

## Summary of submissions and the Authority's response

Q#	Question and issue	Submitter	Submitter comment	Authority response
1.	Establish the FTR manager as a market operation service provider (MOSP) under section 109(b) of the Act.	Contact Energy	No objection.	
		Genesis Energy	Supports amendment.	
		Meridian Energy	Supports regulation.	
		NZX	Agrees.	
		Transpower	Is comfortable with the draft regulation.	
2.	Set a liability limit for the FTR manager of \$500,000 for one event, up to \$2m for all events occurring in any financial year.	Contact Energy	No objection.	
		Meridian Energy	Supports regulation.  Considers the liability limits are low given the importance of the FTR manager's role. However, in the context of the limits of the MOSPs and the potential increase in insurance costs from higher liabilities, accepts the limits as proposed.	Noted.
		Genesis Energy	Supports amendment – however, has concerns with the Authority's approach to setting the liability limit. Disappointed the Authority discarded two seemingly robust methods for determining the optimal liability limit based on modelling of costs and risks, and instead estimated the liability limit by	We note Genesis Energy's point. We intend to still support setting the liability limit as proposed for the FTR manager.  The liability limits for all of the existing market operation service providers have been set in regulation at a defined level for a number of

			comparison with other MOSPs. Disappointed the Authority has not pursued methodologies that could have provided useful insights into optimal liability settings. Supports the development of a robust economic framework for assessing suitable liability limits. Suggests it may be useful to seek advice from an actuary.	years. There has been no allowance for inflation or for incremental shifts in costs and risks to participants and MOSPs. In the context of the upcoming end to service provider agreement terms for the other MOSPs, it would be appropriate for the Authority to review all of the MOSP liability limits using a robust economic analysis. If the investigation concludes that changes are considered desirable, the changes could be updated as a package. This investigation could be undertaken during 2012.
		NZX	Agrees with proposal and with assessment that the role is sufficiently similar to the Reconciliation Manager role to apply similar limits.	Noted.
		Transpower	Is comfortable with the draft regulation.	
3.	FTR manager to maintain indemnity insurance.	Contact Energy	No objection.	
		Genesis Energy	Supports amendment.	
		Meridian Energy	Supports regulation.	
		NZX	Agrees.	
		Transpower	Is comfortable with the draft regulation.	
		Ministry of Economic Development	Regulation 74 is <i>ultra vires</i> and should be revoked.	The Authority accepts MED's interpretation of the Act, namely that this regulation is <i>ultra</i>

		<i>(Note this was raised by MED via a phone and email discussion, and was not a formal submission. The comments and outcome are summarised here as they are directly relevant to this consultation.)</i>	<p>Under the Electricity Industry Act 2010 (Act), the reasons by which regulations can be created is narrower than under the previous legislation. There is no clause in the Act that provides a sufficient reason for this regulation.</p> <p>Requested the Authority confirm whether this regulation is relied upon, and what its effect would be if removed.</p>	<p><i>vires</i>, and agrees the regulation should be revoked as part of these amendments.</p> <p>This regulation is not relied upon. It duplicates requirements in each service provider agreement for service providers to hold appropriate insurance types for the role. The Authority does not intend invoking this regulation in its monitoring of the listed MOSPs. The reason the Authority proposed the FTR manager be added to the list was for consistency of treatment with the other MOSPs, rather than because it was considered necessary.</p>
4.	No change to the liability limit for the clearing manager.	Genesis Energy	Supports no change.	
		Meridian Energy	<p>Supports proposal.</p> <p>Notes however that maintaining the clearing manager's existing liability limit when the size of the overall risk increases will increase the risk faced by other participants and impact on the existing apportionment of risk. However, considers the change is likely to be marginal.</p>	Noted. This comment supports the need for a general review of MOSP liability limits given the length of time they have been in place and the possibility that marginal shifts in costs and risks have occurred between providers and participants over time.
		NZX	Agrees. Also agrees with the assessment that there is an increase in the clearing manager risk profile.	Noted.
5.	Clearing manager to be liable to FTR holders for financial loss.	Contact Energy	No objection.	
		Genesis Energy	Support amendment.	

		Meridian Energy	Supports regulation.	
		NZX	Agrees. Necessary for symmetry. Increases the risk profile of the clearing manager and the possibility of nuisance claims.	Noted. However, it is appropriate that FTR holders have some ability to seek financial recompense where losses result from actions by the clearing manager.
		Transpower	Is comfortable with the draft regulation.	
6.	Noting the concerns Transpower raised, and the Authority's response, do you have any comment?	Contact Energy	No objection to the Authority's response.	
		Genesis Energy	No comment.	
		Meridian Energy	Supports the Authority's position.	
		NZX	Shares Transpower's concern relating to tort from the perspective of nuisance claims. However, accepts that FTR participants are industry participants.	Noted. See response above to NZX submission on (5).
		Transpower	There is no additional liability protection for grid owners that provide forecast grid configuration and capacity information to the FTR manager. The FTR manager is likely to publish the information, so it will be able to be seen and relied on by potential FTR traders. Transpower is concerned about its exposure as a grid owner to possible tort action by FTR traders that make decisions based on this information. It is important that all FTR traders are clear about the nature of the information provided by the	The Authority does not consider a clause in the FTR manager service provider contract to be the appropriate place to make such a requirement. It would be more appropriate for Transpower to negotiate any disclaimer requirement with the FTR manager when negotiating over the provision of the forecast grid configuration. The FTR manager could then choose to include such a disclaimer in documents such as FTR market rules or FTR participation agreements if it considered this appropriate.

			grid owner. Transpower submits that the FTR manager service provider contract should contain a clause requiring the FTR manager to display a disclaimer prominently in writing with each disclosure or publication of the grid owner information.	
7.	Are there other regulatory amendments the Authority should also consider in its implementation of the FTR market?	Genesis Energy	No.	
		Meridian Energy	No suggestions.	
	Other comments	Genesis Energy	<p>Suggests participants should have an opportunity to review and comment on a draft of the regulations.</p> <p>If any further amendments arise, considers that further consultation is essential.</p>	<p>Noted.</p> <p>The process for drafting regulations and consultation on the regulations is the responsibility of the Parliamentary Counsel Office (PCO) and the Ministry of Economic Development.</p>