

Code Review Programme 2019: Improving the event of default provisions

Decision

1 September 2020



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1 We have decided to amend the trader default provisions

- 1.1 The Electricity Authority (Authority) has decided to amend the Electricity Industry Participation Code 2010 (Code) to make improvements to the Code.
- 1.2 These improvements stem from the Code Review Programme 2019 – a set of 13 proposed ‘omnibus’ changes to the Code, which we consulted on in late 2019. Most of the Code amendment proposals addressed will be considered at a later date. However, we have decided to expedite the decision on the proposed amendments in “2019-04 Improving the event of default provisions” because of the potential impact of COVID-19 on the industry.
- 1.3 A clear, predictable and up-to-date set of industry rules is good regulatory practice, and can facilitate increased participation in the electricity market. This in turn can be expected to facilitate all three limbs of our statutory objective, and provide both static and dynamic efficiency benefits to the economy, for the long term benefit of consumers. Additionally, there is an economic benefit of our decision in reducing in transaction costs, which is a productive efficiency benefit.

2 Improving the event of default provisions

- 2.1 On 24 September 2019, we published a consultation paper titled, *Code Review Programme number 4 - September 2019*.¹ We consulted on several proposals to amend the Code. One proposal contained six amendments to the event of default provisions.
- 2.2 Schedule 11.5 of the Code sets out the process that the Authority and each participant must comply with when the Authority is satisfied that a trader has committed an event of default under paragraph (a), (b), (f), or (h) of clause 14.41(1). The Authority proposed improvements be made to:
 - (a) the description of an event of default under paragraph (f) of clause 14.41(1)
 - (b) the process set out in Schedule 11.5.
- 2.3 This paper sets out the Authority’s decision to amend the Code and gives reasons for that decision.
- 2.4 The amendments will come into force 28 days after the date of the Gazette notice.
- 2.5 More information about the Code Review Programme September 2019 project is available on our website at <https://www.ea.govt.nz/development/work-programme/operational-efficiencies/code-review-programme/>.

¹ <https://www.ea.govt.nz/dmsdocument/25654-consultation-paper-code-review-programme-number-4-september-2019>

3 Proposal 2019-04 will be implemented without change

3.1 We proposed six amendments to clauses in the trader default regime in our consultation. All the submissions on these proposals were broadly supportive, and only raised minor points. We will now be adopting all six proposed solutions.

Problem 1: Making the trigger for an event of default explicit

3.2 Under clause 14.41(1)(f) an event of default can be triggered by a participant threatening to stop or suspend payment of that participant's debts (excluding its security or settlement payments).

3.3 The ability for an event of default to be triggered by a threat to stop or suspend payment is unnecessary and creates uncertainty in the default process. Identifying a threat is subjective. For example, comments taken out of context or from staff that might not have authority over payments, could trigger an unnecessary event of default.

3.4 The Authority considers that an event of default should be triggered by the failure to pay debt when it is due, not the perception that such an event may occur in the future. We note this approach would be consistent with the approach in clause 14.41(1)(a) and (b), in respect of participants' security and settlement payments.

Solution

3.5 We will amend clause 14.41(1)(f) of the Code to remove the ability for an event of default to be triggered by a threat by a participant to stop or suspend payment.

Problem 2: Obtaining meter readings and associated ICP information from MEPs

3.6 The event of default in 2018 showed that the current process for a trader event of default can result in unnecessary errors in:

- (a) reconciliation and settlement of the wholesale electricity market
- (b) consumer invoicing.

3.7 Currently, under clause 3 of Schedule 11.5, the Authority may require certain information from the registry and from distributors on whose network(s) the defaulting trader trades electricity. However, there is no mechanism for the Authority to obtain meter readings if the defaulting trader cannot or will not obtain meter readings. We may need to obtain meter readings and associated information (eg, ICP identifiers and meter serial numbers) from the MEP(s) responsible for the ICPs the defaulting trader trades at (in instances where the defaulting trader cannot, or will not, provide suitable meter readings).

3.8 Obtaining the meter readings and associated information ensures it is available for market settlement and consumer invoicing. If there is no requirement on MEP(s) to provide meter readings and associated information to the Authority if a trader defaults, errors are more likely in reconciliation, market settlement and consumer invoicing.

Solution

3.9 We will amend clause 3 of Schedule 11.5 to require the MEP(s) of a defaulting trader to provide metering-related information (eg, meter readings, ICP identifiers and meter serial numbers) to the Authority, if requested by the Authority.

Problem 3: Communicating with customers unnecessarily

- 3.10 The event of default in 2018 highlighted the current process for a trader event of default imposes unnecessary transaction costs on participants, the Authority, and possibly consumers.
- 3.11 Clause 4 of Schedule 11.5 requires the Authority attempt to advise the defaulting trader's customers of the event of default and that—
- (a) the customer should switch to another trader within a specified timeframe
 - (b) the Authority may assign the customer to another trader if the customer does not switch within the specified timeframe.
- 3.12 Currently, clause 4 of Schedule 11.5 applies when:
- (a) seven days have elapsed since the Authority notified the defaulting trader of the need to remedy the event of default
 - (b) the Authority considers the defaulting trader—
 - (i) has not remedied the event of default or agreed with the Authority to resolve the event of default
 - (ii) has one or more customer contracts in place or is still recorded in the registry as being responsible for one or more ICPs.
- 3.13 This requirement can impose undue transaction costs on the Authority and possibly on the defaulting trader's customers. Attempting to communicate with the customer may be unnecessary if (for example) the defaulting trader has already communicated the required information to its customers. Or the Authority may want to delay sending this communication if (for example) the defaulting trader is in the process of finalising the sale of its customer base.

Solution

- 3.14 We will amend clause 4 of Schedule 11.5 to enable the Authority to choose not to communicate with a defaulting trader's customers if there is good reason. We will also amend clause 4 of Schedule 11.5 to make it clearer that:
- (a) clause 4 of Schedule 11.5 applies if at least seven days have elapsed since the Authority gave notice to the defaulting trader under clause 2(1) of Schedule 11.5
 - (b) the Authority can provide any information it considers appropriate to a defaulting trader's customers, which may or may not include the information currently required to be provided under clauses 3.11(a) and 3.11(b).

Problem 4: Increased risk of the defaulting trader's liabilities growing

- 3.15 Part of the policy intent of the trader default provisions in the Code is to limit a defaulting trader's liabilities increasing during the trader default process.
- 3.16 Under clause 4B of Schedule 11.5, the Authority may only notify the registry manager not to complete certain ICP switching activities if the Authority has already given written notice to the defaulting trader under clause 4 of Schedule 11.5. The Authority cannot give notice to the defaulting trader under clause 4 for at least 7 days after giving notice of the default. This means a defaulting trader can gain new customers and request the

withdrawal of switches involving existing customers leaving the defaulting trader for seven days before the Authority can prevent it.

- 3.17 The delay unnecessarily increases the risk of the defaulting trader's liabilities growing during the trader default process.

Solution

- 3.18 We will amend clause 4B of Schedule 11.5 to enable the Authority to direct the registry manager not to process certain ICP switching activities² if the Authority has given written notice to the defaulting trader under clause 2 instead of clause 4 of Schedule 11.5. Clause 2 of Schedule 11.5 initiates the event of default.
- 3.19 We also propose to amend clause 4B of Schedule 11.5 to clarify that the switch withdrawal request is for an ICP switching away from the defaulting trader.

Problem 5: Lack of clarity in determining recipient trader/s

- 3.20 Currently, clause 5(8) of Schedule 11.5 is not clear in stating how the Authority determines the trader that is:
- (a) assigned the defaulting trader's contractual rights and obligations (in accordance with the contract under which a customer purchases electricity from the defaulting trader)
 - (b) assigned an ICP for which the defaulting trader is recorded in the registry as being responsible.
- 3.21 The lack of clarity makes it unnecessarily difficult for the Authority and participants to understand and comply with their obligations under the Code.

Solution

- 3.22 We will amend clause 5 of Schedule 11.5 to clearly state that the Authority can determine the recipient trader via:
- (a) exercising the Authority's discretion; or
 - (b) a tender or other competitive process.

Problem 6: lack of clarity in the registry managers role

- 3.23 Currently, clause 7 of Schedule 11.5 is not clear in describing the registry manager's obligations around processing ICP switches involving a defaulting trader. The policy intent of the clause is:
- (a) that it refers to ICP switches that are in progress as well as those that have not yet been initiated
 - (b) about the treatment of switch withdrawal requests involving the defaulting trader
 - (c) that the registry manager is to act only as directed by the Authority in relation to processing ICP switches involving a defaulting trader.
- 3.24 This lack of clarity has the following potential drawbacks:
- (a) it could prevent a customer of the defaulting trader from voluntarily switching to a trader of the customer's choosing

² Process initiation/completion of ICP switching, or a request to withdraw a switch where the defaulting trader retained responsibility for the ICP.

- (b) it could add unnecessary transaction costs to the trader default process if traders dispute an Authority directive for the registry manager to—
 - (i) cancel an ICP switch to the defaulting trader
 - (ii) complete or cancel a switch withdrawal request involving the defaulting trader
- (c) it could result in traders receiving customers of the defaulting trader without prior knowledge, which could adversely affect the switching experience for the customers and impose costs on the traders—for example, a trader may be unable to trade at a customer’s ICP because of the type of metering installed.

Solution

3.25 We will amend clause 7 of Schedule 11.5 to clarify that when directed to do so by the Authority, the registry manager must:

- (a) complete an initiated ICP switch away from a defaulting trader
- (b) initiate and complete an ICP switch away from a defaulting trader
- (c) cancel an ICP switch to a defaulting trader
- (d) complete a switch withdrawal request for an ICP that is being switched to a defaulting trader (so that the ICP remains with the other (non-defaulting) trader)
- (e) cancel a switch withdrawal request for an ICP that is being switched away from the defaulting trader (so that the ICP switches to the other (non-defaulting) trader).

4 The amendment promotes our statutory objective

4.1 The Authority’s statutory objective is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.

The amendment promotes efficiency but has little effect on competition and reliability

4.2 After considering all submissions on the Code amendment proposal, the Authority considers the final Code amendment will deliver long-term benefits to consumers, as set out below.

4.3 The Code amendment will promote the efficient operation of the electricity industry by reducing:

- (a) the risk of an unnecessary default being triggered
- (b) the instances of unnecessary errors in reconciliation
- (c) transaction costs associated with a trader event of default.

4.4 The Authority does not expect the Code amendment to have a material effect on competition or reliability.

The benefits of the proposal are greater than the costs

4.5 The Authority has assessed the economic benefits and costs of the amendment and expects it to deliver a net economic benefit by reducing transactional costs associated with an event of default. There is also a benefit in limiting the financial risk to the market from defaulting traders.

The amendment is consistent with regulatory requirements

- 4.6 The Code amendment is consistent with the requirements of section 32(1) of the Electricity Industry Act 2010.
- 4.7 The amendment is also consistent with the Authority’s Code amendment principles: it is lawful and it will improve the reliability and efficiency of the electricity industry for the long-term benefit of consumers. The Authority has clearly identified an efficiency gain and has used a qualitative cost benefit analysis to assess long-term net benefits for consumers.

5 The Authority considered the following matters in making this decision

- 5.1 We received submissions on our September 2019 consultation paper from the six parties listed in Table 1. Submissions are available on our website at <https://www.ea.govt.nz/development/work-programme/operational-efficiencies/code-review-programme/consultations/#c18205>.

Table 1: List of submitters

Submitter	Category
Genesis Energy Limited	All six problems
IHUB	All six problems
Orion	All six problems
Trustpower Limited	All six problems
Vector Limited	All six problems
Wellington Electricity Limited	All six problems

Submitters’ views

- 5.2 All six submitters supported the proposal. Some of these included additional comments that don’t impact the Authority’s decision. After reviewing the feedback we have decided to implement the proposal with some minor changes:
- (a) changing “the defaulting trader” to “a defaulting trader” in two instances
 - (b) adding “without going through a tender or other competitive process” to clause 5(2A)(a).

Submitter’s view

- 5.3 Genesis Energy noted the AMI MEPs do not hold raw meter data for non-AMI meters.

Our decision

- 5.4 We agree this is a practical limitation of the proposal. However, reconciliation participants are required to collect and hold raw meter data for non-AMI meters.

Submitter's view

5.5 Genesis Energy raised concerns that the costs for MEPs to supply read data, and for traders to onboard customers outside of standard procedures may be understated and are not 'negligible'.

5.6 While Genesis Energy was concerned that the costs were understated, Genesis Energy believed the benefits were likely to outweigh the costs.

Our decision

5.7 We disagree and consider there are established processes for the automated reading and provision of meter read files. Using the existing systems and processes should result in negligible additional costs.

5.8 We disagree that there would be any incremental costs for traders to onboard customers outside of standard procedures as a result of this amendment. Any costs to traders to onboard customers as the result of a default would exist regardless of whether this amendment went ahead.

Submitter's view

5.9 Genesis Energy considered that the changes to clauses 4B and 7 of Schedule 11.5 should include an obligation on the trader that retains the ICP to inform the relevant customer that the switch had not been processed due to an event of default.

Our decision

5.10 This is a wider issue around trader communication with customers over when a switch is withdrawn. The Authority disagrees that there is a need for explicit regulations to require gaining or losing traders to notify customers when a switch is withdrawn in an event of default, existing switch provisions apply.

Submitter's view

5.11 Orion noted that the Authority has not adjusted the numbering following the proposal to remove Schedule 11.5 clause 4(2)(b)(i).

Our decision

5.12 This is a Code drafting requirement. Please refer to paragraph 4.15 of the [Code drafting manual](#). *If revoking a clause and substituting a new clause, the numbering of the old clause should not be reused unless the subject matter of the new clause corresponds to that of the old clause.*

Appendix A Approved Code amendment

The Code amendment

5.1 The Code amendment is as follows:

Schedule 11.5 Process for trader event of default

...

2 Notice to trader who has committed event of default

- (1) 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 14.41 the **Authority** must give written notice to the defaulting **trader** that—
 - (a) the defaulting **trader** 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** purchases **electricity** from the defaulting **trader** to another **trader**, and assign to another **trader** all **ICPs** for which the defaulting **trader** is recorded in the **registry** as being responsible; and
 - (b) if the defaulting **trader** 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 give written notice to the defaulting **trader** requiring the defaulting **trader** to provide to the **Authority**, within a time specified by the **Authority**, information about the defaulting **trader's** customers.
- (3) The defaulting **trader** 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 manager, and metering equipment provider to provide information**

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

defaulting trader is responsible, require the metering equipment provider to provide to the Authority the information, specified in the notice, about the ICPs for which the defaulting trader is recorded in the registry as being responsible, within the period specified in the notice.

- (6) If the metering equipment provider holds the information, the metering equipment provider must provide the information to the Authority 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 or more have elapsed since the Authority gave notice to the defaulting trader under clause 2(1); and
 - (b) the Authority considers that—
 - (i) the defaulting trader has not remedied the event of default or, in the case of an event of default under clause 14.41(b) in respect of which there is an unresolved invoice dispute under clause 14.25, has not reached an agreement with the Authority to resolve the event of default; and
 - (ii) the defaulting trader still has 1 or more contracts under which a customer of the defaulting trader purchases electricity from the defaulting trader or is still recorded in the registry as being responsible for 1 or more ICPs.
- (2) The Authority must—
- (a) give written notice to the defaulting trader that the Authority considers that this clause applies; and
 - (b) unless the Authority considers there is good reason not to, attempt to advise customers of the defaulting trader that the defaulting trader has committed an event of default and one or more of the following:—
 - ~~(i) the defaulting trader has committed an event of default; and~~
 - (ii) the customer should enter into a contract for the purchase of electricity with another trader by the date that is 14 days after the day on which the Authority gave written notice to the defaulting trader under clause 2(1); ~~and~~
 - (iii) if the customer fails to enter into a contract with another trader by that date, the Authority may assign the defaulting trader's rights and obligations under the customer's contract with the defaulting trader to another trader under clause 5;
 - (iv) any other information the Authority considers appropriate.

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

- (1) If the Authority gives written notice to a trader under clause 4, the Authority must give written notice to 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**;
 - (iv) 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 manager not to process take certain ICP switching activities actions

- (1) If the **Authority** gives written notice to a **trader** under clause 42, the **Authority** may, by written notice to the **registry manager**, direct the **registry manager** not to—
 - (a) process the initiation or completion of ~~complete~~ the switch of any **ICP** to the defaulting **trader**; or
 - (b) ~~accept a request from the defaulting **trader** to withdraw~~ process a switch withdrawal request under clauses 17 and 18 of Schedule 11.3 if processing the switch withdrawal request would mean the defaulting **trader** retained responsibility for the **ICP** to which the switch withdrawal request applies.
- (2) If the **Authority** gives written notice under subclause (1), the **registry manager** must comply with the notice ~~not~~—
 - (a) ~~complete the switch of any **ICP** to the defaulting **trader**; or~~
 - (b) ~~accept a request from the defaulting **trader** 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 17th day after the defaulting **trader** was given notice under clause 2(1),—
 - (a) the defaulting **trader** has not remedied the **event of default** or, in the case of an **event of default** under clause 14.41(b) in respect of which there is an unresolved invoice dispute under clause 14.25, has not reached an agreement with the **Authority** to resolve the **event of default**; and
 - (b) the defaulting **trader** continues to have 1 or more contracts under which a customer of the defaulting **trader** purchases **electricity** from the defaulting **trader** 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** to assign the rights and obligations of the defaulting **trader** under the contract to a recipient **trader** in accordance with the contract; and
- (b) assign an **ICP** to a recipient **trader** and direct the **registry manager** to amend the record in the **registry** so that the recipient **trader** is recorded as being responsible for the **ICP**; and
- (c) specify the recipient **trader** to whom the rights and obligations under the contract or the **ICP** will be assigned.

(2A) When determining an assignment under subclause (2), the **Authority** may do 1 or both of the following:

- (a) exercise its discretion to determine the recipient **trader** without going through a tender or other competitive process:
- (b) undertake a tender or other competitive process to determine the recipient **trader**.
- (3) The **Authority** must, by notice in writing to each recipient **trader**, direct the recipient **trader** to accept an assignment under subclause (2).
- (4) Before the **Authority** gives notice to a recipient **trader** under subclause (3), the **Authority** may decide not to assign rights and obligations of the defaulting **trader** under a contract or an **ICP** to a recipient **trader** if the recipient **trader** satisfies the **Authority** that the assignment would pose a serious threat to the financial viability of the recipient **trader**.
- (5) A recipient **trader** must comply with a direction given to it under subclause (3).
- (6) The **registry manager** 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** 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 **traders** by undertaking a tender or other competitive process.~~

...

7 Authority may direct Registry manager may complete to process certain ICP switching activities without required information

- (1) If the **Authority** gives written notice to a defaulting **trader** under clause 2, the **Authority** may, by written notice to the **registry manager**, ~~may complete the switch of any **ICP** for which the defaulting **trader** is recorded in the **registry** as being responsible even if the defaulting **trader** has not complied with its obligations under Schedule 11.3, direct the **registry manager** to—~~
- (a) initiate and complete the switch of an **ICP** away from the defaulting **trader**; or
- (b) process the initiation or completion of the switch of an **ICP** away from the defaulting **trader**; or
- (c) cancel the switch of an **ICP** to the defaulting **trader**; or
- (d) process the completion of a switch withdrawal request under clauses 17 and 18 of Schedule 11.3 for an **ICP** that is being switched to the defaulting **trader**; or

- (e) cancel a switch withdrawal request made under clauses 17 and 18 of Schedule 11.3 for an ICP that is being switched away from the defaulting trader.
- (2) The registry manager must, as soon as possible, comply with a direction given by the Authority in a written notice.

...

Part 14 Clearing and settlement

...

14.41 Definition of an event of default

- (1) Each of the following events constitutes an event of default:
- (a) failure of a **participant** to provide security for the minimum amount required in accordance with clause 14A.6:
 - (b) a **settlement default**:
 - (c) any action taken for, or with a view to, the declaration of a **participant** that is required to comply with Part 14A as a corporation at risk under the Corporations (Investigation and Management) Act 1989:
 - (d) appointment of a statutory manager in respect of **participant** that is required to comply with Part 14A under the Corporations (Investigation and Management) Act 1989 (or a recommendation or submission is made by a person to the Financial Markets Authority supporting such an appointment):
 - (e) appointment of a person under section 19 of the Corporations (Investigation and Management) Act 1989 to investigate the affairs or run the **business** of a **participant** that is required to comply with Part 14A:
 - (f) if a **participant** that is required to comply with Part 14A 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 generally, 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 taking possession of, or a receiver, manager, receiver and manager, liquidator, provisional liquidator, trustee, statutory or official manager or inspector, administrator or similar officer being appointed in respect of the whole or any part of the assets of a **participant** that is required to comply with Part 14A or if the **participant** requests that such an appointment be made:
 - (h) termination of a **trader's use-of-system agreement** with a **distributor** because of a **serious financial breach** if—
 - (i) the **trader** continues to have a customer or customers purchasing **electricity** from the **trader** on the **distributor's local network** or **embedded network**; and

- (ii) there are no unresolved disputes between the **trader** 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 subclause applies.
- (2) If a **distributor**, having given notice under subclause (1)(h)(iv), considers that an **event of default** no longer exists, the **distributor** must advise the **Authority** that it considers that the **event of default** has been remedied.