

**Proposed Further Amendments to the Enforcement and Compliance Manual
(May 2018)**

Title	Section	Original Proposed Provision (Approved by RCC-August 2017)	Proposed Further Amendment	Rationale
Responsibilities				
Philippine Electricity Market Board	4.1.4	The <i>PEM Board</i> shall meet, deliberate, resolve and vote on the investigations for <i>breach</i> , particularly imposition of penalties, sanctions, and remedial measures based on the recommendations of the <i>Market Surveillance Committee</i> and results of the investigations by the <i>Enforcement and Compliance Office</i> , and all matters pertaining to enforcement and compliance, in the same manner as it meets, deliberates, resolves and votes on matters submitted to or coming within its authority. It may, at its discretion, adopt its own internal procedures for handling of investigations and other enforcement- related matters referred to it.	The <i>PEM Board</i> shall meet, deliberate, resolve and vote on the investigations for <i>breach</i> , particularly imposition of penalties, sanctions, and remedial measures based on the recommendations of the <i>Market Surveillance Committee</i> and results of the investigations by the <i>Enforcement and Compliance Office</i> , and all matters pertaining to enforcement and compliance, in the same manner as it meets, deliberates, resolves and votes on matters submitted to or coming within its authority, <u>unless such act of imposing penalties, sanctions and remedial measures is authorized to be carried out by the Market Surveillance Committee or the Enforcement and Compliance Office under the WESM Penalty Manual or other relevant Market Manual.</u> It may, at its discretion, adopt its own internal procedures for handling of investigations and other enforcement-related matters referred to it.	To align with the proposed amendment to the <i>WESM Penalty Manual</i> that allows the <i>Enforcement and Compliance Office</i> to implement the imposition of penalties as a result of its compliance monitoring and assessment activity. Note: The compliance monitoring and assessment activity is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from trading participants, the Market Operator, the System Operator, and such other relevant information from various sources. This is to give adequate and due process to the trading participants.

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Market Surveillance Committee	4.2.1	<p>Within the limits set out in this Manual and in addition to its functions as set out in the WESM Rules and the Market Surveillance Manual, the Market Surveillance Committee has the following authority and obligation in respect to enforcement of the WESM Rules. Its enforcement authority includes the authority to –</p> <p>a) Review reports of investigations and decide on the outcome of each case based on the findings of facts and the recommendations of the Enforcement and Compliance Office;</p> <p>b) Recommend to the PEM Board the imposition of penalties for breaches and implementation of remedial measures as a consequence of breach, based on outcomes of investigation carried out by the Enforcement and Compliance Office;</p> <p>c) Authorize issuance of notices, reports and memoranda in respect of its own decisions and functions;</p> <p>d) Regularly review and promulgate changes, as appropriate, to the WESM Penalty Manual pursuant to WESM Rules Clause 7.2.</p>	<p>Within the limits set out in this Manual and in addition to its functions as set out in the WESM Rules and the Market Surveillance Manual, the Market Surveillance Committee has the following authority and obligation in respect to enforcement of the WESM Rules. Its enforcement authority includes the authority to –</p> <p>a) Review reports of investigations and decide on the outcome of each case based on the findings of facts and the recommendations of the Enforcement and Compliance Office;</p> <p>b) Recommend to the PEM Board the imposition of penalties for breaches other than those arising from, and determined through the compliance monitoring and assessment by ECO, and implementation of remedial measures as a consequence of such breach, based on outcomes of investigation carried out by the <i>Enforcement and Compliance Office</i>;</p> <p>c) <u>Decide on or resolve a request for reconsideration of the Notice of Specified Penalties filed by any concerned WESM Member in accordance with the relevant provisions of the WESM Penalty Manual;</u></p> <p>e) <u>d)</u> Authorize issuance of notices, reports and memoranda in respect of its own decisions and functions;</p> <p>d) <u>e)</u> Regularly review and promulgate changes, as appropriate, to the WESM Penalty Manual pursuant to WESM Rules Clause 7.2.</p>	<p>To align with the proposed Penalty Manual 2.0 that provides for different responsibilities of MSC depending on the enforcement proceedings undertaken by ECO:</p> <ul style="list-style-type: none"> • If investigation is initiated other than the compliance monitoring and assessment activity of ECO (via a Request for Investigation/reports of Market Operator/System Operator): MSC reviews the investigation reports • If determination of breach is made through compliance monitoring and assessment activity of ECO, the MSC can decide or resolve the request for reconsideration that may be filed by the concerned WESM Member in accordance with the procedures set in the proposed Penalty Manual 2.0. <p>Renumbered (c) and (d) as a result of additional proposed provision.</p>

Title	Section	Original Proposed Provision (Approved by RCC-August 2017)	Proposed Further Amendment	Rationale
Enforcement and Compliance Office	4.3.1	<p>The <i>Enforcement and Compliance Office</i>, together with the <i>Market Surveillance Committee</i>, shall assist the <i>PEM Board</i> in the enforcement of the <i>WESM Rules</i> and other market rules, and shall have the following authority and responsibility–</p> <p>a) Administer the WESM enforcement processes, with authority and responsibility that includes, but is not limited to –</p> <p>i. monitoring of compliance amongst <i>WESM Members</i>, and, based on the result of its own monitoring, to initiating investigations of breach;</p> <p>ii. investigating <i>breach</i>, submitting the results of its investigations and making recommendations on sanctions and penalties, compensation and remedial measures, as it deems appropriate based on the results of its investigations; and</p> <p>iii. evaluating applications for exemptions and submitting recommendations on possible action on the application, and monitoring implementation of approved compliance plans.</p> <p>x x x</p>	<p>The <i>Enforcement and Compliance Office</i>, together with the <i>Market Surveillance Committee</i>, shall assist the <i>PEM Board</i> in the enforcement of the <i>WESM Rules</i> and other market rules, and shall have the following authority and responsibility–</p> <p>a) Administer the WESM enforcement processes, with authority and responsibility that includes, but is not limited to –</p> <p>i. monitoring of compliance amongst <i>WESM Members</i>, and, based on the result of its own monitoring and assessment, to initiating investigations of breach imposing specified penalties therefor in accordance with the <i>WESM Penalty Manual</i>;</p> <p>ii. deciding on a request for reconsideration filed by any WESM Member of the Notice of Specified Penalty arising from its compliance monitoring and assessment activities as may be authorized under the <i>WESM Penalty Manual</i>;</p> <p>iii. iii. investigating <i>breach</i>, submitting the results of its investigations and making recommendations on sanctions and penalties, compensation and remedial measures, as it deems appropriate based on the results of its investigations; and</p> <p>iv. iv. evaluating applications for exemptions and submitting recommendations on possible action on the application, and monitoring implementation of approved compliance plans. x x x</p>	<p>To align with the proposed amendment to the <i>WESM Penalty Manual</i> that allows the <i>Enforcement and Compliance Office</i> to:</p> <ul style="list-style-type: none"> • Implement the imposition of penalties as a result of its compliance monitoring and assessment activity; and • Decide or resolve the request for reconsideration that may be filed by the concerned WESM Member in accordance with the procedures set in the proposed Penalty Manual 2.0. <p>Note: The compliance monitoring and assessment activity is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from trading participants, the Market Operator, the System Operator, and such other relevant information from various sources. This is to give adequate and due process to the trading participants.</p>

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Enforcement Proceedings	5.3.1	WESM <i>enforcement proceedings</i> refer to the activities or processes that are carried out to establish and determine the occurrence of <i>breach</i> and the corresponding <i>enforcement action</i> that will be carried out as a consequence of the <i>breach</i> . These include the processes for monitoring of compliance, investigation for <i>breach</i> and imposition of <i>enforcement actions</i> .	WESM <i>enforcement proceedings</i> refer to the activities or processes that are carried out to establish and determine the occurrence of <i>breach</i> and the corresponding <i>enforcement action</i> that will be carried out as a consequence of the <i>breach</i> . These include the processes for compliance monitoring and assessment monitoring of compliance , investigation for <i>breach</i> and imposition of <i>enforcement actions</i> .	Global change: Monitoring of compliance – changed to “compliance monitoring and assessment” Note: The compliance monitoring and assessment activity is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from trading participants, the Market Operator, the System Operator, and such other relevant information from various sources. This is to give adequate and due process to the trading participants.
	5.3.2	Monitoring of compliance with the <i>market rules</i> and <i>Market Manuals</i> , as described in this Manual, is an integral part of <i>enforcement proceedings</i> in the WESM. Compliance monitoring under this Manual shall be carried out by the <i>Enforcement and Compliance Office</i> and shall be primarily for the purpose of determining the occurrence of probable <i>breach</i> with the end in view, in turn, of initiating further <i>enforcement proceeding</i> if warranted. Monitoring of compliance carried out for other purposes, such as for measuring performance standards or for audit compliance or for market assessment and surveillance, is not covered or restricted by this Manual.	<u>Compliance monitoring and assessment</u> Monitoring of compliance with the market rules and Market Manuals , as described in this Manual, is an integral part of <i>enforcement proceedings</i> in the WESM. Compliance monitoring under this Manual shall be carried out by the <i>Enforcement and Compliance Office</i> and shall be primarily for the purpose of determining the occurrence of probable breach <u>of the market rules and Market Manuals.</u> <u>Assessment is done by taking into consideration all the relevant and verified market data and information from the Market Operator, the System Operator, the WESM Members, among others,</u> with the end in view, in turn, of initiating further <u>determining the appropriate enforcement proceeding actions,</u> if warranted. Monitoring of compliance The compliance monitoring and assessment carried out for other purposes, such as for measuring	To align with the proposed amendment to the WESM Penalty Manual; and to broaden the concept of the compliance monitoring by extending it to a <u>complete assessment process</u> which is an integral part of the process of determining whether a breach is committed by the WESM Members, as would warrant the issuance of notice of penalty. Global change: Monitoring of compliance – changed to “compliance monitoring and assessment” Note: The compliance monitoring and assessment activity is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from trading participants, the Market Operator, the System Operator, and such other relevant

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			performance standards or for audit compliance or for market assessment and surveillance, is not covered or restricted by this Manual.	information from various sources. This is to give adequate and due process to the trading participants.
	5.3.4	(NEW)	<u>Imposition of specified penalties by the Enforcement and Compliance Office, as may be authorized by the WESM Penalty Manual is carried out upon finding of breach based on the results of its own compliance monitoring and assessment. This is imposed if a breach is determined after the concerned WESM Member is afforded adequate opportunities to respond to the initial finding of probable breach. This type of imposition of penalties shall apply only to a finding of breach as a result of the compliance monitoring and assessment by the Enforcement and Compliance Office, but not to a finding of breach resulting from an investigation that is initiated through a report of probable breach by the Market Operator or the System Operator or a request for investigation by any WESM Committee or any WESM Member or a directive from the ERC as mentioned in clause 6.4.2 (b), (c), and (d) of this Manual.</u>	To align with the proposed amendment to the WESM Penalty Manual that allows the Enforcement and Compliance Office to implement the imposition of penalties as a result of its compliance monitoring and assessment activity. Note: The compliance monitoring and assessment activity is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from trading participants, the Market Operator, the System Operator, and such other relevant information from various sources. This is to give adequate and due process to the trading participants. Original Clauses 5.3.4 to 5.3.6 are correspondingly renumbered due to this additional proposed provision.
	5.3.5	Imposition of sanctions and penalties by the <i>PEM Board</i> is carried out in the accordance with the <i>WESM Penalty Manual</i> and are based on the recommendations of the <i>Market Surveillance Committee</i> . The latter submits recommendations based on its findings of facts on an investigation which, in turn, is based on its review of the results of the investigations by the <i>Enforcement and Compliance Office</i> .	Imposition of sanctions and penalties by the <i>PEM Board</i> is carried out in the accordance with the <i>WESM Penalty Manual</i> and is based on the recommendations of the <i>Market Surveillance Committee</i> . The latter submits recommendations based on its findings of facts on an investigation which, in turn, is based on its review of the results of the investigations by the <i>Enforcement and Compliance Office</i> . <u>The investigations referred to</u>	Renumbered to 5.3.5 Added provision – to clarify that the sanctions or penalties carried out by the PEM Board only refers to those investigations which are initiated through a report of Market Operator/System Operator, or through a request for investigation.

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			<u>herein are those initiated in accordance with clause 6.4.2 of this Manual.</u>	The imposition of sanction or penalties as a result of the compliance monitoring and assessment by ECO does not require approval of the PEM Board and is covered by the preceding paragraph.
	5.3.6	Implementation of remedial measures can be prescribed by the <i>Enforcement and Compliance Office</i> or the <i>Market Surveillance Committee</i> as provisional measures while an investigation for <i>breach</i> is ongoing. Final remedial measures are determined and imposed by the <i>PEM Board</i> based on the outcomes of an investigation.	Implementation of remedial measures can be prescribed by the <i>Enforcement and Compliance Office</i> or the <i>Market Surveillance Committee</i> as provisional measures while an investigation for <i>breach</i> is ongoing. Final remedial measures are determined and imposed by the <i>PEM Board</i> based on the outcomes of an investigation.	Renumbered to 5.3.6
	5.3.7	Determination and payment of compensation is done through a separate process and not in the course of an investigation for <i>breach</i> . <i>WESM Trading Participants</i> that are financially disadvantaged as a result of a <i>breach</i> by another <i>WESM Member</i> may separately apply for payment of compensation. Claims for compensation are evaluated jointly by the <i>Market Operator</i> and the <i>Enforcement and Compliance Office</i> , and approved by the <i>PEM Board</i> .	Determination and payment of compensation is done through a separate process and not in the course of an investigation for <i>breach</i> . <i>WESM Trading Participants</i> that are financially disadvantaged as a result of a <i>breach</i> by another <i>WESM Member</i> may separately apply for payment of compensation. Claims for compensation are evaluated jointly by the <i>Market Operator</i> and the <i>Enforcement and Compliance Office</i> , and approved by the <i>PEM Board</i> .	Renumbered to 5.3.7
Procedures for Monitoring, Investigation, and Review	6			

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Guiding Principles	6.1.3	Sanctions or penalties may only be imposed and remedial measures may only be implemented upon an investigation carried out in accordance with this Manual. The monitoring carried by the <i>Enforcement and Compliance Office</i> in accordance with this Section does not constitute an investigation, and no sanctions may thus be imposed solely on the basis of the result of such monitoring and without a formal investigation carried out in accordance with this Section 6.	Sanctions or penalties may only be imposed and remedial measures may only be implemented upon after an investigation carried out in accordance with this Manual, <u>or upon finding of a probable breach as a result of the compliance monitoring and assessment carried out by the Enforcement and Compliance Office without need of a formal investigation. The assessment, validation, and analysis activity that takes into account the relevant market data and information enumerated in clause 6.3.2 to 6.3.4 should be as comprehensive as possible as would give regard to the right of the concerned WESM Member to due process.</u> The monitoring carried by the Enforcement and Compliance Office in accordance with this Section does not constitute an investigation, and no sanctions may thus be imposed solely on the basis of the result of such monitoring and without a formal investigation carried out in accordance with this Section 6.	To align with the proposed amendment to the <i>WESM Penalty Manual</i> that allows the <i>Enforcement and Compliance Office</i> to implement the imposition of penalties as a result of its compliance monitoring and assessment activity. Note: The compliance monitoring and assessment activity is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from trading participants, the Market Operator, the System Operator, and such other relevant information from various sources. This is to give adequate and due process to the trading participants.
Monitoring of Compliance	6.3	Monitoring of Compliance	Monitoring of Compliance Compliance Monitoring and Assessment	Global change: Monitoring of compliance – changed to “compliance monitoring and assessment”

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	6.3.2	<p>The <i>Enforcement and Compliance Office</i> shall carry out compliance monitoring by examining readily available and verifiable market and dispatch data and reports, which, for avoidance of doubt, shall include the following –</p> <ul style="list-style-type: none"> a) Input and output data submitted or transmitted to and generated by the <i>Market Management System</i> of the <i>Market Operator</i>; b) Post-dispatch reports of the <i>Market Operator</i> and the <i>System Operator</i>; c) Market information and reports published in the market information website; and d) Information contained in non-compliance reports submitted by a <i>WESM Member</i> pursuant to this Manual, or other reports submitted by a <i>WESM Member</i> to the <i>Market Operator</i> pursuant to other <i>Market Manuals</i> or provisions of the market rules. 	<p>The <i>Enforcement and Compliance Office</i> shall carry out compliance monitoring and assessment by examining readily available and verifiable market and dispatch data and reports, which, for avoidance of doubt, shall include the following –</p> <ul style="list-style-type: none"> a) Input and output data submitted or transmitted to and generated by the <i>Market Management System</i> of the <i>Market Operator</i>; b) Post-dispatch reports of the <i>Market Operator</i> and the <i>System Operator</i>; c) Market information and reports published in the market information website; and d) Information contained in non-compliance reports, and other relevant reports submitted by a <i>WESM Member</i> pursuant to this Manual, or other reports or forms submitted by a <i>WESM Member</i> to the <i>Enforcement and Compliance Office</i> or the <i>Market Operator</i> pursuant to other <i>Market Manuals</i> or provisions of the market rules. All the reasons or explanations provided therein must be accompanied by valid supporting documents. 	<p>To align with the proposed amendment to the <i>WESM Penalty Manual</i>.</p> <p>The compliance monitoring and assessment activity is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from trading participants, the <i>Market Operator</i>, the <i>System Operator</i>, and such other relevant information from various sources. This is to give adequate and due process to the trading participants.</p> <p>All information submitted by the concerned <i>WESM Member</i> should be supported by relevant documents as part of the validation or assessment process.</p>
		(New)	<u>The Enforcement and Compliance Office shall, for this purpose, establish a detailed process or procedure of compliance monitoring and assessment and prescribe a reply format or template that may be accomplished by the WESM Member as part of the monitoring process. In developing the procedure, the Enforcement and Compliance Office shall ensure that the right of the WESM Member to due process shall be</u>	<p>Inserted as Clause 6.3.5</p> <p>Proposed additional provision – to require the <i>ECO</i> to establish its own compliance monitoring and assessment procedure in order to ensure that the due process is observed during compliance monitoring and assessment activity.</p>

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			<u>protected by giving them adequate time and opportunity to respond to any allegations of probable breach of the WESM Rules and/or market manuals, and to be informed of the results of the compliance monitoring and assessment.</u>	
	6.3.5	If, as a result of its monitoring, the <i>Enforcement and Compliance Office</i> determines that there may be a possible <i>breach</i> committed by a <i>WESM Member</i> , it shall initiate a formal investigation in accordance with Section 6.4 of this Manual.	If, as a result of its monitoring compliance monitoring and assessment, and after taking into account all the market data and information cited in Sections 6.3.2 to 6.3.4, the reasons provided by the concerned WESM Member and all the supporting documents submitted in relation thereto, the <i>Enforcement and Compliance Office</i> determines that there may be is a possible <i>breach</i> committed by a <i>WESM Member</i> , it shall initiate a formal investigation in accordance with Section 6.4 of this Manual issue the Notice of Specified Penalty in accordance with the WESM Penalty Manual. Where remedial measures are required, it shall cause the implementation of the same in accordance with Section 6.17	Renumbered as 6.3.6 To align with the proposed amendment to the <i>WESM Penalty Manual</i> that allows the <i>Enforcement and Compliance Office</i> to implement the imposition of penalties as a result of its compliance monitoring and assessment activity, and to implement the remedial measures as well. Note: The compliance monitoring and assessment activity is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from trading participants, the Market Operator, the System Operator, and such other relevant information from various sources. This is to give adequate and due process to the trading participants.

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		(New)	<u>A WESM Member may seek a reconsideration of the Notice of Specified Penalty in accordance with the procedures and subject to the requirements provided in Section 4.13 of the WESM Penalty Manual.</u>	To align with the proposed amendment to the <i>WESM Penalty Manual</i> that allows the <i>WESM Member</i> to file a request for reconsideration of the Notice of Specified Penalty issued by ECO. The ECO or the MSC, may decide or resolve the request for reconsideration that may be filed by the concerned <i>WESM Member</i> in accordance with the procedures set in the proposed <i>Penalty Manual 2.0</i> .
Initiation of Investigation	6.4.1	An investigation is initiated upon the issuance and service by the <i>Enforcement and Compliance Office</i> of the <i>notice of investigation</i> on the <i>WESM Member</i> that is subject of the investigation.	An investigation is initiated upon the issuance and service by the endorsement to the <i>Enforcement and Compliance Office</i> of <u>a report of probable breach or a request for the notice of investigation</u> on the <i>WESM Member</i> that is subject of the investigation <u>or upon a directive from the ERC.</u> <u>The related procedures on investigation, such as, issuance of notice of investigation, submission by the parties, conduct of ocular inspections, and implementation of the decisions, set forth in Sections 6.5 to 6.14 of this Manual shall apply only to this type of formal investigation, but not to the compliance monitoring and assessment activities referred to in the preceding section.</u>	To clarify that: <ul style="list-style-type: none"> • The investigation by ECO is initiated by: <ul style="list-style-type: none"> ✓ Report of probable breach ✓ Request for Investigation ✓ Directive of ERC • The compliance monitoring and assessment does not result in the initiation of investigation; it is, by itself, a basis for imposition of penalties in accordance with the proposed <i>Penalty Manual 2.0</i>. • The provisions of 6.5 to 6.14 shall only apply to investigation procedure only and not to compliance monitoring and assessment activity of ECO.

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	6.4.2	<p>A <i>notice of investigation</i> shall be issued upon either one of the following –</p> <p>a) The result of the monitoring carried out by <i>Enforcement and Compliance Office</i> in accordance with Section 6.3; or</p> <p>b) A <i>report of probable breach</i> submitted by the <i>System Operator</i> or the <i>Market Operator</i>; or</p> <p>c) A <i>request for investigation</i> submitted by any WESM committee or any <i>WESM Member</i>; or</p> <p>d) A directive from the ERC specifically directing investigation for <i>breach</i> for possible imposition of sanctions under the <i>WESM Rules</i> or the <i>WESM Penalty Manual</i>.</p>	<p>A <i>notice of investigation</i> shall be issued upon either one of the following –</p> <p>a) The result of the monitoring carried out by <i>Enforcement and Compliance Office</i> in accordance with Section 6.3; or</p> <p>a) A <i>report of probable breach</i> submitted by the <i>System Operator</i> or the <i>Market Operator</i>; or</p> <p>b) A <i>request for investigation</i> submitted by any WESM committee or any <i>WESM Member</i>; or</p> <p>c) A directive from the ERC specifically directing investigation for <i>breach</i> for possible imposition of sanctions under the <i>WESM Rules</i> or the <i>WESM Penalty Manual</i>.</p>	<p>Delete first item:</p> <ul style="list-style-type: none"> The compliance monitoring and assessment does not result in the initiation of investigation; it is, by itself, a basis for imposition of penalties in accordance with the proposed Penalty Manual 2.0. <p>Provisions b, c, and d are correspondingly renumbered as a, b, and c due to said deletion.</p>
	6.4.13	<p>If the acts or omissions required to be investigated by the ERC is already covered, in whole or in part, by an investigation already initiated or intended to be initiated by the <i>Enforcement and Compliance Office</i>, it may, if appropriate, consolidate the investigation so that no overlapping investigations shall be carried out, and shall notify the agency directing the investigation and the parties being investigated of such consolidation. If necessary, an amended <i>Preliminary Notice of Investigation</i> shall be issued.</p>	<p>If the acts or omissions required to be investigated by the ERC are already covered, in whole or in part, by an investigation <u>or by the compliance monitoring and assessment activity</u> already initiated or intended to be initiated by the <i>Enforcement and Compliance Office</i>, it may, if appropriate, consolidate <u>or integrate the data or information used in the compliance monitoring, or the results thereof, in</u> the investigation so that no overlapping investigations <u>or monitoring activities</u> shall be carried out, and shall notify the agency directing the investigation and the parties being investigated of such consolidation <u>or the results of the previous compliance monitoring and assessment</u>. If necessary, an amended <i>Preliminary Notice of Investigation</i> shall be issued.</p>	<p>To avoid duplication of or overlapping investigations. The compliance monitoring and assessment activity may likewise cover the same subject matter and should therefore be similarly considered.</p>

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Notice of Investigation	6.5.2	If the investigation is initiated upon the results of the compliance monitoring by the <i>Enforcement and Compliance Office</i> , the <i>notice of investigation</i> shall also state the market and dispatch data and report which served as bases for the initiation of the investigation and upon which a verification of the contents of the notice can be made.	If the investigation is initiated upon <u>a report of probable breach, request for investigation or ERC directive, but is already covered or is being covered by</u> the compliance monitoring by the <i>Enforcement and Compliance Office</i> , the <i>notice of investigation</i> , <u>in addition to the requirement set in the immediately preceding paragraph</u> , shall also state the market and dispatch data and report which served as bases for the initiation of the investigation and upon which a verification of the contents of the notice can be made.	To avoid duplication of or overlapping investigations. The compliance monitoring and assessment activity may likewise cover the same subject matter and should therefore be similarly considered.
Offer for Settlement of Penalties	6.16.2	The offer shall be in writing and shall be submitted to the <i>Enforcement and Compliance Office</i> within the same period for submitting a reply under Section 6.6.1 or any anytime thereafter but before the <i>WESM Member</i> is notified of the completion of the formal investigation pursuant to Section 6.9. An offer for settlement that is submitted after the <i>Enforcement and Compliance</i> has issued the notice of completion shall not be considered.	The offer shall be in writing and shall be submitted to the <i>Enforcement and Compliance Office</i> within the same period for submitting a reply under Section 6.6.1 or any anytime thereafter but before the <i>WESM Member</i> is notified of the completion of the formal investigation pursuant to Section 6.9 <u>of this Manual or before the issuance of the Notice of Specified Penalty under Section 6.3.7 hereof</u> . An offer for settlement that is submitted after the <i>Enforcement and Compliance</i> has issued the notice of completion <u>or the Notice of Specified Penalty</u> shall not be considered.	To also allow the offer for settlement of parties before the completion of the compliance monitoring and assessment activity by ECO or before the issuance of the Notice of Specified Penalty.
	6.16.7	The offer for settlement shall only have the effect of terminating the investigation in respect to all occurrences of possible <i>breach</i> that is covered in the offer. It shall not have the effect of preventing any claim and grant of compensation under Section 7 of this Manual.	The offer for settlement shall only have the effect of terminating the investigation <u>or the compliance monitoring and assessment activity of the Enforcement and Compliance Office</u> in respect to all occurrences of possible <i>breach</i> that is covered in the offer. It shall not have the effect of preventing any claim and grant of compensation under Section 7 of this Manual.	To state the impact of settlement offer also on the compliance monitoring and assessment activity.

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Remedial Measures	6.17.1	Remedial measures are tasks or actions that are required of a <i>WESM Member</i> being investigated or found in <i>breach</i> for the purpose to mitigating or preventing the adverse impact of <i>breach</i> or to prevent recurrence of the <i>breach</i> . They may be required when the act or omission subject of the investigation may –	Remedial measures are tasks or actions that are required of a <i>WESM Member</i> being investigated or found in <i>breach</i> for the purpose toof mitigating or preventing the adverse impact of <i>breach</i> or to prevent recurrence of the <i>breach</i> . They may be required when the act or omission subject of the investigation may –	Clerical correction
	6.17.2	It is understood, however, that compliance by a party investigated with remedial measures that were required while an investigation is still pending under Sections 6.17.4, 6.17.5 and 6.17.6 is not deemed an admission of the <i>breach</i>	It is understood, however, that compliance by a party investigated with remedial measures that were required while an investigation or the compliance monitoring and assessment is still pending under Sections 6.17.4, 6.17.5 and 6.17.6 is not deemed an admission of the <i>breach</i> .	Remedial measures may be undertaken not only during or after the investigation, but also during compliance monitoring and assessment.
	6.17.5	The <i>Enforcement and Compliance Office</i> may require implementation of remedial measures at any time after it initiates an investigation and before it completes and submits its investigation report pursuant to Section 6.10 of this Manual	The <i>Enforcement and Compliance Office</i> may require implementation of remedial measures at any time during the compliance monitoring and assessment or after it initiates an investigation and before it completes and submits its investigation report pursuant to Section 6.10 of this Manual.	Remedial measures may be undertaken not only during or after the investigation, but also during compliance monitoring and assessment.
Non-Compliance Reports and Exemptions	8			
Rationale	8.1.1	Monitoring of compliance by <i>WESM Members</i> of their market obligations are among the enforcement processes established under this Manual.	Monitoring of compliance by WESM Members The compliance monitoring and assessment of their the market obligations of the WESM Members are among the enforcement processes established under this Manual.	Global change: Monitoring of compliance – changed to “compliance monitoring and assessment”

Title	Section	Original Proposed Provision (Approved by RCC-August 2017)	Proposed Further Amendment	Rationale
Action on Non-Compliance Reports	8.6.1	<p>The <i>Enforcement and Compliance Office</i> shall evaluate non-compliance reports submitted by <i>WESM Members</i> as part of the compliance monitoring procedure set out in Section 6 of this Manual. As provided for in Section 6, non-compliance reports shall be among the information that shall be considered by the <i>Enforcement and Compliance Office</i> in determining whether or not a formal investigation for possible <i>breach</i> may be initiated against a <i>WESM Member</i>. For this reason, the submission of a non-compliance report shall not prevent the initiation of an investigation.</p>	<p>The <i>Enforcement and Compliance Office</i> shall evaluate non-compliance reports submitted by <i>WESM Members</i> as part of the compliance monitoring and assessment procedure set out in Section 6 of this Manual. As provided for in Section 6, non-compliance reports, and all the supporting documents related thereto, shall be among the information that shall be considered and assessed together with all the market data made available to by the <i>Enforcement and Compliance Office</i> in determining whether or not a formal investigation for possible <i>breach</i> may be initiated a <i>Notice of Specified Penalty is issued</i> against a <i>WESM Member</i>. For this reason, the submission of a non-compliance report shall not prevent the initiation of an investigation the <i>Notice of Specified Penalty</i> may be issued as a result of compliance monitoring and assessment without need of a formal investigation.</p>	<ul style="list-style-type: none"> • Global change: Monitoring of compliance – changed to “compliance monitoring and assessment” • What is being considered during the activity is not only the report submitted but also all the supporting documents submitted by the concerned WESM Member, along with other available market data or information from various sources. <p>Note: The compliance monitoring and assessment activity is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from trading participants, the Market Operator, the System Operator, and such other relevant information from various sources. This is to give adequate and due process to the trading participants.</p>

Title	Section	Original Proposed Provision (Approved by RCC-August 2017)	Proposed Further Amendment	Rationale
	8.6.2	No finding of <i>breach</i> may be made and no enforcement action may be taken against a <i>WESM Member</i> solely on the basis of the non-compliance report as such finding or <i>enforcement action</i> shall only be made or taken upon an investigation carried out in accordance with <u>Section 6</u> of this Manual.	No A finding of <i>breach</i> may thus be made and no enforcement action may be taken against a <i>WESM Member</i> solely on the basis of the non-compliance report as such finding or enforcement action shall only be made or taken upon an investigation carried out in accordance with Section 6 of this Manual and its supporting documents submitted by the WESM Member, the market data and information from the Market Operator, the System Operator, and other relevant market data.	To align with the proposed amendment to the <i>WESM Penalty Manual</i> . The compliance monitoring and assessment activity is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from trading participants, the Market Operator, the System Operator, and such other relevant information from various sources. This is to give adequate and due process to the trading participants.