



New Zealand Telecommunications Forum

CODE COMPLIANCE FRAMEWORK (CCF) OPERATIONS MANUAL

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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 and is not the Enforcement Agent. Their responsibility is to 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 Business Days.
Code Compliance Framework or CCF	Means the Code Compliance Framework approved by the TCF Board on 28 November 2024 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 the Code Compliance Framework as documented on the TCF website.
Code Signatory/ies	Means a Party 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.
Complainant	A 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 Regulated, Mandatory or Voluntary Code (under the CCF) based on the determination by the Compliance Officer or Enforcement Agent (as applicable) during the Compliance Management Process.
Enforcement Agent	For Regulated Codes means a Person(s) nominated by the TCF and approved by the Commerce Commission, or if the TCF fails to nominate a Person, a Person appointed by the Commerce Commission whose role is to monitor and enforce compliance of the obligations set out in that Regulated Code.

	For Mandatory and Voluntary Codes means a Person(s) nominated by the TCF whose role is to perform the activities required at Stages 3 of the Compliance Management Process, when requested by the Compliance Officer.
Expected Breach Resolve Date	Means the expected date that a breach of a TCF Code is expected to be resolved so that the relevant Party will return to full compliance.
Mandatory Code	Means a Self-Regulated Code that is compulsory for relevant TCF Members to become signatories to, as approved by the TCF Board. Each Mandatory Code will specify which telecommunications services it relates to, and each TCF Member who provides the specified telecommunications service will be required to sign up to that Code. Other Parties may also choose to sign up to a Mandatory Code.
Manual	Means this Operations Manual for the Code Compliance Framework.
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 Section E of this Operations Manual.
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, Person 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 a telecommunications access code drafted by the TCF in accordance with Schedule 2, Part 1 of the Telecommunications Act 2001 and formally approved by the Commerce Commission.
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.
Self-Regulated Code	Means a Code prepared by the TCF which is not a Regulated Code.
TCF Codes	Includes Regulated Codes and Self-Regulated Codes.
TCF Member	Means a Person who has agreed in writing to be a member of the TCF.
TDR Scheme Agent	Means the company contracted by TDRL to provide the Telecommunications Dispute Resolution Scheme service.
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 Limited or TDRL	Means the Company which funds and oversees the Telecommunications Dispute Resolution Scheme.
Telecommunications Dispute Resolution Scheme or TDR or TDRS	Is the Telecommunications industry dispute resolution service.
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.

B. ROLES & RESPONSIBILITIES

3. Overview

Below is a high-level summary of the roles and responsibilities in managing and supporting the CCF. Refer to section I 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. 3. Submit a Notice of Potential Breach to the Compliance Officer as soon as any breach is identified, through self-reporting. 4. Work with the Compliance Officer and/or Enforcement Agent to investigate and resolve any Code breach(es) in good faith and as quickly as practicable. 5. Propose appropriate resolution criteria when in breach of a Code. 6. Report proactively on the status of breach resolution. 	-
Compliance Officer	<ol style="list-style-type: none"> 1. Perform the administrative function of compliance monitoring and reporting. 2. Carry out any specific monitoring activity that is detailed in Codes to assess compliance, for example 'mystery shopper' exercises. 3. Manage the self-certification process. 4. Assist TCF Members and Non-Member signatories to understand their Code compliance requirements. 5. Encourage and support compliance with Codes by providing support to new and potential signatories on Code obligations. 6. Manage Compliance Issues through the four-stage Compliance Management Process and appeals process. 7. Liaise with TCF Members to investigate any potential systemic issues as requested by the TDR Scheme Agent. 8. Provide annual reports to the TCF Board on the operation of the framework, cost of investigation of Confirmed Breaches, and performance. 9. 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	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. 	Compliance Officer

	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.	
TCF CEO	<ol style="list-style-type: none"> 1. 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. Approve appointments of the Compliance Officer, Enforcement Agent(s), Appeal Agent(s) and any Independent Auditor(s) for the purposes of managing the CCF. 2. Approve changes to the CCF and the Operations Manual 3. Approve changes to the CCF Code category criteria as defined in Section F of the CCF. 4. Approve the Code category that each Code belongs to under the CCF, having regard to the recommendation of the Working Party who developed or reviewed the Code. 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. 7. Delegate any authority or activity to the TCF CEO as it sees fit. 	-

4. Process for role appointment and review

The TCF Board is responsible for approving the appointment of person(s) to the role of Compliance Officer, Enforcement Agent(s), Appeal Agent(s) and any Independent Auditor. The TCF Board may review the appointments from time to time.

PART TWO: FRAMEWORK PROCEDURES

C. CODE COMPLIANCE FRAMEWORK MANAGEMENT PROCEDURES

5. Procedure for changes

Any changes to the Code Compliance Framework and 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.

6. 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

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. • Offer to set up a meeting to discuss the Code compliance process.

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 Compliance Officer:</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. 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. Answer any questions in relation to the CCF raised by any Party.

Related information

Related document

D. SELF CERTIFICATION, MONITORING & REPORTING

7. 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	<ol style="list-style-type: none"> 1. Failure by a Code Signatory to self-certify will be published on the TCF website and reported to the TCF Board by the Compliance Officer, if it is not provided in the required timeframe. The Compliance Officer will provide warning to the Code Signatory prior to doing this. 2. Completion of a TCF Code 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 TCF Code 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 Form and/or TCF Code Self Certification form.
4	Email the completed TCF Code Signatory Form and/or TCF Code Self Certification form 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 TCF Code Self Certification form 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 TCF Code Self Certification forms along with any supporting information required to the Compliance Officer at: compliance@tcf.org.nz .

3	<p>If for whatever reason your organisation is unable to complete a Self-Certification Form by the due date, you must submit in writing to the Compliance Officer the following information:</p> <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.</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. Provide an overdue notice to any Code Signatory who has not provided their annual self-certification form in time, with final date for providing the form. Report to the TCF Board and publish on the TCF website details of any Code Signatory who fails to provide self-certification by that date.
5. Work with a Code Signatory who has requested an extension for providing self-certification to agree on a date for the form to be provided. If the form is not provided by the agreed date, send an overdue notice. If the Code Signatory continues to fail to provide self-certification, report this to the TCF Board and publish details on the TCF website.

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 TCF Code 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 complete and submit relevant TCF Code Self Certification form/s for each Code that it is a signatory to, confirming that it is compliant as at that date, and that it will be compliant (to the best of its knowledge and belief) for the following 12 months.
4. Advise the Compliance Officer if any self-certifications will be late; and the reasons for this.

Related information

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

Related documents

Code Signatory Form template.
TCF Code Self Certification template.

8. 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 five (5) Business Days of receipt of a completed Code Signatory 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 providing: <ul style="list-style-type: none"> • Attached TCF Code Self Certification forms. • Due date for return of completed forms. • Where to find out more information about the CCF and the Codes.
3	Five (5) Business Days before the due date for self-certification, send a reminder to all Code Signatories who have not submitted their forms.
4	Upon receipt of a completed TCF Code Self Certification form: <ol style="list-style-type: none"> 1. Ensure all required details have been provided. 2. Scrutinize each form 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. If there are any compliance issues found from the inspection of forms, liaise with the Code Signatory to determine what action they are undertaking to remedy the issue(s) and agree on a date when a new TCF Code Self Certification form should be provided to confirm they are fully compliant. If a new form is not provided by the agreed date, send an overdue notice.
4	Confirm in writing to the Code Signatory that their TCF Code Self Certification form has been received and approved.
5	Report to the TCF Board and Publish the details on the TCF website of any Code Signatory’s failure to self-certify in the required timeframe as outlined in the overdue notice provided by the Compliance Officer. Initiate the Compliance Management process as if they had received a Notice of Potential Breach.

Compliance Officer’s responsibility	<p>The Compliance Officer’s responsibility is to:</p> <ol style="list-style-type: none"> 1. Verify the completeness of initial and annual TCF Code Self Certification forms received. 2. Update the TCF website and other materials to include the new Code Signatory’s details.
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Code Signatories responsibility	<hr/> <p>3. Answer any questions regarding initial or annual self-certification.</p> <hr/> <p>Provide further information if requested by the Compliance Officer</p> <hr/>
Related information	<hr/> <p>7 – Procedure for Code Signatory self-certification</p> <hr/>
Related document	<hr/> <p>TCF Code Self Certification template.</p> <hr/>

9. Procedure for proactive compliance monitoring exercises

Introduction	This topic explains the procedure for the Compliance Officer when undertaking proactive monitoring of Code Signatories' compliance, for example a 'mystery shopper' exercise, as provided for in certain TCF Codes.
When to use	As required, as a proactive spot check of compliance.
Who can use this process	Compliance Officer
Timeframe	As required.
Process	The table below describes the process for the Compliance Officer to undertake the monitoring exercise and report on Code Signatories' compliance.

Step	Description/Action
1	Identify which Parties are to be included in the exercise. This will include all signatories to the relevant TCF Code, as well as any retail sub-brands that they are responsible for.
2	Review each Party's website against the relevant sections of the TCF Code and record any compliance issues found.
3	Compile a summary report of the findings for each Party.
4	Send a letter to each Code Signatory along with the report for both themselves, and each of their retail sub-brands. The letter should specify: <ul style="list-style-type: none"> • The actions required to rectify any compliance issues that were discovered as part of the review. • The required date for implementing the remedies. • That a Notice of Potential Breach will be issued by the Compliance Officer if there are compliance issues outstanding after that date.
4	Conduct a follow-up check for any outstanding compliance issues, once the date for implementing remedies has passed.
5	Issue Notices of Potential Breach to any Code Signatories with outstanding compliance issues.

Compliance Officer's responsibility	<p>The Compliance Officer's responsibility is to:</p> <ol style="list-style-type: none"> 1. Determine which Parties should be included in the exercise and carry out the review. 2. Report findings directly to Code Signatories, noting what remedies are required. 3. Undertake follow-up compliance checks and issue Notices of Potential Breach as required.
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Code Signatories responsibility	Investigate and carry out remedies of compliance issues as requested by the Compliance Officer.
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Related information	
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Related document	
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10.Procedure for reporting on a Confirmed Breach

Introduction	This topic explains what information will be maintained on the TCF website and reported to Code Signatories and TCF Members in relation to a Confirmed Breach.
When to use	As part of the following procedures: <ul style="list-style-type: none"> • Procedure for initial and annual self-certification verification. • Procedure for sending a Notice of Confirmed Breach.
Who can use this process	Compliance Officer
Timeframe	Within three (3) 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.
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 (3) Business Days of the Compliance Officer confirming that a 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.</p>

The Compliance Officer will report to Code Signatories and TCF Members any instances of an enduring breach, where the Respondent has failed to resolve a Compliance Issue within 10 Business Days of the Breach Resolution Day. This announcement will be in the form of an email and will include the following information:

- 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.

**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.
- Report any breach that has not been resolved after 10 Business Days from the Expected Breach Resolution Day to Code Signatories and TCF Members.

**Related
information**

7 - Procedure for Code Signatory self-certification (process for annual self-certification, step 3)

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

**Related
document**

11.Procedure for half-yearly Code Compliance Framework reporting

Introduction	This topic explains what information the Compliance Officer is to provide to the TCF Board on a half-yearly basis, for approval to publish on the TCF website.
When to use	This is a standard procedure to be completed on a half-yearly basis as part of Compliance Officer’s normal role responsibilities.
Who can use this process	Compliance Officer.
Timeframe	<ul style="list-style-type: none"> • May to cover the October to March period including as the annual self-certification process. • November to cover the April to September 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 on a half-yearly basis as a review of the Code Compliance Framework activity. The table below describes what information is to be published.

Step	Description/Action
1	<p>Annual self-certification:</p> <ul style="list-style-type: none"> • May report only: A summary of the Code Signatory annual Self Certification process data, including: <ul style="list-style-type: none"> ○ Any Code Signatories who have not self-certified, and the date at which they are expected to provide self-certification. ○ An anonymised summary of compliance issues raised on self-certification forms. ○ Any recommendations for changes to existing TCF Codes to clarify or reduce non-compliance.
2	<p>Code reviews</p> <p>Overview of Code review process, including:</p> <ul style="list-style-type: none"> • Code reviews completed, including an overview of the initial self-certification process. • Codes under review. • Codes coming up for review.
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 Respondent type (i.e. TCF Member, non-member). • by Complainant type (i.e. self-reported, other Code Signatory, third party, etc) • determined to be invalid • escalated to the Enforcement Agent • to which a Compliance Issue Notice has been issued • where no breach is found • 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 • which have been resolved. <p>What, if any Sanctions are currently in effect.</p>

4	<p>Additional compliance activities</p> <p>Any additional compliance activities that have been carried out, for example:</p> <ul style="list-style-type: none"> • Proactive monitoring, e.g. mystery shopper exercises. • Additional investigation of notified compliance issues. • Investigation of potential systemic issues.
5	<p>Code participation and compliance:</p> <p>Overview of all the TCF Codes, indicating:</p> <ul style="list-style-type: none"> • Code type • date effective • next review date • list of Signatories, indicating whether they have self-certified under the CCF.
Compliance Officer's responsibility	<p>The Compliance Officer's responsibility is to:</p> <ul style="list-style-type: none"> • Ensure that the information is available to produce the reports • Prepare the reports in the specified timeframe
Related information	<p>7 - Procedure for Code Signatory self-certification</p>
Related document	<p>Cost (budget versus actual) of operating the Code Compliance Framework in the previous year is reported through the TCF financial report.</p>

13.Procedure for additional monitoring of a Code Signatory’s compliance

Introduction This topic explains when the Compliance Officer may request further details from a Code Signatory on their compliance where an investigation has not commenced.

When to use When the Compliance Officer has a bona fide reason of concern of a material nature regarding the Code Signatory’s compliance, including (but not limited to), where:

- Information provided as part of the annual self-certification process indicated a compliance issue.
- A number of issues have been raised which may indicate non-compliance with a TCF Code.
- Repeated self-reporting of code breach has occurred.
- 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 how 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**

**Related
document**

E. COMPLIANCE ISSUE MANAGEMENT

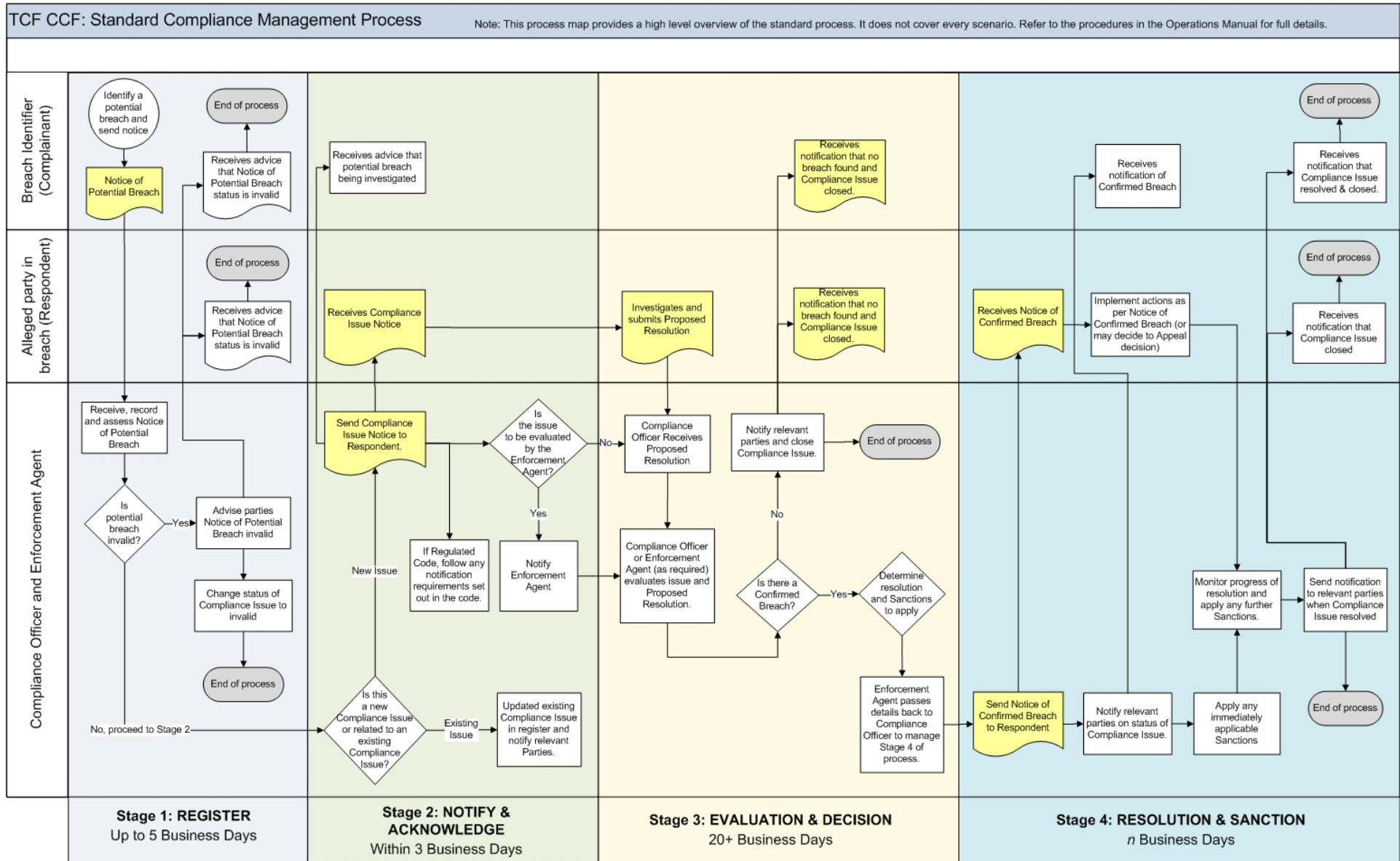
14.Process Overview

The Code Compliance Framework Compliance Management process consists of the four stages process set out in clause 35 of the CCF.

At any point in the Compliance Management Process:

- The Complainant can withdraw their Notice of Potential Breach.
- 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.
- The Compliance Officer may conclude the issue is Complex and refer the matter to the Enforcement Agent to investigate.

15.Process Map



16.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. • 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 - TDR - CCC – CPS – 20240105.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. In which case, the Compliance Officer will:

- Notify the Respondent that the notice has been withdrawn and the Compliance Issue is closed.
- Update the Compliance Management Register to note Status of Compliance Issue = NOPB withdrawn.

Compliance Officer's responsibility

-

Complainant's responsibility

The Complainant's responsibility is to:

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

17 - Procedure for validating Notice of Potential Breach

Related information

Related documents

Notice of Potential Breach form

17.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. 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 - TDR - CCC – CPS – 20240105.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 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. Is the Complainant a party who is authorised to raise a complaint about that specific Code?</p> <p><i>If not, the Compliance Issue is deemed to be invalid. The explanation of the breach should still be reviewed, however, to consider whether the issue warrants investigation, either under 13 - Procedure for additional monitoring of a Code Signatory's compliance, or by the Compliance Officer submitting a NOPB on the issue themselves.</i></p> <p>3. 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. • 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:</p> <ul style="list-style-type: none"> • That 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. • 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. • If the issue is between two Parties, then 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. This step is not required if the NOPB was received from the TDR. • 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**

16 - Procedure for submitting Notice of Potential Breach

Next process

18 - Procedure for sending Compliance Issue Notice

If the Notice of Potential Breach is a self-reported issue and provides detail of a resolution that has already been implemented then the Stage 2 and Stage 3 processes may not be required, in which case proceed to:

24 - Procedure for notification of Resolved Compliance Issue (Stage 4)

18.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. Refer to <i>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: <ul style="list-style-type: none"> • That a further Notice of Potential Breach has been received. • 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. • 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 Commerce 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 the 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 - 20240105.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:</p> <ul style="list-style-type: none"> • That the Compliance Issue is being investigated. • 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 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.

	<ul style="list-style-type: none"> • The date by when a Proposed Resolution to the Compliance Issue should be received from the Respondent. • Who will be evaluating the Proposed Resolution – either the Compliance Officer or Enforcement Agent.
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Compliance Officer’s responsibility

- The Compliance Officer’s responsibility is to:
1. Identify whether the Compliance Issue is new or existing.
 2. Determine the Impact Level.
 3. Complete a Compliance Issue Notice.
 4. Send the Compliance Issue Notice to the Respondent.
 5. Inform any other affected Parties about the Compliance Issue.

Complainant’s responsibility

-

Respondent’s responsibility

-

Preceding process

17 - Procedure for validating Notice of Potential Breach

Next process

19 – Procedure for Respondent to submit Proposed Resolution

Related information

Related documents

Compliance Issue Notice form

19.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 expected 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. • Either: <ul style="list-style-type: none"> – A detailed plan and timeframe for resolution where a breach has been identified. – Evidence that no breach has occurred. • 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	18 - Procedure for sending Compliance Issue Notice
Next process	20 – Procedure for evaluation of Proposed Resolution
Related information	

20.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	Compliance Officer Enforcement Agent
Timeframe	Within 20 Business Days of receipt of a Proposed Resolution, except where 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 (2) 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 – Any other information provided by the Respondent. • Liaise with the Respondent and/or Complainant for further details if required. • Decide whether or not there has been a Code breach by the Respondent. <p>During the evaluation process the Compliance Officer may conclude that the issue is Complex, and at that point refer the matter to the Enforcement Agent to evaluate.</p>

	<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. • 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 to record the rationale and any supporting evidence behind the decision on whether or not a breach has occurred. The following information must be included 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). • 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. The Compliance Issue Evaluation form may be made available to the Complainant or Respondent. If the form includes any commercially sensitive information that was provided to the TCF on a confidential basis, this will be removed from the version provided to the requesting Party.</p>
5	<p>Within three (3) 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. • 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.
 2. Engage an independent auditor only if necessary.
 3. Communicate the outcome of any decision to the Compliance Officer.
-

**Complainant's
responsibility**

The Complainant's responsibility is to:

1. Provide any further information to the Evaluating Person, if and when required, in a timely manner.
-

**Respondent's
responsibility**

The Respondent's responsibility is to:

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**

19 - Procedure for Respondent to submit Proposed Resolution

Next process

If applicable:

21 – Procedure for sending Notice of Confirmed Breach

**Related
information**

**Related
documents**

Compliance Issue Evaluation Template

21.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 (refer to <i>Procedure for 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 20.
Timeframe	This procedure must be completed within three (3) 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 G.
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. • Record the date by when the Respondent has been asked to resolve the breach. • 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 23 – Procedure for Appeal of a 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. – Notify the Respondent of any further Sanctions that have been applied.

Compliance Officer’s responsibility	The Compliance Officer’s responsibility is to: <ol style="list-style-type: none"> 1. Issue a Notice of Confirmed Breach to the Respondent. 2. Notify relevant Parties of the status of the Compliance Issue. 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**

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**Respondent's
responsibility**

The Respondent's responsibility is to:

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**

20 – Procedure for evaluation of Proposed Resolution

Next process

22 - Procedure for responding to a Notice of Confirmed Breach; or
23 - Procedure for Appeal of a Notice of Confirmed Breach

**Related
information**

CCF Appendix 3 – Sanctions

**Related
documents**

Notice of Confirmed Breach form

22.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 <i>Procedure for Appeal of a 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. • Any other information you deem relevant.

Compliance Officer’s responsibility	The Compliance Officer’s responsibility is to 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	21 - Procedure for sending a Notice of Confirmed Breach
Next process	24 - Procedure for notification of Resolved Compliance Issue
Related information	

23.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. Refer to <i>Procedure for responding to a 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 (5) Business Days of receipt. • The Compliance Officer must action the appeal request within three (3) 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 (5) 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 (5) 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 (5) 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’. – 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 Respondent: <ul style="list-style-type: none"> • Who has been appointed as the Appeal Agent.

	<ul style="list-style-type: none"> • The estimated cost of the appeal. • 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 and 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: <ol 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 notification of Resolved Compliance Issue</i>. 2. If the Appeal is unsuccessful: <ol 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 for sending a Notice of Confirmed 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.
- 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

21 - Procedure for sending a Notice of Confirmed Breach

Next process

24 - Procedure for notification of Resolved Compliance Issue (Stage 4)

**Related
information**

CCF – Process Overview Stage Four

CCF – Funding Model and Cost Allocation

24.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 (3) 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"> Communicate with relevant Parties that a Compliance Issue has been resolved. Update relevant records. Identify any areas for improvement in the Code to which the Compliance Issue related.
Complainant's responsibility	-
Respondent's responsibility	The Respondent's responsibility is to: <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

22 - Procedure for responding to a Notice of Confirmed Breach

Next process

None

Related information

PART THREE: FORMS AND TEMPLATES

F. SELF CERTIFICATION, MONITORING & REPORTING TEMPLATES

25.Code Signatory Self Certification Template

Refer to separate file: TCF Code Self Certification_TEMPLATE.docx

G. 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 for 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/appended.	Notify a Code Signatory of a potential breach.	Compliance Officer	Respondent
3	Compliance Issue Evaluation template	This document will provide notes and decision made 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

26. Notice of Potential Breach form

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

27. Compliance Issue Notice form

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

28. Compliance Issue Evaluation template

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

29. Notice of Confirmed Breach form

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

H. COMPLIANCE MANAGEMENT PROCESS TEMPLATES

30. Half-yearly Compliance Officer Reports

Refer to separate file: Half-yearly Compliance Officer Report Template.docx

PART FOUR: ANNEXURES

I. POSITION DESCRIPTIONS

31. Compliance Officer Position Description

TITLE

Compliance Officer (CO)

PURPOSE

To provide the administrative and coordination function for the CCF 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 TCF Members.
2. TCF Members understand their responsibilities and how the CCF operates and how compliance processes operate.
3. Compliance investigations are handled smoothly and efficiently.

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 half-yearly reports to the Board on the operation and performance of the Framework.
 - 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.
 - 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.
- If appropriate, make decisions on Sanctions.

32.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. TCF 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).
- Request independent audits under specific circumstances as per clause 35.4.4 of the Code Compliance Framework.

33.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).

34. 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. Ensure all decisions 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 the 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.