **4 Failure by defaulting trader to remedy event of default**

- (1) This clause applies if—
  - (a) 7 days have elapsed since ~~the Authority gave notice to the defaulting trader~~ the defaulting ~~retailer~~ was given notice under clause 2(1); and
  - (b) the **Authority** considers that—
    - (i) the defaulting ~~trader-retailer~~ has not remedied the **event of default** or, in the case of an **event of default** under clause 14.55(b) in respect of which there is an unresolved invoice dispute under clause 14.64, has not reached an agreement with the **Authority** to resolve the **event of default**; and
    - (ii) the defaulting ~~trader-retailer~~ still has 1 or more contracts under which a **customer** of the defaulting ~~trader-retailer~~ purchases **electricity** from the defaulting ~~trader-retailer~~ or is still recorded in the **registry** as being responsible for 1 or more **ICPs**.
- (2) ~~†~~The **Authority** must—
  - (a) give notice to the defaulting ~~trader-retailer~~ that the **Authority** considers that this clause applies; and
  - (b) attempt to advise **customers** of the defaulting ~~trader-retailer~~ that—
    - (i) the defaulting ~~trader-retailer~~ has committed an **event of default**; and
    - (ii) the **customer** should enter into a contract for the purchase of **electricity** with another ~~trader-retailer~~ within by the date that is 14 days after the day on which the Authority gave notice to the defaulting trader under clause 2(1) 7 days; and

- (iii) if the **customer** fails to enter into a contract with another **trader** by that date ~~retailer~~, the **Authority** may assign the defaulting ~~trader-retailer's~~ rights and obligations under the **customer's** contract with the defaulting **trader** ~~retailer~~ to another **trader** ~~retailer~~ under clause 5.
- (3) The **Authority** may, by notice to the **registry**, direct the **registry** not to—
  - (a) complete the switch of any **ICP** to the defaulting ~~retailer~~; or
  - (b) accept a request from the defaulting ~~retailer~~ to withdraw a switch under clauses 17 and 18 of Schedule 11.3.
- (4) If the **Authority** gives notice under subclause (3), the **registry** must not—
  - (a) complete the switch of any **ICP** to the defaulting ~~retailer~~; or
  - (b) accept a request from the defaulting ~~retailer~~ to withdraw a switch under clauses 17 and 18 of Schedule 11.3.

#### **4A Trader to provide information about NSPs and ICPs at which it cannot trade**

- (1) If the **Authority** gives a notice to a **trader** under clause 4, the **Authority** must notify each **trader** (except the defaulting **trader**) that it must provide the information specified in subclause (2) to the **registry manager** by no later than 1600 on the **business day** following the day on which the notice under this subclause was given.
- (2) The information that a **trader** must provide to the **registry manager** is—
  - (a) the **NSPs** at which the **trader** cannot trade because it does not have an arrangement with the relevant **distributor** on whose network the **NSPs** are located to trade at the **NSP**; and
  - (b) the **ICPs** at which the **trader** cannot trade for any of the following reasons:
    - (i) the type of each **meter** at the **ICPs** (for example, **half hour**, **non half hour**, or **prepay**);
    - (ii) the **price category code** assigned to the **ICPs**;
    - (iii) the **metering installation** category of the **metering installation** at the **ICPs**;
    - (vi) the **installation type** code assigned to the **ICPs**; and
  - (c) the reasons, being 1 or more reasons specified in paragraph (a) and (b), for the **trader** being unable to trade at the **NSPs** or **ICPs**.
- (3) A **trader** must comply with a notice given to it under subclause (1).

#### **4B Authority may direct registry to take certain actions**

- (1) If the **Authority** gives notice to a **trader** under clause 4, the **Authority** may, by notice to the **registry**, direct the **registry** not to—
  - (a) complete the switch of any **ICP** to the defaulting ~~trader-retailer~~; or
  - (b) accept a request from the defaulting ~~trader-retailer~~ to withdraw a switch under clauses 17 and 18 of Schedule 11.3.
- (2) If the **Authority** gives notice under subclause (1), the **registry** must not—
  - (a) complete the switch of any **ICP** to the defaulting **trader**; or
  - (b) accept a request from the defaulting ~~trader-retailer~~ to withdraw a switch under clauses 17 and 18 of Schedule 11.3.

## **5 Authority may assign contracts and ICPs**

- (1) This clause applies if, by the end of the 17<sup>th</sup> day after the defaulting **trader** was given notice under clause 2(1),—
  - (a) the defaulting **trader-retailer** has not remedied the **event of default** or, in the case of an **event of default** under clause 14.55(b) in respect of which there is an unresolved invoice dispute under clause 14.64, has not reached an agreement with the **Authority** to resolve the **event of default**; and
  - (b) the defaulting **trader-retailer** continues to have 1 or more contracts under which a **customer** of the defaulting **trader-retailer** purchases **electricity** from the defaulting **trader-retailer** or the defaulting **trader** is still recorded in the **registry** as being responsible for 1 or more **ICPs**.
- (2) The **Authority** may—
  - (a) exercise its right under a contract under which a **customer** purchases **electricity** from the defaulting **trader-retailer** to assign the rights and obligations of the defaulting **trader-retailer** under the contract to a recipient **trader-retailer** in accordance with the contract; and
  - (b) assign an **ICP** to a recipient **trader-retailer** and direct the **registry** to amend the record in the **registry** so that the recipient **trader-retailer** is recorded as being responsible for the **ICP**; and
  - (c) specify the recipient **trader-retailer** to whom the rights and obligations under the contract or the **ICP** will be assigned.
- (3) The **Authority** must, by notice in writing to each recipient **trader-retailer**, direct the recipient **trader-retailer** to accept an assignment under subclause (2).
- (4) Before the **Authority** gives notice to a recipient **trader-retailer** under subclause (3), the **Authority** may decide not to assign rights and obligations of the defaulting **trader-retailer** under a contract or an **ICP** to a recipient **trader-retailer** if the recipient **trader-retailer** satisfies the **Authority** that the assignment would pose a serious threat to the financial viability of the recipient **trader-retailer**.
- (5) A recipient **trader-retailer** must comply with a direction given to it under subclause (3).
- (6) The **registry** must comply with a direction given to it under subclause (2).
- (7) Before the **Authority** exercises its right to assign rights and obligations or an **ICP** under subclause (2), the **Authority** must, if the **Authority** considers it is practicable, consult with the defaulting **trader-retailer** as to the need for the notice.
- (8) Nothing in this clause prevents the **Authority** from deciding to give a notice under subclause (3) to 1 or more recipient **trader-retailer** by undertaking a tender or other competitive process.

### **5A Effect of assignment**

If the **Authority** assigns an **ICP** to a recipient **trader** under clause 5, and at the time of the assignment the recipient **trader** does not comply with clause 10.24(a) in relation to the **ICP**, the recipient **trader** is excused from complying with that clause for the first 3 months after the assignment:

**6 Authority must provide information to recipient trader-retailer**

If the **Authority** exercises its right to assign rights and obligations or an **ICP** under clause 5(2), the **Authority** must provide the following information to each recipient trader-retailer:

- (a) the number of **customer** contracts (to the extent that the **Authority** has the information) and **ICPs** assigned to the trader-retailer; and
- (b) any information that the **Authority** holds about the **customers** and **ICPs** assigned to the trader-retailer.

**7 Registry may complete switch without required information**

If the **Authority** gives notice under clause 2, the **registry** may complete the switch of any **ICP** for which the defaulting trader-retailer is recorded in the **registry** as being responsible even if the defaulting trader-retailer has not complied with its obligations under Schedule 11.3.

**8 Terms of assigned contract**

- (1) If the **Authority** exercises its right to assign rights and obligations under clause 5(2), the **Authority** must attempt to advise the **customer** that the terms of the contract may be amended on assignment.
- (2) The recipient trader-retailer must use reasonable endeavours to advise the **customer** of those terms.

## Changes to Part 14

### 14.55 Definition of an event of default

Each of the following events constitutes an **event of default**:

- (a) the failure of a **payer** to comply with clauses 14.2 to 14.17 or to satisfy a **call** in accordance with clause 14.18(4);
- (b) the failure of a **payer** to pay the full amount invoiced to it in accordance with clauses 14.36 to 14.54;
- (c) any action taken for, or with a view to, the declaration of a **payer** as a corporation at risk under the Corporations (Investigation and Management) Act 1989;
- (d) a statutory manager being appointed under the Corporations (Investigation and Management) Act 1989 (or a recommendation or submission is made by a person to the Securities Commission supporting such an appointment);
- (e) a person being appointed under section 19 of the Corporations (Investigation and Management) Act 1989 to investigate the affairs or run the business of the **payer**;
- (f) if a **payer** is (or admits that it is or is deemed under any applicable law to be) unable to pay its debts as they fall due or is otherwise insolvent, or stops or suspends, or threatens to stop or suspend, or a moratorium is declared on, payment of its indebtedness, or makes or commences negotiations or takes any other steps with a view to making any assignment or composition with, or for the benefit of, its creditors, or any other arrangement for the rescheduling of its indebtedness or otherwise with a view to avoiding, or in expectation of its inability to pay, its debts;
- (g) a holder of a security interest or other encumbrancer takes possession of, or a receiver, manager, receiver and manager, liquidator, provisional liquidator, trustee, statutory or official manager or inspector, administrator or similar officer is appointed in respect of the whole or any part of the assets of the **payer** or if the **payer** requests that such an appointment be made;
- (h) termination of a ~~**trader's-retailer's use-of-system agreement**~~ with a **distributor** because of a **serious financial breach** if—
  - (i) the ~~**trader-retailer**~~ continues to have a **customer** or **customers** on the **distributor's local network**; and
  - (ii) there are no unresolved disputes between the ~~**trader-retailer**~~ and the **distributor** in relation to the termination; and
  - (iii) the **distributor** has not been able to remedy the situation in a reasonable time; and
  - (iv) the **distributor** gives notice to the **Authority** that this clause applies.

## **Appendix B Summary of submissions**

## Summary of submissions: Proposed Code amendments: implementing retailer default

### Question 1: Do you agree with the issues identified by the Authority? Please give reasons.

| Question no | Submitter          | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Authority response                                                                                                       |
|-------------|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| 1           | Mighty River Power | <p>Partially agree. We disagree that traders should be required to advise the Authority or registry of customer information.</p> <p>We expect this customer information is likely to prove unreliable for the reasons stated in our covering letter.</p> <p>The expense and operational complexity of the database is not justified given that the data the Authority will require for this purpose is only the small proportion of data relating to the defaulting retailer.</p> | The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper. |
| 1           | Contact Energy     | <p>No.</p> <p><b>Issue 1 (Tier 2 Retailers (T2R)) and Issue 2 (T2R are not “retailers” as defined)</b></p> <p>The underlying issue described in the paper seems to be that in some cases parties are selling electricity to customers and there is insufficient information about them/their customers in the registry. However, it is unclear from the paper how big an issue this is and how many parties this relates to or affects.</p>                                       | The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper. |

## Summary of submissions

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Authority response                                                                                                                                                                                                                                                                                                                                                       |
|-------------|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |           | <p>Accordingly, Contact is not convinced, based on the information provided in the paper, that a significant Code change in relation to retailer default rules is justified.</p> <p>As currently proposed, the Code amendments would seem to require the majority of participants to incur additional obligations and costs in order to allow (what we assume to be) a small minority to act in a manner inconsistent with the Code rather than addressing the actual issue. We do not consider this is justified and a number of other solutions could be adopted instead.</p> <p>It is also not clear from the paper why Type 2 retailers can retail electricity to customers without having to comply with the Code in full or accept responsibility for the ICPs/customers to which they sell electricity so another option would be to amend the Code to cover them. As <b>Schedule 11.5, clause 4(3)(c)</b> would seem to mean a T2R can elect to become a Trader we see no reason for that not to become a requirement. This could also possibly be done simply by amending the definition of “Retailer”.</p> <p>Alternatively, if there is some policy or other reason T2Rs should not have to sign up to the Code, then in our view it should be only the specific Trader who agrees to enter an arrangement with a T2R who should be responsible for providing relevant information. This would avoid the need for rules applying to Retailers/Traders generally and focus the solution (and cost/effort of compliance) directly on the parties that cause the situation to arise in the first place; where it more properly belongs.</p> <p>In terms of the requirement to notify a T2R of the Trader’s default (e.g. <b>para. 9</b> of the paper), in our view it would also be easy enough if there was a general notice requirement on the Authority to inform all known Traders/Retailers (including T2R) and other relevant parties as soon as</p> | <p>Type 2 retailers do not purchase electricity from the clearing manager and therefore do not hold any trader obligations under the Code. A type 2 retailer may elect to become a trader if it wished.</p> <p>The current trader default provisions in the Code enable the Authority to notify customers (as well as participants) seven days after the default has</p> |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Authority response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |           | <p>a Trader commits a retailer default event, regardless of whether they are specifically recorded as having an interest in ICPs linked to the defaulting retailer. T2Rs could then take steps to manage their (and their customers' positions) once they've got this notice. We also wonder why if a change is made to replace "Retailer" with "Trader" throughout the relevant sections whether the Authority should be talking about "trader default" rather than "retailer default"?</p> <p><b>Issue 3 (Notifications by Traders of Customer details, whether a Trader will trade at certain ICPs etc.) and Issue 4 (Trader assigned ICP in immediate breach)</b></p> <p>Contact does not see why a Trader should be required to provide information for why it doesn't trade or operate in specific scenarios. In this respect, the scenarios listed in clauses <b>11.15D(a)</b> and <b>(b)</b> may also not be wide enough to cover all relevant scenarios anyway.</p> <p>It is also unclear why the Trader should be required to give a "<u>reason</u>" why it is unable to trade (<b>11.15D(1)(c)</b>) – that is a commercial matter for the relevant Trader.</p> | <p>occurred.</p> <p>The consultation paper, and the decision paper, refers to 'trader' rather than 'retailer' after a certain point in the document.</p> <p>The Code amendment will minimise, in the event of default, traders are not:</p> <ul style="list-style-type: none"> <li>• assigned ICPs that the trader cannot trade on, forcing them to breach the Code</li> <li>• placed in a position where assigning customers to them may pose a threat to a trader's financial viability.</li> </ul> <p>The Code amendment provides an efficient mechanism to assign customer contracts and minimise the amount of re-work required. The streamlined process enables the Authority to process the ICP allocation in the short timeframe specified in the Code.</p> <p>The Authority has limited the eligible ICP attributes to those that may pose a</p> |

## Summary of submissions

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Authority response                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |           | <p>In our view, an express obligation in the Code on a Trader to provide a full customer list (containing relevant information) to the Authority, on demand, if it becomes affected by a retailer default event should be enough to cover the expressed concern. We do not think it is reasonable for Traders to have to provide additional information and then keep it up to date on an ongoing basis.</p> <p>We also note that, in terms of customer details, this seems to be limited to providing information “if [it is] known” to the Trader (see <b>para. 17; Schd. 11.1, 9(1)(b)</b>). It is unclear to what extent there would be a duty on a Trader to seek out this information. If a Trader does not have to go looking for this information in our view there is probably only a limited chance that the information provided will be consistent, comprehensive and reliable.</p> <p>Another aspect that is unclear is the extent to which the Authority’s notification obligations are actually intended to apply. The Consultation Paper says the Authority “must” perform this activity (e.g. para. <b>2.2.22</b>) but the actual Code amendment wording only refers to it making an “attempt to” do so (see Schd <b>11.5, clause 4(2)(b)</b> and <b>4(3)</b>). We cannot see a justification for qualifying the obligation, if it is to exist at all.</p> <p>In relation to clause <b>5A</b>, there may be other Code clauses with which a Trader might not be able to comply (i.e. only 2 specific clause examples are stated and the list is closed not inclusive so it appears to be a very restricted exception or exemption). We believe the list</p> | <p>threat to the trader’s financial viability or put them in breach of the Code.</p> <p>The Authority has decided not to make the Code amendment. This is further discussed in the decisions and reasons paper.</p> <p>The Authority has determined that an issue with metering installations could put the trader in breach of the Code if assigned an ICP by the Authority. Other possibilities are included in the</p> |

| Question no | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Authority response                                                                                                                                                                                |
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|             |                                  | <p>should be inclusive.</p> <p>Finally in Contact's view the time period during which non-compliance is excused under clause 5A is likely to be insufficient.</p>                                                                                                                                                                                                                                                                                                 | <p>information the trader must provide on ICPs that it cannot trade on.</p> <p>The Authority has amended the time period in clause 5A of Schedule 11.5 from 20 business days to three months.</p> |
| 1           | Electricity Networks Association | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted.                                                                                                                                                                                            |
| 1           | Meridian Energy and Powershop    | <p>Yes.</p> <p>The issues the Authority has identified regarding (i) gaining access to customer contact information and (ii) the need to ensure retailers are not compulsorily assigned customers where they are unable to trade align with Meridian's comments from previous submissions.<sup>1</sup></p> <p>Meridian agrees that retailer default provisions as they are currently drafted do not deal to "type 2" retailers well. We accept the provisions</p> | <p>Noted.</p> <p>Noted.</p>                                                                                                                                                                       |

<sup>1</sup> Specifically the comments in our 20 August 2013 submission (available: <http://www.ea.govt.nz/dmsdocument/15642>) regarding the need to recognise that the defaulting retailer may at the time where information on their customers is required be dealing with many competing priorities (of receivers, banks etc.) and in our 19 March 2012 submission (available: <http://www.ea.govt.nz/dmsdocument/12731>) that retailers who choose not to trade in a certain areas because of transmission and other risks should not then be required to accept customers in those areas.

Summary of submissions

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Authority response                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |           | <p>should be framed to apply to traders only, like the Authority has suggested. This will correctly target the regime to potential causers of wholesale market losses (i.e. with ultimate responsibility for meeting wholesale market payment obligations, rather than also applying in instances where a type 2 retailer's purchases will continue to be met by another retailer).</p> <p>As per our comments below, Meridian welcomes the Authority's proposals to:</p> <ul style="list-style-type: none"> <li>• Introduce a grace period for retailers compulsorily assigned new customers to meet metering and distribution service-related Code standards. Retailers should be provided with 3 months to undertake 'best endeavours' to achieve this.</li> <li>• Correct clause 11.15B for consistency with 11.15C and to more accurately describe the types of default events that may lead to intervention by the Authority to transfer customers.</li> </ul> <p>Meridian also considers improvements need to be made to the clarity of the Code in two areas:</p> <ul style="list-style-type: none"> <li>• The way the Authority would expect to arrange the transfer of customers where no suitable retailers are able to be found as part of the final 'compulsory assignment' phase of the process.</li> </ul> <p>How the Code will ensure that those who agree a shorter exit timeframe with the Authority (and who go on to have this used to calculate prudential amounts) will need to follow a separate and independent process as a consequence. Our response to Q11 provides further details on this.</p> | <p>The Authority has amended the time period in clause 5A of Schedule 11.5 from 20 business days to three months.</p> <p>The Authority has amended clause 11.15B to clarify what type of default applies under Schedule 11.5.</p> <p>Noted. The Authority will update its guideline on managing events of trader default with this information.</p> <p>The Authority will consider this issue and provide an update to traders.</p> |

| Question no | Submitter      | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Authority response                                                                                                                                                                                               |
|-------------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1           | Genesis Energy | No. Please see above comments in the body of our letter.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Noted.                                                                                                                                                                                                           |
| 1           | Powerco        | <p>We have seen the submission made by the Electricity Networks Association (ENA) and strongly agree with that submission.</p> <p>We consider that the proposed amendment to the Code to allow a trader (retailer) to operate in a network area, without an agreement for lines services, for 20 business days after it is assigned customers under the mandatory assignment process that is the last step following the occurrence of a default, is neither necessary nor desirable. This proposal is a departure from the process that was indicated during the development of the retailer default provisions, whereby traders would be assigned ICPs based on market share and, if a trader had no lines services agreement, and hence no market share in an area, it would not be assigned any ICPs. The original drafting is the most appropriate mechanism for the industry and, consistent with the ENA recommendation, we support this approach being retained.</p> <p>We support the other proposed Code amendments and consider that that they will address the operational issues identified in the consultation paper.</p> | <p>Noted.</p> <p>The Authority has decided not to make this Code amendment. Mandatory assignment will be based on a trader's market share as detailed in the guideline on managing events of trader default.</p> |
| 1           | Trustpower     | Trustpower Limited (Trustpower) welcomes the opportunity to provide a submission to the Electricity Authority (the Authority) on its Proposed Code amendments: Implementing retailer default consultation paper                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                  |

Summary of submissions

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Authority response                                                                                                                             |
|-------------|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
|             |           | <p>(the Consultation Paper).</p> <p>We have reviewed the Consultation Paper and agree that most of the suggested Code amendments appear logical. However, some of the outcomes the Authority is guarding against have an extremely low probability of occurring, so we are not convinced that the extra costs to the industry outweigh the benefits.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>Noted. Reasons for the Authority's decisions are discussed in the decisions and reasons paper.</p>                                          |
| 1           | EMH Trade | <p>EMH Trade considers that there are two issues in the consultation paper:</p> <ul style="list-style-type: none"> <li>(a) the Authority cannot easily identify type 2 retailers as they have not registered under the Act</li> <li>(b) in the event of a default situation, the Authority must have care when transferring ICPs that may have a type 2 retailer attached to them.</li> </ul> <p>EMH Trade considers that it is not necessary to have a retailer field in the registry as the type 2 retailer:</p> <ul style="list-style-type: none"> <li>(a) should have a contract with the trader that will ensure the type 2 retailer is aware of the default occurring</li> <li>(b) has strong incentive to contact the Authority immediately to ensure its ICPs are transferred appropriately</li> <li>(c) the Authority should be proactively ensuring compliance with the Act and ensuring that type 2 retailers are on the participant's register, rather than amending the Code to accommodate non-compliant parties.</li> </ul> | <p>Noted. The Authority has decided not to proceed with this Code amendment. This is further discussed in the decisions and reasons paper.</p> |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Authority response |
|-------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
|             |           | <p>With regard to paragraph (c) above, EMH Trade is concerned that the Authority is not ensuring that basic compliance with the Act, and subsequently the Code, is occurring. EMH Trade does believe that, as most type 2 retailers are small to start with, compliance burdens should not be too onerous. However, if some type 2 retailers are not compliant with the Act and Code this may affect all small retailers and bring them into disrepute. Bad publicity due to poor practice by one small retailer will almost certainly affect other small retailers, which in turn may affect retail competition. Effective monitoring by the Authority should help prevent poor practice by participants.</p> |                    |

**Question 2: Do you have any comments on the functional specification provided in Appendix C for issue 3: information about ICPs at which traders cannot trade?**

| Question no | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Authority response                                                                                                                                                                                                                                                                                                                                                                    |
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| 2           | Mighty River Power               | We have no concerns with the functional specification provided in Appendix C                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted.                                                                                                                                                                                                                                                                                                                                                                                |
| 2           | Contact Energy                   | No comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Noted.                                                                                                                                                                                                                                                                                                                                                                                |
| 2           | Electricity Networks Association | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Noted.                                                                                                                                                                                                                                                                                                                                                                                |
| 2           | Meridian Energy and Powershop    | <p>Meridian considers several adjustments are needed to the Authority's proposed approach for collecting information on types of NSPs/ICPs a retailer cannot supply.</p> <p>The Authority's proposed method for requesting 'unable to serve' NSP/ICP information gives retailers relatively wide discretion in the NSPs/ICPs they are able to specify and it is not clear how the validity and accuracy of the information will be confirmed. From this standpoint, and also because it would be less costly and simpler to implement, Meridian considers it would be preferable for the Authority to instead make use of the registry to compile this information (i.e. use the approach that if a retailer supplies ICPs with certain attributes e.g. meter type etc. they can be assigned more of this type). We do, however, recognise that the information in the</p> | <p>Noted.</p> <p>The Authority has decided to proceed with the Code amendment to require trader's to provide information about ICPs at which they cannot trade. The Code amendment will minimise that, in the event of default, traders are not:</p> <ul style="list-style-type: none"> <li>assigned ICPs that the trader cannot trade on, forcing them to breach the Code</li> </ul> |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Authority response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |           | <p>registry will not always be of sufficient granularity to prevent retailers being assigned customers they cannot reasonably be expected to take on. We are aware specifically that in using the registry it will not always be possible to determine whether a retailer:</p> <ul style="list-style-type: none"> <li>• supplies TOU sites as half hourly metering isn't confirmation of TOU;</li> <li>• supplies sites in excess of certain kVA ratings;</li> <li>• would ordinarily supply certain sites because of the precise way that network charges are calculated (e.g., using metered monthly values for congestion period demand charges in Powershop's case);</li> <li>• has in the past made use of certain meters as a stop gap measure until new metering can be installed by an MEP the retailer has an agreement with.</li> </ul> <p>Meridian submits asking retailers to report on their NSPs/ICPs will be more acceptable in terms of providing the level of detailed information needed but that it needs to be done in a way that limits discretion to apply non-technical considerations and that involves some form of monitoring. It is important in our view to acknowledge the process already has some 'controls' in place in the form of retailers having the ability to supply advice on financial consequences for the Authority to consider ahead of making its final allocation decisions.</p> <p>While we recognise the Authority's retailer default process involves short timeframes, we see no reason why information regarding NSPs/ICPs at which retailers are unable to trade could not be compiled at the time of an actual default. This would ensure the</p> | <ul style="list-style-type: none"> <li>• placed in a position where assigning customers to them may pose a threat to a trader's financial viability.</li> </ul> <p>The Code amendment provides an efficient mechanism to assign customer contracts and minimise the amount of re-work required. The streamlined process enables the Authority to process the ICP allocation in the short timeframe specified in the Code.</p> <p>The Authority has limited the eligible ICP attributes to those that may pose a threat to the trader's financial viability or put them in breach of the Code.</p> <p>The Code has been amended to require traders to provide ICP information on which traders cannot trade at the time of event.</p> |

## Summary of submissions

| Question no | Submitter      | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Authority response                                                                                                                                                                                                                                                                                                                                                            |
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|             |                | <p>information made available is up to date and accurate and would be considerably lower cost to implement. We don't see why the information will be needed any earlier in the process, since it will only be required from non-defaulting parties.</p> <p>On a separate but related matter, Meridian is concerned that the Authority's process does not currently address how customers will be allocated in instances where no suitable retailers are able to be found. We request this is considered in more detail as part of further work.</p> | <p>Noted. The Authority will update its guideline on managing events of trader default with this information.</p>                                                                                                                                                                                                                                                             |
| 2           | Genesis Energy | No. The format of the data seems logical but we disagree with the supply timing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Noted. The Code has been amended to require traders to provide ICP information on which traders cannot trade at the time of event.                                                                                                                                                                                                                                            |
| 2           | Trustpower     | <p>(Response for questions 2 and 6)</p> <p>It would appear more logical and less costly to us to request information from parties on which ICPs/NSPs they <i>can</i> trade on, rather than those they <i>cannot</i>. We have information to hand on where we do trade, and update it regularly, but do not keep a list of where we do not trade.</p>                                                                                                                                                                                                | <p>The Authority does not favour a Code amendment where traders provide information at which they can trade because:</p> <ul style="list-style-type: none"> <li>the trader would be required to provide every possible combination of ICP attributes that the trader could accept</li> <li>if the trader neglected to correctly provide every possible combination</li> </ul> |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Authority response                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|             |           | <p>Further, this information is only required in the event that a trader defaults AND the Authority is required to assign some of the ICPs of that trader. Again, this is a very low probability occurrence. It would therefore seem prudent to us to minimise cost by only requiring this information to be provided <u>in the event that it is actually required</u>. Failure to do so would be a breach of the Code.</p> <p>While a good test of processes, requiring the provision of information before that information is required is pointless from a practical point of view, as the information will be out of date fairly soon afterwards.</p> | <p>of ICP, that trader would not be assigned some ICPs</p> <ul style="list-style-type: none"> <li>if the trader incorrectly populated the functional specification with ICPs it could trade on, the trader would be assigned customers at ICPs where it could not trade and that may pose a serious threat to its financial viability</li> </ul> <p>The Code has been amended to require traders to provide ICP information on which traders cannot trade at the time of event.</p> |
| 2           | EMH Trade | EMH Trade considers that, for small traders with a very focussed offering (NSPs/Meter configurations etc), providing information for each NSP or distributor (including embedded network owners) would be overly onerous and require active monitoring of the existence of NSPs that would be unnecessary otherwise. It may                                                                                                                                                                                                                                                                                                                               | The Authority does not favour a Code amendment where traders provide information at which they can trade because:                                                                                                                                                                                                                                                                                                                                                                   |

## Summary of submissions

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                  | Authority response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|             |           | <p>become more onerous as more embedded networks are created.</p> <p>EMH Trade would favour the ability to choose whether an inclusion or exclusion table was provided. Traders could then decide which table suited its business at a point in time. Traders would only have the ability to submit either an inclusion or exclusion table, not both.</p> | <ul style="list-style-type: none"> <li>the trader would be required to provide every possible combination of ICP attributes that the trader could accept</li> <li>if the trader neglected to correctly provide every possible combination of ICP, that trader would not be assigned some ICPs</li> <li>if the trader incorrectly populated the functional specification with ICPs it could trade on, the trader would be assigned customers at ICPs where it could not trade and that may pose a serious threat to its financial viability</li> </ul> <p>The Code has been amended to require traders to provide ICP information on which traders cannot trade at the time of event.</p> |

**Question 3: Which option would you prefer (option1 or option 2) if providing customer information to the registry? Please give reasons.**

| Question no | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Authority response                                                                                                                                                                                                                                                                                           |
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| 3           | Mighty River Power               | We disagree with this proposal in its entirety. Please see our covering letter in this regard.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted. The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper.                                                                                                                                                                              |
| 3           | Contact Energy                   | Please see our response to question 1 above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Noted.                                                                                                                                                                                                                                                                                                       |
| 3           | Electricity Networks Association | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Noted.                                                                                                                                                                                                                                                                                                       |
| 3           | Meridian Energy and Powershop    | <p>Meridian does not support option 1 (incorporating customer contact details into the registry) for several reasons:</p> <ul style="list-style-type: none"> <li>• It is Meridian's strong preference that customer contact details are kept separate from other registry records. Maintaining security of this information is paramount and strict arrangements that protect against this information being improperly accessed and disclosed are essential. We consider it is important an external interface is avoided because of this.</li> <li>• Having the registry expanded in this way would be a significant step away from the registry's primary intended purpose (to enable ease of switching). If the role of the registry is to change, this should be considered in a more</li> </ul> | <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>This is further discussed in the decisions and reasons paper.</p> |

## Summary of submissions

| Question no | Submitter      | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Authority response                                                                                                                                                                                                                      |
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|             |                | <p>principled and comprehensive way.</p> <ul style="list-style-type: none"> <li>From our own and the Authority's assessments, it would involve significantly higher implementation costs. By-passing the step of integrating data with the registry will ensure implementation costs are kept to a more reasonable level.</li> </ul> <p>As an alternative to option 2 (having customer contact details held in a stand-alone part of the registry), Meridian considers the Authority could instead require Traders to have in place processes reviewed as part of the Reconciliation Participant audit that allow customer information to be supplied in a pre-defined format, at the EA's request. From a cost perspective, we consider this option is preferable to option 2. We accept the Authority may, however, be inclined to favour option 2 if it is concerned with having the information available on hand at all times.</p> <p>Meridian considers reporting on customer contact information once a quarter (rather than monthly under option 2), would be more appropriate and cost effective.</p> |                                                                                                                                                                                                                                         |
| 3           | Genesis Energy | Neither option. Please see above comments in body of our letter.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> |

| Question no | Submitter  | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Authority response                                                                                                                                                                                                                                                                                           |
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| 3           | Trustpower | <p>Our greatest point of concern surrounds the provision of customer information to the registry. We are firmly of the view that the purpose of the registry is not to hold personal contact information – it is only to hold ICP-related information. We therefore strongly oppose Option 1, which would force customer information onto the registry (even if it is only visible to the trader responsible).</p> <p>Our strong preference is for Option 2. Customer-related information should be held securely in a location separate to the registry, and visible to no one except in the situation of a trader default.</p> <p>As mentioned above, the probability that the customer information is ever required is extremely low. This is the final step in a very comprehensive process, and also relies on the defaulting trader being unable to provide a more comprehensive dataset. We believe a defaulting retailer is most likely to have dealt with the vast majority of its ICPs itself. The problem therefore requires a solution with as low a cost as possible.</p> <p>As an aside, we agree that the <i>Medical restriction type</i> field should be left blank. A gaining retailer will (and should) always follow its own processes to gain information regarding medical dependency at sign-up, and then verify that information if required. Having that information populated in the customer information file would (and should) be unlikely to change any processes that the gaining retailer would (or should) follow at sign-up.</p> | <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>This is further discussed in the decisions and reasons paper.</p> |

## Summary of submissions

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Authority response                                                                                                                                                                                                                                                                                           |
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|             |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                              |
| 3           | EMH Trade | <p>EMH Trade has concerns over the proposal to have:</p> <ul style="list-style-type: none"> <li>(a) customer information held by the registry in an unopened file</li> <li>(b) customer information held in the registry fields.</li> </ul> <p>While EMH Trade agrees with the magnitudes in the cost benefit analysis, the cost benefit analysis did not take into account the low economic probability of an event of default occurring and that the trader would not release the customer information in such an event of default. EMH Trade also notes that lost revenue should be treated as a wealth transfer, rather than a cost for the purposes of economic cost benefit analysis. EMH Trade does not believe that the decision to hold customer information in the registry can purely be an industry cost (cost and benefit should be considered in the context of the wider economy and include social costs).</p> <p>The Authority does not appear to have considered the ramifications of the proposal in that it would create, for virtually every address in the country, a database containing a valid email address and phone number (which in many cases would be a cellphone), which consumers could not opt out of (vastly different than say, the phone book).</p> <p>EMH Trade has strong concerns about such private customer information being contained in one central repository. Many consumers would not consider this to be a feasible solution and probably do not even know that the Authority is considering implementing such a solution. At the very least, consultation with the</p> | <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>This is further discussed in the decisions and reasons paper.</p> |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Authority response |
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|             |           | <p>wider public should occur.</p> <p>Given the value of such a database, for marketing or more malicious activities, keeping private customer information secure would also present some risks. Although the customer information would only be viewable by the trader with the current responsibility of the ICP at the time, there may be attempts to 'hack' into the secure database. Traders would have no control over the security put in place by the registry and would have to rely on the Authority setting the proper security standards in place. This risk should be considered in the CBA.</p> <p>There may also be an inadvertent release of customer information (such as the ACC issues) which would impact the industry as a whole and damage its reputation.</p> <p>As the probability of an event of default occurring, coupled with the probability that a trader would not release its customer information, is very low, there is not the justification to implement a national database of customer information. There is already sufficient provision in the Code for the trader in default to release customer information.</p> |                    |

**Question 4: Do you have any comments on the proposed draft format for providing customer information in Appendix D?**

| Question no | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                       | Authority response                                                                                                                                                                                                         |
|-------------|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4           | Mighty River Power               | See our response at 3.                                                                                                                                                                                                                                                                                                                                         | Noted.                                                                                                                                                                                                                     |
| 4           | Contact Energy                   | Please see our response to question 1 above.                                                                                                                                                                                                                                                                                                                   | Noted.                                                                                                                                                                                                                     |
| 4           | Electricity Networks Association | No comment                                                                                                                                                                                                                                                                                                                                                     | Noted.                                                                                                                                                                                                                     |
| 4           | Meridian Energy and Powershop    | It is important that retailers are also supplied with meter read information to allow billing to commence. In a normal course of events this information would be provided during the switching process by the former retailer. Meridian requests the Authority gives further consideration as to the best method for making meter read information available. | Noted. The Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.<br><br>This is further discussed in the decisions and reasons paper. |
| 4           | Genesis Energy                   | The following fields should be removed: <ul style="list-style-type: none"> <li>- Recipient Participant identifier (this is always going to be the EA);</li> <li>- Utility type (this is always going to be electricity);</li> <li>- File status (this will always be 'Replacement');</li> <li>- Customer name (this is duplicated by first name and</li> </ul> | Noted. The Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.<br><br>The Authority will take this into account when designing the  |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                         | Authority response |
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|             |           | <p>surname fields);</p> <ul style="list-style-type: none"> <li>- Event date (not relevant);</li> <li>- Customer number (not relevant);</li> <li>- Consumer number (not relevant);</li> <li>- Blank fields (not relevant).</li> </ul> <p>Further, “Customer Title”, “Surname” “First Name” fields should be moved from end of file to after “ICP identifier”.</p> | prescribed format. |

**Question 5: Do you agree with the objectives of the proposed amendment? Please give reasons.**

| Question no | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                                                           | Authority response                                                                                                                                                                                                                                                                                           |
|-------------|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5           | Mighty River Power               | We generally agree with the objectives. However we think the fifth objective stated at 3.1.2(e) can be achieved through a much simpler, more robust and less costly solution such as proposed in our covering letter.                                                                                                                                                                              | <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>This is further discussed in the decisions and reasons paper.</p> |
| 5           | Contact Energy                   | No. Please see our response to question 1 above.                                                                                                                                                                                                                                                                                                                                                   | Noted.                                                                                                                                                                                                                                                                                                       |
| 5           | Electricity Networks Association | No comment                                                                                                                                                                                                                                                                                                                                                                                         | Noted.                                                                                                                                                                                                                                                                                                       |
| 5           | Meridian Energy and Powershop    | <p>Meridian mostly agrees with the objectives that have been specified.</p> <p>Due to the reasons set out in our response to Q2, we consider objective (d) should be revised to the following: “the Authority is aware of any <i>valid, technical</i> reasons why retailers may not be able to trade at certain ICPs”.</p> <p>To keep objective (e) open to the possibility that traders could</p> | <p>Noted.</p> <p>The Authority will make an amendment in clause 11.15D to reflect the type of reasons a trader can provide.</p>                                                                                                                                                                              |

| Question no | Submitter      | Comments                                                                                                                                                                                                | Authority response                                                                                                                                                                                                                                                                                           |
|-------------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |                | <p>instead have processes in place to extract customer contact details – as our response to Q3 suggests – it would need to be reworded around the Authority being “able to access” the information.</p> | <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>This is further discussed in the decisions and reasons paper.</p> |
| 5           | Genesis Energy | <p>We agree with objectives (a), (c), (d) and (e). We do not agree with objective (b) which is a business risk that type 2 retailers should manage.</p>                                                 | <p>Noted. The Authority has decided not to make this Code amendment.</p>                                                                                                                                                                                                                                     |

**Question 6: Do you agree with the proposed implementation timeframes for the proposed amendment? If not, why not?**

| Question no | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Authority response                                                                                                                                                                     |
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| 6           | Mighty River Power               | We agree with the proposed timeframes in relation to (a). We disagree with the entire proposal in relation to (b) as noted above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Noted. The Authority will not be proceeding with the proposal in relation to paragraph 3.2.2 of the consultation paper (identifying customer information).                             |
| 6           | Contact Energy                   | No. Contact is concerned that the proposed time-frames for ensuring compliance with the Code are inadequate.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted. The Authority has amended the time frame in clause 5A of Schedule 11.5 from 20 business days to three months.                                                                   |
| 6           | Electricity Networks Association | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Noted.                                                                                                                                                                                 |
| 6           | Meridian Energy and Powershop    | <p>Meridian agrees with the Authority's proposal to allow retailers some time to prepare for new requirements to report on customer contact details and ICPs/NSPs unable to be supplied. We consider that the suggested implementation timeframes of early 2016 for ICP/NSP information and mid-late 2016 for customer contact details are reasonable. As we mention in our response to Q11, we consider the draft Code needs to be adjusted to make specific provision for the lead time to implement the changes.</p> <p>Meridian requests that the timeframe for retailers to supply information on type 2 retailers is extended to three months rather</p> | <p>Noted. This Code amendment will provide traders with a six month lead in time as detailed in paragraph 3.2.2 of the consultation paper.</p> <p>Noted. The Authority has decided</p> |

| Question no | Submitter      | Comments                                                                                                                                                                                                                                                                                                                                                          | Authority response                                                            |
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|             |                | than the 20 business days proposed. This additional amount of time will make the process less compressed in instances where a participant identifier needs to be assigned. Meridian does not consider there are any clear reasons why type 2 retailer information would be of higher importance than customer contact details or ICPs/NSPs unable to be supplied. | not to make this Code amendment.                                              |
| 6           | Genesis Energy | For the avoidance of doubt, we do not agree with the proposed amendment. However, if the Authority proceeds with the change, we would need a minimum of 6 months' notice of required system changes. This six-month notice period will need to start from the time the final decision and specification of changes are published.                                 | Noted. The Code amendment will provide traders with a six month lead in time. |

**Question 7: Do you agree the benefits of the proposed amendment outweigh its costs? Please give reasons.**

| Question no | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Authority response                                                                                                              |
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| 7           | Mighty River Power               | <p>Disagree. Costs in relation to dealing with the security, legal and privacy concerns noted in our cover letter appear not to have been considered.</p> <p>The cost of having all retailers periodically provide such a large amount of data is far greater than is needed to accomplish the Authority's objective.</p>                                                                                                                                                                                                                                                                                          | Noted. The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper. |
| 7           | Contact Energy                   | No. As stated in our response to question 1 it is unclear how many T2Rs there are. Based on the information provided in the paper it is not clear that the benefits of the proposal outweigh the costs. We believe there are simpler solutions.                                                                                                                                                                                                                                                                                                                                                                    | Noted. The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper. |
| 7           | Electricity Networks Association | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted.                                                                                                                          |
| 7           | Meridian Energy and Powershop    | It is not clear to Meridian that the benefits of the Authority's current proposals outweigh associated costs. While we consider the Authority's estimates of the cost of system changes to be in the right order of magnitude, we consider its analysis overstates the extent of the avoided costs for retailers (estimated by the Authority to be as high as \$14.8m, due to costs associated with attempting to contact customers). While the estimates assume an approach involving two postal mail outs and a physical site visit performed for up to a quarter of newly allocated customers, there could be a | Noted. The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper. |

| Question no | Submitter      | Comments                                                                                                                                                                                                                                                                                                       | Authority response                                                                                                              |
|-------------|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
|             |                | range of lower cost alternatives (such as emailed notifications) used. We consider at best the extent of the net benefits will be considerably lower than the Authority suggests as a consequence. Overall, we consider it is unclear whether the proposed amendment as it stands will result in net benefits. |                                                                                                                                 |
| 7           | Genesis Energy | No. We consider very little benefit will be delivered by the proposed changes but significant implementation costs will result.<br><br>What are the costs?                                                                                                                                                     | Noted. The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper. |

**Question 8: Do you agree with the Authority's assessment of costs in Appendix E? Please give reasons.**

| Question no | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                          | Authority response                                                                                                                                   |
|-------------|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8           | Mighty River Power               | See our response at 7.                                                                                                                                                                                                                                                                                                                                            | Noted.                                                                                                                                               |
| 8           | Contact Energy                   | <p>In our view the complexity and cost associated with the proposed options and processes outweigh the benefits.</p> <p>The requirement to provide on-going customer information to the registry will result in large and costly system changes, very large file sizes and information flows to the registry. This is not what the registry was intended for.</p> | Noted. The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper.                      |
| 8           | Electricity Networks Association | No comment                                                                                                                                                                                                                                                                                                                                                        | Noted.                                                                                                                                               |
| 8           | Meridian Energy and Powershop    | See our response to Q7.                                                                                                                                                                                                                                                                                                                                           | Noted.                                                                                                                                               |
| 8           | Genesis Energy                   | <p>Table 4</p> <p>Issue 1: We do not agree that there is any benefit here.</p> <p>Issue 2: We agree.</p>                                                                                                                                                                                                                                                          | <p>Noted. The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper.</p> <p>Noted.</p> |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Authority response                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|             |           | <p>Issue 3: We agree there is a benefit in the EA having this information, but we consider it can be achieved at 1/11th of the cost to traders and no cost to the registry on a supply at event only.</p> <p>Issue 4: We agree that this information is required but disagree with it being provided on a 'just in case' basis. We suggest providing this information ahead of any need, will impose a significant cost on traders, and will not necessarily be accurate at the time of default. We reiterate our comments in the main body of our letter and proposed solution.</p> <p>Tables 5, 6 and 7: no comment.</p> | <p>The Code amendment has been amended to require traders to provide ICP information on which traders cannot trade only in the event of trader default</p> <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>This is further discussed in the decisions and reasons paper.</p> |
| 8           | EMH Trade | EMH Trade agrees with the amendment from 'retailer' to 'trader', although note that for all existing type 2 retailers the cost of compliance with the existing Code should already be sunk                                                                                                                                                                                                                                                                                                                                                                                                                                 | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

**Question 9: Do you agree the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.**

| Question no | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Authority response                                                                                                                                                                                                                                                                                          |
|-------------|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9           | Mighty River Power               | We partially agree. See our response at 1 and our covering letter.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted.                                                                                                                                                                                                                                                                                                      |
| 9           | Contact Energy                   | <p>The alternative drafting on pages 3,4,11 and 12 respectively, treats the information referred to in clause <b>9(1)(b)</b>, and timing of when that must be supplied, differently. This is stated to be to cover off Options 1 and 2 however it isn't clear why the options are suggested (e.g. what benefits one option offers over the other).</p> <p>More significantly, Contact can't see anything in the suggested drafting of the Code amendment that would facilitate the alternative approach provided for by <b>para. 2.2.42(b)</b> (Option 2) of enabling information to be stored in a secure location separate from the Registry: as far as Contact can see the drafting only provides for that information to be supplied on a different time basis (see Schd. <b>11.1, clause 9(2B)</b>).</p> <p>Please also see our response to question 1.</p> | <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>This is further discussed in the decisions and reasons paper</p> |
| 9           | Electricity Networks Association | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Noted.                                                                                                                                                                                                                                                                                                      |
| 9           | Meridian Energy and Powershop    | No. Meridian considers the Authority's objectives could be achieved in a better and more efficient way. In particular, we                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted. The Authority has decided not to make this Code amendment.                                                                                                                                                                                                                                           |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Authority response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |           | <p>favour an alternative approach involving:</p> <ul style="list-style-type: none"> <li>• A secure, stand-alone, database of customer contact details, populated quarterly with updated information.</li> <li>• Reports being provided by retailers at the time of a default on valid, technical reasons as to why certain ICPs/NSPs are unable to be supplied.</li> <li>• Retailers having 3 months to undertake 'best endeavours' to supply information identifying type 2 retailers, with type 2 retailers responsible within this timeframe for arranging (where necessary) for a participant identifier to be assigned.</li> <li>• A 3 month 'best endeavours' timeframe for retailers compulsorily assigned customers to meet metering and distribution-related Code standards.</li> </ul> <p>We consider addressing the two areas for improvement Meridian has identified (ensuring consistency with assumed prudential exit periods and the process by which unallocated customers are to be assigned) will assist with the Authority's objective around ensuring</p> | <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>This is further discussed in the decisions and reasons paper</p> <p>The Code has been amended to require traders to provide ICP information on which traders cannot trade only in the event of trader default.</p> <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>Noted. The Authority has amended the timeframe in clause 5A from 20 business days to three months.</p> <p>The Authority will consider this issue further.</p> |

Summary of submissions

| Question no | Submitter      | Comments                                                                  | Authority response |
|-------------|----------------|---------------------------------------------------------------------------|--------------------|
|             |                | the process “works effectively in the event of trader default”.           |                    |
| 9           | Genesis Energy | No. Please see our alternatives discussed in the main body of our letter. | Noted.             |

**Question 10: Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?**

| Question no | Submitter                        | Comments                                                                                             | Authority response                                                                                                                         |
|-------------|----------------------------------|------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 10          | Mighty River Power               | Agree.                                                                                               | Noted.                                                                                                                                     |
| 10          | Contact Energy                   | No. Please see our response to question 1.                                                           | Noted.                                                                                                                                     |
| 10          | Electricity Networks Association | No comment                                                                                           | Noted.                                                                                                                                     |
| 10          | Meridian Energy and Powershop    | See our response to Q9.                                                                              | Noted.                                                                                                                                     |
| 10          | Genesis Energy                   | No, we disagree. The proposed solution does not provide for the efficient operation of the industry. | Noted. The Authority has decided that two of the proposals will not proceed. This is further discussed in the decisions and reasons paper. |

**Question 11: Do you have any comments on the drafting of the proposed amendment?**

| Question no | Submitter          | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Authority response                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11          | Mighty River Power | <p>The following should be deleted:</p> <ul style="list-style-type: none"> <li>- Schedule 11.1, 9(1)(jb) should be deleted;</li> <li>- references to the above clause should be deleted in the following sub-clauses;</li> </ul> <p>and corresponding changes in the Option 2 proposed amendments.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Noted. The Authority has decided not to make this Code amendment.                                                                                                                                                                                                                                                                                                                                             |
| 11          | Contact Energy     | <p>Yes.</p> <p>At least part of the reason for the Code change being promoted is that the way “Retailer” is defined in the Code doesn’t fit with the T2R scenario, in the context of retailer default. In our view it would be simpler to change that definition and have T2Rs involved in the retailer default solution from the outset.</p> <p>This may become even more relevant if Tier 2 Retailer arrangements become more common (in which event there could be other implications arising out of them in relation to different parts of the Code/market operations besides retailer default).</p> <p>It would be useful if the Authority could explain the reason why, in order to resolve the issues identified in the paper, clause 11.15B(1)(a) has been modified by adding the words “under ... 14.55”. As the paper only talks about amending that clause (and clause 14.55) to replace the term ‘retailer’ with ‘trader’ (e.g. para.</p> | <p>Type 2 retailers do not purchase directly from the clearing manager and therefore are not part of the default regime.</p> <p>However, the Authority will further investigate the provisions of type 2 retailer information. This is discussed in the decisions and reasons paper.</p> <p>Noted. This has been identified as an amendment that will clarify when a default applies under Schedule 11.5.</p> |

| Question no | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Authority response                                                                     |
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|             |                                  | <p>2.3.2). This seems an unrelated and unexplained change.</p> <p>There are places where it seems the mark-up may be inaccurate because a deleted word is not showing (e.g. at <b>4B(2)</b>, it states “defaulting trader” but there is no deleted word “retailer” (or whatever term was previously used there). There is a similar example at <b>5(1)</b>, on line 1).</p> <p>Finally there are also a couple of minor typo’s that should be picked up.</p>                                                                                                                                                                                                                                                                                                 | Noted. These will be resolved in the final drafting of the Code.                       |
| 11          | Electricity Networks Association | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted.                                                                                 |
| 11          | Meridian Energy and Powershop    | <p>Meridian strongly supports the Authority’s proposed amendments to clause 11.15B(1)(a). We’ve submitted previously these changes are needed to improve the accuracy of the types of ‘qualifying’ default events specified and to ensure consistency with other parts of the Code (specifically, clause 11.15C).</p> <p>As previously mentioned, it is Meridian’s strong preference that the Code provides for customer contact details to be held separately from other registry records (i.e. that option 1 is not pursued). Rather than customer details that are “known to” the trader it would be more appropriate in Meridian’s view if proposed clause 9(1)(b) were to instead specify details <i>recorded by</i> the trader are to be provided.</p> | <p>Noted.</p> <p>Noted. The Authority has decided not to make this Code amendment.</p> |

## Summary of submissions

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Authority response                                                                                                                                                                                                                                                                                                           |
|-------------|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |           | <p>Meridian considers there are several amendments needed to the timeframes that have been specified:</p> <ul style="list-style-type: none"> <li>• Meridian is concerned that the 20 business day period allowed for complying with relevant metering standards underestimates the scale of the process involved in certain situations. What if there are non-compliant meters to be dealt to? Or where large-scale displacement of customers creates a need for multiple retailers to attempt to negotiate in parallel with the same meter owner? In Meridian's view a timeframe of 3 months to report back to the Authority on progress in achieving these standards would be more reasonable.</li> <li>• As mentioned in our response to Q6, Meridian considers retailers should be allowed 3 months lead time to provide information on type 2 retailers, rather than 20 business days like the Authority has proposed.</li> </ul> <p>We also consider adjustments are needed to provide for the 12-18 month lead time for customer contact information and 6 month lead time for 'unable to trade' ICP/NSP information proposed by the Authority.</p> <p>For reasons mentioned above, Meridian considers the amendments should make clear Traders are to 'use reasonable endeavours' comply with metering and distribution service-related standards. The same should apply to providing information on type 2 retailers who may not always be readily identifiable or able to be easily contacted. Regarding the Authority's suggested process for having type 2 retailers assigned (where necessary) participant identifiers, we question why this would be the responsibility of the ICP trader to progress, at their cost, for the</p> | <p>Noted. The Authority has amended the timeframe in clause 5A of Schedule 11.5 from 20 business days' to three months.</p> <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>Noted. The lead in time for the provision of information about ICPs at which traders cannot trade is six months.</p> |

| Question no | Submitter      | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Authority response                                                                                   |
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|             |                | <p>benefit of the type 2 retailer.</p> <p>It is not clear to Meridian how the Code will limit retailer default provisions to those who do not agree a shorter exit timeframe with the Authority (as provided for under new clause 14A.22 of the Code, due to come into effect March next year). Our expectation is that any reduction in the exit period timeframe would only be granted if the retailer had proof they could transfer all customers to an alternative retailer in a shorter timeframe independently of the Code default process. It would be concerning if a disconnect could arise between the timeframe assumed as part of the prudential calculations and what would be realistic to expect in terms of the time to exit a retailer from the market. We request the Authority considers this matter further.</p> | <p>Noted. The Authority will investigate this issue and provide information to all participants.</p> |
| 11          | Genesis Energy | <p>Genesis Energy is currently reviewing the text and will revert with any comments in due course.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>Noted.</p>                                                                                        |

**General comments**

| Question no      | Submitter                            | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Authority response                                                                                                                                                                                                                                                                                           |
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| General Comments | Mighty River Power<br>(Cover letter) | <p>We agree with the first three issues discussed in the paper and support the Authority's proposed amendments to these. We disagree with the proposal to address the fourth issue, namely provision of customer information by all retailers to the Authority, for the reasons stated below.</p> <p>Firstly, most of the information which the Authority proposes to harvest from retailers (at significant cost to the industry and our customers) is not required in order to achieve the objective. The Authority will only ever need to have reliable access to the small proportion of total industry customer data which relates to the defaulting retailer. It would seem much more efficient to concentrate on harvesting this in a robust and reliable way than harvesting a much larger pool of data in a less reliable and less robust way.</p> <p>Secondly, the proposed amendment gives rise to a number of complexities that appear not to have been properly considered at this stage. Providing visibility of customer information only to a responsible retailer, and allowing that visibility to be turned on and off based on switching activity and responsibility for an ICP, will require a highly sophisticated database. Such a database holding large amounts of personal information and is a complicated proposition with inevitable security, privacy and other legal and practical issues to consider.</p> <p>Some of these issues include:</p> <ul style="list-style-type: none"> <li>• a heightened risk of hacking and other such cyber activity;</li> <li>• legal questions such as who is responsible for a breach of</li> </ul> | <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>This is further discussed in the decisions and reasons paper.</p> |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Authority response |
|-------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
|             |           | <p>security or unauthorised disclosure arise;</p> <ul style="list-style-type: none"> <li>• what additional security steps need to be considered to safeguard information, what are the costs (which will ultimately be borne by customers);</li> <li>• How would a customer access and correct their personal information and what other privacy issues arise;</li> </ul> <p>We note that a consumer's "right to be forgotten " is currently under consideration as part of New Zealand's privacy law reform. If such a right was adopted into law, customers could require the Authority to delete their personal information making the database incomplete.</p> <p>Thirdly, with New Zealand having one of the highest switching rates in the world, a retailer's customer information is continually changing. Customer information submitted at the beginning of the month would be quite different to our customer information at the end of the month. This inaccuracy alone will put into serious doubt the usefulness and reliability of information from the proposed database.</p> <p>A more practical, efficient and workable option would be for the Authority to mandate that a 'defaulting retailer' must provide its customers' information to the Authority, at the start of the retailer default process (i.e. within the first seven days of or phase 1 of the process). This would allow the Authority to identify and resolve any gaps in customer information before the Authority commences contacting customers as part of phase 2. By phase 3, all customers that may be part of a mandatory allocation process should be able to be reached.</p> |                    |

## Summary of submissions

| Question no      | Submitter      | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Authority response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| General comments | Contact Energy | <p><b>General comment 1</b></p> <p>The Code amendment envisages the Authority could assign the T2R's ICPs to another Trader - see <b>Schedule 11.5 clause 4(3)(c)</b>. We do not believe any Trader should have to deal with a T2R if it does not want to, following an event of retailer default. In our view, Traders should be entitled to not have to enter into arrangements with a T2R as doing so raises a number of commercial and risk (including credit risk) issues.</p> <p><b>General comment 2</b></p> <p>Contact considers the current proposal to add/interface information to the registry under both options would be very system intensive and unnecessary to facilitate a situation that will rarely occur (or potentially ever be required).</p> <p>Contact would like the Authority to consider including this requirement in a similar way to the way the registry reconciliation process currently operates. Participants are required to have a process in place which isn't monitored on an ongoing basis by the Authority, however the process must be proven as part of the Trader's annual (or initial) certification through the existing audit processes. The Trader would have to implement a method to extract the required information and be able to demonstrate this to the auditor which would be incorporated in the auditor/EA sign off process. Contact believes this is more than enough coverage for the likelihood of this information ever being required.</p> <p>In addition to customer information, Contact considers some information should be provided in relation to billing and meter reading data to assist a Trader/Retailer inheriting a defaulting retailer's ICPs/customers (e.g. last actual meter reading and date,</p> | <p>Noted. The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper.</p> <p>Noted. The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>The Authority will also investigate including the prescribed format in the audit of a reconciliation participant.</p> <p>This is further discussed in the decisions and reasons paper.</p> |

| Question no      | Submitter                        | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Authority response                                                                                                                                                                                                                                                      |
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|                  |                                  | last bill date and reading etc.).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                         |
| General comments | Electricity Networks Association | <p>We would like to submit on one aspect of these proposed changes: the addition of clause 5A into Schedule 11.5 which relates to a recipient trader being excused from compliance with certain aspects of the Code for 20 business days following assignment of ICPs to that trader after an event of a default.</p> <p>The Authority has identified four issues that it is proposing to address through Code changes. The third of these issues is described as “information about ICPs at which traders cannot trade”. The Authority has proposed that traders must supply information to it about NSPs and ICPs at which they cannot trade for specified reasons. The Authority is also proposing to amend the Code to provide that a trader that is assigned an ICP does not breach the Code for 20 business days after the assignment because it does not have arrangements in place for the provision of line function services as required in clause 11.16 (proposed clause 5A(b) of Schedule 11.5).</p> <p>The ENA submits that this Code change is neither necessary nor desirable. ICPs should only be allocated to traders already trading on a network. This is the approach that the Authority has previously indicated that it would take.</p> <p>When the Authority consulted on establishing arrangements to manage retailer default situations in mid-2013, it also consulted on a draft guideline for managing retailer default.<sup>2</sup> Paragraph 5.27 of the draft guideline states:</p> | <p>The Authority has decided not to make this Code amendment. Mandatory assignment will be based on a trader’s market share as detailed in the guideline on managing events of trader default.</p> <p>This is further discussed in the decisions and reasons paper.</p> |

<sup>2</sup> Electricity Authority, *Guideline for managing retailer default situations*, 18 June 2013

Summary of submissions

| Question no      | Submitter       | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Authority response |
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|                  |                 | <p><i>If the tender is unsuccessful, the Authority will assign the responsibility for the remaining customers of the retailer in default to retailers servicing customers in the same network area (or areas) as follows:...</i></p> <p>In its decision paper following the submission process, the Authority states at paragraph 59 that “[t]he final stage of the allocation approach would involve the mandatory assignment of remaining customers to retailers based on market share in a region.”<sup>3</sup> It also notes at paragraph 10 that one of the implementation actions is to “finalise the guideline for managing a retailer default situation”.</p> <p>The ENA submits that the Authority should finalise the guideline retaining the process described in the draft guideline of allocating ICPs to retailers which already have customers in the network area/s based on market share. This removes any possibility that traders are in breach of the Code requirement in clause 11.16 to have the necessary arrangements for line function services, and avoids unnecessarily increasing the level of risk to which network businesses are exposed.</p> <p>The Authority has not suggested that there is a problem with this process, and the Code change with respect to clause 5A(b) is therefore unnecessary.</p> <p>The ENA has no comment on other aspects of this consultation paper.</p> |                    |
| General comments | Meridian Energy | Meridian supports addressing the issues outlined in a lower cost                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Noted.             |

<sup>3</sup> Electricity Authority, *Arrangements to manage a retailer default situation: Decision and Reasons*, 8 November 2013

| Question no | Submitter     | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Authority response                                                                                                                                                                                                                                                                                                                                                                                  |
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|             | and Powershop | <p>way.</p> <p>Meridian agrees there are valid reasons for addressing each of the issues identified, but considers that they can be resolved using a more suitable, lower cost approach. While we agree it is important to have in place fundamentals that will ensure the regime can function effectively when required, the arrangements also need to be set up in a way that recognises how infrequently (if at all) information from retailers will be needed.</p> <p>Maintaining security over customer information is paramount</p> <p>It is Meridian's firm preference that customer contact details are held in a secure location, separate from the registry. While we consider one option would be for Traders to have in place audited processes that would enable them to supply customer contact details as required, we accept the Authority may prefer to have this information on hand in a centrally held location.</p> <p>Meridian does not support incorporating information on customer contact details into the registry. Compared with having the information stored separately, this would be less secure and involve higher costs. Expanding the role of the registry in this way would need to be considered as part of a more comprehensive review of the registry's functionality.</p> <p>Several suggested timeframes need to be modified</p> <p>Meridian welcomes the Authority's proposal to allow retailers some time to comply with metering and distribution-related Code standards but we are concerned that the suggested 20 business day timeframe will be difficult to achieve. We consider 3 months to</p> | <p>The Authority has decided not to make this Code amendment. This is further discussed in the decisions and reasons paper.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> <p>Noted. The Authority has amended the timeframe in clause 5A of Schedule 11.5 from 20 business</p> |

Summary of submissions

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Authority response                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|             |           | <p>carry out ‘best endeavours’ to meet the standards would be more reasonable, for instance, to cater for a situation where large numbers of customers and contracts are involved.</p> <p>Meridian also considers:</p> <ul style="list-style-type: none"> <li>• Customer contact details should be provided quarterly to better balance the importance of having up to date information at hand with the costs to retailers and the likely infrequency of instances where a need for the information will arise. There should be no barrier to retailers updating the information more regularly.</li> <li>• Reports on valid, technical reasons as to why certain ICPs/NSPs are unable to be supplied should be provided at the time of default. Meridian does not consider this information needs to be collected earlier since it will only be required from non-defaulting retailers nearer the end of the 17 days it will take for the Authority’s process to run its course.</li> <li>• 3 months lead time should be allowed for retailers to undertake ‘best endeavours’ to supply information on type 2 retailers, who may not be readily identifiable or easy to make contact with. Type 2 retailers themselves should be responsible for arranging a participant identifier to be assigned within this timeframe.</li> </ul> <p>Further work is needed to improve the clarity of the Code</p> <p>In Meridian’s view there are two important aspects of the Code that require further clarification. At present, the Code is unclear on how customers would be allocated in instances where no suitable retailers are able to be found at the final ‘compulsory’ allocation</p> | <p>days to three months.</p> <p>Noted. The Authority has decided not to proceed with this Code amendment.</p> <p>The Authority has amended the Code to require information about ICPs at which traders cannot trade only in the event of a trader default.</p> <p>Noted. The Authority has decided not to proceed with this Code amendment.</p> <p>The Authority will update the guidelines on managing events of trader default with this information.</p> |

| Question no      | Submitter                     | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Authority response                                                                        |
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|                  |                               | <p>stage of the Authority's process (e.g. if all retailers submit they are unable to trade pre-pay meters, how will customers with pre-pay meters be allocated?).</p> <p>The Code also does not make clear how retailers who agree a customised exit timeframe with the Authority (under new "Prudential and Settlement" Code provisions), and who will not have the "default" 18 day exit period used in the calculation of their prudential amounts, will not then go on to be able to be exited using the Authority's process. A concern with having the Code unclear on this point is that it could artificially lower the prudential amounts which are set, while the industry bears the full 18 days of exit period default.</p> <p>We request the Authority considers the above matters further.</p> | <p>The Authority will investigate this issue and provide information to participants.</p> |
| General comments | Genesis Energy (Cover letter) | <p>Genesis Energy agrees with some of the proposed amendments that are necessary for implementation of the Retailer Default Scheme (Issue 2). Genesis Energy, however, does not support all of the proposed amendments including those that propose changes to include type 2 retailers on the registry. Nor do we support the requirements for traders to provide current information on non-tradable ICPs and personal customer data to the Authority. These proposed amendments have the potential to drive cost, complexity and high levels of compliance overhead to address what we view as an extremely rare event.</p> <p>We expand on these issues below. Our answers to the consultation</p>                                                                                                      | Noted.                                                                                    |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Authority response                                                                                                                             |
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|             |           | <p>questions are set on in the appendix to this letter.</p> <p><b>Including type 2 retailers on the Registry is not necessary</b></p> <p>We do not agree that the Registry needs to include information about type 2 retailers. In our view, including type 2 retailers noted on the Registry adds no value to the retailer default scheme. In particular, it is outweighed by the significant cost of change and maintenance of the code identified in the paper.</p> <p>The extension of the Registry to include type 2 retailers gives this class of customer preferential treatment over other customers of the defaulting trader. Furthermore, the proposed extension may dissuade type 2 retailers from following good due diligence practice. One of the business risks type 2 retailers must consider when selecting a trader, is the risk of supplier failure. This evaluation is part of the due diligence that should accompany any commercial arrangement.</p> <p>In our view, the proposed retailer default scheme will not disadvantage type 2 traders over other consumer types, for example aggregator services. For example, in the event of a trader default, type 2 retailers can enter into an arrangement with another trader immediately – in which case the type 2 retailer ICPs would not be available for distribution by the Authority. Alternatively a type 2 retailer can have their ICPs distributed by the scheme, and then arrange for a new trader after the distribution of ICPs by the Authority. They can then switch their distributed ICPs to that trader.</p> <p>We suggest that, if necessary, the Authority can obtain information</p> | <p>Noted. The Authority has decided not to proceed with this Code amendment. This is further discussed in the decisions and reasons paper.</p> |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Authority response                                                                                                                                      |
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|             |           | <p>on a type 2 retailer from the default traders systems via the liquidator at the time of default.</p> <p><b>Issue 3 – Information about ICPs at which traders cannot trade</b></p> <p>We disagree with the proposed amendments for traders to provide information on ICPs at which they cannot trade.</p> <p>This proposal places an onerous and resource intensive obligation on retailers. It implies that a trader is static on where they can trade, but in reality this will change over time. The current proposal will require substantial resources to be allocated to the consideration and review of what ICPs the trader cannot trade which is far from practical. Similarly the Authority is required to collect, store, and maintain the data in case of a rare default event, only to have to confirm it at the time of default.</p> <p>We suggest that it is preferable for the Authority to specify that all traders be able to provide this information at the time of default. Compliance with this requirement can be included in the compliance report.</p> <p>We also disagree that 20 business days is sufficient time for a trader to comply with the proposed requirements in paragraph 2.2.32, given all the additional work required just to get customers onto their billing system and would suggest that this should be 30 business days at a minimum.</p> <p><b>Do not support providing customer information to the</b></p> | <p>Noted. The Authority has amended the Code to require information about ICPs at which traders cannot trade only in the event of a trader default.</p> |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Authority response                                                                                                                                                                                                               |
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|             |           | <p><b>Authority</b></p> <p>We do not support the proposed obligation on traders to regularly provide customer data to the Authority. This information is simply not necessary for the objective of effectively dealing with a retailer default.</p> <p>We have two key concerns with this proposal:</p> <ul style="list-style-type: none"> <li>• Requiring traders to regularly supply customer data is incredibly onerous and will impose significant costs on the trader. We suggest that these costs will be unreasonable for a situation which may not arise. This information is not needed for the EA's purpose of this consultation.</li> <li>• Any information regarding current customer details will be out of date in a matter of days (for example in a six week period we had 25,000 customer change interactions). A related issue is that keeping this information up-to-date will require significant resources on both the part of the trader and the Authority. Again we strongly oppose this information being gathered for an unnecessary purpose.</li> <li>• Genesis Energy, and other retailers, has an obligation to our customers to ensure that our customer's private information is kept securely. We have not been provided any assurance as to the level of data security that will be applied to this information.</li> </ul> <p>A more cost effective and practical solution is for the customer data (format and content to be specified by the Authority) to be supplied</p> | <p>The Authority has decided not to make this Code amendment.</p> <p>However, the Authority will prescribe a standard format for the provision of customer information from the defaulting trader in the event of a default.</p> |

| Question no      | Submitter                                                                                                                                                                                                                                                                                       | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Authority response                                                                                                                                                                                                                                                             |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                  |                                                                                                                                                                                                                                                                                                 | in the event of default – but not before. This way the Authority can still achieve the objective of the retailer default scheme without the unnecessary and costly overhead of continuing to supply data that will not be completely accurate at the time it is needed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                |
| General comments | <p>Pricewaterhouse Coopers (PWC), on behalf of:</p> <p>Alpine Energy Limited</p> <p>Aurora Energy Limited</p> <p>Eastland Network Limited</p> <p>Electra Limited</p> <p>EA Networks</p> <p>Electricity Invercargill Limited</p> <p>Horizon Energy Distribution Limited</p> <p>MainPower New</p> | <ol style="list-style-type: none"> <li>1. This submission responds to the last two issues that are of particular relevance to the distributors represented by this submission.</li> </ol> <p><b>Ability to trade at an NSP</b></p> <ol style="list-style-type: none"> <li>2. The Consultation Paper notes that traders may be in breach of the Code under the current retailer default arrangements where a customer is transferred to them and the trader cannot provide services to those customers.</li> <li>3. Of particular interest to the distributors represented by this submission, is where a trader does not have an arrangement with a distributor to provide line function services at an NSP. This may include situations where a trader has not signed a Use of System Agreement (UoSA) to trade on that network.</li> <li>4. In this situation, we question why customers would be assigned to a trader that is not trading at an NSP. This appears inconsistent with the approach of allocating customers by the market share of traders already trading at a GXP, which was discussed in the retailer default decision paper<sup>4</sup>. In our view, customers should only be allocated to traders currently trading</li> </ol> | <p>Noted. The Authority has decided not to make this Code amendment. Mandatory assignment will be based on a trader's market share as detailed in the guideline on managing events of trader default.</p> <p>This is further discussed in the decisions and reasons paper.</p> |

<sup>4</sup> Retailer Default Arrangements Decision and Reasons Paper, 8 November 2013, Paragraph 58

## Summary of submissions

| Question no | Submitter                                                                                                                                                                                                                                                                                                                            | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Authority response                                                       |
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|             | Zealand Limited<br>Marlborough Lines Limited<br>Nelson Electricity Limited<br>Network Tasman Limited<br>Network Waitaki Limited<br>Northpower Limited<br>OtagoNet Joint Venture<br>Scanpower Limited<br>The Lines Company Limited<br>The Power Company Limited<br>Top Energy Limited<br>Waipa Networks Limited<br>Westpower Limited. | <p>on the distribution network.</p> <p>5. Were the current proposal to be adopted then we are not opposed to providing a receiving trader with a temporary exemption from the Code requirements, but so long as distributors' interests are also safeguarded during that period.</p> <p>6. In any case, we do recognise that the EA needs information on a traders ability to trade at an NSP prior to assigning customers. We are therefore not opposed to traders providing further detail to the registry in this regard.</p> <p><b>Access to customer information</b></p> <p>7. The EA has recognised that there is no guarantee that customer contact information will be provided by a trader in an event of default. To resolve this issue the Consultation Paper proposes an amendment to the Code to require traders to advise the registry of the customer name, postal address, email address, and phone number of a customer. Options include:</p> <ul style="list-style-type: none"> <li>• storing this information as fields in the registry which can only be viewed by the trader</li> <li>• storing this information in a secure location managed by the registry, but separate from the registry.</li> </ul> <p>8. We agree there is a risk that the current retailer default process</p> | <p>Noted. The Authority has decided not to make this Code amendment.</p> |

| Question no | Submitter | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Authority response |
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|             |           | <p>will fail where a retailer does not provide customer contact details to the EA. We note as a fall-back position the EA can request this information from a distributor under schedule 11.5 clause 3.1 of the Code, where available. However, as we have previously submitted, many distributors on interposed arrangements do not always have access to complete and up to date customer information. We therefore consider it preferable that retailers provide customer contact information to the registry up-front, ie prior to a default event occurring.</p> <p>9. We have no strong preference for the options of either storing this information in the registry or in a separate secure location managed by the registry. This is best left to the EA and traders to resolve.</p> <p>10. In addition, we consider that where contact information is provided by traders then the schedule 11.5 clause 3 requirement on distributors to provide contact details is no longer necessary. We therefore submit that it should be deleted from the Code.</p> <p><b>Concluding Comments</b></p> <p>11. We trust this submission provides useful input in finalising the proposed approach to manage retailer default situations. We would be happy to answer any questions you may have regarding this paper.</p> |                    |