# ENHANCEMENTS TO REGULATORY REGIME FOR ELECTRICITY RETAILERS

## *CONSULTATION PAPER*

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**ENHANCEMENT TO REGULATORY REGIME FOR ELECTRICITY RETAILERS**

***CONSULTATION PAPER***

## Background

1 The electricity retail market has been progressively liberalised since 2001 to provide consumers with a wider range of retail price plans. With the nationwide rollout of the Open Electricity Market ("OEM") in 2018, all consumers, including households and small business consumers have the option of buying electricity from retailers. Consumers benefitted from greater choice, competitive electricity pricing and innovative offers, with no change to the reliability of their electricity supply.

2 However, the onset of the global energy crunch in 4Q2021 resulted in high and volatile wholesale electricity prices in the Singapore Wholesale Electricity Market ("SWEM"), which spilled over and affected the electricity retail market. Independent retailers ("IRs") were especially affected by the volatile market conditions. As a result, six IRs exited the market and another two prematurely terminated consumers' contracts. These retailers supplied ~9% of all electricity consumers. Some affected consumers were transferred to SP Group.

3 While the entry and exit of retailers are features of an open and competitive retail market, the number of exits suggests that some retailers were not sufficiently prepared against market volatilities. In October 2022, the Ministry of Trade and Industry ("MTI") announced that the Energy Market Authority ("EMA") would be introducing guardrails to strengthen the existing competitive market structure and ensure that Singapore is well-positioned to navigate the energy transition. This consultation paper sets out EMA's proposed enhancements to the regulatory regime for electricity retailers.

4 The proposed enhancements seek to strengthen the resiliency of all retailers, in particular their ability to withstand market volatility to safeguard the relative stability of the retail market. In developing these enhancements, EMA has calibrated them to ensure that the enhanced regulatory regime continues to facilitate the participation of qualified retailers.

## Proposed Enhancements

5 The recent upheavals in the retail electricity market have highlighted several gaps:

a. First, retailers may not be sufficiently prepared against market volatilities and may have large unhedged positions. When wholesale electricity prices spike, these retailers have to buy the unhedged portion of electricity at high wholesale electricity prices and sell them at much lower contracted rates to consumers. As a result, these retailers were no longer able to sustain their operations, and exited the market.

b. Second, consumers are not sufficiently protected in the event that retailers exit the market, or if retailers prematurely terminate contracts. While security deposits from household consumers are safeguarded and refunded in the event that retailers exit the market, retailers typically do not have any contractual obligations to compensate consumers if their contracts are prematurely terminated by the retailer. This stands in stark contrast to the fact that most consumers are required to pay an early termination fee if they choose to prematurely terminate contracts.

6 To address the gaps highlighted above, EMA intends to introduce 4 measures to enhance the regulatory regime for electricity retailers~~.~~

**Measure 1: Paid-up capital requirement for all retailers**

7 Presently, EMA requires any person applying for an electricity retailer licence to: (a) demonstrate that its management staff has at least five years' experience in either energy retailing and/or commodity trading; (b) submit a comprehensive business plan; and (c) provide a viable hedging plan to mitigate the risks of buying electricity from the SWEM to on-sell to consumers.

8 **EMA intends to additionally require all retailers to have a paid-up capital (PUC) or Tangible Net Worth (TNW) of at least S$1 million.** This requirement is intended to ensure that electricity retailers are credible and have sufficient financial standing. Prospective retailers will be required to demonstrate their ability to meet this requirement as part of their licence application process. Existing retailers will have to comply with this requirement for their licence to be renewed. Electricity regulators in other jurisdictions such as California, New York and the UK impose similar capitalisation requirements. Within Singapore, regulators in other key sectors such as banking, insurance, and telecommunications also impose minimum capitalisation requirements on their licensees (See Annex A).

**Measure 2: Retailers will be required to seek EMA's approval to appoint Key Appointment Holders ("KAHs")**

9 EMA also intends to require all retailers to seek EMA's approval to appoint KAHs. This requirement will ensure that electricity retailers are headed by competent and honest individuals. KAHs include:

a. The company's (i) ACRA-Registered Director(s), (ii) CEO/MD, and (iii) personnel who directly report to the CEO/MD;

b. Any person who has substantial direct or indirect influence over the key decisions of the company.

10 EMA will assess each proposed KAH to ensure he/she is fit and proper, one who has integrity and sound financial standing to perform the licensed activities in accordance with the law, and act honestly and fairly in the best interest of their stakeholders and customers. EMA's assessment will broadly include, without limitation, the person's honesty, integrity, reputation, competence, capability, and financial soundness.

11 All licence applicants will be required to comply with this requirement. For existing licensees, they will be required to comply with this requirement for any change in KAH when the requirement comes into effect. This requirement will be imposed via the Code of Conduct, and employing KAHs without EMA's approval will constitute a breach of licence conditions.

| |
|---|
| **EMA seeks comments on the proposed measures to strengthen electricity retailers' credibility by imposing:**<br>**c. paid-up capital requirement / Tangible Net Worth (TNW) of at least S$1 million; and**<br>**d. requirement to seek EMA's approval before appointing KAHs.** |

**Measure 3: Raise hedging requirements for all retailers**

12 Currently, retailer licence applicants are required to provide EMA with their hedging and risk management strategy/plan during the application stage to assess the robustness of their proposals. Retailers that retail to Open Electricity Market ("OEM") consumers are also required to hedge at least 50% of OEM retail contract load that are not indexed to Wholesale Electricity Prices on an ongoing forward basis. No hedging requirements are imposed on non-OEM retailers.

13 To increase the resilience of retailers during periods of market volatility, EMA intends to require all retailers (i.e. both OEM and non-OEM retailers) to:

a. **Hedge <u>at least 80%</u> of their retail contract quantity on a rolling 24-month forward basis**. Acceptable hedging contracts include contract-for-differences ("CfDs") with any supplier with physical generation assets (e.g. gencos, waste-to-energy, solar, etc.) or those traded in the Electricity Futures Market ("EFM"); **and**

b. **Provide a Performance Bond ("PB") to cover their projected residual unhedged quantities (which should not be more than 20% of total retail contract quantity)**.

Each month, retailers will be required to update EMA on their projected contracted demand profile and executed hedges on a 24-month forward basis. Each retailer will be required to engage an independent auditor, at its own cost, to verify its hedging performance. If the retailer's forecasted retail contract load differs significantly from its actual retail contract load, the retailer will be required to provide an additional PB ("Additional PB"), equivalent to the difference between the actual and unhedged quantity ("Deviation Quantity") over a rolling historical 24-month period ("Review Period"), multiplied by a penalty factor (e.g. 1.10). See Annex B for a worked example.

**EMA seeks comments on the proposed measure to strengthen the resiliency of all retailers by requiring them to hedge at least 80% of their retail contract quantity and provide a PB to cover the residual unhedged quantity.**

**Measure 4: Enhance consumer protection against premature termination of contracts by retailers**

14 Currently, under the Code of Conduct, a retailer is not allowed to terminate a contract unless the consumer (a) is insolvent or bankrupt, (b) is deceased, (c) has breached contract and/or failed to remedy the breach, or (d) is being transferred to SP Services under a Retailer of Last Resort (RoLR) event.

15 To strengthen consumer protection against premature termination of retail contracts, **EMA intends to amend the Code of Conduct to clarify that the retailer is not permitted to unilaterally terminate the contract as long as there is no payment or contractual default even if the consumer is insolvent, bankrupt or deceased**.

16 **EMA will also require retailers that impose early termination charges on consumers to compensate consumers in the event of early termination. The compensation provided for early termination must be at least as much as the penalties levied on consumers for early termination.** This enhancement ensures that consumers and retailers receive equal protection from the other party in the event of early termination.

17 We are aware that early terminations may lead to some consumers having to purchase electricity at higher rates. **EMA is considering whether retailers should be required to compensate consumers for the positive difference between the consumers' existing contract and applicable default supply arrangement for the remaining tenure, should the retailer exit the market**. While this would benefit consumers, it is likely to lead to significant costs for electricity retailers which could make it less viable for them to operate.

**EMA seeks comments on the proposed measure to strengthen consumer protection, in particular, whether retailers should be made to compensate consumers for expectational losses arising from early contract termination.**

**Request for Comments**

18 EMA would like to invite written comments on the proposals. Please submit all written comments via email to: *ema_mdsd_retail@ema.gov.sg*

19 All submissions should reach EMA by 5pm on 3 March 2023 in the format shown in **Annex C** You are requested to include a soft-copy of your submission in both PDF and Microsoft Word Format. EMA will acknowledge receipt of all submissions via email within two business days.

20 For clarifications, please address to Mr Lee Yong En at: *ema_mdsd_retail@ema.gov.sg*

21 Please note that EMA will not consider anonymous submissions. EMA reserves the right to make public all or part of any written submissions made in response to this Consultation Paper and to disclose the identity of the source. Any part of the submission, which is considered by respondents to be confidential, should be clearly marked as "Confidential". Such comments, together with justification on the need to maintain confidentiality, should be separately attached as an appendix. EMA will take this into account in the disclosure of the information submitted.

**Annex A – Jurisdiction Scan for Capital-based Entry Requirements and Key Appointments**

Market Entry Requirements for Electricity Retailers (Other jurisdictions)

| **Market** | **Entry Requirement** | **Details** |
|---|---|---|
| UK / OFGEM | Proof of funding, declaration of financial and operational adequacy | • Applicants to show proposed funding arrangements for the first 2 years, and proof of funding for at least the first year of operations.<br>• OFGEM reassesses financial sustainability when no. of consumers reaches 50k and 200k |
| New England / ISONE & PJM | Acceptable credit rating, capitalisation requirements, or provide financial assurance | • Credit rating – To have a Governing Rating that is an Investment Grade Rating of BBB-/Baa3 or higher<br>• OR maintain a minimum Tangible Net Worth of one million dollars; or<br>• OR maintain a minimum of ten million dollars in total assets or supplement total assets of less than ten million dollars with additional financial assurance<br>• Otherwise, to provide financial assurance @ 25% of the applicants total financial assurance requirements |
| California / CAISO | Acceptable capitalisation requirements or post financial security | • Capitalisation requirement - at least $1 million in Tangible Net Worth or $10 million in total assets. OR<br>• Financial Security – 500k down to 100k depending on their estimated aggregate liability to the markets over the past 6 months |
| New York / NYISO | Acceptable capitalisation requirements or post financial security | • Capitalisation requirement – at least $1 million in tangible net worh or at least $10 million in total assets. OR<br>• Financial Security - $500k if transmission congestion contracts apply, otherwise $200k |

Market Entry Requirements (Other Sectors):

| Market | Entry Requirement | Details |
|---|---|---|
| Singapore / Monetary Authority of Singapore | Paid-up Capital requirements for licence issuance | • Bank conducting business in Singapore as a bank incorporated in Singapore requires paid-up capital of at least $1,500 million<br>• Bank conducting business in Singapore through a branch or office located in Singapore, requires head office capital funds of at least $200 million.<br>• Wholesale banks conducting business in Singapore as a bank incorporated in Singapore requires paid-up capital of at least $100 million<br>• Insurance broker requires paid-up capital of between $300,000 to $3 million.<br>• Merchant bank incorporated in Singapore to conduct permitted business requires at least $15 million<br>• Finance company conducting financing business requires paid-up capital of at least $50 million |
| Singapore / Singapore Tourism Board | Paid-up Capital requirement for licence issuance | • Travel Agent business requires at least $50,000 (Niche Licence) or $100,000 (General Licence) |

Appointment Requirements (Other jusrisdictions and sectors)

| Market | Requirement | Applicable to |
|---|---|---|
| Singapore / Monetary Authority of Singapore | Fit and Proper Assessment | • For licensed banks: Director, CEO, deputy CEO, CFO, Head of Treasury, or any other officer by whatever name described, who has responsibilities or functions similar to any of the persons referred above.<br>• For finance companies: substantial shareholder, Director, CEO, deputy CEO, CFO, or any other officer by whatever name described, who has responsibilities or functions similar to any of the persons referred above. |

**Annex B – Worked Example for Hedging Requirements**

Example 1: Retailer A has three contracted consumers as of 1 Jan 2024. Projection Period is from 1 Jan 2024 to 31 Dec 2025.

| | Contract Type | Projected Average Load (MW) | Remaining Contract Tenure (Days) | Monthly load assuming 30 days per month (MWh) |
|---|---|---|---|---|
| **C1** | Fuel-Indexed | 100 | 1,095 | 72,000 |
| **C2** | Fixed @ $250/MWh | 20 | 730 | 14,400 |
| **C3** | 5% Discount-off-Tariff (DOT) | 5 | 365 | 3,600 |

1. Based on the minimum hedging requirements of 80% for the next 24-month period ("Projection Period"), Retailer A must hedge at least: [(100+20+5) MW x 24 hours x 365 days x 80%] + [(100+20) MW x 24 hours x 365 days x 80%] = 1,716,960 MWh in Jan 2024 over the Projection Period.

   a. For C1 and C2, Retailer A needs to hedge the volumes within the rolling 24-month window (i.e. 730 days). Retailer A need not hedge the volumes for contract C1 after the rolling 24-month period.

   b. For C3, Retailer A needs to hedge the volumes for C3 within the remaining contract tenure (365 days), and does not need to hedge the volumes for C3 after the contract expires in 12 months. If C3 is subsequently renewed, Retailer A must hedge for the renewed contract tenure by the next reporting deadline (i.e. 1 Feb 2024).

2. Retail contract volumes that are 100% indexed to Wholesale Electricity Prices are exempt from the hedging requirements.

3. For the remaining 20% = 429,240 MWh, Retailer A will need to post a Performance Bond (PB) to EMC in cash, or in the form of Banks' Letter of Credit or Payment Guarantee. This will be calculated as the unhedged quantity over the Projection Period, multiplied by the difference between (i) a specified stress-test WEP which EMA proposes to use the Temporary Price Cap ("TPC") to be introduced, and (ii) the contracted retail price. Retailer A will need to post a PB as follows:

[**Assumptions**]
Price under contract C1 (fuel-indexed) is calculated as $300/MWh based on prevailing fuel prices for Jan 2024
TPC = 2 x Spot Gas LRMC = $900/MWh based on prevailing spot JKM forward prices for Jan 2024, calculated in Dec 2023
Vesting LRMC in 1Q 2024 = $230/MWh

**PB for C1** = 100 MW x 24 hours x 730 days x 20% x ($900 - $300) = $210,240,000
**PB for C2** = 20 MW x 24 hours x 730 days x 20% x ($900 - $250) = $45,552,000
**PB for C3** = 5 MW x 24 hours x 365 days x 20% x ($900 - $218.5) = $5,969,940

**Total PB to be posted for Jan 2024**: $261,761,940

4. The minimum hedging requirement of 80% also applies on a per-period basis. For example, if the hedges in a given period(s) do not meet 80% of projected load profile for part of the day even though Retailer A has hedged at least 1,716,960 MWh in total, EMA will consider the Retailer as not having met the requirement for the period(s). Retailer A will be required to put up an additional PB quantum to for these unhedged quantities on top of the amount in paragraph 2.

5. Where Retailer A holds additional hedges beyond the minimum 80% requirement, the additional hedge volume may be used to offset the PB requirement.

**Annex C – Format for Submission of Comments**

**CONSULTATION PAPER – ENHANCEMENT TO REGULATORY REGIME FOR ELECTRICITY RETAILERS**

| S/No. | Please indicate in each cell in this column, the section/paragraph to which your comment refers | Comments |
|---|---|---|
| 1 | | |
| 2 | | |
| 3 | | |
| .<br>.<br>. | | |
| Any other comments | | |

**Comments submitted by:**

Name :
Designation :
Company :
Email :
Contact No. :