

PUBLIC

## IMEM Manual

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# IMEM Investigation Procedures Issue 1.0

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Abstract	This document provides for the procedures to be observed in the initiation, conduct, and reporting of investigations of breaches of the Interim Mindanao Electricity Market ( <i>IMEM</i> ) Rules, as well as, in the imposition of sanctions and penalties.
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## SECTION 1 INTRODUCTION

### 1.1 OVERVIEW

- 1.1.1 Pursuant to Clause 8.1.2.6 of the *IMEM Rules*, the *Enforcement and Compliance Officer* shall develop and publish an investigation procedure for the guidance of *IMEM Members*.
- 1.1.2 As such, this Manual sets forth:
- a) The investigation procedures to be used by the *Enforcement and Compliance Officer* in investigating breaches of the *IMEM Rules* under Clause 8.1.2 of the *IMEM Rules*; and
  - b) The sanctions and penalties to be applied by the *IMEM Governance Committee (IGC)* in accord with Clause 8.1.3 of the *IMEM Rules*.
- 1.1.3 Breaches of the *IMEM Rules* referred to in Clause 8.1.4 of the *IMEM Rules* shall not be covered in this Manual.

### 1.2 RESPONSIBILITIES

#### 1.2.1 IMEM Governance Committee

The *IMEM Governance Committee (IGC)* shall be responsible for:

- a) Upon receipt of the notification from the *IMEM Operator* or the *Mindanao Systems Operator* on an alleged commission of a breach by an *IMEM Member* (under *IMEM Rules* Clause 8.1.2.1), directing the *Enforcement and Compliance Officer* to investigate the alleged breach.
- b) Upon the completion of investigation by the *Enforcement and Compliance Officer* (as directed under Clause a) above), determining whether the relevant *IMEM Member* has been non-compliant with the *IMEM Rules*; and
- c) Imposing penalties or exempting the imposition of the same after due investigation pursuant to SECTION 4 of this Manual in relation to Clause 8.1.3 of the *IMEM Rules*.

#### 1.2.2 Enforcement and Compliance Officer

The *Enforcement and Compliance Officer* shall be responsible for conducting investigations as directed by the *IGC* in accord with the procedures prescribed in SECTION 3 of this Manual.

### 1.2.3 IMEM Operator

The *IMEM Operator* shall be responsible for:

- a) Monitoring and reporting on the trading and operational activities of *IMEM Members*;
- b) Notifying the *IGC* of the suspected breach or commission of breach of the *IMEM Rules* by any *IMEM Member*; and
- c) Administering the suspension, deregistration or other sanctions as imposed by the *IGC*.

### 1.2.4 Mindanao System Operator

The *Mindanao System Operator* shall be responsible for:

- a) Monitoring the *Mindanao Power System*, as well as, the activities of *IMEM Resources* connected to the *Mindanao Power System*; and
- b) Notifying the *IGC* of suspected breaches of the *IMEM Rules* by any *IMEM Member*.

### 1.2.5 IMEM Members

*IMEM Members* shall be responsible for:

- a) Providing the required information or data to the *Enforcement and Compliance Officer*, *IMEM Operator*, *Mindanao System Operator* or other entity, as may be authorized under the *IMEM Rules*; and
- b) Cooperating with and providing assistance to the *IGC*, *Enforcement and Compliance Officer*, *IMEM Operator*, and *Mindanao System Operator* in the course of investigation which may involve their participation.

## SECTION 2 PRINCIPLES AND GUIDELINES

### 2.1 SCOPE

This Section sets out the general principles which the *IGC, Enforcement and Compliance Officer* and other relevant parties shall apply when making decisions, giving notices, maintaining records, and reporting the results of investigations.

### 2.2 PROCESSES OF THE IGC

#### 2.2.1 Action either by referendum or meetings

##### 2.2.1.1 The *IGC* shall act on:

- a) The reports of suspected breach as may be submitted by *IMEM Operator* or *Mindanao System Operator*;
- b) The results of investigation by the *Enforcement and Compliance Officer*;
- c) The imposition of sanctions or penalties or exemptions of the imposition of the same; and
- d) Such other matters brought to its attention pursuant to the provisions of the *IMEM Rules*.

2.2.1.2 Action by referendum means that Members of the *IGC* may give their consent, or cast their votes in regard to matters that are presented to them without necessarily having face-to-face interaction with all *IGC* members. The *IGC* may, thus, resolve matters without formally holding a meeting provided that all *IGC* members are given written or other notice of the action(s) to be acted upon. The *IGC* shall cast their votes through written assent.

2.2.1.3 The Chairperson of the *IGC* may, however, call for an assembly or a face-to-face meeting, whenever the circumstances would warrant a more collaborative thinking, sharing of ideas, interpersonal exchanges of information, knowledge, and expertise of all *IGC* Members to arrive at a more meaningful decision. Should face-to-face meeting become impossible due to distance or other impediments and/or limitations, the Chairperson of *IGC* may also consider holding a virtual meeting or tele-conferencing, or video-conferencing subject to the voting requirements set forth in Clause 2.2.2 of this Manual.

#### 2.2.2 Voting requirements

- 2.2.2.1 *Referendum.* A resolution on any action or matter brought to the *IGC* through referendum has to be passed by majority votes of the *IGC* members, except in the initiation of investigation on reports of suspected breach by *IMEM Members*. The *IGC* may delegate said authority to decide on whether to initiate an investigation to the Chairperson, in which case, the decision of the Chairperson of the *IGC* would suffice to endorse a case for investigation by the *Enforcement and Compliance Officer*.
- 2.2.2.2 *Meetings.* Every decision of at least a majority of votes of members present, constituting a quorum, at any face-to-face meeting or assembly, virtual meeting, or video-conferencing, shall be valid as an *IGC* act. If voting is equal, the *IGC* Chairperson has a casting vote.
- 2.2.3 *Signing of decisions and resolutions.* Any actions, motions, or resolutions voted on by the majority of the members of the *IGC* shall be confirmed by the Chairperson of the *IGC* and voting members by signing the appropriate resolution or decision.
- 2.2.4 *Records of processes.* The *IGC* shall keep complete and accurate records of the processes undertaken, such as, the details of correspondence, reports, notices, and other relevant documents, date, time, and place of meeting, if any, the date of notice, the motion or resolution voted on, and the number of votes for and against said motion or resolution.

## 2.3 GIVING OF NOTICES

A notice is properly given or treated to be given to a person if made in accordance with Clause 9.1.4 of the *IMEM Rules*. In addition, all notices, requests, reports, or communications relative to investigation procedures set forth in this Manual shall be in writing and shall be signed by the head, Chair, or the authorized representatives of the party giving notices, requests, reports, or communications. These shall be sent by the secretariat, if any and applicable, or authorized person through personal service, private courier, or postal mail, and, in all instances, with proper delivery or return receipts. Advanced copies may be sent by email or such other acceptable, speedy, and effective form of communication. Notices required to be published shall be published in the *Market Information Website*<sup>1</sup>.

## 2.4 DOCUMENT MANAGEMENT

The *Enforcement and Compliance Officer* shall create and maintain a database for all the market data, document files and records gathered in the course of investigation, working files, and investigation reports, and other pertinent records or documents.

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<sup>1</sup> [http://www.wesm.ph/inner.php/the\\_market/interim\\_mindanao\\_electricity\\_market\\_\(imem\)](http://www.wesm.ph/inner.php/the_market/interim_mindanao_electricity_market_(imem))

## 2.5 CONFIDENTIALITY

The *Enforcement and Compliance Officer* shall treat and use the information obtained in the course of investigation in strict confidentiality in accord with the procedures published in the IMEM Information Provision and Confidentiality Manual. As such, all reports that are required to be published or disseminated through the *Market Information Website*<sup>2</sup> shall, as far as practicable, exclude portions which are classified as confidential or commercially-sensitive information. The *Enforcement and Compliance Officer* or the *IGC*, as the case may be, shall prepare a version of its Reports, whenever required, omitting *Confidential Information*, to enable its dissemination and publication.

## 2.6 REPORTS AND PUBLICATION

Within five (5) *Business Days* from the end of each calendar month, the *Enforcement and Compliance Officer* shall prepare a monthly report on the status of investigations for such calendar month, publish the report in the *Market Information Website*<sup>3</sup>, and transmit a copy of the Report to the *IGC*, *Department of Energy (DOE)*, and *Energy Regulatory Commission (ERC)*.

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<sup>2</sup> [http://www.wesm.ph/inner.php/the\\_market/interim\\_mindanao\\_electricity\\_market\\_\(imem\)](http://www.wesm.ph/inner.php/the_market/interim_mindanao_electricity_market_(imem))

<sup>3</sup> [http://www.wesm.ph/inner.php/the\\_market/interim\\_mindanao\\_electricity\\_market\\_\(imem\)](http://www.wesm.ph/inner.php/the_market/interim_mindanao_electricity_market_(imem))

## SECTION 3 FORMAL INVESTIGATION PROCEDURES

### 3.1 SCOPE

This Section sets out the investigation procedures to be followed by the *Enforcement and Compliance Officer* and other relevant parties when conducting investigations under *IMEM Rules* Clause 8.1.2.

### 3.2 SCOPE OF INVESTIGATION

The *IGC* shall direct the *Enforcement and Compliance Officer* to investigate breach under Clause 8.1.2 of the *IMEM Rules* when:

- a) The act or omission involves a breach of a provision of the *IMEM Rules* or any *IMEM Manual*;
- b) The act or omission is committed by an *IMEM Member*, and
- c) The act or omission is not subject of an automatic sanction or adjustment in settlement amounts, imposed by the *IMEM Operator* in accordance with the *IMEM Rules*.

### 3.3 INITIATION OF INVESTIGATION

3.3.1 If the *IMEM Operator* or the *Mindanao System Operator* has reasonable grounds to believe that a breach has been committed by an *IMEM Member*, the *IMEM Operator* or the *Mindanao System Operator* shall submit a report of the alleged breach to the *IGC*.

3.3.2 The *IMEM Operator* or *Mindanao System Operator* shall submit the report of the alleged breach to the *IGC* through the *Enforcement and Compliance Officer*.

3.3.3 The report shall be submitted no later than thirty (30) days from the occurrence of the alleged breach. The report may, however, cover breaches of the same nature that occurred repetitively within one *Billing Period* and shall be submitted no later than thirty (30) days from the end of the covered *Billing Period*.

### 3.4 INITIAL ACTION ON REPORT OF ALLEGED BREACH

3.4.1 Within five (5) *Business Days* from the receipt of the report submitted by the *IMEM Operator* or the *Mindanao System Operator*, the *Enforcement and Compliance Officer* shall notify the Chairperson and each member of the *IGC* of the submission of a report by the *IMEM Operator* or the *Mindanao System Operator*.

- 3.4.2 The *IGC* shall thereafter direct the *Enforcement and Compliance Officer* to investigate the alleged breach pursuant to Clause 8.1.2.2 of the *IMEM Rules*.

### **3.5 ISSUANCE OF NOTICE OF INVESTIGATION**

- 3.5.1 Within five (5) *Business Days* from being notified of the directive of the *IGC* set out in Clause 3.4.2 of this Manual, the *Enforcement and Compliance Officer* shall issue a notice of investigation to the *IMEM Member* to be investigated.
- 3.5.2 The notice of investigation shall be in writing and shall be transmitted to the *IMEM Member*.
- 3.5.3 The notice of investigation shall clearly set out the name of the *IMEM Member* to be investigated, the details of the acts or omission constituting the alleged breach, the date and, if applicable, the *IMEM Interval* when the breach occurred, the provision of the *IMEM Rules* or *IMEM Manual* alleged to have been breached, and the data or information that may be needed from the *IMEM Member* in the conduct of investigation.

### **3.6 REPLY BY PARTY INVESTIGATED**

- 3.6.1 Within fifteen (15) *Business Days* from receipt of the notice of investigation, the *IMEM Member* shall submit its reply to the allegations set out in the notice of investigation issued under Clause 3.5 of this Manual.
- 3.6.2 The reply shall be in writing and shall include affidavits and certified copies of documents to support the explanations.
- 3.6.3 Failure of the party subject of the investigation to provide information requested by the *Enforcement and Compliance Officer* within the period set in Clause 3.6.1 of this Manual shall constitute a breach without need for further investigation and shall be subject to an applicable penalty. The failure of the party subject of the investigation to provide material information within the same period shall render the party *prima facie* liable for the breach subject of the investigation.

### **3.7 CONDUCT OF INVESTIGATION**

- 3.7.1 *Nature of investigation.* The investigation to be conducted by the *Enforcement and Compliance Officer* shall be inquisitorial in nature. For this purpose, the *Enforcement and Compliance Officer* is authorized to obtain data, information and report that will aid in its investigation from the *IMEM Member* being investigated, other *IMEM Members*, the *IMEM*

*Operator* or the *Mindanao System Operator*, in accordance with the procedures set out in Section 3.7 of this Manual.

### 3.7.2 Clarification Questions

3.7.2.1 The *Enforcement and Compliance Officer* may request clarifications from the *IMEM Member* being investigated, the *IMEM Operator*, the *Mindanao System Operator* or other *IMEM Members* it seeks to consult.

3.7.2.2 The *Enforcement and Compliance Officer* shall make the request to provide clarifications in writing and shall specify the date for submission of the same.

3.7.2.3 The responses to the clarifications requested shall be in writing and shall be submitted to *Enforcement and Compliance Officer* within the set period.

3.7.2.4 If the clarification questions are posed to a party other than the *IMEM Member* being investigated, the *Enforcement and Compliance Officer* shall provide copies of the clarification to the *IMEM Member* being investigated.

### 3.7.3 Conference

3.7.3.1 A conference may be called by the *Enforcement and Compliance Officer* at its own discretion or upon request of any party being consulted.

3.7.3.2 If a conference is called, the *Enforcement and Compliance Officer* shall, no later than five (5) *Business Days* before the scheduled date of the conference, issue a written notice of conference to all parties that will be consulted and the *IMEM Member* being investigated setting out clearly the date, time and venue of the conference. The notice shall likewise be published in the *Market Information Website* on the same day of issuance of the written notice to the parties.

3.7.3.3 The conference will be conducted in a venue to be set by the *Enforcement and Compliance Officer* either in Cagayan de Oro or in the designated principal offices of *IMEM Operator*, or in Metro Manila.

3.7.4 *Ocular inspection.* The *Enforcement and Compliance Officer* may, at its discretion or upon request of the *IMEM Member* being investigated, or any of the parties being consulted, conduct an ocular inspection of the facilities of the *IMEM Member* being investigated.

- 3.7.5 *Request for data and documents.* The *Enforcement and Compliance Officer* is authorized to obtain data, information, documents and reports that will aid in its investigation from the *IMEM Operator*, the *Mindanao System Operator*, and other *IMEM Members*. Any request for data shall be in writing and shall state the date within which the data, information, document or report requested shall be submitted.
- 3.7.6 *Completion of investigation.* The investigation shall be completed within forty (40) *Business Days* from being notified of the directive of the *IGC* set out in Clause 3.4.2 of this Manual. The *Enforcement and Compliance Officer* may, subject to the approval of the *IGC*, extend the period of time to complete the investigation if the *Enforcement and Compliance Officer* has had, during the investigation, difficulty in obtaining sufficient data or information, or where unforeseen events render impossible the completion of investigation within said forty (40) *Business Days*. The *Enforcement and Compliance Officer* shall notify the party investigated in writing that it has concluded its formal investigation and that no further submission is expected or required or will be accepted from the party being investigated.

### **3.8 PRELIMINARY INVESTIGATION REPORT**

- 3.8.1 *Preparation and contents of report.* Upon conclusion of its formal investigation, the *Enforcement and Compliance Officer* shall prepare its investigation report, which shall set out the following –
- a) Statement of the Case
  - b) Preliminary Matters and Material Dates
  - c) Data and Documents considered
  - d) Issues for Investigation/Statement of Relevant Rules
  - e) Findings
  - f) Assessment and Opinion
  - g) Conclusions
- 3.8.2 *Timetable.* The preliminary investigation report shall be completed and submitted as required in Section 3.9 of this Manual within twenty (20) *Business Days* from completion of the investigation.

### **3.9 SUBMISSION TO IGC**

The *Enforcement and Compliance Officer* shall submit his preliminary investigation report to the *IGC*, furnishing a copy to each *IGC* member.

### **3.10 ACTION BY THE IGC**

3.10.1 Within fifteen (15) *Business Days* from submission of the preliminary investigation report by the *Enforcement and Compliance Officer*, the *IGC* shall render its decision.

3.10.1.1 *Approval*. If the *IGC* agrees with the findings of the *Enforcement and Compliance Officer*, it shall approve the preliminary investigation report. A final investigation report shall then be prepared by *Enforcement and Compliance Officer* as set forth in Section 3.12 of this Manual.

3.10.1.2 *Disapproval*. If the *IGC* disagrees with the findings of the *Enforcement and Compliance Officer*, it shall disapprove the report and shall either make its decision based on data, reports, and documents submitted by *Enforcement and Compliance Officer*, or return the case to *Enforcement and Compliance Officer* for further investigation in accordance with Section 3.11 of this Manual.

3.10.2 In either case, if the *IGC* decides –

3.10.2.1 That a breach has been committed, it shall set the appropriate penalty to be imposed in accordance with the Penalty Guidelines set out in SECTION 4 of this Manual.

3.10.2.2 That no breach has been committed, it shall direct the closure of the investigation.

### **3.11 CONDUCT OF FURTHER INVESTIGATION**

3.11.1 If the *IGC* decides to return the case for further investigation, it shall clearly set out the issues that need further investigation.

3.11.2 The *Enforcement and Compliance Officer* shall complete the re-investigation of the case returned for investigation and submit its revised investigation report to the *IGC* no later than ten (10) *Business Days* from the date the case was returned by the *IGC*.

3.11.3 The *IGC* shall act on the revised investigation report no later than ten (10) *Business Days* from submission by *Enforcement and Compliance Officer*.

- 3.11.4 The *IGC* shall render its decision either approving or disapproving the revised report of the *Enforcement and Compliance Officer* in accordance with Section 3.10 of this Manual, but may not return the case for further investigation.

### **3.12 FINAL INVESTIGATION REPORT**

- 3.12.1 Within the period set out in Clause 3.10.1 or Clause 3.11.3 of this Manual, the *IGC* shall notify the *Enforcement and Compliance Officer* of its decision and direct the preparation of the final investigation report.
- 3.12.2 The final investigation report shall have the same contents as the *Enforcement and Compliance Officer's* preliminary investigation report as set out in Clause 3.8.1, except that it will contain a definitive finding of whether or not a breach has been committed, and if breach is committed, a statement of the penalty that will be imposed.
- 3.12.3 The final investigation report shall be approved in a manner prescribed by Clause 2.2.2 of this Manual, and shall be signed by the Chairperson of the *IGC*, or in his/her absence, by the *IGC Member* delegated to sign on his/her behalf.
- 3.12.4 Copies of the final investigation report shall be provided to the *IMEM Member* investigated, the *Mindanao System Operator*, the *IMEM Operator*, the *DOE* and the *ERC*.

### **3.13 REQUEST FOR RECONSIDERATION**

- 3.13.1 *Grounds of and period for filing a request for reconsideration.* Where the penalty imposed by the *IGC* is financial penalty, suspension from participation in the *IMEM* or deregistration from the *IMEM*, the concerned *IMEM Member* may request for reconsideration of the decision or resolution within ten (10) *Business Days* from the receipt of the final investigation report of the *IGC*, upon the grounds that the data and information upon which the decision is made is insufficient to justify the decision or resolution or that the decision or resolution is contrary to the provisions of the *IMEM Rules* and/or *IMEM Manuals*.
- 3.13.2 *Contents of the request for reconsideration and notice thereof.* The request shall be made in writing stating the ground or grounds therefor. It shall point out specifically the findings or conclusions which are not supported by the evidence or which are contrary to *IMEM Rules* or *IMEM Manuals*, making express reference to the specific evidence or to *IMEM Rules* or *IMEM Manuals* alleged to be contrary to such findings or conclusions.

- 3.13.3 *Resolution on the request.* A request for reconsideration shall be resolved by the *IGC* within fifteen (15) *Business Days* from the time it is submitted for resolution. Copies of the resolution shall be provided to the *IMEM Member*, the *Mindanao System Operator*, the *IMEM Operator*, the *DOE* and the *ERC*.

## SECTION 4 PENALTY GUIDELINES

### 4.1 SCOPE

This section sets out guidelines for determining and imposing penalties on *IMEM Members* under Clause 8.1.3 of the *IMEM Rules*.

### 4.2 DETERMINING THE NUMBER OF BREACHES

For purposes of determining the penalty that can be imposed -

- 4.2.1 Where a Clause of the *IMEM Rules* or *IMEM Manual* requires that an obligation be performed on a particular timeline, *i.e.*, hourly, daily, weekly, monthly or at any other specified schedule, a breach shall be determined every hour, day, week, month or instance that the obligation is not performed in accordance with the relevant clause. For example, if an *IMEM Customer* fails to submit his *Week-Ahead Customer Demand Forecast* under Clause 3.1.2.1 of the *IMEM Rules* (which requires daily submission) for five (5) days in a given *Billing Period*, then the number of breaches counted against his shall be five.
- 4.2.2 Where a Clause of the *IMEM Rules* or *IMEM Manual* requires that an obligation be performed in relation to a facility, such as a generating unit of an *IMEM Resource* or the facility of an *IMEM Customer*, a breach is counted for each unit or facility for which the obligation is not performed in accordance with the relevant Clause. If the penalty to be imposed is suspension or deregistration, only the unit of the *IMEM Resource* or facility of the *IMEM Customer* for which the breach has been determined shall be subject of the suspension or deregistration. Any other generating unit or facility that is registered in the *IMEM* by the same *IMEM Resource* or *IMEM Customer* shall not be affected.

### 4.3 FORMAL WARNING OR REPRIMAND

- 4.3.1 The *IGC* shall issue a formal warning or reprimand when the *IMEM Member* is being penalized for breaching a particular Clause of the *IMEM Rules* or *IMEM Manual* for the first time.
- 4.3.2 Upon the issuance of the final investigation report prepared under Section 3.12 of this Manual, the *IGC* shall issue a formal warning or reprimand to the erring *IMEM Member* stating the following:
- a) The reason(s) for the written warning or reprimand;
  - b) The consequence(s) of failure to take immediate and corrective actions and/or repetition and continuance of similar violations of the *IMEM Rules* and *IMEM Manuals*; and

- c) A recommendation to the erring *IMEM Member* to, among others, promptly cooperate or coordinate with the *IMEM Operator* or the *Mindanao System Operator* within a specified timeframe in relation to its actions, measures, or efforts to be undertaken to correct the breach or violation and to prevent future similar breaches.

4.3.3 The formal warning or reprimand shall be addressed to the person identified by the *IMEM Member* as its authorized representative. If no such person is identified, subsequent notices shall continue to be sent to the head or main contact person at the *IMEM Member's* organization and to its own compliance officer, if any.

#### 4.4 FINANCIAL PENALTY

4.4.1 The *IGC* shall impose a financial penalty in the amount of Ten Thousand Pesos (PhP10,000.00) for every breach committed on the *IMEM Member* who has previously been penalized for breaching the same clause of the *IMEM Rules* or *IMEM Manual*.

4.4.2 The *IGC* shall notify and submit a notice of collection to the *IMEM Operator* within five (5) *Business Days* from the issuance of the resolution referred to in Clause 3.13.3 of this Manual or from the lapse of the period to file request for reconsideration as provided in Clause 3.13.1.

#### 4.4.3 Collection and Payment

4.4.3.1 The *IMEM Operator* shall issue a statement of account or a bill and a penalty notification to the erring *IMEM Member* immediately upon receipt of the notice of collection from the *IGC* under Clause 4.4.2.

4.4.3.2 The penalty notification in Clause 4.4.3.1 shall indicate that the amount of the financial penalty as indicated in the statement of account or bill in Clause 4.4.3.1 shall be deducted by the *IMEM Operator* from the amount due to the *IMEM Member*, if any, without need of authorization.

4.4.3.3 The erring *IMEM Member* may, in lieu of automatic deduction or collection from its receivables, pay the financial penalty within thirty (30) calendar days from receipt of the statement of account or bill through fund transfer of the amount of financial penalty to the *IMEM Operator's* account through an Electronic Fund Transfer (EFT) facility.

4.4.3.4 If the collection and payment of financial penalty is to be made through means other than the deduction from amounts

payable, the *IMEM Member* shall immediately notify the *IMEM Operator* of:

- a) The means or mode of payment;
- b) The date of payment, which shall not be later than thirty (30) calendar days from receipt of the statement of account or bill issued under Clause 4.4.3.1 of this Manual;
- c) The said notice shall be signed by the head or authorized representative of the erring *IMEM Member*.

4.4.3.5 The *IMEM Operator* shall deposit the money collected from financial penalties in a special account of the *IMEM Operator* to be utilized for the market-related training activities of *IMEM Members*, or such other type of activities for *IMEM Members* that facilitate and promote capacity building and the efficient development of the *IMEM*.

## 4.5 SUSPENSION

4.5.1 In addition to or in lieu of financial penalties provided under Section 4.4, the erring *IMEM Member* shall be suspended from participation in the *IMEM* and disconnected from the *Mindanao Grid*, when applicable, under Clause 2.6.2 of the *IMEM Rules* if the following conditions concur:

4.5.1.1 The *IMEM Member* has previously been investigated and penalized for breaching the clause of the *IMEM Rules* or *IMEM Manual*;

4.5.1.2 The breach is continuing;

4.5.1.3 The breach has caused and continues to pose a threat to system security and reliability; and

4.5.1.4 The situation can be remedied by the *IMEM Member* through implementation of appropriate mitigation measures.

4.5.2 The erring *IMEM Member* shall also be suspended from participation in the *IMEM* if, notwithstanding the agreement and/or undertaking to pay the financial penalty in a manner set forth in Clauses 5.3.3.3 and 5.3.3.4, the *IMEM Member* fails to comply or fulfil its financial obligation.

4.5.3 Issuance of notice of suspension and disconnection

- 4.5.3.1 Within five (5) *Business Days* from the issuance of the resolution referred to in Clause 3.13.3 of this Manual or from the lapse of the period to file request for reconsideration as provided in Clause 4.12.1, the *IGC* shall notify the *IMEM Operator* of the imposition of a penalty of suspension after a finding of breach of the *IMEM Rules* or *IMEM Manuals* as determined by the *Enforcement and Compliance Officer* in accordance with Section 8.1 of the *IMEM Rules*.
- 4.5.3.2 Within five (5) *Business Days* from being notified by *IGC* of the imposition of penalty referred to in Clause 4.5.3.1 of this Manual, the *IMEM Operator* shall impose the suspension by:
- a) Providing a *Suspension Notice* to the *IMEM Member* of its suspension, stating the reasons thereof and the effective date and hour of the suspension under Clause 2.6.2.6 of the *IMEM Rules*;
  - b) Publishing a *Suspension Notice* in the *Market Information Website* as prescribed under Clause 2.6.2.8 of the *IMEM Rules*; and
  - c) Sending a written request to the *Mindanao System Operator* for the disconnection of the *Mindanao Grid-connected IMEM Member*, if applicable, together with a copy of the *Suspension Notice*. A copy of the written request shall be furnished to the *DOE* in accordance with Clause 2.6.2.9 of the *IMEM Rules*.
- 4.5.3.3 Within five (5) *Business Days* from the committed date of payment of the financial penalty, and where no payment has been made by the erring *IMEM Member*, the *IMEM Operator* shall, pursuant to Clause 4.5.2 of this Manual, impose the suspension in a manner set forth in the preceding paragraph.
- 4.5.4 *Implementation of disconnection.* Within five (5) *Business Days* from receipt of the request for disconnection, *Mindanao System Operator* shall disconnect the suspended *IMEM Member* from the grid, if applicable, pursuant to Clause 2.6.2.10 of the *IMEM Rules*.
- 4.5.5 Lifting of suspension
- 4.5.5.1 The suspension will be lifted if the *IGC* is satisfied that the appropriate corrective measures have been put in place by the *IMEM Member* sufficient to ensure that the breach will not recur, or when the obligation to pay the financial penalty referred to in Clause 4.5.2 of this Manual has been fully satisfied. Immediately upon receipt of the notice and proof that

the grounds for suspension have been remedied or rectified by the *IMEM Member*, the *IGC* shall order the lifting of suspension by the *IMEM Operator*.

- 4.5.5.2 The *IMEM Operator* shall thereafter lift the suspension by providing written notice to the suspended *IMEM Member*, the same indicating the date and hour it will take effect, and send a written request to the *Mindanao System Operator* to reconnect the suspended *IMEM Member* pursuant to Clause 2.6.2.11 of the *IMEM Rules*. Copies of both the notice and written request shall be furnished to the *IGC*.
- 4.5.5.3 Upon receipt of said reconnection request from *IMEM Operator*, the *Mindanao System Operator* shall reconnect the suspended *IMEM Member* to the grid on the specified effective date or as soon as possible thereafter as prescribed under Clause 2.6.2.12 of the *IMEM Rules*. The *IMEM Member*, the *IMEM Operator*, and the *IGC* shall be duly notified of the reconnection.

## 4.6 DEREGISTRATION

- 4.6.1 The erring *IMEM Member* shall be deregistered from the *IMEM* and disconnected from the grid under Clause 2.6.3 of the *IMEM Rules* if the following conditions concur:
  - 4.6.1.1 The *IMEM Member* has been has previously been investigated, suspended and disconnected for breaching the clause of the *IMEM Rules* or *IMEM Manuals*;
  - 4.6.1.2 The breach is continuing;
  - 4.6.1.3 The breach has caused and continues to pose a threat to system security and reliability;
  - 4.6.1.4 The situation cannot be remedied by the *IMEM Member*, and
  - 4.6.1.5 The suspension has not been lifted and the *IMEM Member* has not been reconnected within sixty (60) days from its disconnection.
- 4.6.2 Issuance of notice of deregistration and disconnection
  - 4.6.2.1 Upon the expiration of the 60-day period from the time the *IMEM Member* has been suspended, the *IMEM Operator* shall notify the *IMEM Member*, the *Mindanao System Operator*, and the *IGC*, that the suspension has not been lifted.

- 4.6.2.2 The *IMEM Operator* shall immediately initiate the deregistration of the suspended *IMEM Member* from the *IMEM* in accord with the IMEM Registration Manual and Clause 2.6.3.1 (b) of the *IMEM Rules*. The *IMEM Member*, the *Mindanao System Operator*, and the *IGC* shall likewise be notified of the effective date of the deregistration.

#### **4.7 RE-APPLICATION**

A deregistered entity may re-apply for membership in the *IMEM*, provided that, in addition to complying with the usual requirements for registration, it must satisfy the *IGC* that the breach will not recur.