

emsTradepoint Force Majeure Consultation

Response Summary

emsTradepoint (etp) received six written responses to the consultation and conducted numerous conversations with industry participants. Responses have been published on the etp [public website](#).

Summary of Responses

Below is a summary of the responses etp received in relation to each question in the consultation document.

Question 1	Do you agree that FM on the exchange should align more closely with GSAs?
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To clarify, the alignment of Force Majeure (FM) rules between etp and gas supply agreements (GSAs) relates to enabling participants to call FM on the day (OTD) on etp. The intention is not to link specific FM clauses in existing bilateral agreements with FM on the market. etp would have bespoke wording and exchange functionality to incorporate OTD FM into the Market Rules that would apply to all trading Participants.

There was agreement in principle in four of the written responses and one respondent that did not make a written submission. It was agreed that OTD FM would assist with the pipeline balancing after a trip. It was also a view that the System Operator can already curtail market flows on the pipeline, and OTD FM would effectively be similar. However, etp acknowledges that some Participants in the past have questioned whether it is right for etp to be curtailed by the System Operator. This is something that should be investigated outside the scope of this consultation.

This support was not without some caveats. It was highlighted that FM clauses in GSAs cover more than just relief to the affected parties. FM is attributed fairly and accurately in a bilateral agreement. On etp there isn't a way of knowing whether an FM Participant is allocating their FM quantity equitably between what they have traded on the market and what they have committed to via bilateral agreements.

The anonymity of the exchange also prevents FM risk being assessed by Participants, who would normally manage contractual mitigations to address potential FM events.

Question 2	Do you agree that FM should be made available OTD and linked to the next available ID cycle?
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There was one response which fundamentally disagreed with FM being made available OTD, and one response that did not express a view on the matter. For those parties that agree in principle that FM should be made available OTD there was unanimous agreement that OTD FM should be linked to the next ID cycles. This would align etp operations with the way the wider industry and OATIS operates.

For the response that disagreed with FM being made available OTD the view was OTD FM would undermine the certainty and quality of market transactions. If an issue occurred in the wider industry the market is relied on for Participants to balance their position if they have been curtailed through GSAs. If the market can also be curtailed through OTD FM this would reduce the reliability of the market for Parties to use as a fall-back option. This point was also reiterated in response to question 7.

Question 3	Do you agree that Participants should retain the obligation to manage their nominations under OATIS?
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The response to this question was unanimously in agreement with Participants retaining their obligations to manage their nominations under OATIS.

An additional response was provided by the System Operator in relation to the way nominations are made by Participants. Their view is that Parties should be required to nominate both receipts and deliveries discrete of each other. Curtailments under MPOC s15.2 can be avoided by Participants if they nominate net quantities rather than each receipt or delivery separately. etp believes this is an issue that should be investigated outside of this consultation.

Question 4	Which of the two options do you agree with for handling OTD trades? Are there alternative ways of handling curtailments?
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The majority of responses suggested all trades should be treated equally and were in support of including intra-day trades in OTD FM. The responses suggested not including intra-day trades would create ambiguity and would not be equitable. Any ambiguity could drive Participants away from the market. Including intra-day trades is also in-line with the way bilateral contracts handle FM and how curtailments work.

Question 5	Do you agree with the timeframes for trades to be included as approved and for FM events to be notified?
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There was agreement to the proposed timeframes from most respondents. Regarding the proposed 5 min timeframe between intra-day trades and ID Cycles it was mentioned by a couple of Parties that this would be quite tight. One suggested 10 mins would be better.

A 30 min timeframe before the next ID cycle for calling FM was deemed suitable.

One Participant suggested etp should consider aligning current FM rules with the proposed cut-off times for OTD FM. etp agrees that there should be consistency between the cut-off times if OTD FM was implemented.

Question 6	To what extent do you think FM events might increase, and do you think this could undermine the credibility of the market?
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From the responses etp has established it is likely FM calls will increase if introduced OTD. The extent to which has not been estimated, although Firstgas did note they had received 51 ROIL multipliers in the last 6 months. In the last four years of etp operations there has been two FM events on the market. It is interpreted from the responses that the increase could be significant.

Question 7	Should etp validate all FM events?
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There was overall support for etp being more stringent with validating FM in order to retain credibility. However, there were comments around validation requirements not being too onerous, and a comment that it could be done at random and not required for every event.

There was a comment that the market was a place where Parties can still transact when there are outages in the wider industry on a day. Credibility of the market could be negatively impacted if FM could be called on those daily transactions. The market would not be considered a fixed and secure option for gas supply. Furthermore, if a Party has gone to the market to secure gas for days where there are planned outages, OTD FM could mean they are not actually able to mitigate risk on these days through market transactions. The issue is perpetuated by the potential for the VWAP compensation on the exchange being unrelated to the cash out penalties a Party may face.

In terms of validating the event etp should consider why a Participant is calling an FM. It was suggested that validation could include a reason for the event and any mitigation processes. The information might also be required to be made public, so Parties are accountable. It was also suggested there could be a compliance and penalty regime, otherwise there is potential for gaming the system.

Due to the anonymous nature of the market there is no clear line of sight between the FM Participant and the Affected Party/Parties. Participants need to be able to trust etp that the Participant claiming FM is genuine.

Conclusion and next steps

The consultation aimed to assess whether Participants fundamentally supported OTD FM. etp wanted to find out if there were any compelling reasons why OTD FM should or should not be made available on the market. The paper also looked at ways the market would operate under OTD FM.

The key takeaways from the responses received were that OTD FM could:

- Assist with the pipeline staying more balanced after a trip;
- Reduce the reliability of the market as a fall-back option;
- Increase the number of FM events;
- Create potential issues due to market anonymity, including:
 - Not having specific contractual mitigations to protect against risk of FM,
 - Allocating FM quantity equitably,
 - Participants trusting an FM event is valid;
- Cause the system to be gamed without an effective compliance and penalty regime.

Although there was mostly support for OTD FM in theory, the result of the consultation was that the positive support was heavily caveated. These caveats along with the reasons that were not in support of OTD FM are considered by etp to be compelling. Etp has decided not to make OTD FM available as part of the standard market functionality, however etp believes there is still a place for OTD FM if trades are entered into as off-exchange trades.

The proposed solution to have an optional OTD FM clause that can be agreed to as part of an off-exchange trade. This suggestion came from one of the respondents following the

submissions. This solution is seen as a way of enabling OTD FM without exposing the whole market and encountering any of the issues raised in the consultation responses. In this case a Participant would have the ability to call OTD FM on a particular off-exchange trade where the Affected Party would be the Party on the other side of the off-exchange trade. No other market Participants would be affected by this OTD FM event.

The OTD FM Clause will be optional and will have to be accepted by both Parties to the trade. The option will be available via brokered off-exchange trades and non-anonymous trades between two Participants.

etp proposes to re-draft Clause 12 of the Market Rules Product Supplement for Gas. A procedure will also be written in conjunction with any Market Rule changes which will set out how an OTD FM would take place via an off-exchange trade.

The Market Rule changes, and procedure document will include the following information:

- How a Participant calls an OTD FM including timing,
- How the Affected Participant is notified,
- Compensation calculation,
- Calculation of FM quantity based on deemed flow and linked to the next ID cycle,
- Requirements and obligations of both Participants involved, and
- How it will work alongside the existing (DA) FM Rules.

The re-drafted Market Rules Product Supplement for Gas will be available for comment from Participants for 20 Business Day before coming effective, as per Part 20.3(b) of the Core Market Rules. We will issue the draft procedure document at the same time for comments.

Please send any initial comments on this response to supportdesk@emstradepoint.co.nz.