



Telecommunications Carriers' Forum

CODE COMPLIANCE FRAMEWORK (CCF) OPERATIONS MANUAL

ENDORSED

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Document History

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Definitions and Interpretation

Terms defined in the Code Compliance Framework have the same meaning in this Manual. In the event of a conflict, the Code Compliance Framework will prevail.

Appeal Agent	Means an independent expert appointed by the TCF who is not a member of the TCF or the Enforcement Agent; who will manage the appeal process set out in the <i>Procedure for Appeal of a Notice of Confirmed Breach</i> . The Appeal Agent will be appointed on a case by case basis.
Business Day	Means a day on which registered banks are open for normal banking business, excluding Saturdays, Sundays and nation-wide public holidays. Regional public holidays are considered to be Business Days.
Code Compliance Framework or CCF	Means the Code Compliance Framework approved by the TCF Board on 2 March 2012 and as amended from time to time.
Clause	Refers to a clause in this Manual.
Code/s	Means any TCF Code that is governed by this Code Compliance Framework – as documented in Appendix 2 of the CCF document.
Code Signatory/ies	Means a person who agrees to comply with a nominated TCF code or codes and to be legally bound by the code requirements which includes compliance with the CCF.
Commission	Means the New Zealand Commerce Commission.
Complainant	Party that submits a Notice of Potential Breach to the TCF alleging that a Code Signatory is in breach of that Code's requirements.
Complex	Means a Compliance Issue where the breach is not clear and will require a degree of detailed knowledge to evaluate beyond which the Compliance Officer could reasonably be expected to possess.
Compliance Issue	Means a Potential Breach or Confirmed Breach by a Code Signatory, registered with the TCF that is being managed through the Compliance Management Process.
Compliance Issue Notice	Means a notice issued to a Respondent by the Compliance Officer as part of a Compliance Issue investigation.
Compliance Management Process	Means the process of dealing with a Compliance Issue in accordance with Section E of this Manual.
Compliance Management Register	Means the document where Compliance Issues are recorded, maintained by the TCF Compliance Officer.
Compliance Officer	Means the person(s) appointed by the TCF whose role is to monitor and report on compliance in accordance with this Code Compliance Framework.
Confirmed Breach	Means a Party has been found to be non-compliant with a Regulatory, Mandatory or Voluntary Code (including the CCF) as a result of a determination by the Compliance Officer or Enforcement Agent (as applicable) during the Compliance Management Process.
Enforcement Agent	Means a person(s) appointed by the TCF whose role is to perform the activities required at Stages 3 of the Compliance Management Process as set out in the CCF

	(unless a Code specifies otherwise).
Mandatory Code	Means a Self-Regulated Code that the TCF Board decides is compulsory for all TCF Members to become signatories to, as part of their TCF membership.
Manual	Means this Operations Manual for the Code Compliance Framework.
Member/s	Means a TCF Member.
Notice of Confirmed Breach	Means a notice sent to a Respondent by the Compliance Officer or Enforcement Agent when it has been determined that the Respondent is in breach of a TCF Code.
Notice of Potential Breach	Means a notice of potential breach with a TCF Code by a Code Signatory, submitted by a Complainant to the Compliance Officer containing the information prescribed in this Operations Manual.
Number Administration Deed or NAD	Means the deed (as amended from time to time) signed by various telecommunication companies for the provision of number administration services.
Operations Manual	Means the Operations Manual developed to manage and support the TCF Code Compliance Framework.
Party/Parties	Means a legal person and includes a company and any other legal entity signed up to and bound by this Code Compliance Framework. A Party may be a TCF Member or other third party organisation to whom a Code is relevant.
Person	Means a legal person and includes a company and any other legal entity.
Proposed Resolution	Means the resolution plan provided by a Respondent that details what, how and when a Compliance Issue will be resolved.
Regulated Code	Means any Code of practice regulated under the Telecommunications Act 2001 as determined by the Minister or the Commerce Commission from time to time.
Respondent	Means a Code Signatory that receives a Compliance Issue Notice or Notice of Confirmed Breach under the Compliance Management Process.
Sanction	Means a penalty applied to a Code Signatory for non-compliance with a TCF Code.
Scheme Agent	Means the independent body contracted by the TCF to provide the Telecommunications Dispute Resolution Scheme service.
Self-Regulated Code	Means a Code prepared by the TCF which is not a Regulated Code.
TCF Codes	Means Regulated Codes and Self Regulated Codes.
TCF Member	Means a person who has agreed in writing to be a member of the TCF.
TDR Council	Means the group of representatives of consumer and industry that oversee the operation of the TDR Scheme.
Telecommunication(s)	Has the same definition as defined by the Telecommunications Act 2001.
Telecommunications Act (the Act)	Means the Telecommunications Act 2001 as amended from time to time.
TCF	Means the New Zealand Telecommunication Forum Incorporated.
Telecommunications Dispute Resolution	Means a Further Recourse scheme that has been established by the TCF, the

Scheme or TDR or TDRS	processes of which are set out in the TCF's Customer Complaints Code.
Telecommunication(s) Service	Means any good, service, equipment and/or facility that enables or facilitates Telecommunication(s).
Voluntary Code	Means a Self-Regulated Code which TCF Members and other Parties may choose to sign up to.

PART ONE: FRAMEWORK OVERVIEW

A. INTRODUCTION

1. Purpose

The purpose of this Operations Manual (the Manual) for the Code Compliance Framework (CCF) is to document the procedures involved in managing and supporting the CCF on behalf of the TCF.

2. Scope

The scope of this document is to provide detailed procedures for operational implementation and management of the CCF including:

- The process for monitoring and reporting on Code compliance.
- The process for receipt and assessment of potential Code breaches.
- Education of TCF members on their rights and obligations under the CCF.
- Promotion and enforcement of TCF Member compliance with the CCF.
- Identification of the process for managing improvements to Codes that are governed by this Framework; as a result of potential breaches raised.

Nothing in this Manual shall have the effect of overriding any legislation or any specific requirements set out in a TCF code. In the event of a conflict between this Manual and any legislation or TCF code, the following order of priority will prevail (in descending order) unless otherwise expressly provided:

- The relevant legislation
- The relevant TCF code
- The Code Compliance Framework
- This Manual.

3. Background

Whilst most current TCF Codes have a standard monitoring and enforcement component, the process is seldom – if ever utilised. The current standard regime does not allow for compliance issues to be dealt with directly between Code signatories or with support from the TCF. The regime requires the engagement of external third parties at potentially substantial cost.

The CCF has been designed to enhance the ability of the telecommunications industry to self-regulate and to increase consumer confidence in the provision of Telecommunications Services through:

- Promoting compliance with TCF Codes through the establishment of rules, processes and operating procedures under which compliance with TCF Codes will be monitored and enforced.
- Mandating adherence to a subset of TCF Codes.
- Applying Sanctions to non compliant Code Signatories.

B. ROLES & RESPONSIBILITIES

4. Overview

Below is a high level summary of the roles and responsibilities in managing and supporting the CCF. Refer to section J in the Annexure for more comprehensive position descriptions.

Role	Responsibilities	Reports to
Code Signatories	<ol style="list-style-type: none"> 1. Assess and monitor their Code compliance. 2. Raise compliance concerns. 	-
Compliance Officer	<ol style="list-style-type: none"> 1. Perform the administrative function of compliance monitoring and reporting. 2. Manage the self certification process. 3. Assist TCF Members to understand their TCF Code compliance requirements 4. Encourage and support TCF Member compliance with TCF Codes by providing support to new and potential signatories on Code obligations 5. Provide annual reports to the Board on the operation of the framework, finances and performance; and 6. Manage the four stages of the Compliance Management. 7. Maintain this Operations Manual 	TCF CEO
Enforcement Agent	<p>When requested, the Enforcement Agent will be involved in Stage Three of the Compliance Management process to:</p> <ol style="list-style-type: none"> 1. Investigate potential breaches. 2. Determine whether a breach exists. 3. Identify appropriate timetable for implementing Sanctions (if any). 4. Request independent audits under specific circumstances. 	Compliance Officer
Independent Auditor	<ol style="list-style-type: none"> 1. To assist with the investigation (where the Respondent fails to provide information which the Enforcement Agents believes is of sufficient detail or quality to perform its evaluation) 	Compliance Officer
Appeal Agent	<ol style="list-style-type: none"> 1. Consider any Stage Three TCF and Enforcement Agent Sanction decisions that are appealed within the required timeframes by the Respondent. 2. Do this in a timely manner ensuring that the process is efficient, cost effective and involves appropriate review of the facts and consultation with the relevant parties. 3. Provide an estimate of the costs of the appeal prior to commencing work in consultation with the appealing party and the TCF, and work within that costing once it has been approved. 	Compliance Officer
TCF CEO	<ol style="list-style-type: none"> 1. Compliance Issue Management – If delegated by the Board, approve the use of and appointment of an Independent Auditor to investigate a Compliance Issue at the request of the Enforcement Agent; and 2. Approve any media releases in relation to public censure notices issued as Sanctions for Confirmed Breaches by Code signatories. 	TCF Board
TCF Board	<ol style="list-style-type: none"> 1. Appoint the Compliance Officer, Enforcement Agent(s) and any Independent Auditor(s) for the purposes of managing the CCF. 2. Approve the Operational Manual 3. Maintain the CCF code category criteria. 4. Determine which category each Code belongs to under the CCF. 	-

	<ol style="list-style-type: none"> 5. Review the Code Compliance activity report prepared by the Compliance Officer and approve its publication on the TCF website 6. Annually review the cost, usage and effectiveness of the Framework; and 7. To delegate any authority or activity to the TCF CEO as it sees fit. 	
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5. Process for role appointment and review

The TCF Board is responsible for the appointment of person(s) to the role of Compliance Officer, Enforcement Agent(s), Appeal Agent(s) and any Independent Auditor and for reviewing the appointments on an annual basis. This will be discussed and determined by the TCF Board and will follow the process agreed by the Board from time to time.

The Compliance Officer will maintain the list of Enforcement Agent(s), Appeal Agent(s) and any Independent Auditor, the dates they were appointed and the date of their annual review. The Compliance Officer will be responsible for highlighting any forthcoming review date at the relevant Board meeting.

PART TWO: FRAMEWORK PROCEDURES

C. CODE COMPLIANCE FRAMEWORK MANAGEMENT PROCEDURES

6. Procedure for Operations Manual changes

Any changes to this Operations Manual must be made in accordance with the TCF Rules and Handbook; and require Working Party discussion and approval, prior to submitting to the TCF Board.

7. Procedure for Code Compliance Framework changes

Any changes to the Code Compliance Framework, including to the cost allocation and funding models, must be made in accordance with the TCF Rules and Handbook.

8. Procedure for informing new parties about the CCF

Introduction This topic explains the Compliance Officer process for communicating information about the Code Compliance Framework with new TCF Members and potential Code Signatories.

When to use When a new organisation joins the TCF.
When a new or amended Code is issued to relevant parties inviting them to become Code Signatories.

Who can use this process Compliance Officer – for new TCF Members process
Forum Administrator – for requesting Code signatories

Process for new TCF Members The table below describes the process for informing **new TCF Members** about the Code Compliance Framework.

Step	Description/Action
1	<p>On confirmation of a new organisation joining the TCF, email their appointed TCF Board representative an email with the following information:</p> <ul style="list-style-type: none"> • Introduction to the Code Compliance Framework • Link to the TCF website where the CCF document can be found • Link to the TCF website where the Operations manual can be found • Request for designated Compliance contact within their organisation • Compliance Officer contact details • Link to TCF website where more information (FAQs) can be found

Process for potential Code signatories The table below describes the process for informing **potential Code Signatories** about the Code Compliance Framework.

Step	Description/Action
1	<p>When issuing a new or amended Code out to potential Code signatories, the information below about the CCF should also be sent by the Forum Administrator:</p> <ul style="list-style-type: none"> • Introduction to the Code Compliance Framework • Self certification requirements for that Code • Link to the TCF website where the CCF document can be found • Compliance Officer contact details • Link to TCF website where more information can be found (e.g. FAQs and Operations Manual).

Forum Administrator's responsibility The Forum Administrator's responsibility is to:

1. Advise the Compliance Officer of any new TCF member organisation and appropriate contact details.

Compliance Officer's responsibility The Compliance Officer's responsibility is to:

1. Ensure that all new TCF members and potential Code signatories are informed about the CCF and how it interacts with TCF Codes.
2. Ensure that the Forum Administrators are educated about and follow this procedure.
3. Answer any questions in relation to the CCF raised by any party.

Related information

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Related document

"TCF Code Compliance Framework for Code Signatories and Members" presentation.

9. Procedure to align a TCF Code with the CCF

Introduction	This topic explains the process for managing alignment of a TCF Code with the Code Compliance Framework (CCF).
When to use	When a new Code is being drafted. When an existing Code is being reviewed.
Who can use this process	Compliance Officer. Forum Administrators. Working Party members.
Process	The table below describes the process for TCF Working Parties and the Compliance Officer to manage alignment of any new or existing TCF Code with the CCF.

Step	Description/Action
1	Working Party is established (as per TCF Handbook).
2	TCF Forum Administrator sends Compliance Officer copy of approved Project Scope.
3	Compliance Officer sends the Working Party the 'Template - Email to Working Party re CCF alignment' available in Part Three of this Manual.
4	<p>Existing Codes</p> <p>Working Party determines if Code should be aligned with the CCF.</p> <ul style="list-style-type: none"> • If yes, Working Party is to draft the changes required and create a self certification template for that Code. • If no, Working Party is to submit a paper to the TCF Board and Compliance Officer detailing the rationale behind this view and its recommendation.
5	<p>New Codes</p> <p>Working Party includes appropriate wording to incorporate CCF governance and appends a self certification template to the Code.</p>
6	Working Party sends a copy of the draft Code to Compliance Officer to review the compliance related elements.
7	Compliance Officer reviews the draft Code and provides any feedback or suggested changes to the Working Party related to Code Compliance within 10 business days of receipt.
8	Working Party continues normal Code development and review process (e.g. submits draft to Board for approval etc.)
9	The Working Party when issuing an amended existing Code for public consultation will need to include summary information about the CCF, particularly where existing or potential signatories to that Code are not TCF members.
10	When the Code is endorsed, the Compliance Officer is to work with the Forum Administrator to ensure that the necessary information about initial self-certification with the Code is communicated to all potential signatories.
11	Compliance Officer receives completed initial self certification forms from Code Signatories in accordance with the <i>Procedure for Code Signatory Self</i>

	<i>Certification.</i>
Compliance Officer's responsibility	<p>The Compliance Officer's responsibility is to:</p> <ol style="list-style-type: none"> 1. Ensure that every TCF Working Party is aware of the CCF requirements. 2. Provide support and advice to Working Parties when requested, to define the self-certification compliance requirements for each code. 3. Review all CCF related amendments made to a Code to ensure that the Code contains all the information necessary to align with and comply with the CCF; and that the self certification requirements are realistic and relevant.
Forum Administrator	<p>The Forum Administrator's responsibility is to:</p> <ol style="list-style-type: none"> 1. Be the Working Party liaison with the Compliance Officer for any queries. 2. Ensure that information about the CCF is communicated as part of any public consultation process or communications inviting parties to sign up to the Code.
Working Party's responsibility	<p>The Working Party's responsibility is to:</p> <ol style="list-style-type: none"> 1. Decide whether a Code should be aligned with the CCF. 2. Where it is deemed unnecessary to align a Code with the CCF, provide a paper for the Compliance Officer and TCF Board detailing why you believe the Code should be excluded from the CCF. 3. Where the CCF is to be incorporated into the Code, document the proposed wording, amendments and self certification requirements and get feedback on the changes from the Compliance Officer before the draft Code is submitted to the TCF Board or issued for public consultation. 4. Provide information about the TCF CCF in any public consultation letters related to amendments to existing Code, particularly where potential code signatories may not be TCF members.
Related information	TCF Code Review Plan as documented in the <i>Working Party TCF Code Compliance Framework Implementation Plan Summary</i>
Related document	Template - Email to Working Party re CCF alignment

D. SELF CERTIFICATION, MONITORING & REPORTING

10. Procedure for Code Signatory Self Certification

Introduction This topic explains the process for a Code Signatory to self certify against an endorsed TCF Code.

When to use When a party decides to sign up to a new or amended Code.
On an annual basis to reconfirm compliance with those Codes a party is signatory to.

Who can use this process Code Signatories.

What you should know

1. Failure by a Code Signatory to self certify annually in the required timeframe will be published on the TCF website by the Compliance Officer who will initiate an investigation as if they had received a Notice of Potential Breach .
2. Completion of a Self Certification form does not in any way limit the obligations of Code Signatories to comply with a Code or the TCF Code Compliance Framework.
3. The TCF does not warrant that successful completion of the Self Certification Form will suffice to ensure that a Code Signatory’s operations are fully compliant with a Code.

Process for initial self certification The table below describes the process for **initial self certification** by a Code Signatory.

Step	Description/Action
1	Ensure understanding of the compliance requirements in the Code in full.
2	Ensure the appropriate procedures are in place within your organisation to ensure compliance with the Code.
3	Complete the relevant Code Signatory Self Certification template.
4	Email the completed Code Signatory Self Certification template to the Compliance Officer at: compliance@tcf.org.nz .
5	Email the Compliance Officer the contact details for the person authorized within your organisation to manage any potential breach or compliance issue in relation to the Code

Process for annual self certification The table below describes the process for **annual self certification** by a Code Signatory.

Step	Description/Action
1	For each TCF code your organisation is a signatory to, that is governed by the Code Compliance Framework, complete and return the relevant Code Signatory Self Certification template within 20 business days of the year ending 31st March for the entire prior calendar year or part year since initial self-certification.
2	Email the completed Code Signatory Self Certification templates along with any supporting information required to the Compliance Officer at: compliance@tcf.org.nz .
3	If for whatever reason your organisation is unable to complete a Self Certification by the due date, you must submit in writing to the Compliance Officer the following information:

	<ul style="list-style-type: none"> • The name of the Code(s) to which failure to self-certify in the timeframe applies; • The reason/s for being unable to provide the information; and • What action your organisation is taking to remedy the situation and expected date that self-certification will be completed by. <p>This information must be provided to the Compliance Officer within 20 business days of the year ending 31st March. For the avoidance of doubt, provision of this information will still be treated as a failure to self-certify for the purposes of the CCF.</p>
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Compliance Officer's responsibility

The Compliance Officer's responsibility is to:

1. Advise Code Signatories about the required self certification processes.
2. Remind Code Signatories when annual self certification is due.
3. Answer any questions regarding self certification.
4. Publish on the TCF website details of any Code Signatory who has defaulted in their obligation to perform the annual self certification in the required timeframe.

Code Signatory's responsibility

The Code Signatory's responsibility is to:

1. Ensure that their business operations are fully compliant with each Code to which they are a Signatory
2. Complete and submit the relevant Self Certification form when becoming a Signatory to a TCF Code that is governed by the Code Compliance Framework.
3. On an annual basis, within 20 business days of the year ending 31st March for the entire prior calendar year or part year since initial self-certification, completing and submitting the relevant Self Certification form/s to reconfirm their compliance with those codes that they are a signatory to.
4. Advise the Compliance Officer if any self-certifications will be late; and the reasons for this.

Related information

Procedure for reporting Confirmed Breach - Failure by a Code Signatory to complete annual self-certification.

Related document

Code Signatory Self Certification template.

11. Procedure for initial and annual self certification verification

Introduction	This topic explains the procedure for Compliance Officer verification and reporting on a Code Signatory's initial self certification with a TCF Code and management of the annual self certification process.
When to use	Annually and as required for each initial certification.
Who can use this process	Compliance Officer.
Timeframe	Annually commencing early March and within 5 business days of receipt of a completed code signatory self certification form for initial certification.
Process	The table below describes the process for the Compliance Officer to complete and report on Code signatories TCF Code Compliance Framework self certification.

Step	Description/Action
1	Identify which parties are required to self certify for which Codes.
2	Email all Code signatories advising: <ul style="list-style-type: none"> • Where to find the self certification templates on TCF website (or elsewhere). • Due date for completed self certification forms. • Where to find out more information.
3	Three business days before the due date for self certification reports, send a reminder to all Code Signatories who have not submitted their reports
4	Upon receipt of a completed self certification form: <ol style="list-style-type: none"> 1. Ensure all required details have been provided. 2. Scrutinize each self-certification report to identify any discrepancies or shortfalls in relation to the Code Compliance Framework. 3. Liaise with the Code Signatory if further information or verification is required. 4. In relation to an annual self certification, instigate the Notice of Potential Breach process for any compliance issue found from the inspection of self-certification reports
4	Once all requirements have been met by the Code Signatory for initial self certification, publish the code signatories name on the TCF website and add to information for quarterly reporting. Confirm in writing to the code signatory that their self certification form has been received and approved.
5	Compile a summary report for the TCF Board based on the self-certification reports received (and not received) from Code Signatories.
6	Publish the details of any Code Signatory's failure to self certify in the required timeframe on the TCF website and initiate the Compliance Management process as if they had received a Notice of Potential Breach.

Compliance Officer's

The Compliance Officer's responsibility is to:

responsibility

-
1. Verify the completeness of initial self certification forms received.
 2. Update the TCF website and other materials to include the new code signatory's details.
 3. Answer any questions regarding initial self certification.
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Code Signatories responsibility

Provide further information if requested by the Compliance Officer

Related information

Procedure 10

Related document

Code Signatory Self Certification template.

12. Procedure for reporting on a Confirmed Breach

Introduction	This topic explains what information will be maintained on the TCF website in relation to a Confirmed Breach.
When to use	As part of the following procedures: <ul style="list-style-type: none"> • Procedure for annual self certification monitoring and reporting • Procedure for sending a Notice of Confirmed Breach
Who can use this process	Compliance Officer.
Timeframe	Within three business days of breach confirmation or resolution.
Process	The Compliance Officer is to maintain on the TCF website (in a place accessible to the public) information about Confirmed Breaches as detailed in the below table.

Step	Description/Action
1	<p><i>Failure by a Code Signatory to complete annual self-certification</i></p> <p>Where a Code Signatory fails to properly self-certify in accordance with the <i>Procedure for Code Signatory Self Certification</i> the Compliance Officer is to publish the following information on the TCF website:</p> <ul style="list-style-type: none"> • The date of announcement • The name of the Code Signatory that has not properly self-certified • The name of the Code(s) that the Code Signatory has not self-certified against • In an area of the website inaccessible to the general public, a summary of the reasons, if relevant, for why the Code Signatory has not self-certified and how that signatory proposes to remedy the situation in order to self-certify as confirmed in writing to the Compliance Officer in accordance with the, <i>Procedure for Code Signatory Self Certification</i> (Process for annual self certification, step 3).
2	<p><i>Confirmed Breach identified through Compliance Management process:</i></p> <p>Where a Confirmed Breach has been identified by the Compliance Officer or Enforcement Agent, including the following information is to be published:</p> <ul style="list-style-type: none"> • The date of announcement • The name of the TCF Code that has been breached • The company name of the Code Signatory that is non-compliant (the Respondent) • The specific requirement(s) in the TCF Code breached • The status of the Compliance Issue (e.g. Respondent implementing resolution) • The Expected Breach Resolve Date • The Complainant's company name.
3	<p><i>Respondent resolution of Confirmed Breach or satisfactory completion of annual self-certification.</i></p> <p>Within three business days of the Compliance Officer confirming that a</p>

	breach (either failure to self-certify or Compliance Issue) has been successfully resolved, the information relating to that breach is to be removed from the TCF website.
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Compliance Officer's responsibility

The Compliance Officer's responsibility is to:

- Ensure that the information on the TCF website in relation to non-compliance is accurate and updated in a timely manner.

Related information

10 - Procedure for Code Signatory Self Certification (process for annual self certification, step 3)

25 - Procedure for sending a Notice of Confirmed Breach (step 3)

Related document

13. Procedure for quarterly Code Compliance Framework reporting

Introduction	This topic explains what information will be published on the TCF website in relation to the operation of the Code Compliance Framework.
When to use	This is a standard procedure to be completed on a quarterly basis as part of Compliance Officer's normal role responsibilities.
Who can use this process	Compliance Officer.
Timeframe	<ul style="list-style-type: none"> • March for the January to March period • June for the April to June period • September for the July to September period • December for the October to December period
Process	The Compliance Officer is to prepare a review of the Code Compliance activity for the Board's notification and subsequently publish this review on the TCF website (in a place accessible to the public) on a quarterly basis a review of the Code Compliance Framework activity. The table below describes what information is to be published.

Step	Description/Action
1	<p>Code Participation:</p> <ul style="list-style-type: none"> • The Mandatory Codes each Party must be a signatory to as part of TCF membership, taking into account the applicability of each Mandatory Code to each Party's respective business activities; • The Regulated Codes each Party is required to be compliant with, taking into account the applicability of each Regulated Code to each Party's respective business activities; and • The signatories to each TCF Code. • An indication of which Codes are subject to the CCF
2	<p>Code Compliance:</p> <ul style="list-style-type: none"> • Whether each Code Signatory has correctly self-certified under the CCF that it is compliant with each TCF Code for which it is a Code Signatory, and if necessary, any reasons for failure to self-certify or non-compliance; • Whether a Respondent is non-compliant with an approved Proposed Resolution; and • What, if any Sanctions are in effect.
3	<p>Compliance Issue Management:</p> <p>The number and percentage of Compliance Issues:</p> <ul style="list-style-type: none"> • by TCF Code • by complainant type (i.e. TCF Member, self-reported, consumer, etc) • determined to be invalid • escalated to the Enforcement Agent • to which a Compliance Issue Notice has been issued • to which a Notice of Confirmed Breach has been issued, and by who (Compliance Officer or Enforcement Agent) and • to which Sanctions have been applied
4	<p>Compliance Statistics</p> <p>The number and percentage of:</p>

	<ul style="list-style-type: none"> • Code Signatories complained against but subsequently found not to be in breach • Code Signatories that breached, which then complied with a Proposed Resolution (aggregate and by code) • Code Signatories that breached and had Sanctions applied
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Compliance Officer's responsibility

The Compliance Officer's responsibility is to:

- Ensure that the information is available to produce the reports
- Prepare the reports in the specified timeframe

Related information

Related document

14. Procedure for annual Code Compliance Framework reporting

Introduction	This topic explains what information the Compliance Officer is to provide to the TCF Board on an annual basis.
When to use	Annually, following completion of the Code Signatory annual self certification process.
Who can use this process	Compliance Officer.
Before you begin	The Code Signatory annual self certification process must be completed first (with the exception of any late self-certifications).
Timeframe	On an annual basis, within 20 business days of the year ending 31st March for the entire prior calendar year.
Process	The table below describes the information the Compliance Officer is to report on to the TCF Board regarding the Code Compliance Framework.

Step	Description/Action
1	A summary of the Code Signatory quarterly Self Certification process data.
2	A report on Compliance Issues in the previous year (collated from the quarterly reports – refer Procedure for quarterly Code Compliance Framework reporting).
3	Any recommendations to changes to the CCF and/or Operations Manual.
4	Any recommendations for changes to existing TCF Codes to clarify or reduce non-compliance.
5	Cost (budget versus actual) of operating the Code Compliance Framework in the previous year

Compliance Officer's responsibility	The Compliance Officer's responsibility is to: <ol style="list-style-type: none"> 1. Prepare an annual Code Compliance Framework review report for the TCF Board.
Preceding process	Error! Reference source not found. 10 - Procedure for management of Code Signatory annual self certification
Related document	

15. Procedure for Code Compliance Monitoring

Introduction	This topic explains when the Compliance Officer may request further details from a Code Signatory on their compliance
When to use	When the Compliance Officer has a bona fide reason of concern of a material nature regarding the Code Signatories compliance, including (but not limited to), where: <ul style="list-style-type: none"> • The requirement(s) in question has been regularly breached; • The requirement(s) in question has been the subject of a Proposed Resolution or Sanction; • Where there is particular concern by stakeholders over non-compliance with the specific requirement(s) of a TCF code.
Who can use this process	Compliance Officer.
Timeframe	Whenever the appropriate level of concern is raised.
Process	The table below describes when the Compliance Officer may request further information from a Code Signatory

Step	Description/Action
1	Formulate and define the issue that gives cause to seek further information.
2	Email the Code Signatory setting out the need for further information and seeking agreement, subject to an information request, on the detail, format and timeframe for delivery for the requested information. The TCF CEO will have the final decision on these matters where there is disagreement.
3	Send the formal information request to the Code Signatory. The request may ask for a signed representation by an employee with appropriate delegated authority certifying that the information is, to the best of their knowledge and after reasonable enquiry, true and correct.
4	Review the information received from the Code Signatory
5	If, as part of the review, significant non-compliance by the Code Signatory is identified then the Compliance Officer will initiate an investigation in accordance Code Compliance Framework.
6	If considered appropriate, and if agreed by the Code Signatory, release to TCF Members a confidential summary of the results of any compliance monitoring for the purpose of promoting continual improvement in compliance by TCF Members.

Compliance Officer's responsibility

The Compliance Officer's responsibility is to:

1. Ensure they have a bona fide reason of concern of a material nature for making the information request.
2. Act in good faith to agree the detail, format and timeframe of a response to an information request
3. Endeavour to ensure the information request is reasonable and does not create unnecessary costs for each party

**Code
Signatory's
Responsibility**

The Code Signatory's responsibility is to:

1. Act in good faith to agree the detail, format and timeframe of a response to an information request
2. Carry out any investigation required of the request in good faith,
3. Provide the information in the agreed format and timeframe and, if requested, signed by the appropriate person.

**Preceding
process**

10- Procedure for Code Signatory annual self certification

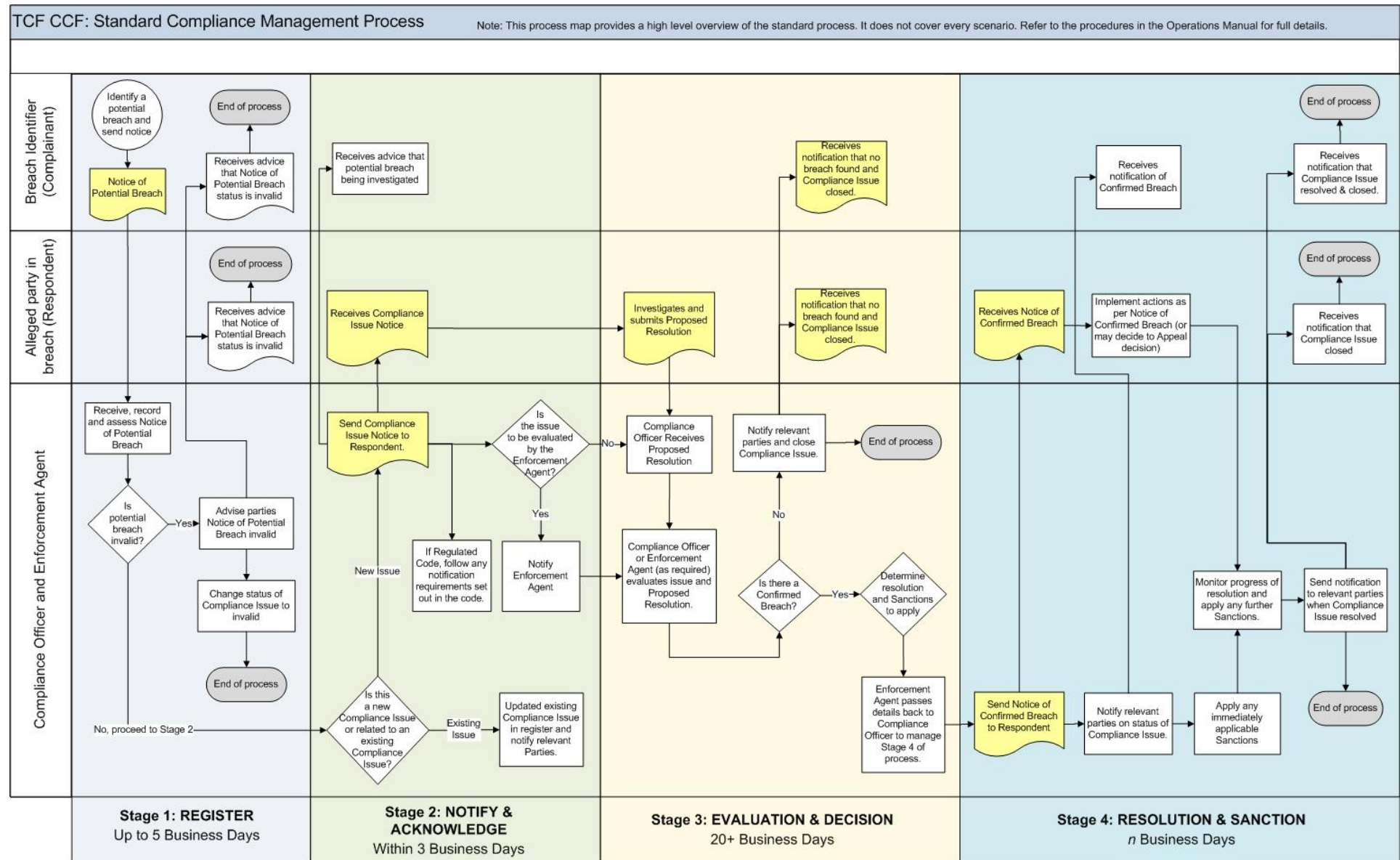
**Related
document**

E. COMPLIANCE ISSUE MANAGEMENT

16. Process Overview

17. The Code Compliance Framework Compliance Management process consists of the four stages process set out in clauses 29 and 31 of the CCF. :
18. At any point in the Compliance Management Process:
 - 18.1. The Complainant can withdraw their Notice of Potential Breach.
 - 18.2. A Compliance Issue can be found invalid by the Compliance Officer. In this case the Compliance Officer will notify the Complainant and Respondent (and any other party required by the relevant code) and the issue will be closed.
 - 18.3. The Compliance Officer may conclude the issue is Complex and refer the matter to the Enforcement Agent to investigate.

19. Process Map



20. Procedure for submitting Notice of Potential Breach (Stage 1)

Introduction	This topic explains the process for a Complainant to submit a Notice of Potential Breach to the TCF.
When to use	<i>Stage 1 – Register</i> When a potential Code breach is identified during the course of business activities and interaction with the Code.
Who can use this process	<ul style="list-style-type: none"> • A Code Signatory. • The Compliance Officer. • A third party entity identified in a TCF Code as relevant to the obligations specified under that TCF Code. • The TDR Scheme Agent. <p>Referred to in this process as the ‘Complainant’.</p>
Timeframe	As soon as a potential Code breach is identified.
Process	The table below describes the process for submitting a Notice of Potential Breach.

Step	Description/Action
1	Potential Code breach identified.
2	<p>Complainant completes the Notice of Potential Breach (NOPB) form available from the TCF website containing:</p> <ul style="list-style-type: none"> • Complainant Company and Authorized Contact Details • Details of party against which notice is raised • Code to which potential breach relates; and • Nature of potential breach <p>Save the file following using the file naming convention below.</p> <p><i>File Naming Convention:</i></p> <ul style="list-style-type: none"> – NOPB - Complainant Name abbreviated - Code name abbreviated - Respondent name abbreviated – date as YYYYMMDD. <p><i>Example:</i></p> <ul style="list-style-type: none"> – NOPB - TCL - Customer Tfr Code – CPS – 20120105.docx
3	<p>Complainant sends the completed Notice of Potential Breach form in the following format:</p> <ul style="list-style-type: none"> • Format of form: Word document • Method of sending: Email • Email to: compliance@tcf.org.nz • Email subject line: Notice of Potential Breach – <i>Insert Code Title here</i>

A Complainant can withdraw their Notice of Potential Breach at any time and any investigation will immediately cease.

Compliance Officer’s responsibility

-

Complainant's responsibility	<p>The Complainant's responsibility is to:</p> <ol style="list-style-type: none"> 1. Submit a Notice of Potential Breach as soon as practicable after identifying a potential breach. 2. Complete the Notice of Potential Breach in its entirety providing as much detailed information as possible. 3. Send the form to the Compliance Officer in the form prescribed in Step 3.
Respondent's responsibility	-
Preceding process	-
Next process	21 - Procedure for validating Notice of Potential Breach.
Related information	
Related documents	Notice of Potential Breach form

21. Procedure for validating Notice of Potential Breach (Stage 1)

Introduction	This topic explains the procedure for the Compliance Officer to validate a Notice of Potential Breach.
When to use	<i>Stage 1 – Register</i> Upon receipt of a Notice of Potential Breach from a Complainant.
Who can use this process	The Compliance Officer.
Before you begin	Check that the Complainant has provided all the required details in the Notice of Potential Breach form. If any details are missing, reply back to the Complainant requesting a correctly completed form and take no further action.
Timeframe	This procedure must be completed within five (5) business days of receipt of a Notice of Potential Breach.
Process	The table below describes the process for validating a Notice of Potential Breach received from a Complainant.

Step	Description/Action
1	<p>Upon receipt of a Notice of Potential Breach:</p> <ul style="list-style-type: none"> Save the completed Notice of Potential Breach form into the designated network folder; and Prefix the unique Compliance Issue reference number from the Compliance Management Register to the file name of the Notice of Potential Breach. <p><i>Example:</i></p> <ul style="list-style-type: none"> 1234 - NOPB - TCL - Customer Tfr Code – CPS – 20120105.docx
2	<p>Add the following details as a new Compliance Issue to the Compliance Management Register:</p> <ul style="list-style-type: none"> Date Notice of Potential Breach received Complainant Company Complainant Contact Respondent Company Name of Code to which potential breach relates One line summary of complaint Code Category: <ul style="list-style-type: none"> Regulated Mandatory Voluntary Status of Compliance Issue = Pending review
3	<p>Review the potential breach details to determine whether, on initial assessment, it appears to be valid and should therefore proceed to the next stage, by answering the following two questions:</p> <ol style="list-style-type: none"> Is the potential breach related to a Code that is governed by the CCF? <p><i>If not, the Compliance Issue is deemed to be invalid. If yes, proceed to question two below.</i></p>

	<p>2. Review the explanation of the breach and the Code clauses to which the alleged breach relates and decide whether a breach may have occurred, or whether the Complainant has misinterpreted the Code's compliance requirements.</p> <p><i>If the potential breach is a misinterpretation of a Code's compliance requirements, the Compliance Issue is deemed to be invalid.</i></p> <p><i>If the details of the potential breach appear to be relevant the Compliance Issue is deemed to be valid.</i></p>
4a	<p>If in Step 3, the Compliance Issue is deemed <i>invalid</i>, the Compliance Officer is to email the Complainant advising that:</p> <ul style="list-style-type: none"> • The Notice of Potential Breach has been deemed as invalid • The reason/s underlying the decision; and • That the issue has now been closed.
4b	<p>If in Step 3, the Compliance Issue is deemed <i>invalid</i>, the Compliance Officer is to email the Respondent advising that:</p> <ul style="list-style-type: none"> • A Notice of Potential Breach was received in relation to their organisation; • The nature of the alleged breach; • That the Compliance Officer has deemed the potential breach as invalid; • The reason/s underlying the decision; and • That the issue has now been closed.
4c	<p>If in Step 3, Compliance Issue is deemed <i>invalid</i>, the Compliance Officer is to update the Compliance Issue in the Compliance Management Register with the following information.</p> <ul style="list-style-type: none"> • Status of Compliance Issue = Invalid • Date notification sent to affected parties • Summary of reason for determining potential breach as invalid <p>The process for <i>invalid</i> Compliance Issues ends at this point.</p>
5	<p>If in Step 3, the Compliance Issue is deemed <i>valid</i>, the Compliance Officer is to:</p> <ul style="list-style-type: none"> • Update the Compliance Issue in the Compliance Management Register to change the Status of Compliance Issue = Valid; • Email the Respondent and the Complainant to invite them to discuss the issue on a bilateral basis to ascertain if the alleged breach can be addressed outside of the Compliance Issue Management process; and • Proceed to the next step in the Compliance Management process.

Compliance Officer's responsibility

The Compliance Officer's responsibility is to:

1. Record the details of the Notice of Potential Breach.
2. Determine whether the Compliance Issue is valid or invalid.
3. Notify relevant parties if Compliance Issue is deemed invalid.
4. Proceed to the next step in the process if the Compliance Issue is deemed valid.

Complainant's responsibility

-

Respondent's responsibility	-
Preceding process	20 - Procedure for submitting Notice of Potential Breach
Next process	22 - Procedure for sending Compliance Issue Notice

22. Procedure for sending Compliance Issue Notice (Stage 2)

Introduction	This topic explains the procedure for the Compliance Officer to send a Compliance Issue Notice.
When to use	<i>Stage 2 - Notify & Acknowledge</i> Where a Compliance Issue is deemed as valid at the end of Stage 1. <i>(Refer 2.- Procedure for validating Notice of Potential Breach)</i>
Who can use this process	The Compliance Officer.
Timeframe	This procedure must be completed within three (3) business days of a Compliance Issue being deemed as valid at the end of Stage 1.
Before you begin	Identify whether the issue is a new or existing issue and then follow the relevant process below. <ul style="list-style-type: none"> • An existing issue is one that has already been raised by another party about the same potential breach and a Compliance Issue (or Notice of Confirmed Breach) already sent to the Respondent. • A new issue is on a new topic not previously raised against the Respondent by any party.

Process for existing Compliance Issues The table below describes the process for sending a Compliance Issue Notice to a Respondent in relation to an **existing Compliance Issue**.

Step	Description/Action
1	Update the existing Compliance Issue in the Compliance Management Register to note an additional Notice of Potential Breach has been received.
2	Notify the Respondent in writing that: <ul style="list-style-type: none"> • A further Notice of Potential Breach has been received; and • To which Compliance Issue Number it relates.
3	Notify the Complainant: <ul style="list-style-type: none"> • That the issue raised in the Notice of Potential Breach is already under investigation; • At what stage of the process it is at; and • Include the Compliance Issue Notice Number.
4	If the Compliance Issue is being evaluated by the Enforcement Agent, forward a copy of the Notice of Potential Breach to the Enforcement Agent and; advise to which existing Compliance Issue Number it relates.
5	If the Notice of Potential Breach relates to a Compliance Issue with a Regulated Code, forward a copy to the designated contact at the Commission and; advise to which existing Compliance Issue Number it relates.

No further steps in this procedure are required in relation to existing issues.

Process for new Compliance Issues The table below describes the process for sending a Compliance Issue Notice to a Respondent in relation to a **new Compliance Issue**.

Step	Description/Action
1	<p>The Compliance Officer reviews the alleged breach and determines whether Stage 3 will be performed by themselves or the Enforcement Agent, having due consideration to:</p> <ul style="list-style-type: none"> • The complexity of the breach, including: <ul style="list-style-type: none"> ○ the scale and impact on end-user(s) and other Code Signatories, ○ whether the breach impacts a core Code requirement or minor requirement, ○ whether breach is of a technical nature requiring expert knowledge, ○ whether the breach is obvious, or not. ○ Whether the solution (such as publishing a detail on a website) is simple, or not. • All allegations of breach related to Regulatory Codes must be investigated by an Enforcement Agent,
2	<p>Complete a Compliance Issue Notice form. The Compliance Issue Notice (CIN) must contain the following information:</p> <ul style="list-style-type: none"> • Compliance Issue Notice number. • Impact Level. • Timeframe within which the Respondent must submit their Proposed Resolution. • Reference to the Notice of Potential Breach, including a copy of the notice. • In the case of Regulated Codes, that any specified steps contained in the relevant Code have been followed. • Who will be evaluating the Proposed Resolution – either the Compliance Officer or Enforcement Agent. <p>Save the CIN using the file naming convention below.</p> <p><i>File Naming Convention:</i></p> <ul style="list-style-type: none"> - Unique Compliance Issue reference number – CIN - Respondent name abbreviated – date as YYYYMMDD.docx <p><i>Example:</i></p> <ul style="list-style-type: none"> - 1234 - CIN - CPS - 20120108.docx
3	<p>Email the Compliance Issue Notice and copy of Notice of Potential Breach to the Respondent.</p>
4	<p>Email a reply to the Complainant’s original Notice of Potential Breach communication advising that:</p> <ul style="list-style-type: none"> • The Compliance Issue is being investigated; and • The Compliance Issue Notice number to be used on any future correspondence.
5	<p>If the Compliance Issue is to be investigated by the Enforcement Agent, send a send a copy of the Compliance Issue Notice to the Enforcement Agent.</p>
6	<p>Update the Compliance Issue in the Compliance Management Register to record:</p> <ul style="list-style-type: none"> • Status = Compliance Notice Sent; • The date the Compliance Issue Notice was sent; • The date by when a Proposed Resolution to the Compliance Issue

	<p>should be received from the Respondent; and</p> <ul style="list-style-type: none"> Who will be evaluating the Proposed Resolution – either the Compliance Officer or Enforcement Agent
Compliance Officer's responsibility	<p>The Compliance Officer's responsibility is to:</p> <ol style="list-style-type: none"> Identify whether the Compliance Issue is new or existing; Determine the Impact Level; Complete a Compliance Issue Notice; Send the Compliance Issue Notice to the Respondent; and Inform any other affected parties about the Compliance Issue.
Complainant's responsibility	-
Respondent's responsibility	-
Preceding process	21 - Procedure for validating Notice of Potential Breach.
Next process	23 - Respondent submits Proposed Resolution.
Related information	
Related documents	Compliance Issue Notice form

23. Procedure for Respondent to Submit Proposed Resolution (Stage 3)

Introduction	This topic explains the procedure for the Respondent to submit a Proposed Resolution in response to receipt of a Compliance Issue Notice.
When to use	<i>Stage 3 – Evaluation and Decision</i> Upon receipt of a Compliance Issue Notice from the Compliance Officer.
Who can use this process	The Respondent. Note in the case of self-reported Compliance Issues, the Respondent may be the same party as the Complainant.
Timeframe	This procedure must be completed within the timeframe specified in the Compliance Issue Notice received.
Process	The table below describes the process for submitting a Proposed Resolution.

Step	Description/Action
1	Review the details contained in the Compliance Issue Notice and appended Notice of Potential Breach.
2	Undertake an internal investigation of the alleged breach to determine whether or not a breach has occurred.
3	If the breach is confirmed, identify and document a plan to resolve the breach, including an expect date by which the breach will be resolved.
4	Submit in writing (electronically) to the Compliance Officer a letter containing: <ul style="list-style-type: none"> • The unique Compliance Issue reference number • Full contact details of the Respondent • What action was taken to investigate the Compliance Issue and the outcome of that investigation; and • Either: <ul style="list-style-type: none"> – A detailed plan and timeframe for resolution where a breach has been identified; or – Evidence that no breach has occurred; and • Any other information of relevance to the Compliance Issue.

Compliance Officer’s responsibility	-
Complainant’s responsibility	-
Respondent’s responsibility	The Respondent’s responsibility is to investigate and respond to any Compliance Issue Notice received, in the timeframe specified in the notice.
Preceding process	22 - Procedure for sending Compliance Issue Notice.
Next process	24- Evaluation of Proposed Resolution.
Related	

information

24. Procedure for evaluation of Proposed Resolution (Stage 3)

Introduction	This topic explains the procedure for the Compliance Officer or Enforcement agent to evaluate a Proposed Resolution.
When to use	<i>Stage 3 – Evaluation and Decision</i> Upon receipt of a Proposed Resolution from a Respondent.
Who can use this process	<ul style="list-style-type: none"> • Compliance Officer • Enforcement Agent
Timeframe	Within 20 business days of receipt of a Proposed Resolution, except where: <ul style="list-style-type: none"> • An independent audit is required as part of the evaluation process.
Process	The table below describes the process for receiving and evaluating a Proposed Resolution.

Step	Description/Action
1	<p>Within two business days of receipt of a Proposed Resolution the Compliance Officer will review the details and:</p> <ul style="list-style-type: none"> • Decide either to undertake the evaluation of the Compliance Issue themselves; or • Determine that the issue is Complex, or is regarding a Regulated Code, and therefore will immediately forward the details to the Enforcement Agent for evaluation (unless the code says otherwise).
2	<p>The Compliance Officer is to update the Compliance Issue in the Compliance Management Register to:</p> <ul style="list-style-type: none"> • Record the date the Proposed Resolution was received; • Change the status of the Compliance Issue to = Proposed Resolution under evaluation • Identify who is performing the evaluation – the Compliance Officer or Enforcement Agent.
3	<p>Evaluate the Compliance Issue.</p> <p>Within 15 days of receipt of the Proposed Resolution, the party performing the evaluation – the <i>Evaluating Person</i> (either the Compliance Officer or Enforcement Agent) will:</p> <ul style="list-style-type: none"> • Review all the information provided in relation to a Compliance Issue being the: <ul style="list-style-type: none"> – Notice of Potential Breach – Compliance Issue Notice – Proposed Resolution; and – Any other information provided by the Respondent; • Liaise with the Respondent and/or Complainant for further details if required; and • Decide whether or not there has been a Code breach by the Respondent. <p>During the evaluation process:</p> <ul style="list-style-type: none"> • The Compliance Officer may conclude that the issue is Complex, and at that point, refer the matter to the Enforcement Agent to evaluate. <p>Independent Auditor</p> <ul style="list-style-type: none"> • The Enforcement Agent may choose to engage an independent auditor to assist with the investigation.

	<ul style="list-style-type: none"> • An independent audit will only be used where the Respondent fails to provide information which the Enforcement Agents believes is of sufficient detail or quality to perform its evaluation. • The Enforcement Agent may initiate an independent audit in relation to an alleged Code breach irrespective of whether the relevant Code provides mechanism for an independent audit to occur. • use of an independent auditor must be agreed by the Respondent and in consultation with the TCF CEO, before it can proceed.
4	<p>The Evaluating Person is to complete the Compliance Issue Evaluation template including where:</p> <p>A breach is found:</p> <ul style="list-style-type: none"> • The required resolution (which may include acceptance of the Proposed Resolution provided by the Respondent and any amendment or addition to this); and • Document the Sanction/s is to be applied to the Respondent in accordance with the list of Sanctions in Appendix 3 of, the Code Compliance Framework. <p>A breach is not found:</p> <ul style="list-style-type: none"> • That no breach has occurred and the reason/s this conclusion was reached. <p>If the Enforcement Agent was the Evaluating Person, they are to forward the completed Compliance Issue Evaluation template to the Compliance Officer.</p>
5	<p>Within three business days of receipt of a completed Compliance Issue Evaluation, the Compliance Officer is to either proceed to Stage 4 or close the Compliance Issue.</p> <p>Where, a breach is found:</p> <ul style="list-style-type: none"> • Complete and send the Respondent a Notice of Confirmed Breach. <p>Where, no breach is found:</p> <ul style="list-style-type: none"> • Notify the Respondent that no breach has been found; • Provide any supporting evidence/explanation behind the decision from the Compliance Issue Evaluation template; and • Advise that the Compliance Issue has been closed. • Notify the Complainant (and any other party specified by the relevant code) of the decision.
6	<p>The Compliance Officer is to update the Compliance Issue in the Compliance Management Register to change the status of the Compliance Issue to either:</p> <ul style="list-style-type: none"> • Confirmed Breach; or • No breach found - Compliance Issue closed.

Compliance Officer's responsibility

The Compliance Officer's responsibility is to:

1. Record details relating to any Proposed Resolution and subsequent evaluation.
2. Where applicable, evaluate Proposed Resolutions and determine whether a breach has occurred.
3. Manage the communication of any evaluation decision with the Respondent.

Enforcement Agent's responsibility

The Enforcement Agent's responsibility is to:

1. Where applicable, evaluate a Proposed Resolution and determine whether a breach has occurred.

	<ol style="list-style-type: none"> 2. Engage an independent auditor only if necessary. 3. Communicate the outcome of any decision to the Compliance Officer.
Complainant's responsibility	<p>The Complainant's responsibility is to:</p> <ol style="list-style-type: none"> 1. Provide any further information to the Evaluating Person if and when required, in a timely manner.
Respondent's responsibility	<p>The Respondent's responsibility is to:</p> <ol style="list-style-type: none"> 1. Provide any further information to the Evaluating Person if and when required, in a timely manner. 2. Cooperate in any independent audit initiated by the Enforcement Agent.
Preceding process	<ol style="list-style-type: none"> 4. Procedure for Respondent to submit Proposed Resolution.
Next process	<p>If applicable:</p> <p>25 - Send Notice of Confirmed Breach.</p>
Related information	
Related documents	<p>Compliance Issue Evaluation Template</p>

25. Procedure for sending a Notice of Confirmed Breach (Stage 4)

Introduction	This topic explains the process for a Compliance Officer to send a Notice of Confirmed Breach and to monitor progress by the Respondent in resolving the breach.
When to use	<i>Stage 4 – Resolution & Sanction</i> Upon identification of a Confirmed Breach during Stage 3 (<i>refer procedure 5 – evaluation of Proposed Resolution</i>)
Who can use this process	The Compliance Officer.
Before you begin	Ensure you have the completed Compliance Issue Evaluation template from procedure 5.
Timeframe	This procedure must be completed within three business days of receipt of a completed Compliance Issue Evaluation template identifying a Confirmed Breach.
Process	The table below describes the process for completing and sending a Notice of Confirmed Breach to relevant parties.

Step	Description/Action
1	Complete and send to the Respondent a Notice of Confirmed Breach using the template provided in Part H.
2	Notify the Complainant (and any other party specified in the relevant code) that the Compliance Issue status has been changed to a Confirmed Breach. Any confidential information should be removed from any notice provided to the Complainant.
3	Apply any immediate Sanctions identified in the Compliance Issue Evaluation.
4	Update the Compliance Issue in the Compliance Management Register to: <ul style="list-style-type: none"> • Record the date the Notice of Confirmed Breach was sent; • The date by when the Respondent has been asked to resolve the breach; and • Note if any Sanction/s has been applied (Yes/No).
5	Monitor progress by the Respondent on resolving the Confirmed Breach and take any of the following further actions required: <ul style="list-style-type: none"> • If the Respondent appeals the decision, update the Compliance Management Register to record the status as Appealed and move to procedure 7 – Appeal decision in Notice of Confirmed Breach. • If the Respondent does not meet the timeframe specified in the Notice of Confirmed Breach: <ul style="list-style-type: none"> – Apply any additional Sanctions in accordance with the Sanctions outlined in Appendix 3 of the CCF; and – Notify the Respondent of any further Sanctions that have been applied.

Compliance Officer’s responsibility

- The Compliance Officer’s responsibility is to:
1. Issue a Notice of Confirmed Breach to the Respondent.
 2. Notify relevant parties of the status of the Compliance Issue.

	<ol style="list-style-type: none"> 3. Apply any Sanctions. 4. Monitor the Respondent's progress on resolving the breach. 5. Follow the Appeal procedure if the Respondent appeals a decision.
Complainant's responsibility	-
Respondent's responsibility	<p>The Respondent's responsibility is to:</p> <ol style="list-style-type: none"> 1. Take the necessary actions required to resolve a Compliance Issue as identified in the Notice of Confirmed Breach, within the specified timeframe.
Preceding process	24 - Evaluation of Proposed Resolution
Next process	26 - Procedure for Responding to a Notice of Confirmed Breach; or 27 - Procedure for Appeal of a Notice of Confirmed Breach.
Related information	CCF Appendix 3 – Sanctions
Related documents	Notice of Confirmed Breach form

26. Procedure for responding to a Notice of Confirmed Breach (Stage 4)

Introduction	This topic explains the procedure for the Respondent to respond to a Notice of Confirmed Breach.
When to use	<i>Stage 4: Resolution & Sanction</i> Upon receipt of a Notice of Confirmed Breach.
Who can use this process	The Respondent.
Before you begin	
Timeframe	This procedure must be completed within the timeframe specified in the Notice of Confirmed Breach.
Process	The table below describes the process for actioning and responding to a Notice of Confirmed Breach.

Step	Description/Action
1	Review the details contained in the Notice of Confirmed Breach.
2	Schedule the implementation of required actions to resolve the Compliance Issue, within the timeframe specified. If you do not agree with the decision made in the Notice of Confirmed Breach then you may choose to appeal it. Refer to procedure <i>Appeal Notice of Confirmed Breach</i> if you choose to Appeal the decision.
3	Submit in writing (electronically to compliance@tcf.org.nz) to the Compliance Officer a letter confirming that the Compliance Issue has been resolved. This letter must contain the following information: <ul style="list-style-type: none"> • The unique Compliance Issue reference number; • Full contact details of the Respondent; • What action was taken to resolve the Compliance Issue; • Evidence to support your claim that the Confirmed Breach has been rectified; and • Any other information you deem relevant.

Compliance Officer's responsibility	The Compliance Officer's responsibility is to: <ol style="list-style-type: none"> 1. Respond to any queries the Respondent has in relation to a Notice of Confirmed Breach.
Complainant's responsibility	-
Respondent's responsibility	The Respondent's responsibility is to take action in response to a Notice of Confirmed Breach within the timeframe specified in the notice.
Preceding process	25 - Procedure for Sending a Notice of Confirmed Breach

Next process

28 - Procedure for notification that a Compliance Issue is resolved.

**Related
information**

27. Procedure for Appeal of a Notice of Confirmed Breach (Stage 4)

Introduction	This topic explains the procedure for managing an Appeal against a Notice of Confirmed Breach.
When to use	<i>Stage 4: Resolution & Sanction</i> Optional. Upon reviewing a Notice of Confirmed Breach received. <i>Refer Procedure 7 – Action Notice of Confirmed Breach.</i>
Who can use this process	The Respondent. The Compliance Officer.
Before you begin	The only item that can be appealed is the decision made by the Compliance Officer or Enforcement Agent at the end of Stage 3 in the process; as outlined in the Notice of Confirmed Breach.
Timeframe	<ul style="list-style-type: none"> • The Respondent must appeal a Notice of Confirmed Breach within five business days of receipt. • The Compliance Officer must action the appeal request within three business days of receipt. • As any appeal will be managed by an independent third party, the timeframe for evaluating and making a decision on whether an appeal should be upheld or dismissed is not provided.
Process	The table below describes the process for the management of appeals.

Step	Description/Action
1	Respondent submits appeal in writing (electronically to compliance@tcf.org.nz) to the Compliance Officer, within five business days of receipt of a Notice of Confirmed Breach. The appeal must contain sufficient information to identify the decision being appealed and why, based on the information already provided by the Respondent, they consider the original decision was incorrect.
2	Compliance Officer receives appeal notification and: <ul style="list-style-type: none"> • If received more than five business days after the Compliance Issue Notice was sent to the Respondent, will decline the appeal on the basis that the appeal is received outside of the required timeframe; or • If received within five business days of sending after the Compliance Issue Notice was sent to the Respondent will: <ul style="list-style-type: none"> – Update the Compliance Issue in the Compliance Management Register to change the status to ‘appealed’; and – Notify the Respondent that their appeal is being evaluated.
3	The Compliance Officer must: <ul style="list-style-type: none"> • Identify an Appeal Agent from the list of Appeal Agent’s to handle the appeal. • Request an estimate of costs for the appeal from the Appeal Agent. • Inform the TCF CEO that the matter has been appealed. • Inform the Complainant that the matter has been appealed.
4	Upon identification by the TCF of an Appeal Agent to evaluate the appeal, , along with the estimate of costs, the Compliance Officer will notify the

	<p>Respondent:</p> <ul style="list-style-type: none"> • Who has been appointed as the Appeal Agent; • The estimated cost of the appeal; and • What upfront payment must be made by the Respondent to cover the cost of the appeal process.
5	The Respondent must pay the estimated cost up front before the appeal process will commence or may choose to withdraw from making an appeal.
6	The Appeal Agent will only review the relevant documents and information already provided by the parties and will not undertake a fresh investigation. The Appeal Agent will be responsible for ensuring the Appeal is carried out in an efficient cost effective manner and in keeping with the cost estimate provided.
7	<p>The Compliance Officer will:</p> <ol style="list-style-type: none"> 1. If the Appeal is successful: <ul style="list-style-type: none"> a. Organise a reimbursement of all costs paid by the Respondent in Stage 3 and 4. b. Remove all sanctions against the Respondent. c. Inform the Respondent and the Complainant of the result of the Appeal. d. Follow the procedure in <i>Procedure for Resolved Compliance Issue</i> 2. If the Appeal is unsuccessful: <ul style="list-style-type: none"> a. Inform the Respondent and the Complainant of the result of the Appeal b. Update the Compliance Registers that the appeal was unsuccessful c. Continue to monitor the resolution of the Breach and apply Sanctions as required by step 5 of the <i>Procedure of Sending a Confirmed Notice of Breach</i>

Compliance Officer's responsibility

The Compliance Officer's responsibility is to:

- Inform the Respondent about the appeal process.
- Source and provide to the Respondent, the estimated cost of the appeal.
- Update the Respondent and Complainant of the result of the Appeal

Complainant's responsibility

-

Respondent's responsibility

The Respondent's responsibility is to:

- Submit any appeal within five days of receipt of a Notice of Confirmed Breach.
- Pay any upfront costs required, as part of the appeal.
- Act in good faith when working with the TCF and Appeal Agent to resolve any issue.

Appeal Agent's responsibility

The Appeal Agent's responsibility is to:

- Perform its role in a timely manner ensuring that the process is efficient, cost effective and involves appropriate review of the facts and consultation with the relevant parties;

	<ul style="list-style-type: none"> • Provide an estimate of the costs of the appeal prior to commencing work in consultation with the Respondent and the TCF, and work within that costing once it has been approved. • Review existing papers and responses and not undertake any new investigations
Preceding process	25 - Procedure for sending a Notice of Confirmed Breach
Next process	28 - Procedure for notification of Resolved Compliance Issue (Stage 4)
Related information	CCF – Process Overview Stage Four CCF – Funding Model and Cost Allocation

28. Procedure for notification of Resolved Compliance Issue (Stage 4)

Introduction	This topic explains the procedure for the Compliance Officer to confirm and communicate that a Compliance Issue has been resolved.
When to use	Upon receipt of written notification from a Respondent that a Compliance Issue identified in a Notice of Confirmed Breach has been resolved.
Who can use this process	The Compliance Officer.
Before you begin	-
Timeframe	This procedure must be completed within three business days of receipt of notification from the Respondent that a Compliance Issue has been resolved.
Process	The table below describes the process for communicating resolution of a Compliance Issue and closing off that Compliance Issue in the Compliance Management Register.

Step	Description/Action
1	Review the details provided by the Respondent notifying that a Compliance Issue has been resolved.
2	Request any additional information if required, to confirm the breach has in fact, been resolved.
3	Once satisfied that the Compliance Issue is resolved send confirmation to relevant parties as follows: <ul style="list-style-type: none"> • Notify the Respondent in writing that the Compliance Issue has been closed. • Notify the Complainant/s that submitted the Notice of Potential Breach at Stage 1 that the Compliance Issue has been resolved. • Notify any other party as required by the relevant code
4	Update records: <ul style="list-style-type: none"> • Update any published monitoring or reporting information (e.g. TCF website) to reflect the changed status of the Compliance Issue. • Update the Compliance Issue in the Compliance Management Register to change the status to 'Resolved'.
5	Identify any areas for improvement: Record any recommendations for changes to the TCF Code to which the Compliance Issue related to clarify or prevent similar issues arising in future.

Compliance Officer's responsibility	The Compliance Officer's responsibility is to: <ol style="list-style-type: none"> 1. Communicate with relevant parties that a Compliance Issue has been resolved. 2. Update relevant records. 3. Identify any areas for improvement in the Code to which the Compliance Issue related.
Complainant's responsibility	-

Respondent's responsibility	<p>The Respondent's responsibility is to:</p> <ul style="list-style-type: none"> • Update the Compliance Officer when an issue has been resolved • Provide any additional information required, including evidence, that the issue has been fully resolved
Preceding process	26 - Procedure for Responding to a Notice of Confirmed Breach
Next process	None.
Related information	

PART THREE: FORMS AND TEMPLATES

F. ALIGNING CODES WITH THE CCF – COMMUNICATIONS TEMPLATES

29. Template Email to Working Party re CCF alignment

To: Working Party email distribution list

Subject: TCF [code name] – alignment with the Code Compliance Framework

Dear [Code Signatory]

The TCF is reconvening the [Working Party]. The primary focus of this Working Party will be to amend the [Code] in order to bring it into line with the Code Compliance Framework (CCF).

The CCF is a self-regulated enforcement framework capable of monitoring and assessing compliance with TCF Codes and penalising non-compliance. The CCF covers the enforcement process, ongoing monitoring and annual self-certification of compliance by Code signatories. Now that the CCF has come into effect, each existing TCF Code will be reviewed and, where appropriate, aligned with the Framework.

A copy of the CCF is available on the TCF website: www.tcf.org.nz/ccf.

The key components of the CCF are as follows:

- **Code Categorisation:** all existing TCF codes have been assigned as either:
 - Regulated (those codes that have been regulated under the Telecommunications Act as determined by the Minister or Commerce Commission from time to time)
 - Mandatory (self-regulated codes that all TCF members must sign)
 - Voluntary (all other self-regulated codes)

As discussed during the course of the TCF reforms, the TCF is intending to nominate make the Customer Complaints Code and the Code for Emergency Voice Calling Services are 'Mandatory Codes' and bring both under the Code Compliance Framework.

- **Compliance Reporting:** each TCF member will be required to annually self-report its compliance with each code it is a signatory to (where the code has been aligned with the CCF).
- **Standardised Breach Investigations:** an investigation process has been developed that will apply to all TCF codes that are aligned with the CCF.
- **Sanctions:** Code signatories found in breach will face sanctions on a sliding scale, based

primarily around 'naming and shaming'. After an initial announcement of breach on the TCF website, escalation through further sanctions only takes place if the member has failed to rectify the breach by the expected breach resolution date.

For more detailed information about the CCF, please refer to the Frequently Asked Questions on the TCF website.

As part of that review, the *[insert name]* Working Party needs to:

- consider how the *[insert name]* Code requires alignment with the CCF. It is expected that most Codes will require alignment but if the working party considers that the existing compliance regime (if any) is effectively working, it may make a recommendation to the TCF Board that alignment with the CCF is not required.
- where alignment with the CCF proceeds, make updates to the *[insert name]* Code to reflect this alignment and that the CCF applies to any enforcement or compliance requirements of the Code.
- nominate self-certification requirements within the *[insert name]* Code. This will set out what each Code signatory must certify compliance with for the purposes of the initial and annual self-certification reports. It is expected that these will be up to 5 key metrics from the *[insert name]* Code that are core to the Code.

If you would like to participate in this working party to review and amend this Code you can contact *[the Forum Administrator]* who will provide you with the relevant meeting times and papers in due course.

If you have any further questions about this new compliance regime, please do not hesitate to contact me.

Regards

[insert name]

TCF Compliance Officer

G. SELF CERTIFICATION, MONITORING & REPORTING TEMPLATES

30. Code Signatory Self Certification Template

Refer to separate file: code signatory self certification template.docx

H. COMPLIANCE MANAGEMENT PROCESS TEMPLATES

Stage	Title	Content	Purpose	Who	Who Receives
1	Notice of Potential Breach	Details of Complainant and of potential breach by a Code Signatory.	Raise a potential non-compliance issue by a Code Signatory with the TCF to manage through the CCF.	Complainant	Compliance Officer
2	Compliance Issue Notice	Request to investigate potential breach and respond within specified timeframe, with notice of potential breach included/appendix.	Notify a Code Signatory of a potential breach.	Compliance Officer	Respondent
3	Compliance Issue Evaluation template	This document will provide notes and decision may by either the Compliance Officer or Enforcement Agent as to whether or not a breach has occurred and the reason that conclusion was reached.	Record rationale and any supporting evidence behind the decision to deem a Compliance Issue as a Confirmed Breach or not valid (i.e. breach not found).	Compliance Officer or Enforcement Agent	Compliance Officer
4	Notice of Confirmed Breach	Notice confirming that a breach has in fact occurred, actions that must be taken to resolve (e.g. acceptance of Proposed Resolution), timeframe for resolution and any Sanctions that will be applied and the timetable for the escalation of sanctions.	Confirm to a Code Signatory (Respondent) that they are in breach of a TCF Code, what Sanctions will be applied and what action is necessary for Respondent to resolve breach.	Compliance Officer	Respondent

31. Notice of Potential Breach form

Refer to separate file: Stage 1 - Form 1 - notice of potential breach.docx

32. Compliance Issue Notice form

Refer to separate file: Stage 2 - Form 2 - compliance issue notice.docx

33. Compliance Issue Evaluation template

Refer to separate file: Stage 3 - Form 3 - compliance issue evaluation template.docx

34. Notice of Confirmed Breach form

Refer to separate file: Stage 4 - Form 4 - notice of confirmed breach.docx

I. COMPLIANCE MANAGEMENT PROCESS TEMPLATES

35. Quarterly Compliance Officer Reports

Refer to separate file: Quarterly Compliance Officer Report Template.docx

PART FOUR: ANNEXURES

J. POSITION DESCRIPTIONS

36. Compliance Officer Position Description

TITLE

Compliance Officer (CO)

PURPOSE

To provide the administrative and coordination function for the CEF as well as to support its operation through compliance monitoring and reporting and through managing or supporting compliance investigations as appropriate.

OBJECTIVES

1. The CCF is administered in an efficient manner that is cost effective for the TCF and for members
2. Members understand their responsibilities and how the CEF operates and how compliance processes operate
3. Compliance investigations are handled smoothly and efficiently and other participants (the member, the EA, IA and AA)

ACCOUNTABILITY

CO reports to and is accountable to the TCF CEO

ROLE DESCRIPTION

The role of the Compliance Officer is to:

- Perform the administrative function of compliance monitoring and reporting including:
 - Monitor data & compliance;
 - Manage the self certification process;
 - Assist TCF Members to understand their TCF Code compliance requirements;
 - Encourage and support TCF Member compliance with TCF Codes by providing support to new and potential signatories on Code obligations.
 - Provide annual reports to the Board on the operation of the Framework, finances and performance; and,
 - Maintain the Operations Manual
- Manage the four stages of the Compliance Management process including:
 - Be the first point of contact for receipt, initial filtering and assessment of any Notice of Potential Breach;
 - Send Compliance Issue Notices, where applicable, as per the Compliance Management Process
 - Keep relevant Parties informed of the status of Compliance Issues;
 - Maintain appropriate records relating to each Compliance Issue;
 - Decide whether Stage 3 will be performed by the Compliance Officer or should be referred to the Enforcement Agent.
 - Facilitate the applying of Sanctions e.g. publishing of notices on the TCF website, issuing of media releases in relation to sanctions etc.
 - Monitor progress against Resolution and Sanctions Timetable and implement or remove Sanctions as per the escalation timetable.
 - Issue notices to parties in breach;

- Support Code Signatories in breach resolution; and
- Arrange independent audits if required at the request of the Enforcement Agent.

Where the Compliance Officer is performing Stage 3 the Compliance Officer will also:

- Investigate potential breaches;
- Determine whether a breach exists; and
- If appropriate, make decisions on Sanctions.

37. Enforcement Agent Position Description

TITLE

Enforcement Agent (EA)

PURPOSE

To participate at Stage Three (when required)

OBJECTIVES

1. Investigations that the EA is required to participate in are conducted in an efficient, impartial and robust manner
2. Members are appropriately engaged during investigation processes
3. Decisions are not appealed (and any which are appealed are upheld)

ACCOUNTABILITY

EA reports to the Compliance Officer and is accountable to the TCF CEO

ROLE DESCRIPTION

The role of the Enforcement Agent, when required, is to participate at Stage Three and:

- Investigate potential breaches;
- Determine whether a breach exists;
- Identify an appropriate timetable for implementing Sanctions (if any); and
- Request independent audits under specific circumstances as per clause 29.4.4 of the Framework

38. Independent Auditor Position Description

TITLE

Independent Auditor (IA)

PURPOSE

To support the Enforcement Agent in investigating potential compliance issues

OBJECTIVES

1. Provide accurate and useful information to the EA
2. Do so in a timely and cost effective manner

ACCOUNTABILITY

The IA reports to the Compliance Officer and is accountable to TCF CEO

ROLE DESCRIPTION

The role of the Independent Auditor, when engaged, is to:

- assist with the investigation (where the Respondent fails to provide information which the Enforcement Agents believes is of sufficient detail or quality to perform its evaluation)

39. Appeal Agent Position Description

TITLE

Appeal Agent (AA)

PURPOSE

Consider any TCF or EA sanction decisions which are appealed and determine whether the decision should be upheld or dismissed

OBJECTIVES

1. Ensure all decisions are judicious and consistent with the terms of the CCF and the relevant Code.
2. Are made in a timely and cost effective manner

ACCOUNTABILITY

Reports to the Compliance Officer and is accountable to TCF CEO

ROLE DESCRIPTION

An independent expert approved and appointed by the TCF Board to:

- Consider any Stage Three Compliance Officer and/or Enforcement Agent decisions that are appealed within the required timeframes by the Respondent;
- Perform its role in a timely manner ensuring that the process is efficient, cost effective and involves appropriate review of the facts and consultation with the relevant parties;
- Provide an estimate of the costs of the appeal prior to commencing work in consultation with the appealing party and the TCF, and work within that costing once it has been approved.