

16 September 2008

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box A2499
South Sydney NSW 1235

Dear John,

Registration changes for Traders, Reallocators, and Transfer of Registration

NEMMCO requests the AEMC consider making a Rule under sections 91 and 96 of the *National Electricity Law (NEL)*. The proposed Rule changes seek to incorporate the following in Chapter 2 of the *National Electricity Rules (Rules)*:

- eligibility requirements for applicants for the Trader and Reallocator categories of Registered Participant in the National Electricity Market (**NEM**); and
- a transfer of registration process which allows existing registered facilities to be transferred to a person seeking registration for those facilities, where those facilities are not being physically altered.

A statement of the issues concerning the existing Rules, a description of the proposed Rule, and how the proposed Rule addresses those issues consistent with the National Electricity Objective (**NEO**) is in Attachment A. A draft of the proposed Rule is in Attachment B.

NEMMCO would be pleased if you could have these matters considered by the AEMC. For further details, please do not hesitate to contact Taryn Maroney on 02 8884 5609.

Yours sincerely,



Brian Nelson
Head of Regulatory Affairs and Compliance

Enc. Attachment A: Requests for Rule change
Attachment B: Draft version of the proposed Rule

ATTACHMENT A**1. Statement of issues**

This section identifies the issues with the National Electricity Rules (**Rules**) regarding the eligibility requirements for registration of Traders and Reallocators and for transfers of registration in respect of facilities that are operating in the National Electricity Market (**NEM**). Additionally, NEMMCO's proposed solutions to these issues are discussed.

1.1 Traders

For Traders, NEMMCO considers the registration requirements are insufficient for this category of participant. This is because:

- currently there are minimal eligibility requirements for registering this category of participant in the Rules;
- it is inappropriate to register a person as a Trader who is not, at the time of registration, eligible to trade in the settlements residue auction (**SRA**); and
- the process for establishing an account with Austraclear presently relies, to some extent, on the fact that a party has achieved registration as a Trader.

This section describes these issues in detail.

Registration Eligibility Requirements for Traders

Traders are registered by NEMMCO for the purpose of trading in SRAs.¹ Currently, there are nine Traders registered with NEMMCO.

Although Traders are important components of the financial design of the NEM, registration requirements for this category of Registered Participant are minimal. The general requirements for registration in clause 2.9.2 of the Rules as they apply to Traders are that an applicant:

- meets the eligibility requirements specified for Traders (rule 2.5A does not have any requirements);
- will be able to fulfil the applicable financial obligations under Chapter 3 of the Rules; and
- has demonstrated an ability to comply with the Rules.

Eligibility to Participate in the SRA

Under clause 3.18.2, NEMMCO may only enter into a Settlement Residue Distribution Agreement (**SRDA**) with a person (called an "eligible person") who satisfies the criteria in the auction rules.² The criteria exclude (inter alia):

¹ In accordance with rule 2.5A.

- a person who has not entered into an auction participation agreement (**APA**); and
- a person who is a “retail client”, as that term is defined in the *Corporations Act 2001* (Cth) (**Corporations Act**).

NEMMCO must ensure that both these requirements are met before any person is allowed to participate in the SRA.

A Trader, unlike other categories of Registered Participant, is registered for the sole purpose of trading in the SRA and is only able to participate in the SRA once it has entered into an APA. NEMMCO believes it is inappropriate to be registering a person as a Trader who is, at the time of registration, ineligible to trade in the SRA and is yet to agree to participate in the SRA. NEMMCO notes that entering into an APA would demonstrate a Trader’s intention to trade in the SRA, bringing it into line with other categories of Registered Participants, where they are also required to demonstrate their intention to participate.^{3,4} The proposed Rule addresses this by including these requirements at registration.

Austraclear Transactions

In order to participate in the market a Trader must establish an account with Austraclear and under the present process it is understood that parties may be using their status as a registered Trader as part of their justification to obtain an Austraclear account.⁵ Under Austraclear Regulations, a Registered Participant is considered a Special Purpose Participant and is “...able to pay and receive cash transfer transactions between other Electricity participants and their appropriate central operator ...NEMMCO.”⁶ Registered Participants must provide a copy of the registration approval letter issued by NEMMCO to Austraclear confirming they are registered before an account is granted.

It would thus seem appropriate that before a party can register in the NEM as a Trader, they be required to meet the requirements of that function by being a wholesale client and having entered into an APA. The proposed Rule addresses this by including these requirements in the registration eligibility requirements.

1.2 Reallocators

Reallocators are registered for the purpose of participating in reallocation transactions.⁷ Rules allowing the registration of Reallocators commenced in 2007; currently, none are registered.

Reallocators have similar registration requirements to Traders as outlined in section 1.1. Similarly, although this category of Registered Participant is an important component of the financial design of the NEM, registration requirements are minimal. NEMMCO considers the

² The auction rules are set out in clause 3.18.3 of the Rules.

³ For example, under rules 2.2 and 2.3, respectively, Generators and Customers must provide documentation to NEMMCO that demonstrates their intention and ability to meet the Rules’ requirements.

⁴ The SRDA is a deemed agreement created as a result of a Registered Participant entering into an APA and winning units in the SRA rather than a separately signed agreement as implied by clause 3.18.2, this is explained in Section 4.2 of the APA (see http://www.nemmco.com.au/met_sett_sra/550-0357.pdf).

⁵ A Trader is to be treated as a Market Participant for the purposes of rule 3.15. Consistent with rule 3.15, NEMMCO has established Austraclear as the electronic funds transfer facility that Market Participants must use for the purpose of settling the payment and receipt of NEM transactions.

⁶ http://www.asx.com.au/professionals/austraclear/participant_classes.htm#Special_Purpose_Participant, date accessed, 16 July 2008.

⁷ Reallocation transactions are described in clause 3.15.11 of the Rules.

registration requirements are too limited for this category of participant and it is inappropriate to have no eligibility requirements for registering this category of Registered Participant in the Rules.

In particular, the Rules need to include a registration requirement for Reallocators to be wholesale clients. The wholesale client requirement is consistent with the expected conditions of an exemption from holding a clearing and settlement (**CS**) facility licence that NEMMCO has applied for through ASIC. Under the Corporations Act, NEMMCO is required to have a CS facility licence for facilitating reallocation transactions that could represent the settlement of a derivative contract unless an exemption has been granted by the Australian Securities and Investment Commission.⁸ NEMMCO applied for an exemption in early 2008. NEMMCO expects that one of the conditions of this exemption will be a requirement that NEMMCO ensure that any party to a swap and option offset reallocation transaction be a wholesale client.⁹

The Rules do not require a Reallocator to be a wholesale client. NEMMCO considers it necessary that the Rules include this requirement. NEMMCO proposes to include this now so that it coincides with the expected timing of the granting of the CS facility licence exemption.

NEMMCO notes that the issue discussed in section 1.1 concerning the granting of Austraclear accounts is also relevant for Reallocators. As with Traders, including a requirement for Reallocators to be wholesale clients in the registration eligibility requirements would address this issue.

1.3 Transfers

In 2007, NEMMCO determined 67 registrations and exemptions under Chapter 2 of the Rules. Of these, 57 related to generating facilities and around half of these involved transferring registration from one party to another. In each of these applications, NEMMCO was required to treat each of these as a new registration and follow the same processes required for assessing applications for new registration. The main issue is that the Rules do not include a process which would allow the transfer of registration in respect of facilities that are already operating in the NEM to be transferred to a new owners/Registered Participant.

The process for registering each category of Registered Participant varies because they have different obligations under the Rules and there are different criteria an applicant must satisfy in order to be registered by NEMMCO. Each prospective Registered Participant must apply to, and provide the necessary information to, NEMMCO and pay the prescribed fees. Within 15 days of receiving a completed application with the requisite information provided by an applicant, NEMMCO must assess it to determine whether the applicant has satisfied the eligibility requirements specified for the category that has been applied for. Further, NEMMCO must determine that an applicant has demonstrated an ability to comply with the Rules and, if they are a Market Participant, that they are able to fulfil the financial obligations imposed in Chapter 3 of the Rules.

Where no other changes to the registration are proposed and there are no issues with the current registration (such as compliance with the Rules), NEMMCO considers that it is unnecessary to request certain technical information that it holds in respect of facilities that are already operating in the NEM and it is administratively burdensome for applicants purchasing such facilities to provide it. NEMMCO does not believe there is any benefit in collecting this information again and would also reduce the regulatory burden on applicants.

⁸ Any person that holds out that it operates a clearing and settlement facility in Australia must hold a CS Facility licence, unless otherwise exempt.

⁹ Under the Corporations Act, the definition of a wholesale client is a person who is not a “retail client”.

This issue is only relevant for applicants purchasing facilities that are already operating in the NEM. NEMMCO notes that transactions of this nature occur regularly and this is likely to continue in the future.

The proposed Rule addresses the identified issue by including a new provision that would allow NEMMCO to transfer registration in circumstances where a facility is operating in the NEM from the Registered Participant to a new owner where the facility has been assessed and previously classified in accordance with the Rules.

2. Proposed Rule

This section provides a description of the proposed Rules developed by NEMMCO, the right of NEMMCO to submit the proposed Rule changes to the AEMC, the power that NEMMCO considers that the AEMC has to consider this proposed Rule change, and NEMMCO's request that the Rule be considered non-controversial under section 96 of the NEL.

2.1 Description of Proposed Rule

Traders

The proposed Rule change seeks to incorporate eligibility requirements in rule 2.5A of the Rules for applicants seeking registration as a Trader; these include an applicant:

- being a wholesale client; and
- entering into an APA with NEMMCO.

The proposed Rule would alter the time sequence of when a person's eligibility is assessed by including it as part of the assessment for registration purposes.

This would change the process where initial assessment of eligibility is carried out after registration (see clause 3.18.1(e)(1) of the Rules).

A draft of proposed Rule is provided in Attachment B.

Reallocators

The proposed Rule change seeks to include an eligibility requirement into rule 2.5B that a person seeking registration as a Reallocator must be a wholesale client.

A draft of proposed Rule is provided in Attachment B.

Registration transfer process

The proposed Rule seeks to include a process for the transfer of registration in the Rules. Specifically, this sets out an approval process for the transfer of registration from Registered Participants to eligible applicants seeking registration in respect of facilities the Registered Participants have registered for. For clarification purposes, the proposed Rule includes definitions of Transferor and Transferee. A Transferor is defined as a Registered Participant wishing to transfer its registration of a particular facility to another person and a Transferee is defined as the person the Registered Participant wishes to transfer its registration to.

Similar to other registration application processes, the proposed Rule change establishes that registration transfer applications must be submitted to NEMMCO. The proposed Rule

allows NEMMCO five business days to assess and advise the applicant whether further information is required to support its application. If further information is requested, the applicant has up to 15 business days to provide NEMMCO with the necessary information. If the applicant does not provide this information to NEMMCO's satisfaction, the application for transfer will be considered to be withdrawn.

The proposed Rule requires that NEMMCO approve the application for transfer of registration after it has been assessed and is satisfied that the application is appropriate. The proposed Rule allows NEMMCO the discretion to approve a transfer application subject to certain terms and conditions, or vary the terms and conditions, where it considers it appropriate. With respect to NEMMCO varying the terms and conditions of the registration, NEMMCO notes that the proposed Rule only intends for NEMMCO to vary existing terms and conditions imposed on the registration.

NEMMCO must determine to transfer the registration if it is reasonably satisfied that:

- the Transferor is not in breach of any of its obligations under the Rules;
- the Transferee meets the eligibility requirements that are specified for the category of Registered Participant that the application relates to, except any requirements that apply to the classification of facilities that the transfer application relates to;
- the classification of the facilities the transfer application relates to have previously been approved by NEMMCO in accordance with the Rules;
- the performance standards applicable to the facilities the transfer application relates to have previously been registered by NEMMCO in accordance with the Rules;
- the Transferee can fulfil its financial obligations consistent with Chapter 3 of the Rules where the transfer relates to the registration of a Market Participant;
- if the application relates to facilities for which an intermediary is registered, the basis of the application only relates to the change in the identity of the applicant; and
- the Transferee has demonstrated its ability to comply with the Rules.

Where NEMMCO determines that a transfer application has not satisfied any of these requirements, it must reject the application. NEMMCO must provide the reasons for its decision to the Transferee and Transferor. If this occurs and the Transferee seeks to register the facility, it would need to follow the registration process applicable to the category of Registered Participant it wishes to register as.

A draft of the proposed Rule for the registration transfer process is provided in Attachment B.

2.2 NEMMCO's Right to Submit this Proposal

NEMMCO is requesting that the AEMC make this proposed Rule in accordance with section 91 of the NEL.

NEMMCO has the following relevant functions under the NEL:

- to operate and administer the NEM;
- to promote the development and improve the effectiveness of the operation and administration of the NEM; and

- to register persons as Registered Participants.

Under section 91(1) of the NEL, the AEMC may make a Rule at the request of any person, the MCE or the Reliability Panel. As such, NEMMCO may request the AEMC make a Rule.

2.3 Power of the AEMC to Make the Proposed Rule

The subject matters about which the AEMC may make Rules are set out in section 34 of the NEL and, more specifically, in Schedule 1 to the NEL.

NEMMCO considers that the proposed Rule falls within the subject matters that the AEMC may make Rules about, as it relates to the activities of persons participating in the NEM. Specifically, the proposed Rule is within matters set out in Schedule 1 to the NEL, as it relates to the registration of persons as Registered Participants.

2.4 Request for a Non-Controversial Rule

NEMMCO requests that the AEMC reviews this Rule change proposal under section 96 of the NEL. Section 96 applies if the AEMC considers that a request for a Rule is a request for a non-controversial Rule. A non-controversial Rule means a Rule that is unlikely to have a significant effect on the NEM.

NEMMCO believes that section 96 applies to this proposal as the Rule would:

- have an insignificant effect on the market as a whole;
- improve the administrative efficiency of the NEM;
- only affect new persons seeking registration as a Trader or Reallocator, or seeking to transfer existing facilities from one Registered Participant to another;
- bring forward existing requirements applying to Traders; and
- protect NEMMCO from the identified risks to its ASIC exemptions from holding certain licences under the Corporations Act.

Given the relatively high degree of merger and acquisition activity in the NEM, expediting the proposed Rule for a registration transfer process would improve the administrative process for any person wishing to register a facility that is already registered with NEMMCO.

NEMMCO notes that the proposed Rule changes regarding Traders and Reallocators seek minor registration changes and would increase administrative efficiency for NEMMCO and applicants to be Traders or Reallocators. The proposed Rule change for Traders simply alters the sequence of when information is given to NEMMCO. For Reallocators, the proposed Rule increases the registration requirements for persons registering as a Reallocator by including the requirement to be a wholesale client. This requirement should be included in the Rules because it is expected that a Reallocator will be required to be a wholesale client as a condition of NEMMCO's exemption from holding a CS facility licence.

3. How the proposed Rules contribute to the National Electricity Objective (NEO)

Before the AEMC can make a Rule change it must apply the rule making test set out in the NEL which requires it to assess whether the proposed Rule will or is likely to contribute to the NEO. Section 7 of the NEL states the NEO is:

to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to –

- (a) price, quality, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.

NEMMCO submits that each of the proposed Rules satisfy the requirements of the Rule making test. The remainder of this section discusses how the proposed rules contribute to the NEO.

3.1 Traders

NEMMCO submits that the proposed Rule promotes the NEO by ensuring persons seeking registration as a Trader are wholesale clients before registration takes place. This improves the integrity of financial trading in the NEM because it ensures those persons being registered as Traders are doing so for the sole purpose of trading in the NEM.

NEMMCO also anticipates some improvements in the administration of the market by combining the registration, eligibility assessment, and APA processes into the one registration process. Note, however, that under the Rules eligibility to participate in the SRA will continue to be assessed before each auction. NEMMCO currently holds an exemption from the requirement to hold a financial services licence as long as SRA is open only to wholesale clients, therefore, NEMMCO considers it prudent to leave the obligation for NEMMCO to ensure SRA participants are wholesale clients prior to each auction (see clause 3.18.2) as well as at registration.

NEMMCO considers that the proposed Rule change makes the process clearer for all parties and ensures that a person registering as a Trader is only doing so for the purpose of participating in SRAs. Further, it makes clear that any appointed agent must be a party to the APA.

3.2 Reallocators

NEMMCO submits that the proposed Rule would promote the efficient operation of reallocation transactions by ensuring that NEMMCO only engages in any trading activities with persons that are wholesale clients, a requirement that is likely to be imposed on NEMMCO if its application for exemption from the requirement to hold a CS facility licence is granted.

3.3 Transfers

NEMMCO submits that the proposed Rule would promote the NEO by reducing the regulatory burden on transfers of registration following merger and acquisition activity in respect of facilities that are operating in the NEM. Additionally, the proposed Rule would allow NEMMCO to process these registration applications more efficiently and improve the registration process. The proposed Rule will result in resources being used more efficiently because:

- applicants will not need to provide technical information already held by NEMMCO for a facility already registered if it is acceptable to NEMMCO;
- it reduces the resources involved in assessing and processing the technical information for facilities being registered; and
- it reduces the costs involved in providing this information to NEMMCO.

NEMMCO considers that the proposed Rule addresses the issue while maintaining the necessary checks and balances to ensure facilities are appropriately registered. The proposed Rule would result in improved administration processes for NEMMCO and those persons wishing to register facilities that have been transferred from a Registered Participant.

4. Expected Benefits and Costs of the Proposed Rule

This section presents NEMMCO's explanation of the expected benefits and costs of the proposed Rule change and the potential impacts of the change on those likely to be affected.

4.1 Registration of Traders and Reallocators

NEMMCO expects that the proposed Rule change will result in two main benefits. First, NEMMCO considers the proposed Rule would ensure Traders and Reallocators are verified as wholesale clients, consistent with NEMMCO's current exemption under the Corporations Act (in the case of Traders) and expected exemption (in the case of Reallocators), which is discussed in section 1.1. Secondly, NEMMCO considers that bringing forward the requirement for a Trader to enter into an APA before it is registered increases administrative efficiency. Ensuring applicants supply all the relevant information at this point reduces the amount of coordination required later for NEMMCO and the applicant.

NEMMCO submits that the proposed Rule will have the effect of strengthening the Rules by clarifying NEMMCO's responsibilities regarding registering these categories of Registered Participants

The associated costs of the proposed changes are expected to be minimal for applicants seeking registration as a Trader or Reallocator and for NEMMCO. As discussed in section 1.1, the proposed changes for Traders only brings forward the requirements into the registration process and doesn't increase the burden of information to be provided by new applicants. Further, registered Traders are not impacted by the proposed changes and there are no registered Reallocators to consider. For NEMMCO, the main cost would be incurred amending the registration procedures for Traders and Reallocators, however, these are expected to be minimal.

4.2 Transfers

The expected benefits of the proposed Rule will accrue to applicants who have purchased facilities that are operating in the NEM because it would reduce the amount of technical information required from them. The associated costs of including a transfer process would be borne by NEMMCO; these would be incurred in setting up procedures, guidelines and application forms to deal with the proposed Rule.

GLOSSARY

Term or Abbreviation	Explanation
AEMC	Australian Energy Market Commission
APA	Auction participation agreement
ASIC	Australian Securities and Investments Commission
NEM	National Electricity Market
NEO	The national electricity objective as stated in section 7 of the NEL.
NEL	National Electricity Law
Rules	National Electricity Rules
SRA	Settlements residue auction
SRDA	Settlements residue distribution agreements

ATTACHMENT B

This Draft is based on National Electricity Rules Version 21

Eligibility Requirements for Trader Registrations

2.5A Trader

- (a) A *Trader* is a person so registered by *NEMMCO* in order to participate in *auctions* under rule 3.18.
- (b) A person who is registered by *NEMMCO* as a *Trader* is:
 - (1) a *Registered Participant* for the purposes of the *National Electricity Law* and rules 2.9, 2.10, 2.11, 3.18, 8.2, 8.9 and subparagraph (3), and clause 3.13.5A;
 - (2) is to be treated as a *Market Participant* for the purposes of clause 3.3.1 and rule 3.15 (as applied and modified by clause 3.18.4) provided that a person who is registered by *NEMMCO* as a *Trader* is not to be regarded as a *Market Participant* for the purposes of clauses 3.3.1(a) and 3.15.1(b); and
 - (3) entitled to receive any information which *NEMMCO* is required to *publish* or otherwise make available to *Registered Participants* (other than *confidential information* in respect of one or more other *Registered Participants*),

but is not otherwise a *Registered Participant* for the purposes of the *Rules* unless they are also registered in another category of *Registered Participant*.

- (c) ~~A person registered by *NEMMCO*~~ To be eligible for registration as a *Trader*, a person must:
 - (1) have an office in Australia to which all communications and notices may be addressed and at which a representative of the *Trader* is present at all times during business hours; ~~and~~
 - (2) where the person *Trader* is not resident in, or does not have a permanent establishment in, Australia, appoint a person ('an **agent**') who is:
 - (i) a natural person or company;
 - (ii) resident in Australia; and
 - (iii) authorised to accept service of process and notices on behalf of that ~~*Trader*~~person,

and provide *NEMMCO* with a certified copy of the instrument, executed by the agent, under which the agent is so appointed and which specifies the agent's address;

- (3) be a "wholesale client", as that term is defined in section 761G(4) of the Corporations Act 2001 (Cth); and
- (4) enter into an *auction participation agreement* and, where the person is required to appoint an agent for the purposes of sub-paragraph (2), the person must ensure that the agent is a party to the *auction participation agreement*.

3.18.1 Settlement residue concepts

- (a) An "*auction participation agreement*" is an agreement between *NEMMCO* and an *eligible person* concerning the participation by the *eligible person* in *auctions*.
- (b) A "*settlement residue distribution agreement*" or "*SRD agreement*" is an agreement between *NEMMCO* and an *eligible person* entered into following an *auction* under which:
 - (1) *NEMMCO* agrees to distribute to the *eligible person* a portion of the *settlements residues* allocated to a *directional interconnector* for a period specified in the *SRD agreement*; and
 - (2) the *eligible person* agrees to pay *NEMMCO* a certain amount for the right referred to in clause 3.18.1(b)(1).
- (c) For the purposes of this rule 3.18:
 - (1) all the *regulated interconnectors* between any 2 adjacent *regions* are deemed to constitute a single *interconnector*; and
 - (2) the deemed *interconnector* referred to in clause 3.18.1(c)(1) between any 2 adjacent *regions* consists of 2 *directional interconnectors*, one involving a transfer from *region A* to *region B*, and one involving a transfer from *region B* to *region A*.
- (d) Subject to clause 3.18.4, *NEMMCO* must use the portion of the *settlements residue* allocated to a *directional interconnector* remaining after applying the relevant *jurisdictional derogations* under Chapter 9 (as determined by applying the principles referred to in clause 3.6.5) to make payments under *SRD agreements* in relation to that *directional interconnector* and to recover the *auction expense fees*.
- (e) Where a person ~~registered as a *Trader*~~ is required to appoint an agent for the purposes of rule 2.5A(c)(2):

- (1) ~~the *Trader* must ensure that the agent is a party to the *auction participation agreement* and the *SRD agreement* between *NEMMCO* and the *Trader*; and~~
- (2) ~~*NEMMCO* and the *Trader* must ensure that the *auction participation agreement* and the *SRD agreement* entered into by the *Trader* and its agent referred to in subparagraph (1) provides that the *Trader* and the agent are jointly and severally liable in relation to the obligations of the *Trader* under those agreements.~~

Eligibility Requirements for Reallocator Registrations

2.5B Reallocator

- (a) A *Reallocator* is a person so registered by *NEMMCO* in order to participate in *reallocation transactions* under clause 3.15.11.
- (b) A person who is registered with *NEMMCO* as a *Reallocator* is:
- (1) a *Registered Participant* for the purposes of rules 2.5B(b)(3), 2.9, 2.10, 2.11, 8.2 and 8.9;
 - (2) taken to be a *Market Participant* for the purposes of rules 3.3 and 3.15 but is not regarded as a *Market Participant* for the purposes of clauses 3.3.2(a) and 3.15.1(b); and
 - (3) entitled to receive any information *NEMMCO* is required to *publish* or otherwise make available to *Registered Participants* (other than *confidential information* in respect of other *Registered Participants*),

but is not otherwise a *Registered Participant* or a *Market Participant* for the purposes of the *Rules* unless the person is also registered in another category of *Registered Participant* or *Market Participant*.
- (c) To be eligible for registration as a *Reallocator*, a person must be a wholesale client, as that term is defined in section 761G(4) of the Corporations Act 2001 (Cth).

Transfer of Registration Process

2.1 Registered Participants

2.1.2 General

- (a) **[Deleted]**
- (b) **[Deleted]**
- (c) The different categories of *Registered Participants* have different obligations under the *Rules*.
- (d) Rules 2.2 to 2.7 set out the *Registered Participant* categories and requirements which a person must satisfy in order to be registered by *NEMMCO* in relation to each of those *Registered Participant* categories.
- (e) Each prospective *Registered Participant* must apply to *NEMMCO* for registration in accordance with rule 2.9.
- (e1) Rule 2.9A sets out the process to be followed in order to transfer a *Registered Participant's* registration to another person.
- (f) Each *Registered Participant* must pay to *NEMMCO* the prescribed fees determined in accordance with the provisions of rule 2.11.

2.9A Transfer of Registration

2.9A.1 Definitions

In this rule 2.9A:

Transferor means a *Registered Participant* wishing to transfer its registration to another person.

Transferee means the person to whom a *Registered Participant* wishes to transfer its registration.

2.9A.1 Applications for Transfer of Registration

- (a) Applications to transfer an existing registration must be submitted to *NEMMCO* by the Transferor and Transferee in the form prescribed by *NEMMCO*.
- (b) *NEMMCO* must, within 5 business days of receiving an application, advise the Transferor and Transferee of any further information or clarification which is required in support of its application if, in *NEMMCO's* reasonable opinion, the application:
 - (1) is incomplete; or

- (2) contains information upon which NEMMCO requires clarification.
- (c) If the further information or clarification required pursuant to paragraph (b) is not provided to NEMMCO's satisfaction within 15 business days of the request, the application will be deemed to have been withdrawn.

2.9A.2 Approval of Transfer of Registration

- (a) NEMMCO must, within 15 business days of receiving an application for transfer of registration under clause 2.9A.1, determine to transfer the registration if NEMMCO is reasonably satisfied that:
 - (1) the Transferor is not in breach of any of its obligations under the Rules;
 - (2) with the exception of any requirements that apply to the classification of facilities to which the application relates, the Transferee meets the eligibility requirements specified for the category of Registered Participant to which the application relates;
 - (3) the classification of the facilities to which the application relates have previously been approved by NEMMCO in accordance with the Rules;
 - (4) the performance standards applicable to the facilities to which the application relates have previously been registered by NEMMCO in accordance with the Rules;
 - (5) if the application relates to the transfer of a registration in one of the categories of Market Participant, the Transferee is and will be able to fulfil the applicable financial obligations under Chapter 3 of the Rules;
 - (6) if the application relates to facilities for which an intermediary is registered, the basis of the application only relates to the change in the identity of the applicant (as that term is used in clause 2.9.3(a)); and
 - (7) the Transferee has demonstrated an ability to comply with the Rules.
- (b) NEMMCO may approve the application on such terms and conditions as NEMMCO considers appropriate, or vary the terms and conditions of the registration on its transfer, and the Transferor and Transferee must comply with those terms and conditions.
- (c) If NEMMCO determines that any of the requirements referred to in paragraph (a) are not met, NEMMCO must reject the transfer of registration and provide reasons to the Transferor and Transferee for that rejection.