

Reporting on wholesale market information disclosure (clauses 13.2B-D of the Code) – template for reporting form

March 2021

The Authority is in the process of developing a secure web form for major participants to use to complete the reporting obligations. This document contains the questions that participants will need to respond to in this web form. The Authority will engage with stakeholders during the web form development to ensure it meets your needs. The contents of these questions may change slightly during development of the web form.

Key functionality the web form is likely to contain will include the ability to upload documents, as well as to download the data submitted for your own records or to facilitate managerial signoff.

Introduction

- Information provided in this form will be used by the Authority to monitor major participants' compliance with the information disclosure rules contained in clause 13.2A of the Electricity Industry Participation Code (Code).
- Please refer to clauses 13.2A-L and the *Guidelines for participants on wholesale market information disclosure obligations* accessible [here](#) for more information on what the Code requires and how to comply.
- If you have any questions about how to complete the reporting form please contact marketoperations@ea.govt.nz

How the Authority will use this information

- The Authority may generally publish information submitted in the quarterly reports for the purposes of monitoring the Code and providing transparency to industry. However, the Authority will not publish:
 - information that is subject to certain exclusions (clause 13.2A(2)) (reasonable person test; confidentiality; breach of law; incomplete proposal / negotiation; insufficiently definite; trade secret)
 - the grounds for any exclusion or such other information the nature of which could enable a participant or member of the public to reasonably identify the disclosure information.
- In relation to confidential information or where disclosure would be a breach of law, the Authority is bound to keep this confidential, but this does not prevent the Authority using this information for certain purposes specified under the Electricity Industry Act (Act), primarily relating to market monitoring and enforcement. A similar limitation applies to the use of any information subject to legal professional privilege.
- The Authority is still required to comply with the requirements under the Act relating to information subject to the privilege against self-incrimination.

Terminology

- The following terms are used in this form:
 - you: the participant you are responding on behalf of
 - 'non-disclosed' item: a piece of disclosure information that was not disclosed for some time as an exclusion was relied upon
 - reporting quarter: the most recent quarter you are completing a report for

Example: Final investment decision to build a new 50MW wind farm.

- The participant has been developing plans for a new wind farm to be built. As the farm will be 50MW, the decision to progress with the build will be classified as disclosure information as it is big enough that it will be material to wholesale prices.
- During the April – June 2021 quarter the information was insufficiently definite to require publication (clause 13.2A(2)(g)). This information should be reported under section 4 as a new 'non-disclosed' item.
- On 17 July 2021 the Board of the company make the final investment decision to progress with the build. They announce the plans on the NZX announcements board. For the July – September quarter this information should now be reported under section 5, as an update to the 'non-disclosed' item reported in the previous quarter.

Qu	Disclosure report		Guidance	Example
Introductory questions				
i	Participant name	Drop down from participant list		XXXX
ii	Disclosure for which quarter	Drop down of list of quarters (historical, commencing from policy go live date)	Quarterly reports are due by the end of each month following the expiry of the quarter to which the report relates (30 April, 31 July, 31 October, 30 January)	April – June 2021

Qu	Disclosure report		Guidance	Example															
			<table><tr><th>Quarter start</th><th>Quarter end</th><th>Quarterly disclosure report due</th></tr><tr><td>1 January</td><td>31 March</td><td>30 April</td></tr><tr><td>1 April</td><td>30 June</td><td>31 July</td></tr><tr><td>1 July</td><td>30 September</td><td>31 October</td></tr><tr><td>1 October</td><td>31 December</td><td>31 January</td></tr></table>	Quarter start	Quarter end	Quarterly disclosure report due	1 January	31 March	30 April	1 April	30 June	31 July	1 July	30 September	31 October	1 October	31 December	31 January	
Quarter start	Quarter end	Quarterly disclosure report due																	
1 January	31 March	30 April																	
1 April	30 June	31 July																	
1 July	30 September	31 October																	
1 October	31 December	31 January																	
Report on policies, procedures or processes																			
1	Do you have a written policy, procedure and/or process for information disclosure?	Yes/ no	<p>Provision of this information is required by clause 13.2D(1)(b)</p> <p>The purpose of the written policy, procedure and/or process is to identify and determine whether</p> <ul style="list-style-type: none">any information held by the major participant is disclosure information to which clause 13.2A(1) applies, andthere are grounds under clause 13.2A(2) for not making that information readily available to the public	Yes															
Determine relevance of report and general compliance																			
2a	Did you hold or were you aware of any disclosure information to which clause 13.2A(1) applies during the quarter?	Yes/ no If no, do not need to complete next questions	<p>Provision of this information is required by clause 13.2B(2)(a)</p> <p>Disclosure information is defined in part 1 of the Code as: disclosure information, in relation to a participant, means information that—</p> <p>(a) is about the participant; and</p> <p>(b) is held by the participant; and</p> <p>(c) the participant expects, or ought reasonably to expect, if made available to the public, will have a material impact on prices in the wholesale market (Note from 6 April 2021, this is amended to 'likely to have a material impact on prices in the wholesale market')</p> <p>See section 6 of the Guidelines for more information on 'what is disclosure information'.</p>	Yes															
2b	Please confirm you complied with clause 13.2A during the quarter:	Yes/ no	<p>Provision of this information is required by clause 13.2B(f)</p> <p>Clause 13.2A(1) requires that; Each participant must make all disclosure information in relation to the participant readily available to the public, free of charge, as soon as reasonably practicable after the participant becomes aware of the information. Also refer to clause 13.2A(2)-(6)</p>	Yes															
2c	If you did not comply with clause 13.2A at any time during the quarter, please provide details of that non-compliance:	Free text Required if answered 'no' to question 2b Option to upload document	<p>Provision of this information is required by clause 13.2B(g)</p> <p>Have you discussed this with the Authority's Compliance team?</p> <p>For any previously unreported non-compliance, please contact the Compliance team (compliance@ea.govt.nz)</p> <p>Please provide summary detail of the non-compliance</p> <p>For more information on how to report an alleged breach, please see here: https://www.ea.govt.nz/code-and-compliance/compliance/how-to-allege-a-breach/</p>	Self notified breach on XX date															

Qu	Disclosure report		Guidance	Example
2d	If you published disclosure information in the last quarter, please list all locations or methods of disclosure used:	Free text Option to upload document	Provision of this information is required by clause 13.2B(2)(b) Please list all locations or methods of disclosure used by the participant during the reporting period, including webpage links. For more information see sections 9 and 10 of the Guidelines (describing how, when and for how long the information should be made readily available to the public)	Disclosure information was published on POCP: https://pocp.redspider.co.nz/ and the NZX announcements board: https://www.nzx.com/markets/NZSX/announcements
Enter a 'non-disclosed' item If you held disclosure information which was not published as soon as reasonably practicable because an exclusion was relied upon, you need to enter a 'non-disclosed' item : Unique ID generated each time				
3	Does the information relate to a 'non-disclosed' item you reported in a previous quarter?	Yes/no If yes, go to question 5		No
The information does not relate to a 'non-disclosed' item reported in a previous report. Enter a new 'non-disclosed' item				
4a	At some point during the reporting quarter, did the information meet the definition of disclosure information?	Yes/no If no: 'No need to disclose'	Disclosure information is defined in part 1 of the Code as: disclosure information, in relation to a participant, means information that— (a) is about the participant; and (b) is held by the participant; and (c) the participant expects, or ought reasonably to expect, if made available to the public, will have a material impact on prices in the wholesale market See section 6 of the Guidelines for more information on 'what is disclosure information'.	Yes
4b	Provide the disclosure information or a description of the disclosure information	Free text	Clause 13.2C(1) requires that enough information be provided in the description of disclosure information to reasonably enable the Authority to identify whether it is likely that the major participant held or continues to hold disclosure information, and held or continues to hold reasonable grounds to not make the disclosure information readily available to the public. See 12.5-12.11 of the Guidelines for more information.	Final investment decision to build a new 50MW wind farm.
4c	When did you decide to not make the disclosure information readily available to the public?	Date	This should be a date within the reporting quarter.	21 May 2021
4d	What grounds did you rely on under clause 13.2A(2) to not make the disclosure information readily available to the public?	Drop down from list of exclusions in 13.2A(2) and 13.2 (misleading or deceptive) (multi select)	Once a participant has identified that information it holds is disclosure information, the participant may choose not to make the information readily available to the public if one of the exclusions in clause 13.2A(2) applies. The onus of demonstrating that an exclusion applies (refer to section 8) rests with the holder of the information. Consideration of whether an exclusion applies should be done on a case-by-case basis and will depend on the nature of the information and the specific circumstances. If any of the exclusions apply to only some of the disclosure information, a participant must still publish the disclosure information that does not fall within the exclusions. See section 4, 7 and 8 of the Guidelines for more information on the relevance of clause 13.2, what exclusions can apply and who has to demonstrate an exclusion applies.	13.2A(2)(f) – the disclosure information concerns an incomplete proposal or negotiation
4e	Did you publish the information this quarter?	Yes/no If no, end here If yes, continue	You may be obliged to publish some or all of the disclosure information if the exclusion ceases to apply to some or all of the disclosure information.	Yes

Qu	Disclosure report		Guidance	Example
4f	When did you decide to make the disclosure information readily available to the public, as the ground in clause 13.2A(2) or 13.2 no longer applied?	Date	This should be a date within the reporting quarter.	5 June 2021
<p><i>The information relates to a 'non-disclosed' item reported in a previous report.</i></p> <p><i>Update a previous 'non-disclosed' item</i></p>				
5a	Provide the relevant unique ID number of the historical 'non-disclosed' item	Unique ID	Choose the historical 'non-disclosed' item you want to update from the list.	XXX001
5b	Does it still meet the definition of disclosure information?	<p><i>If no: Mark item as 'no longer disclosure information'</i></p> <p><i>If yes: continue</i></p>	<p>Disclosure information is defined in part 1 of the Code as: disclosure information, in relation to a participant, means information that—</p> <p>(a) is about the participant; and</p> <p>(b) is held by the participant; and</p> <p>(c) the participant expects, or ought reasonably to expect, if made available to the public, will have a material impact on prices in the wholesale market</p> <p>See section 6 of the Guidelines for more information on 'what is disclosure information'.</p>	Yes
5c	Update the (description of) disclosure information	Free text	<p>Clause 13.2C(1) requires that enough information be provided in the description of disclosure information to reasonably enable the Authority to identify whether it is likely that the major participant held or continues to hold disclosure information, and held or continues to hold reasonable grounds to not make the disclosure information readily available to the public.</p> <p>See 12.5-12.11 of the Guidelines for more information.</p>	Final investment decision to build a new 50MW wind farm.
5d	What grounds did you rely on under clause 13.2A(2) to not make the disclosure information readily available to the public?	Drop down from list of exclusions in 13.2A(2) and 13.2 (misleading or deceptive) (multi select)	<p>Once a participant has identified that information it holds is disclosure information, the participant may choose not to make the information readily available to the public if one of the exclusions in clause 13.2A(2) applies.</p> <p>The onus of demonstrating that an exclusion applies (refer to section 8) rests with the holder of the information.</p> <p>Consideration of whether an exclusion applies should be done on a case-by-case basis and will depend on the nature of the information and the specific circumstances. If any of the exclusions apply to only some of the disclosure information, a participant must still publish the disclosure information that does not fall within the exclusions.</p> <p>See section 4, 7 and 8 of the Guidelines for more information on the relevance of clause 13.2, what exclusions can apply and who has to demonstrate an exclusion applies.</p>	13.2A(2)(f) – the disclosure information concerns an incomplete proposal or negotiation
5e	Did you publish the information this quarter?	<p>Yes/no</p> <p><i>If no, end here</i></p> <p><i>If yes, continue</i></p>	You may be obliged to publish some or all of the disclosure information if the exclusion ceases to apply to some or all of the disclosure information.	Yes
5f	When did you decide to make the disclosure information readily available to the public, as the ground in clause 13.2A(2) or 13.2 no longer applied?	Date	This should be a date within the reporting quarter.	<p>17 July 2021</p> <p>(for examples sake, scenario 5 refers to a report submitted for the quarter July – September 2021)</p>
<p>Do you want to enter another 'non-disclosed' item?</p> <p>If yes: return to question 3</p> <p>If no: continue</p>				
<p>Certification of quarterly reports</p>				

Qu	Disclosure report		Guidance	Example
6	Please confirm you consider, on reasonable grounds and to the best of your belief, that the quarterly disclosure report is complete and is a true and correct record of the matters stated in the quarterly disclosure report	Yes/ no	Clause ref 13.2D(1) A senior member of staff needs to certify the information provided is complete, true and correct.	Confirmed
Signoff				
7a	Signed by	Option to upload document	Clause ref 13.2D(3) Director, or the chief executive officer, or the chief financial officer, or a person holding a position equivalent to one of those positions of the major participant	
7b	Name	Free text		
7c	Title	Free text		
7d	Date	Date		
7e	Participant contact details: contact name	Free text	Please provide contact details of Regulatory Manager or similar (not Director/CEO etc) in case we have any questions about this report.	
7f	Participant contact details: address	Address		
7g	Participant contact details: email	Email		
7h	Participant contact details: telephone	Telephone number		