



18 January 2021

Submissions
Electricity Authority

By email: HME.feedback@ea.govt.nz

Consultation paper: Permanent market making backstop

Meridian's submission relates mainly to the drafting of the proposed Code amendment set out in Appendix C.

Meridian notes that the proposed Code amendment generally follows the form of the temporary Code amendment introduced under urgency in February 2020. At that time Meridian queried whether the temporary Code contained a mistake. This was because current NZEF market-making arrangements allow market-makers to claim an exemption for up to 5 NZEF market-making periods a month. However, in the temporary Code and now in the proposed permanent Code, in order to not be caught by and made permanently subject to the backstop, market-makers must enter into a NZEF market-making agreement that provides that the market-maker must "...for a minimum of 25 minutes in every NZEF market-making period, provide quotes to buy and sell..." (see proposed clause 13.236L(1), emphasis added) for the relevant contracts at the requisite bid-ask spreads. In other words, on one reading of the clause, there are seemingly no exempt sessions allowed.

Meridian was assured then and assumes now that, despite the wording, the proposed Code is not intended to remove or reduce market-makers' ability to claim up to 5 exempt sessions a month. We submit this could usefully be made clearer on the face of the proposed Code by expanding proposed clause 13.236L so that it more closely reflects the current form of NZEF market-making arrangements.

We also note that under proposed clause 13.236N(1)(b), where a participant does become subject to the backstop Code, they are only permitted to claim an exemption for up to 2

NZEF market-making periods a month. We submit this should be aligned with the 5 sessions permitted under current NZEF market-making arrangements. Otherwise the backstop has the potential to operate punitively, which we do not believe is appropriate.

In addition, Meridian submits that, contrary to clause 5.4 of the consultation paper, there should be a mechanism for market-makers who have become subject to the backstop to return to voluntary market making if the relevant market-making performance targets are met for a prescribed period of time (say, 6 months). The proposed Code could simply provide for the 6 months to start and end on dates determined by the Authority. Given that the Authority has signalled that the transition to its preferred enduring market-making arrangements, using commercial providers, may take “several years” (clause 3.9 of the consultation paper) and / or may involve physical participants providing market making services indefinitely (also clause 3.9), the Authority’s stated reason for not allowing for a return to voluntary market making – that it will review the permanent mandatory backstop as and when it introduces commercial providers into the market – may mean that market-makers become permanently subject to the backstop and the risk of Code breach on the basis of three failures to comply with the terms of their market-making arrangements within a period of 90 days. Meridian submits this is not good regulatory practice, particularly as it may expose market-makers who have become subject to the backstop (and therefore can only claim 2 exempt sessions a month, on current drafting) to a permanent commercial disadvantage as against parties who are not subject to the backstop (and can therefore claim 5).

Please contact me if you have any questions.

Yours sincerely



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