

Ontario's Compliance Enforcement Framework

Harry Chandler

Director, Market Assessment & Compliance

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Summary

- Mandatory Reliability Standards in Ontario:
Business as Usual
- Enforcement Practices & Procedures:
No Surprises
- Confidential Investigation, Full Disclosure,
Right of Rebuttal, Access to Dispute Resolution
Panel, Appeal to OEB:
Due Process
- Compatible with U.S.-based ERO:
Made in Ontario

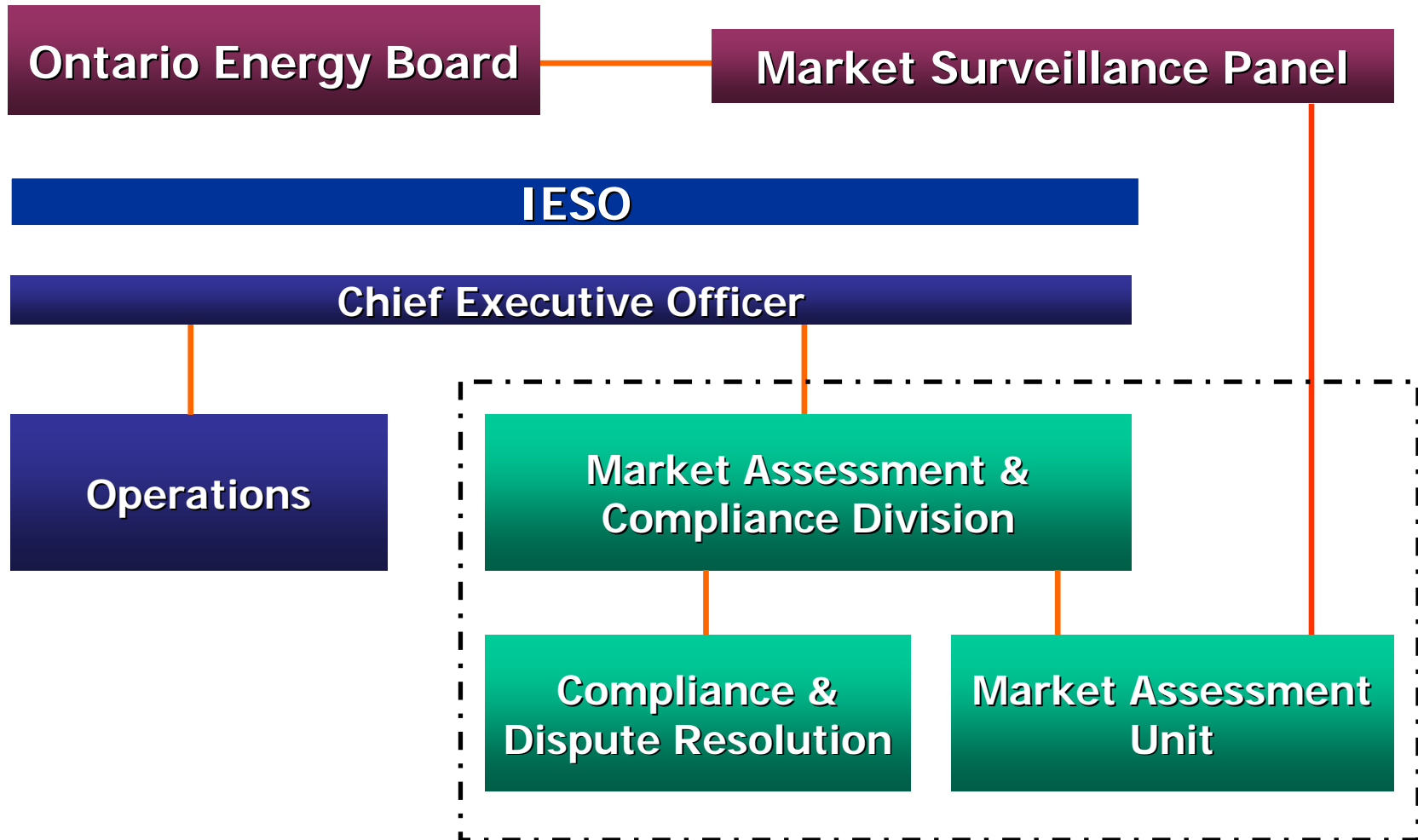
Ring-Fencing

- Market Assessment & Compliance Division (MACD) is an arms-length business unit within the IESO
- Direct report to President and CEO
- Delegation of compliance enforcement:
 - MACD makes all determinations & exercises all authorities accorded the IESO in the rules concerning alleged breaches, non-compliance letters & financial penalties

Ring-Fencing

- Closed access to investigative records
- MACD applies the same investigative procedures and equivalent remedies to the IESO as for market participants
- External audit of compliance procedures underway, addressing among other things:
 - independence, consistency, transparency and fairness in enforcing the market rules

Relationships



Established Practices & Procedures

- Enforcement of compliance with Ontario's market rules has been in place since market opening – May 1, 2002
- Compliance is not an end in itself, but a means to ensure the effective functioning of the IESO-administered markets and the IESO-controlled grid
- Working assumption: participants wish to operate in compliance with the rules

Guiding Principles

- **Fairness:** Trying to strike the right balance between the promotion of compliance & the enforcement of compliance
- **Consistency:** Applying the same review process and same interpretation of rules across the market
- **Transparency:** Explaining enforcement intentions in advance & reporting breaches after they are established
- **Timeliness:** Striving to deal with issues quickly according to priority

Reliability Standards

- “All market participants shall ensure that their equipment and facilities connected to the IESO-controlled grid adhere to all applicable reliability standards.”
(Market Rules: Ch. 4, s. 2.1.1)
- Monitoring and enforcement of this requirement has occurred in the same manner since market opening as other rule obligations
- 46 investigations, 2 breaches, \$8000 penalties

How Are Investigations Initiated?

- Includes MACD monitoring, but largely complaint driven
- Complaints or referrals from IESO or participant:
 - If participant & IESO business unit can't resolve expectations under the rules, e.g., referral from IESO's Market & Systems Operations on a NERC reliability standard or,
 - MACD deems the matter a priority to be dealt with formally
- Referrals from auditing process

Investigation Steps

- Complaint of alleged non-compliance
- MACD verification & informal contact with participant allegedly in breach
- Notice of Alleged Breach – written notice with details of allegation & type of sanctions, if proven
- IESO or participant response and/or meeting
- Finding - if breach, Notice of Non-Compliance

Sanctions

One or more of...

- Notice of Non-Compliance
- Directive
 - do what is necessary to comply or cease activity constituting breach
 - additional record-keeping or reporting
- Financial Penalty
 - only if breach could have been avoided by due diligence, or intentional
- Publication if breach is found
- If market participant persistently breaches, can lead to suspension and disconnection

Financial Penalties

Level	Situation	Maximum Amount
L1	Partial Compliance, Self-report	<\$2,000
L2	Non-compliance, Self-report	<\$4,000
L3	Non-compliance, Non-report, Follow-up Cooperation	<\$6,000
L4	Non-compliance, Non-report, Failure to respond to IESO	<\$10,000

Elevated penalties for egregious (market) behaviour

Appeal

- Dispute Resolution Panel
 - breaches expressly covered
- OEB
 - financial penalty greater than \$10,000
 - dispute resolution provisions must be used first
- To date no matters have gone to the Dispute Resolution Panel or the OEB

Proposed Rule Changes

- Addition of specific reference to reliability breaches in the penalty factors used to determine appropriate sanction (Ch. 3, s. 6.6.7)
- Addition of authority to exceed the base penalty where appropriate, for breaches of reliability standards (Ch. 3, s. 6.6.13)

Rationale:

Post-blackout recommendation that is consistent with industry practice

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Authorities

Electricity Act, 1998

- IESO may make market rules (S. 32)
- Appeals of orders under rules to OEB (S. 36 (1))

Market Rules

- IESO has authority to establish reliability standards and maintain reliability (Ch. 1, s. 5.3.1.6)
- Market participants required to adhere to all applicable reliability standards (Ch. 4, s. 2.1.1)
- Procedures for alleged breaches, non-compliance letters and financial penalties (Ch. 3, s. 6)
- Dispute resolution (Ch. 2, s. 2)