

27 January 2020

**Mercury**

Attn: Fraser Whineray  
Chief Executive

Email: [fraser.whineray@mercury.co.nz](mailto:fraser.whineray@mercury.co.nz)

Dear Fraser

**Thank you for your cooperation to enhance market making**

Thank you for your cooperation over the past few months to assist the Authority improve market making services and to increase confidence in the market for exchange traded contracts. I particularly appreciate the fast responses to the Authority's requests, particularly in the lead up to the summer break.

The purpose of this letter is to give you advance notice of the Authority's decision to urgently amend the Code to introduce provisions relating to market making. The Authority considers this advance notice is appropriate as you are a party directly affected by the amendment.

Because of your positive response to the Authority's requests, the Authority does not consider there is a need to move immediately to mandatory market making. However, the Authority's Board has decided to introduce a dormant 'back-stop' mandatory market making scheme in the Code that it considers will bolster the robustness and resilience of the current market making arrangements.

The Authority expects the dormant mandatory scheme to materially shorten the time needed to implement a mandatory scheme if market makers do not meet their voluntary obligations. It will also provide clarity and confidence to stakeholders regarding the Authority's expectations. Important differences between the existing scheme and the mandatory scheme are:

- under the mandatory scheme a market maker will have 2 exemptions per month; and
- a breach of the mandatory scheme is a breach of the Code.

If a market maker has entered into a complying market making arrangement with ASX and has consented to ASX providing the Authority with relevant trading data, the scheme will apply to that market maker if it fails to provide voluntary market making services (and is not otherwise exempt) on three or more separate days within any 90 day period. If that occurs, the mandatory scheme will automatically apply to that market maker. This mechanism is set out in the Code and will operate automatically.

The design of the back-stop mandatory scheme largely reflects the existing voluntary arrangements. This is for several reasons, including because the Authority's Board has not made any decisions regarding the design of an enduring market making solution and seeks to preserve the integrity of that process. Accordingly, the design of the back-stop solution should not be interpreted as representing the Authority's preferences, or a response to issues raised

Re: market making improvements  
ADXLetter131

about the design of the current arrangements, such as the number of market makers or who should bear the cost of market making.

Experience of international market making schemes for electricity futures will be part of the Authority's investigation into a sustainable and enduring market making scheme for New Zealand. The situation in the United Kingdom where a mandatory scheme ended recently after tight obligations for market makers, and the incentive-based scheme in Singapore with high costs for consumers will be considered. For any scheme to be implemented, it will need to have a positive benefit to cost ratio and to be sustainable in the long term.

I attach a copy of the Code amendment for your information. The Authority is amending the Code by way of an urgent Code amendment under section 40 of the Electricity Industry Act 2010. The amendment will come into force on 3 February 2020 and will expire on 3 November 2020. The Authority will publicly announce this decision shortly.

The amendment does not conclude or replace the Authority's longer-term project to develop and implement an enduring solution for market making – that work is still ongoing. I look forward to your continued engagement in that process.

Thank you again for your cooperation in this matter.

Regards

A handwritten signature in black ink, appearing to read 'J. Stevenson-Wallace', with a stylized flourish at the end.

James Stevenson-Wallace

cc: Marc England, Chief Executive at Genesis Energy  
Dennis Barnes, Chief Executive Officer at Contact Energy  
Neal Barclay, Chief Executive at Meridian Energy  
Ken Chapman, Head of Strategic Delivery, Capital Markets at ASX