

RESOLUTION 13¹

“Imposition of measures on Balancing Market Clearing Members”

as approved by the Regulatory Authority for Energy (Decision 955/2020)

Article 1. Scope of Application & Definitions

1.1 Scope of Application

1. This Resolution sets out the measures taken in instances, described in section § 5.2. of the Chapter 5 of the Clearing Rulebook for Balancing Market Positions.
2. This Resolution concerns additional measures of those included in the Chapter 4 of the Clearing Rulebook for Balancing Market Positions and relate to the default case of Clearing member and the relevant actions of EnExClear.

1.2 Definitions

1. The terms and definitions used in this Resolution shall have the same meaning as in Law 4425/2016, Law 4001/2011 or in any other related legislation of national or EU law, in the Clearing Rulebook for Balancing Market Positions, in the Rulebook of the Balancing Market, as well as in other decisions adopted in implementation thereof.
2. In every case, the provisions of this Resolution are interpreted in accordance with the rules and principles foreseen in the Scope of Application of the Clearing Rulebook for Balancing Market Positions.

Article 2. Definition of measures per instance

1. For each instance included in section 5.2 of the Clearing Rulebook for Balancing Market Positions, the following measures are set out.

¹ Unofficial translation from the Greek language as of 30/07/2020. In case of any discrepancy between the Greek and the English version, the Greek version prevails.

| Instance | Initial Measure | Measure in case of relapse or not resolving the problem within a reasonable time (*) |
|--|-------------------|---|
| 1. Breach by a Clearing Member of the provisions of this Clearing Rulebook for Balancing Market Positions, in particular: | | |
| a) A Clearing Member does not fulfil or inadequately fulfils the necessary conditions for acquiring and maintaining the capacity of Clearing Member, such as by way of indication: | | |
| (i) Lack of the required organisational and operational adequacy of the Clearing Member. | Written reprimand | <p>Fine equals to 10% of the EnExClear fees during the previous month for the Clearing Member and within the terms set in the section 5.1 paragraph 1 (d) of the Clearing Rulebook for Balancing Market Positions.</p> <p>If the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, a suspension of the capacity of Clearing Member is initially imposed and eventually the Clearing Member is deleted.</p> |
| (ii) Decrease of the Clearing Member's own funds below the minimum required for acquisition of the aforesaid capacity. | Written reprimand | <p>If the problem has not been resolved within reasonable time period, a restriction concerning Clearing Member's participation, is imposed. If the non-resolution is prolonged, a suspension of the capacity of Clearing Member is initially imposed and eventually the Clearing Member is deleted.</p> |
| (iii) Failure of the Clearing Member's employees who perform Certified Clearer tasks to satisfy the eligibility criteria. | Written reprimand | Prohibition on the participation of the Certified Clearing Member in Clearing. |

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| | | <p>If the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, a suspension of the capacity of Clearing Member is initially imposed and eventually the Clearing Member is deleted.</p> |
| <p>(iv) Non-payment or default on payment of the required subscriptions and other fees and debts in general of the Clearing Member to EnExClear.</p> | <p>Written reprimand</p> | <p>Fine equals to 10% of the late payments and within the terms set in the section 5.1 paragraph 1 (d) of the Clearing Rulebook.</p> <p>If the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation is imposed. If the non-resolution is prolonged, the Clearing Member is finally deleted.</p> |
| <p>(v) Failure to meet the requirements pertaining to the Clearing or Settlement, as the case may be.</p> | <p>Written reprimand</p> | <p>If the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation is imposed. If the non-resolution is prolonged, the Clearing Member is finally deleted.</p> |
| <p>b) Non-compliance of a Clearing Member with the technical instructions of EnExClear or with the technical specifications set by EnExClear for the use and operation of the systems utilized by the Member to participate in Clearing or Settlement.</p> | <p>Written reprimand</p> | <p>Fine equals to 10% of the EnExClear fees during the previous month for the Clearing Member and within the terms set in the section 5.1 paragraph 1 (d) of the Clearing Rulebook.</p> <p>If the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, a</p> |

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| | | suspension of the capacity of Clearing Member is initially imposed and eventually the Clearing Member is deleted. |
| c) Unlawful or unauthorized use or misuse of the systems used by a Clearing Member for its participation in the Clearing or Settlement of Transactions. | Written reprimand | <p>Fine equals to 10% of the EnExClear fees during the previous month for the Clearing Member and within terms set in the section 5.1 paragraph 1 (d) of the Clearing Rulebook.</p> <p>If the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, a suspension of the capacity of Clearing Member is initially imposed and eventually the Clearing Member is deleted.</p> |
| d) Non-compliance of a Clearing Member with the requirements stipulated from time to time by EnExClear with respect to its participation in Clearing or Settlement, such as by way of indication: | | |
| (i) Failure to provide the required collateral to EnExClear or deposit the required contributions to the Default Fund. | Written reprimand | If the problem has not been resolved within reasonable time period, restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, the Clearing Member is finally deleted. |
| (ii) Inadequate monitoring of the risks arising from the Positions of the Clearing Accounts maintained by the Clearing Member. | Written reprimand | If the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, a suspension of the capacity of Clearing Member is initially |

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| | | imposed and eventually the Clearing Member is deleted. |
| (iii) Failure of the Clearing Member to fulfil its obligations or comply with the instructions of EnExClear regarding the management of defaults in the Clearing Accounts it maintains or the late fulfilment of its obligations. | Written reprimand | If the problem has not been resolved within reasonable time period, restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, the Clearing Member is finally deleted. |
| 2. Submission by a Clearing Member of false or misleading information to EnExClear, by way of indication in the following cases: | | |
| a) Upon submission of the application for the acquisition of the capacity of Clearing Member. | Written reprimand | If the false or misleading information submitted, is obviously not due to negligence of the Member or the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, the Clearing Member is finally deleted. |
| b) When opening or using any of the Member's Clearing Accounts in connection with its participation in the Clearing or Settlement of Transactions. | Written reprimand | If the false or misleading information submitted, is obviously not due to negligence of the Member or the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation is imposed. If the non-resolution is prolonged, the Clearing Member is finally deleted. |
| c) Upon submission of data, supporting documents or information requested from the Member by EnExClear from time to time. | Written reprimand | If the false or misleading information submitted, is obviously not due to negligence of the Member or the problem has not been resolved within |

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| | | reasonable time period, a restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, the Clearing Member is finally deleted. |
| 3. Failure of a Clearing Member to comply with the announcements, decisions or instructions of EnExClear. | Written reprimand | If the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, a suspension of the capacity of Clearing Member is initially imposed and eventually the Clearing Member is deleted. |
| 4. Non-fulfilment or improper fulfilment of the obligations of a Clearing Member which arise from any and all contracts signed with EnExClear, including but not limited to the technical contracts and general contracts signed by the Member with EnExClear for the purpose of connecting to the System, as well as any other obligation arising from the commitments undertaken by the Clearing Member towards EnExClear. | Written reprimand | <p>Fine equals to 10% of the EnExClear fees during the previous month for the Clearing Member and within the terms set in the section 5.1 paragraph 1 (d) of the Clearing Rulebook.</p> <p>If the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, a suspension of the capacity of Clearing Member is initially imposed and eventually the Clearing Member is deleted.</p> |
| 5. Acts or omissions of a Clearing Member which harm the reputation and standing of EnExClear or discredit the services provided and the activities exercised by EnExClear. | Written reprimand | <p>Fine equals to 10% of the clearing fees that calculated during the previous month for the Clearing Member and within the terms set in the section 5.1 paragraph 1 (d) of the Clearing Rulebook.</p> <p>If the problem has not been resolved within reasonable time period, a restriction concerning</p> |

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| | | the Clearing Member's participation is imposed. If the non-resolution is prolonged, a suspension of the capacity of Clearing Member is initially imposed and eventually the Clearing Member is deleted. |
| 6. The occurrence of events that affect the operation of a Clearing Member, such as the dissolution of the undertaking or company of the Clearing Member, the initiation of insolvency proceedings, including bankruptcy, compulsory winding up or rehabilitation of the undertaking or company of the Clearing Member, as well as revocation of the Clearing Member's license to operate or provide services. | Imposition of restriction with regard to the Clearing Member's participation or suspension of the capacity of Clearing Member | Deletion of Clearing Member |
| 7. The imposition of sanctions on a Clearing Member by the Competent Authorities, which are not directly related with the clearing operations. | Written reprimand | If the problem has not been resolved within reasonable time period, a restriction concerning the Clearing Member's participation is imposed. If the non-resolution is prolonged, a suspension of the capacity of Clearing Member is initially imposed and eventually the Clearing Member is deleted. |
| 8. The receipt of information by EnExClear from the Competent Authorities, notifying that measures have to be imposed by EnExClear against a Clearing Member in order to protect the market and the interests of investors. | Imposition of the measures defined by Competent Authorities (e.g imposition of restrictions concerning the Clearing Member's participation in Clearing) | If the problem has not been resolved within reasonable time period, restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, the Clearing Member is finally deleted. |
| 9. Serious misconduct by a Clearing Member in respect of its compliance with legal provisions. | Written reprimand | If the problem has not been resolved within reasonable time period, restriction concerning the Clearing Member's participation, is imposed. If the non-resolution is prolonged, |

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| | | the Clearing Member is finally deleted. |

(*) The reasonable time period depends on each case and is notified to the Member during the imposition of the initial measure

2. The procedure of imposition of the above measures is described in sections 5.3 up to 5.6 of the Clearing Rulebook for Balancing Market Positions. The procedure of reviewing of the decisions about impositions of measures as well as the execution and lifting of them, described in sections 5.4 & 5.5 of the Clearing Rulebook for Balancing Market Positions.

This Resolution shall enter into force on the date of its publication in the Government Gazette.