

Hedge Market Enhancements

Securing access to exchange data Consultation paper

Submissions close: 5pm, 21 July 2020

23 June 2020



1 Executive summary

- 1.1 It is important the Electricity Authority (Authority) understands how industry participants access and use hedge markets because this helps the Authority carry out its functions for the long-term benefit of consumers. Unless the Authority acts soon, it may lose access to some of this information from November 2020.
- 1.2 The Authority is proposing to amend the Electricity Industry Participation Code (2010) (the Code) to address this issue, and to secure better data about participants' activity on exchange platforms (like the ASX), reduce compliance costs for industry participants, and reduce administration costs for the Authority. This paper seeks feedback on the Authority's proposal.
- 1.3 The proposal addresses an issue with the Authority's access to participants' data relating to exchange-traded risk management contracts. In particular the Authority currently has access to some participants' data held by an exchange platform (the ASX) on a time-limited basis. This access will expire on 3 November 2020. Losing access to this data will reduce the Authority's ability to carry out its functions because:
 - (a) some of the data are not obtainable from other sources;
 - (b) other sources of the same data are not as reliable; and
 - (c) other ways of accessing the same data (for example, periodically) impairs its usefulness.
- 1.4 The Authority considered several ways to address this issue and its preferred option is to amend the Code. Amending the Code also provides an opportunity to:
 - (a) secure access to a comprehensive set of participants' risk management contract data directly and automatically from an exchange platform; and
 - (b) once the Authority secures that access, reduce participants' existing manual disclosure obligations.
- 1.5 The Authority considers its proposal will benefit consumers because:
 - (a) the Authority would be able to better carry out its market monitoring, market facilitation, and enforcement functions under the Electricity Industry Act 2010 (the Act), as well as improve its ability to support market development, for the long-term benefit of consumers;
 - (b) the Authority's access to this data would likely improve participants' confidence in the market (this is a broader issue identified by the Authority in its review of market making arrangements¹). Greater confidence should drive better competition and efficiency, which ultimately benefits consumers;
 - (c) automatically receiving information from exchange platforms in a consistent and comparable format would reduce compliance costs for participants, reduce administrative costs for the Authority and improve the usefulness of the dataset.
- 1.6 Any feedback received will be considered by the Authority's Board when it decides whether to proceed with the proposal.

¹ Available at: <https://www.ea.govt.nz/development/work-programme/risk-management/hedge-market-development/consultations/#c18424>.

Contents

1	Executive summary	ii
2	What you need to know to make a submission	5
	Purpose of this document	5
	How to make a submission	5
	When to make a submission	5
	Further information	5
3	Unless the Authority acts it will lose access to participants' de-anonymised tick data	6
4	De-anonymised tick data enhances performance of the Authority's statutory functions	8
5	The Authority's preferred option to address this issue is to amend the Code	10
6	Amending the Code presents an opportunity to secure others benefits in the long-term interest of consumers	12
	There is an opportunity to gather a comprehensive set of participants' data from exchange platforms	12
	There is an opportunity to reduce compliance costs and support the Authority's <i>Wholesale Market Information</i> project	13
7	The Authority's proposal has a positive net benefit for consumers	15
8	Next steps	17
	Glossary of abbreviations and terms	18
	Appendix A Cost benefit analysis	19
	Categories of cost	19
	Cost of acquiring data from exchange platforms	19
	Risk of increased avoidance	19
	Categories of benefit	19
	The Authority would be able to more effectively carry out its statutory functions for the long-term benefit of consumers	19
	Increased overall market confidence	19
	Improvements to other Authority workstreams	20
	Administrative cost savings for the Authority	20
	Compliance cost savings for industry participants	20
	Analysis of costs and benefits	20
	Appendix B Regulatory statement	21
	Objectives of the proposal	21
	The proposal's benefits outweigh its costs	21
	The Authority has not identified other suitable means of addressing the objectives	21
	The proposal complies with section 32(1) of the Act	21
	The Authority has given regard to the Code amendment principles	22
	Appendix C Proposed Code amendment	23

Tables

Table 1:	How proposal complies with section 32(1) of the Act	21
Table 2:	Regard for Code amendment principles	22

2 What you need to know to make a submission

Purpose of this document

- 2.1 This paper seeks feedback on the Authority's proposal to amend the Code to allow the Authority to access participants' data held by exchange platforms and to allow the Authority to reduce participants' manual disclosure obligations for the same. When making a submission, please consider the specific questions included in this document.
- 2.2 Industry feedback will inform the Authority's decision on whether to amend and/or proceed with its proposal.

How to make a submission

- 2.3 The Authority's preference is to receive submissions in electronic format (Microsoft Word). Submissions in electronic form should be emailed to HME.feedback@ea.govt.nz with '*Consultation paper – Hedge Market Enhancements securing access to exchange data*' in the subject line. Please contact the Authority if you wish to provide your submission in hard copy instead.
- 2.4 Please note the Authority wants to publish all submissions it receives. If you consider that we should not publish any part of your submission, please:
- (a) indicate in a cover note which part/s should not be published;
 - (b) explain why you consider we should not publish that part; and
 - (c) provide a version of your submission that we can publish (if we agree not to publish your full submission).
- 2.5 If you indicate there is part of your submission that should not be published, we will discuss with you before deciding whether to not publish that part of your submission.
- 2.6 However, please note that all submissions we receive, including any parts that we do not publish, can be requested under the Official Information Act 1982. This means we would be required to release material that we did not publish unless good reason existed under the Official Information Act to withhold it. We would normally consult with you before releasing any material that you said should not be published.

When to make a submission

- 2.7 Please deliver your submissions by **5pm on Tuesday 21 July 2020**.
- 2.8 This deadline allows four weeks for submissions. The Authority will acknowledge receipt of all submissions electronically. Please contact HME.feedback@ea.govt.nz if you do not receive electronic acknowledgement of your submission within two business days.

Further information

- 2.9 The Authority's website contains useful background material about the Authority's previous work, the work of its advisory groups, and the work of its predecessor (the Electricity Commission) relating to hedge markets.²
- 2.10 Please direct any specific questions or queries to: HME.feedback@ea.govt.nz.

² Available at: <https://www.ea.govt.nz/development/work-programme/risk-management/hedge-market-development>.

3 Unless the Authority acts it will lose access to participants' de-anonymised tick data

- 3.1 The Authority currently collects and analyses a variety of data on risk management contracts to help carry out its monitoring, enforcement and market facilitation functions under the Act, as well as enhancing its ability to support market development. These data are collected in several ways and in many formats. For example, the Authority currently has data subscriptions from an exchange platform (the ASX), and also requires participants to manually disclose risk management contract data to its hedge disclosure website.³ This information informs the Authority when it carries out its functions. The Authority also makes this data, and/or analysis derived from it, available to participants in an anonymised format to inform their decision-making where appropriate.
- 3.2 As part of its *Hedge Market Enhancements: Market Making* project⁴ the Authority has sought to gather more and better-quality data on risk management contracts to assist in its decision-making. A key part of that process has been accessing data directly from the exchange platform (ie, the ASX). Over the course of 2020 the Authority has secured access to de-anonymised tick data from the ASX. These data will give the Authority a very granular view of activity that occurs on the exchange platform, allowing it to better understand how industry participants behave in the market and what reforms (if any) will benefit consumers.

Figure 1: Key terms explained

What are risk management contracts?

Risk management contracts are contracts that participants use to manage the risk of exposure to spot electricity prices. They include contracts such as ASX futures contracts and over-the-counter contracts.

What is an exchange platform?

An exchange platform is a marketplace where interested parties are brought together to buy and sell financial instruments. The platform allows for fair trading, and publication of price information.

What is tick data?

Tick data is a log of all orders placed, modified, executed or deleted with ASX. This log includes the time at which the order's action was taken, and is measured to the millisecond. The order information includes the price and the quantity for the specific contract. Currently the Authority receives this data in an anonymous format. The Authority is proposing to receive tick data in a format that allows it to identify individual industry participants.

³ Available at: <https://www.electricitycontract.co.nz/>.

⁴ Information on this project is available at: <https://www.ea.govt.nz/development/work-programme/risk-management/hedge-market-development>.

- 3.3 In addition to its use in the *Hedge Market Enhancements: Market Making* project, participants' de-anonymised tick data is also relevant to the Authority's broader monitoring, enforcement and market facilitation functions under the Act and its ability to support market development. For example, long-term access to these data would allow the Authority to better monitor market making arrangements on an ongoing basis (and if necessary enforce breaches of obligations). It would also allow the Authority to better understand participants' net position in the market – an important aspect of monitoring and enforcing the current trading conduct rules. Long-term access to de-anonymised tick data would enable the Authority to set up automated monitoring of participants' behaviour – allowing it to spot any developing trends early.
- 3.4 The Authority currently has access to some participants' de-anonymised tick data through a patchwork of ad hoc and time-limited means. For example, the Authority's access to some market makers' de-anonymised tick data is secured by an urgent Code amendment that came into force in early 2020.⁵ That urgent Code amendment will expire on 3 November 2020, and the Authority will likely lose access to the data unless it acts soon. Other participants have provided the Authority access to their de-anonymised tick data on a voluntary basis – to ensure equity amongst participants the Authority only requested this access until 3 November 2020. For a small subset of participants, the Authority has had to secure access to their de-anonymised data via its information gathering powers under the Act – this too is time-limited to 3 November 2020.
- 3.5 The Authority's Consultation charter signals the Authority will endeavour to consult on any further Code amendment required to replace an amendment made under urgency, and this has been the Authority's practice in the past.⁶ The mandatory market making urgent Code amendment made in February 2020 is different in this regard, as it was made to address a time-limited issue (the concurrent HVDC and gas outages in early 2020). However, that urgent Code amendment also secured access to participants' de-anonymised tick data, and for the reasons set out below, the Authority considers it would be for the long-term benefit of consumers if it secured access to participants' de-anonymised tick data on an ongoing basis. The Authority's preferred option for achieving this also presents an opportunity to secure other long-term benefits for consumers.

⁵ Available at: <https://www.ea.govt.nz/dmsdocument/26324-special-market-brief-30-january-2020>.

⁶ For example, the Authority's Code amendment to permit ATHs to amend certification reports in 2017/18.

4 De-anonymised tick data enhances performance of the Authority's statutory functions

- 4.1 Access to de-anonymised tick data provides many advantages to the Authority in performing its functions under the Act. Losing access to de-anonymised tick data will ultimately be to the long-term detriment of consumers. This section sets out the benefits of the Authority retaining access to participants' de-anonymised tick data.
- 4.2 Accessing de-anonymised tick data (and other data – discussed more in section 6 below) direct from an exchange platform is a significant improvement to how the Authority currently accesses participants' exchange-traded risk management contract data. The current means by which the Authority collects participants' data is time consuming and produces poor quality data. This is discussed in more detail in section 6 below.
- 4.3 This data is relevant to the Authority's performance of its market monitoring, market facilitation, and enforcement functions under the Act, as well as its ability to support market development.
- 4.4 For example, in relation to market monitoring, maintaining access to de-anonymised data would ensure the Authority has a continuous and uninterrupted data set. This would enhance the value of the data, which would contribute to improved analysis and decision making by the Authority. Through automated data analysis, the Authority could undertake more proactive monitoring and reporting of market performance. This would allow the Authority to produce timely and relevant market reports. These reports would provide greater transparency around market performance and would contribute to greater confidence in the market amongst users.
- 4.5 A specific example is the ability to monitor market maker performance. An automated data feed would allow the Authority to independently assess market maker performance without relying on the ASX monitoring and enforcing its market making contracts. This will allow the Authority to monitor market maker performance closer to real-time, without reliance on manual processing or requesting performance data. This kind of monitoring is not available to the Authority under the current data subscriptions it has. This would allow the Authority to give greater and more timely assurances to other industry participants, thereby lifting trust and confidence in the market.
- 4.6 De-anonymised tick data would enhance the Authority's ability to support market development. Exchange-traded risk management contracts are a key part of the wider electricity market, and better and more reliable data about participants' use of these contracts would further assist the Authority in the future.
- 4.7 A specific example of this is the Authority's *Hedge Market Enhancement* project, which is currently focussing on a review of market making arrangements, but also has scope to review other aspects of markets for risk management contracts. Another example is the Authority's current work to review the high standard of trading conduct provisions – which rely on an understanding of participants' position in both physical and financial markets. Data access would also contribute to better analysis in other future wholesale and future market development projects undertaken by the Authority.

- 4.8 Investigation and potential enforcement would be accelerated compared to a situation without automated data provision. Without access to tick data, the Authority would rely on participants (delayed) loading of trade data to the hedge disclosure website. In periods of market stress, prompt investigation is important for participants' confidence in the market. With automated and reliable data, the Authority would be able to set up automated monitoring of participants' behaviour in the market, reducing the resource needed to identify and investigate any concerning trends.

QUESTION ONE: ISSUE IDENTIFICATION

- 1(a) Has the Authority correctly identified an issue with its access to participants' de-anonymised tick data?
- 1(b) Are there other issues that the Authority has not identified?
- 1(c) Have the benefits of addressing the issue been correctly articulated? Has the Authority missed any benefits, or are the benefits identified mis-specified?
- 1(d) How else could the Authority use de-anonymised tick data to better perform its functions for the long-term benefit of consumers?

5 The Authority's preferred option to address this issue is to amend the Code

5.1 The Authority has considered several options to continue accessing de-anonymised tick data, including:

- (a) requesting the data on a voluntary basis;
- (b) requesting the data on an as needed basis using the Authority's information gathering powers; and
- (c) placing an obligation in the Code that requires participants to provide this information.

5.2 A voluntary approach would entail the Authority requesting each participant release its data to the Authority. A voluntary method is a non-intrusive and low-level regulatory option. This option is not preferred however because:

- (a) based on the Authority's recent experiences, this would not provide a comprehensive dataset. Although many participants have recently and voluntarily agreed to share their data with the Authority, others have stated a preference for a formal regulatory approach (while supporting the Authority's intention), and others have refused to provide the data which has led to regulatory intervention under the Authority's information gathering powers under the Act. The value of the dataset would be greatly reduced if not all participants' data is present. It is also time consuming to secure access to data from all relevant parties in this manner;
- (b) access to the data would be inherently uncertain because participants could rescind the Authority's access. The value of the dataset would be greatly reduced if it was not continuous through time; and
- (c) participants may be more likely to rescind the Authority's access when it is needed the most. For example, if the Authority was monitoring suspicious behaviour or investigating a participant in relation to a potential Code breach or complaint.

5.3 The Authority could rely on its existing information gathering powers under the Act to acquire this data on an as needed basis. This option is not preferred because:

- (a) it is unlikely to be an efficient use of the Authority's information gathering powers and regulatory good practice. If the Authority can foresee a continued use for certain information from participants it should endeavour to amend the Code to secure this information on an equitable, consistent and ongoing basis;
- (b) if data is gathered on an as-needed basis it would reduce some of the key benefits of the data. For example, the value of the data would be greatly reduced if it was not for a continuous time period, and the Authority could not undertake automated monitoring of market behaviour; and
- (c) reviewing information after the fact necessarily means that there is delay in the Authority's ability to intervene or undertake its market monitoring and enforcement functions. For example, a delay in investigating or addressing events in the market could erode participants' confidence in the relevant market.

5.4 The Code amendment option would require the Authority to amend the Code to ensure that participants provide continued access to their de-anonymised tick data. The Code would require participants to permit each exchange platform on which they trade to

share their de-anonymised data with the Authority and make necessary arrangements with their personnel to ensure such information can in fact be provided by the exchange to the Authority. The Authority would then arrange to acquire these data from the exchange platform.

- 5.5 This is the Authority's preferred option because it would ensure continuous access to the relevant data, which would enhance its value. This approach would also be equitable for all participants and ensures the Authority has a comprehensive view of participants' behaviour in the market. Amending the Code would also ensure transparency and certainty for participants (and some participants have expressed a preference for this approach) and would ensure a consistent approach is taken over time. Amending the Code in this manner would also provide an opportunity to secure other gains for the long-term benefit of consumers – discussed further below.

QUESTION TWO: OPTIONS ANALYSIS

- 2(a) Are there other options to address this issue that the Authority has not identified? If so, please provide a brief description of the alternative and its merits.
- 2(b) Has the Authority correctly analysed the options that it has identified? If not, please explain why.

6 Amending the Code presents an opportunity to secure others benefits in the long-term interest of consumers

6.1 If the Authority amends the Code to address the issue identified above, there is an opportunity to secure other benefits in the long-term interests of consumers:

- (a) the Authority can gain a comprehensive dataset of participants' trading activities on exchange platforms; and
- (b) if the Authority gains a comprehensive dataset, it can reduce the compliance costs of participants to manually disclose certain information and support the Authority's *Wholesale Market Information* project.

There is an opportunity to gather a comprehensive set of participants' data from exchange platforms

6.2 If the Authority amends the Code to secure access to participants' de-anonymised tick data from exchange platforms, there is little or no marginal cost to also securing access to a comprehensive set of participants' data from exchange platforms. Additional information that exchange platforms hold and that the Authority would benefit from acquiring are off market trade data, and open interest. There may be other information or data relating to risk management contracts and held by exchange platforms that the Authority is not aware of or that does not yet exist. The Authority's proposal is to ensure its access to participants' data is sufficiently wide to capture these potential future data also.

THE AUTHORITY TAKES DATA SECURITY SERIOUSLY

As a regulator, the Authority collects and holds large amounts of sensitive data about industry participants and individuals. The Authority has systems in place to appropriately deal with the sensitive data it controls. In the case of data subscriptions from the ASX, the Authority receives data directly into its secure cloud-based storage solution.

Data within the Authority's cloud-base storage solution is encrypted and analysed within that system (that is, it does not leave cloud-based storage for the purpose of analysis). Only specific staff within the Authority have access to its cloud-based storage solution. If access is required on a wider basis (for example, other Authority staff, or Authority contractors) time-limited and read-only access can be granted subject to internal approvals.

The Authority has had no reported breaches of its secure storage system and has a protocol to report breaches and near misses. All information and data the Authority holds, or has control of, is subject to the Official Information Act. The Authority is required by law to assess each request for access to official information on its merits. There are no exceptions to this requirement. However, the Authority considers there are likely to be relevant reasons for withholding information under the Official Information Act in the event of a request for access to sensitive information (such as de-anonymised tick data).

6.3 Off market trade data covers 'block trades' and 'exchange for physical trades', both of which do not occur on the exchange. A block trade is where significant trades are negotiated 'off screen' at an agreed price. This minimises potential contract price

movement and reduces delays in executing the trade. An exchange for physical trade is where a participant swaps a future or options contract for an equivalent physical position.

- 6.4 Open interest is a measure of an outstanding position in a contract. For example, if a participant buys a futures contract, they have an open position which would be reported. If that contract is then sold, the position is then closed, and no open interest is reported. The Authority would gather open interest by participant for each traded contract.
- 6.5 Off market trade data, open interest, and tick data represent a comprehensive set of participant trading data held by exchange platforms. Accessing this information means that the Authority could be confident it has the best available information regarding participant behaviour in the market.
- 6.6 The Authority has considered other options to secure this opportunity. However, for the same reasons set out in section 5 above, the Authority's preferred option is a Code amendment.

There is an opportunity to reduce compliance costs and support the Authority's Wholesale Market Information project

- 6.7 If the Authority secures a comprehensive set of participants' data from exchange platforms, the Authority can reduce participants' existing obligation to disclose the same data manually.
- 6.8 Currently, participants are required to disclose information regarding their risk management contracts under the hedge disclosure regime in subpart 5 of Part 13 of the Code.⁷ That information is published and available to participants for their use in an anonymised format. The information is also available to the Authority in a de-anonymised format, to support its statutory functions.
- 6.9 If the Authority accesses a comprehensive suite of participants' exchange-traded risk management data automatically and directly from an exchange it could reduce participants' existing disclosure obligations. Risk management contract data that is not automatically received by the Authority from an exchange would still need to be manually disclosed. This would include all over-the-counter contract data, as well as any exchange-traded contract data that the Authority is not receiving directly from an exchange. This opportunity has the benefit of:
 - (a) reducing compliance costs for participants, as they would no longer have to manually disclose each trade they make on an exchange platform; and
 - (b) reducing administration effort and costs for the Authority as it would no longer need to clean and review the exchange-traded data that is disclosed under the hedge disclosure website before analysing it.
- 6.10 As outlined above, manually disclosed exchange-traded contract data is currently available on the hedge disclosure website in an anonymised format. The Authority is aware that some participants (and other interested parties) may be using this data. The Authority is particularly interested in knowing whether participants use this data, and what marginal benefit it has over other publicly available sources of exchange-traded contract data.⁸ If this data has marginal benefit to the industry, the Authority could:

⁷ Available at: <https://www.ea.govt.nz/code-and-compliance/the-code/>.

⁸ For example, the Authority publishes reliable and consistent data on ASX exchange-traded contracts. Available at: <https://www.emi.ea.govt.nz/Forward%20markets/Reports>.

- (a) go ahead with an unchanged proposal (for example, if the Authority considers the marginal benefit is small);
 - (b) not address this particular opportunity (ie, retain the obligation for participants to manually disclose all risk management contract data (including exchange-traded contracts) to the hedge disclosure website); or
 - (c) publish an equivalent set of anonymised data from the data it receives from an exchange platform under the proposal.
- 6.11 Because of time constraints the Authority is not currently considering wider reforms to the hedge disclosure regime in subpart 5 of Part 13 of the Code. However, this proposal is a key enabler of potential future reform of that regime.
- 6.12 The existing hedge disclosure regime in the Code is widely considered by the industry as outdated – the data it produces can be of poor quality, is time consuming for participants to comply with, and requires manual cleaning and processing before it can be analysed.⁹ The Authority has an active project that may consider possible reforms to the hedge disclosure regime. That project (*Wholesale Market Information*) is currently reviewing thermal fuel disclosures as a key priority coming out of the Electricity Price Review final report. A secondary phase of that project will look at other information disclosure issues participants have raised with the Authority, of which a review of the hedge disclosure regime would be a high priority.
- 6.13 The Authority is not aware of other options to secure this opportunity but would welcome feedback on this issue.

QUESTION THREE: OPPORTUNITY IDENTIFICATION

- 3(a) Are there any other opportunities the Authority should consider as part of its proposal? If so, please provide a brief description of the opportunity and its merits.
- 3(b) Has the Authority correctly analysed the opportunities that it has identified? If not, please explain why.
- 3(c) Are there any other opportunities the Authority should consider addressing with the proposed code change? If so, please provide a brief description of the opportunity.
- 3(d) Has the Authority correctly analysed the options that it has identified? If not, please explain why.

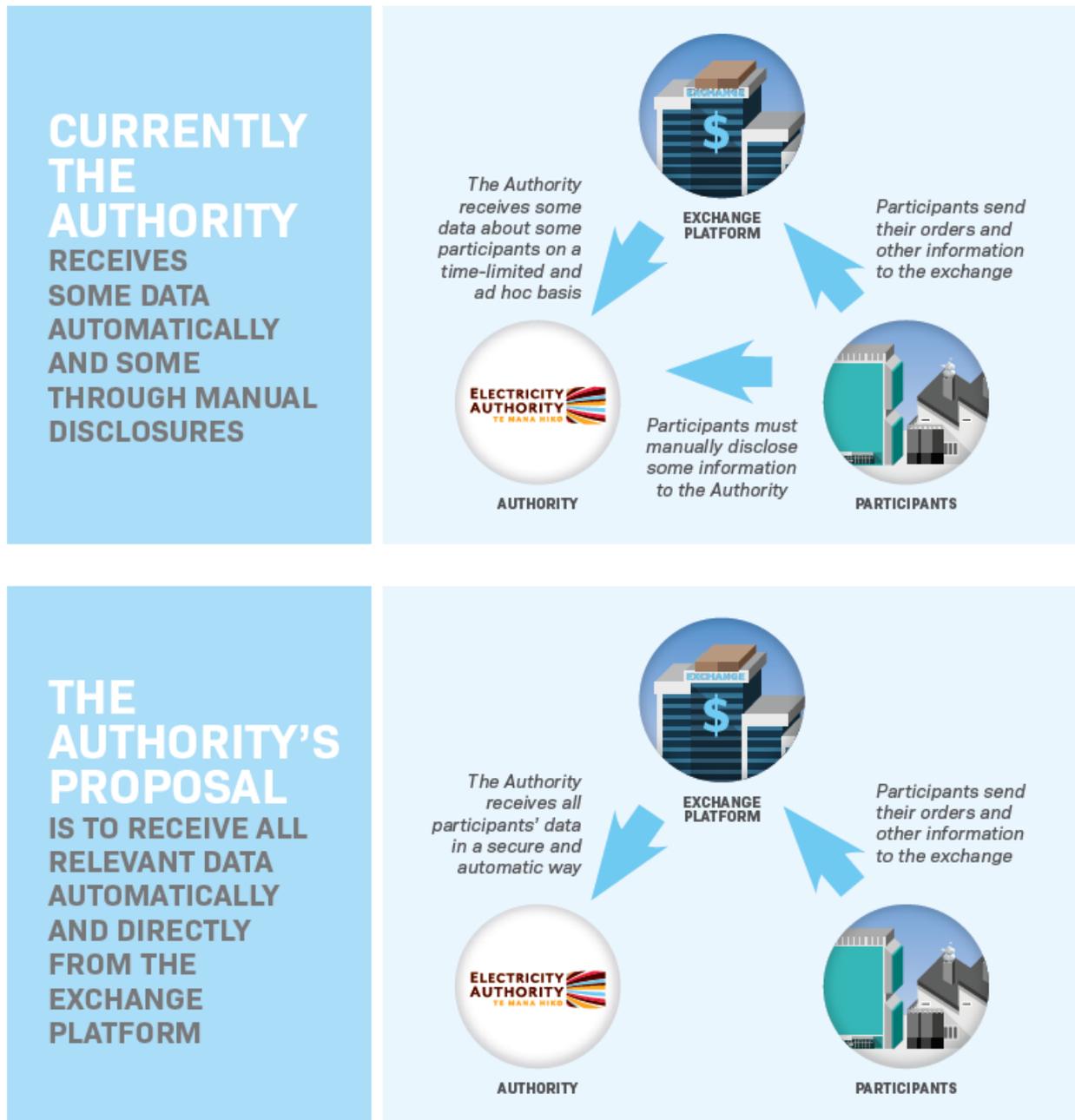
⁹ The Authority considers these issues are a product of the Code and not, for example, a product of the way in which the Wholesale Information and Trading System manager administers that aspect of the Code.

7 The Authority's proposal has a positive net benefit for consumers

- 7.1 In accordance with the requirements of the Act and the Authority's Consultation charter the Authority has undertaken a cost benefit analysis of its proposal.¹⁰ The Authority's analysis of the costs and benefits of its proposal show that it has a positive net benefit for consumers.
- 7.2 The Authority's analysis identified both quantifiable and unquantifiable cost and benefit categories. The quantifiable categories are the price of acquiring the data from an exchange platform (a cost) and reduced compliance and administrative costs for industry participants and the Authority (a benefit). These quantifiable costs and benefits are relatively low and could range from a small net benefit to a small net cost. The uncertainty in the quantifiable net cost/benefit position is driven from the uncertainty in the cost of data provision by the ASX.
- 7.3 The analysis also shows that there are large but unquantifiable benefits associated with the proposal, including enhancing the Authority's ability to undertake its functions, increased confidence in the futures market and acting as a key enabler to other Authority workstreams. We have not quantified these benefits but we expect them to be significantly greater in scale in relation to those that have been quantified.
- 7.4 In aggregate, the qualitative and quantitative benefits outweigh the expected costs of the proposal. See Appendix A for the Authority's full cost benefit assessment.

¹⁰ Available at: <https://www.ea.govt.nz/dmsdocument/14242-consultation-charter-december-2012>.

Figure 2: The Authority's proposal



QUESTION FOUR: COST BENEFIT ANALYSIS AND OTHER REGULATORY REQUIREMENTS

- 4(a) Do you have any feedback on the Authority's cost benefit analysis set out in Appendix A?
- 4(b) Do you have any feedback on the Regulatory statement in Appendix B?
- 4(c) Do you have any feedback on the Code amendment set out in Appendix C?

8 Next steps

- 8.1 The Authority's Board will consider any feedback received when it decides whether to proceed with the proposal in September 2020. If the Authority decides to proceed with the proposal the Code amendment will be implemented prior to 3 November 2020. The Authority's *Wholesale Market Information* project is considering a comprehensive review of the hedge disclosure regime in 2021.

Glossary of abbreviations and terms

Authority	Electricity Authority
Act	Electricity Industry Act 2010
Code	Electricity Industry Participation Code 2010
Regulations	Electricity Industry (Enforcement) Regulations 2010

Appendix A Cost benefit analysis

A.1 This appendix sets out the estimated benefits and costs of the Authority's proposal.

Categories of cost

Cost of acquiring data from exchange platforms

A.2 The cost of acquiring participants' de-anonymised trading data from exchange platforms is uncertain. For the foreseeable future the only relevant exchange platform is the ASX. For the purposes of this analysis the Authority has assumed the cost of acquiring data from the ASX as between \$20,000 and \$100,000 net present value (assumed over 15 a year time period and at a 6% discount rate). This figure is highly uncertain because the Authority is still in discussions with the ASX regarding the suite of data products it subscribes to.

Risk of increased avoidance

A.3 The Authority understands that some of the information collected under the proposal will be commercially sensitive to participants. The Authority has heard concerns that the Authority's access to this sensitive data could result in either the data being deliberately released under the Official Information Act or being inadvertently released due to a data breach. The Authority does not consider these risks to be relevant to its assessment of the proposal. The Authority (and any other regulator) requires access to commercially sensitive data in order to perform its functions and the Authority takes all reasonable steps to secure the data within its control.

A.4 However, there is a risk that participants may arrange their corporate structures (such as registering a company offshore) or trading behaviour (by trading through an offshore intermediary) in a manner to avoid the new obligations in the proposal. The Authority notes that this risk is already present with the existing obligation to disclose trades on the hedge disclosure website. However, as the data requirements are extended, the motivation may be increased. The Authority views this risk as minimal, as a change in corporate structure or deliberate avoidance of New Zealand regulatory obligations would be a disproportionate effort to avoid the disclosure of information.

Categories of benefit

The Authority would be able to more effectively carry out its statutory functions for the long-term benefit of consumers

A.5 Holding the data would enhance the Authority's ability to undertake its required functions under the Act including making and administering the Code, monitoring and enforcing compliance with the Act, the regulations and the Code and undertaking industry and market monitoring, including reviews, studies and inquires. The enhanced ability of the Authority to perform its functions would lead to better regulatory outcomes for consumers.

Increased overall market confidence

A.6 Market participants would have confidence that the Authority has the best available data on (nearly all) activity in the ASX New Zealand electricity futures market. Greater confidence in the market could lead to higher participation in the futures market, with

flow-on impacts on a more informed forward price curve, and participants undertaking greater levels of risk management.

Improvements to other Authority workstreams

- A.7 The *Wholesale Market Information* project may review the hedge disclosure regime in its next phase. This proposal is a key enabler and quick win for any comprehensive review of the current hedge disclosure regime.

Administrative cost savings for the Authority

- A.8 The Authority would be able to monitor market making performance itself and would not have to rely on ASX for quantitative (pass/fail) or qualitative (the degree to which they fail their obligations) data. This is currently received manually from ASX and requires manual processing each day.
- A.9 There would be an increase in administrative efficiency in accessing and analysing participants' ASX trade data direct from the exchange. This would be an enhancement over the current situation where data received from electricitycontracts.co.nz is of low quality and requires significant cleaning.
- A.10 For the purposes of this analysis the Authority has calculated the net present value of these cost savings to be approximately \$35,000 (assumed over a 15-year time period and at a 6% discount rate).

Compliance cost savings for industry participants

- A.11 Participants would no longer need to manually upload their trading information to electricitycontracts.co.nz. This would be a small administrative saving. For market makers and frequent traders, this would be a daily saving, and for less frequent traders, the saving would be reduced. Total estimated saving is approximately \$2,000 per annum for participants. For the purposes of this analysis the Authority has calculated the net present value of these cost savings to be approximately \$20,000 (assumed over a 15-year time period and at a 6% discount rate).

Analysis of costs and benefits

- A.12 The analysis undertaken by the Authority shows that the quantifiable costs (price of the data) and quantifiable benefits (compliance cost savings for participants and administrative cost savings for the Authority) are low and could range from a small net benefit to a small net cost. The uncertainty in the quantifiable net cost/benefit position is driven from the uncertainty in the cost of data provision by the ASX.
- A.13 The analysis also shows that there are large but unquantifiable benefits associated with the proposal, including enhancing the Authority's ability to undertake its functions, increased confidence in the futures market and acting as a key enabler to other Authority workstreams. We have not quantified these benefits but we expect them to be significantly greater in scale in relation to those that have been quantified.

Appendix B Regulatory statement

Objectives of the proposal

B.1 The objectives of the proposal are to:

- (a) secure permanent and continuous access to all participants' de-anonymised ASX tick data;
- (b) secure access to a comprehensive suite of participants' exchange-traded hedging data (which currently comprises de-anonymised tick data, de-anonymised off-screen trades, and open interest by participant); and
- (c) reduce participants' existing manual hedge disclosure obligations once the Authority starts receiving their data automatically and directly from the relevant exchange platform (currently only the ASX).

The proposal's benefits outweigh its costs

B.2 The Authority has analysed the costs and benefits of the proposal and has determined that the proposal's benefits outweigh its costs. This analysis is set out in Appendix A.

The Authority has not identified other suitable means of addressing the objectives

B.3 As set out in the consultation paper the Authority has found no other suitable means of addressing the objectives.

The proposal complies with section 32(1) of the Act

B.4 The Authority's objective under section 15 of the Act is to promote competition in, reliable supply by, and efficient operation of, the electricity industry for the long-term benefit of consumers.

B.5 Section 32(1) of the Act says that the Code may contain any provisions that are consistent with the Authority's objective and are necessary or desirable to promote one or all of the following:

Table 1: How proposal complies with section 32(1) of the Act

a) competition in the electricity industry;	The proposal supports competition in the electricity industry because it would increase confidence in the market for exchange-traded risk management contracts, which should drive greater competition.
b) the reliable supply of electricity to consumers;	N/A
c) the efficient operation of the electricity industry;	The proposal supports the efficient operation of the electricity industry because it would reduce compliance and administration costs for industry participants and the Authority.
d) the performance by the Authority of its functions;	The proposal would better enable the Authority's performance of its functions under the Act because

	more and better data would help inform the Authority's decisions when performing its functions.
e) any other matter specifically referred to in this Act as a matter for inclusion in the Code.	The proposed amendment would not materially affect any other matter specifically referred to in the Act for inclusion in the Code.

The Authority has given regard to the Code amendment principles

B.6 When considering the proposal the Authority has complied with its Consultation Charter¹¹ and has had regard to the following Code amendment principles, to the extent that the Authority considers that they are applicable.

Table 2: Regard for Code amendment principles

Principle	Comment
1. Lawful	The proposal is lawful because it is consistent with the Authority's statutory objective and with the empowering provisions of the Act.
2. Provides clearly identified efficiency gains or addresses market or regulatory failure	The proposal is consistent with principle 2 because it addresses an identified efficiency gain which requires a Code amendment to resolve.
3. Net benefits are quantified	The extent to which the Authority has been able to quantify the benefits of the proposal are set out in Appendix A. The Code amendment principles recognise that quantitative analysis is not always possible. This is the case with the Authority's proposal. However, the Authority is confident the benefits of the proposal (both quantified and unquantified) significantly outweigh its costs (both quantified and unquantified).

¹¹ Available at: <https://www.ea.govt.nz/dmsdocument/2941-consultation-charter-december-2010>.

Appendix C Proposed Code amendment

New clauses to add to subpart 5 of Part 13

13.236AA Requirement to provide consent to exchange

- (1) Each **participant** must ensure that, before placing any bid or offer for, or entering into, an exchange-traded **risk management contract**, it has provided the consent described in clause 13.236AA(2) to the exchange through which the bid or offer will be placed or contract entered into, which consent must continue to be in effect at the time any such bid or offer is placed or contract is entered into.
- (2) The consent required under subclause (1) must be in the **prescribed form** and allow the exchange to provide any of the following de-anonymised information (including historical information) to the **Authority** at such frequency as may be required by the **Authority** from time to time:
 - (a) any information, documents or data in relation to bids or offers placed for **risk management contracts**, or in relation to such contracts entered into, by, or on behalf of, the **participant** (including in relation to buy and sell prices, trading periods, volumes and quantities):
 - (b) any information, documents or data in relation to the number of outstanding **risk management contracts** held by, or on behalf of, the **participant** at the end of each **trading day**:
 - (c) any other information, documents or data that the **Authority** may require for the specified purposes of information disclosure provided for under clause 13.217, or otherwise to carry out its functions under the **Act** as they relate to the market for exchange-traded **risk management contracts**.
- (3) Each **participant** must ensure that, immediately after providing consent in accordance with subclause (1), all necessary arrangements are in place with any agent, associate, contractor, service provider, or other person acting on behalf of, or on the instructions of, the **participant** to facilitate the provision of all information described in subclause (2) by the exchange to the **Authority**.
- (4) Each **participant** must, within 5 **business days** of receiving a written request from the **Authority**, supply the **Authority** with such evidence as may be reasonably required by the **Authority** to satisfy itself that the consent and arrangements required by this clause 13.236AA are in full force and effect.
- (5) The **Authority** may issue guidelines to assist **participants** to identify the types of information the **Authority** may obtain from an exchange and the types of arrangements it expects **participants** to put in place to facilitate the provision of such information.

New subclause to add to clause 13.218

13.218 Parties required to submit information

- (1) The following **parties to risk management contracts** are required to submit the information specified in clauses 13.219, 13.222 and 13.223 using an **approved system**:
- (a) the **seller**, if the **seller** is a **participant**; or
 - (b) the **buyer**, if the **buyer** is a **participant** and the **seller** is not a **participant**.
- (2) Despite subclause (1), a **party** specified in that subclause is not required to submit certain information specified in clauses 13.219, 13.222 and 13.223 using an **approved system** if the **Authority** is satisfied that appropriate consent and arrangements are in place under clause 13.236AA for the **Authority** to obtain such information directly from an exchange and the **Authority** has advised that **party** in writing—
- (a) that this subclause applies; and
 - (b) what information that **party** is not required to submit.