



*Corporations (Australian Energy Market Operator Limited) CS Facility Exemption Notice
2016*

Corporations Act 2001

I, KELLY O'DWYER, Minister for Small Business and Assistant Treasurer make this exemption under section 820C of the *Corporations Act 2001* (Act).

Dated

23 February 2016

A handwritten signature in blue ink, appearing to read 'Kelly O'Dwyer', is written over the printed name and title.

KELLY O'DWYER
Minister for Small Business and Assistant Treasurer

Name of Exemption

1. This exemption is the *Corporations (Australian Energy Market Operator Limited) CS Facility Exemption Notice 2016*.

Commencement

2. This exemption commences on the day it is published in the *Gazette*.

Authority

3. This notice is made under section 820C of the Act.

Exemption

4. The Reallocation Facility operated by AEMO in this jurisdiction is exempt from the operation of Part 7.3 of the Act.

Conditions

5. This exemption applies in the case where:
 - (a) AEMO operates the Reallocation Facility under the Reallocation Procedure; and
 - (b) in operating the Reallocation Facility, AEMO uses the Licensed CS Facility operated by Austraclear Ltd (ACN 002 060 773) or any other CS facility licensee approved for the purpose by the Minister, as the provider of the mechanism to transfer funds between:
 - (i) parties to a Transaction; or
 - (ii) parties to a Transaction and AEMO; and
 - (c) AEMO operates the Reallocation Facility only for Transactions in relation to which:
 - (i) all of the parties to the Transaction are either a Market Customer, a Market Generator or Market Network Service Provider; and
 - (ii) each party to the Transaction is a Wholesale Client.
6. This exemption applies for so long as the following conditions are met:
 - (a) AEMO notifies ASIC, as soon as practicable and in writing of each of the following:
 - (i) any proposed change to the Reallocation Procedure, and of any proposed change to the NER that may have the effect of changing the Reallocation Procedure;

- (ii) any enforcement or disciplinary action taken against AEMO by the AER related to the operation of the Reallocation Facility;
 - (iii) if AEMO issues a default notice under the NER to any party to a Transaction because that party has failed to meet its obligations in relation to any Transaction;
 - (iv) if AEMO draws on the Credit Support as a result of any party to a Transaction failing to meet its obligations in relation to any Transaction;
 - (v) if AEMO becomes aware that a user of the Reallocation Facility becomes an externally-administered body corporate; or
 - (vi) of any matter that AEMO considers may adversely affect or has adversely affected the fair or effective operation of the Reallocation Facility; and
- (b) within three months of the end of its financial year, AEMO must submit an annual report to ASIC that:
- (i) sets out the extent to which AEMO operated the Reallocation Facility in accordance with paragraphs 5(a), (b) and (c) of this Notice and the extent to which AEMO has complied with the conditions in paragraphs 6(a), (c), (d) and (e) of this Notice, during the financial year; and
 - (ii) provides the following information:
 - (A) the names of the parties registered with AEMO under the NER as users of the Reallocation Facility during the financial year; and
 - (B) the number and total value of Transactions (including a breakdown of this value to individual Transactions) registered and performed through the Reallocation Facility during the financial year; and
- (c) AEMO must give such assistance to ASIC, or a person authorised by ASIC, as ASIC or the authorised person reasonably requests in relation to the performance of ASIC's functions; and
- (d) prior to permitting a person to use the Reallocation Facility, AEMO must inform the person in writing that the Reallocation Facility is exempt from the operation of Part 7.3 of the Act, if AEMO has not done so previously; and
- (e) AEMO must comply with the terms of its written arrangement with ASIC for cooperation with ASIC in matters to which this Notice relates.

Interpretation

7. In this Notice:

Act means the *Corporations Act 2001*.

AEMO means Australian Energy Market Operator Limited (ACN 072 010 327).

AER means the Australian Energy Regulator established by section 44AE of the *Competition and Consumer Act 2010 (Cth)*.

Credit Support has the meaning given by the NER.

Derivative has the meaning given by section 761D of the Act.

Licensed CS Facility has the meaning given by section 761A of the Act.

Market Customer has the meaning given by the NER.

Market Generator has the meaning given by the NER.

Market Network Service Provider has the meaning given by the NER.

NER means the National Electricity Rules and has the meaning given by the Schedule to the *National Electricity (South Australia) Act 1996*.

Reallocation Facility means the facility for Transactions operated by AEMO under the Reallocation Procedure.

Reallocation Procedure means the reallocation procedure: "Reallocation Procedure: Swap & Option Offset Reallocations" initially made on 4 May 2011 by AEMO under clause 3.15.11A of the NER, as amended and in effect from time to time.

Transaction means a reallocation transaction of the kind permitted under the Reallocation Procedure.

Wholesale Client has the meaning given by section 761A of the Act.