

Schedule 1 - The Code Governance Committee Charter

The Code Governance Committee (CGC) is a committee of the Code Governance Committee Association Inc. (Association).

The Code is monitored and enforced by the CGC which is an independent body. The CGC is made up of a consumer representative, an industry representative and an independent chair. These three CGC Members are appointed by the Association in accordance with its Constitution.

1 Functions and responsibilities of the Code Governance Committee

1.1 Consistent with the Code and the Constitution, the CGC will be responsible for the independent administration and enforcement of the Code and will have the functions, powers and responsibilities set out in the Code.

1.2 The CGC is responsible for:

- (a) providing stewardship of the Code by helping the general insurance industry understand and comply with the Code;
- (b) identifying areas for improvement of insurance practices;
- (c) liaising with the ICA on relevant matters;
- (d) providing quarterly reports to the ICA Board;
- (e) publishing an annual public report containing aggregate industry data and consolidated analysis on Code compliance.

1.3 The CGC is also responsible for monitoring and enforcing compliance with the Code through:

- (a) investigations, analysis of data, analysis of evidence and stakeholder engagement;
- (b) receiving, investigating and making decisions about alleged breaches and giving Code Subscribers the opportunity to respond to any allegations that they have breached the Code;
- (c) considering whether it is more appropriate for ASIC or another enforcement agency to investigate an alleged breach of the Code;
- (d) agreeing with Code Subscribers on any corrective measures to implement within an agreed timeframe;
- (e) imposing sanctions; and
- (f) publishing breach decisions on a de-identified basis.

1.4 The CGC may also provide advice to the Association on:

- (a) financial matters associated with the activities, or proposed activities, of the CGC;
- (b) amendments that in the CGC's view, should be made to the Constitution or the Charter to facilitate the objectives of the Code; and
- (c) other matters as determined by the CGC from time to time.

1.5 Responsibilities of CGC Members

Each CGC Member will do all things necessary to ensure the duties and responsibilities of the CGC as specified in the Charter are effectively discharged.

Each CGC Member has a duty to:

- (a) comply with the Charter, Code and Constitution; and
- (b) act impartially and objectively in the discharge of their duty.

1.6 Outsourcing of CGC functions

- (a) Consistent with the Code and Charter, the CGC may outsource its responsibilities to the Service Provider.
- (b) The CGC will not outsource its power to impose a sanction in relation to Code non-compliance.
- (c) On the request of the CGC, the Management Committee will grant approval for the Association to enter into an outsourcing agreement with the Service Provider.
- (d) For the avoidance of doubt, the CGC may outsource its secretariat function to the Service Provider.
- (e) Any reports of the CGC will be approved by the CGC before being released including where the preparation of a report has been outsourced.
- (f) Any publication of the CGC will be approved by the CGC before being made public including the preparation of a de-identified decision.

2 Meeting of CGC Members

2.1 Meetings and proceedings of CGC

- (a) Subject to the Code, the CGC will meet, discharge its responsibilities and convene, adjourn and otherwise regulate its meetings and proceedings in such manner as it may from time to time determine.
- (b) The CGC will meet at least four times in each period of twelve months.
- (c) No person is entitled to attend a CGC meeting unless that person is:

- (i) a member of the CGC, or the CGC Member's alternate;
- (ii) the secretary of the CGC; or
- (iii) a person invited to attend the meeting by the CGC Chair, including but not limited to the Service Provider or a person providing advice to the CGC in accordance with clause 4.1(b).

2.2 Quorum

A quorum for a meeting will be the three CGC Members (or alternates) who comprise the Code Governance Committee at the time of the meeting. A duly convened CGC meeting at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the CGC.

2.3 CGC Chair to preside

The CGC Chair will preside over each meeting of the Code Governance Committee.

2.4 Notice of meetings

- (a) Subject to this clause 2.4, a CGC meeting may be called by a member of the CGC or the Service Provider giving to every other member:
 - (i) notice confirming the venue, time and date of the meeting no fewer than ten business days prior to the meeting; and
 - (ii) an agenda of items to be discussed no fewer than five business days prior to the meeting.
- (b) A member of the CGC or the Service Provider may call a CGC meeting in relation to an urgent matter by giving to every other member prior notice of no fewer than two business days confirming the venue, time and date together with an agenda of items to be discussed.
- (c) A notice or agenda may be given by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of business or residence of the member or at any other address given to the secretary of the CGC by the member or by any technology agreed by all the members.
- (d) A failure to meet this clause 2.4 does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing if, at a meeting at which all members are present, the CGC resolves unanimously to excuse the failure to meet this clause 2.4.

2.5 Minutes

- (a) The secretary will minute the proceedings and resolutions of all CGC meetings, including the names of those present and in attendance.
- (b) Minutes of CGC meetings will be circulated to each member of the CGC

and will be approved by the CGC.

2.6 Meetings by Technology

- (a) Each member of the CGC consents to the use of each of the following technologies for holding a meeting of the CGC:
 - (i) video;
 - (ii) telephone;
 - (iii) electronic mail;
 - (iv) any other technology which permits each member of the CGC to communicate with every other member; or
 - (v) any combination of these technologies.
- (b) Where the members of the CGC are not all in attendance at one place and are holding a CGC meeting using technology and each member can communicate with the other members:
 - (i) the participating members are, for the purpose of the Code and this Charter concerning CGC meetings, taken to be assembled together at a CGC meeting and to be present at that CGC meeting; and
 - (ii) all proceedings of those members conducted in that manner are as valid and effective as if conducted at a CGC meeting at which all of them were physically present in the one location.

2.7 Voting

- (a) Each CGC Member has one vote.
- (b) Every question arising at a meeting will be determined, on a show of hands or as determined by the CGC Chair, by a simple majority.

2.8 Delegation of authority by the CGC

The CGC may from time to time, by written resolution, assign to or vest in the CGC Chair powers and responsibilities of the CGC. A copy of the resolution of the CGC as to the authority of the CGC Chair in respect of any matter shall be accepted as conclusive.

3 Material Personal Interests and Conflicts

3.1 Personal interest in a matter being considered at a CGC meeting

If a CGC Member has a material personal interest in relation to a matter that is being considered at a meeting of the CGC they will not:

- (a) be present while the matter is being considered at the meeting; or

- (b) vote on the matter, unless:
 - (i) the CGC Member has notified the other CGC Members and the Association Chair of their material personal interest;
 - (ii) the other CGC Members and the Association Chair are satisfied that the material personal interest should not disqualify the CGC Member from voting on the matter;
 - (iii) the nature of the personal material interest and the circumstances in which it was disclosed have been recorded in a minute; and
 - (iv) the minute, relevant determination or other reports on the matter are made available for the inspection on request by any Code Subscriber affected.

For the avoidance of doubt, a material personal interest for the purposes of this clause does not arise solely by reason of a CGC Member's previous employment with a Code Subscriber, or by reason of the insurance company of which a CGC Member is a customer.

3.2 General Law obligations

The requirements in clause 3.1 have effect in addition to and not in derogation of any general law about conflicts of interest or conflicts of duties.

3.3 Appointment of alternate CGC Members

- (a) From time to time, it may be necessary for an alternate to a CGC Member to attend and vote at CGC meetings when a CGC Member is unable to do so because of illness, absence from Australia, conflicts of interest or conflicts of duties, a material personal interest or because of other significant circumstances.
- (b) In addition to the process in the Constitution for appointing alternates in the same way as a CGC Member, an alternate may be appointed for a specified meeting in accordance with clause 3.3(c).
- (c) The process for appointing an alternate for a specified meeting requires that:
 - (i) each CGC Member, other than the CGC Chair, may nominate an alternate to take part in a specified meeting provided that the nominee has the relevant broad experience and knowledge as would be required if they were appointed a CGC Member and cannot be;
 1. an Association Member;
 2. an employee of a Code Subscriber or ICA Member, the EDR Scheme, the ICA or an Association Member; or
 3. a member of the EDR Scheme Board or the ICA Board; and
 - (ii) the nominee's appointment is confirmed in writing before the meeting which the alternative is to attend, by:

1. each of the other CGC Members; and
 2. the Association Chair, or in his or her absence the Association Deputy Chair.
- (d) A person appointed as an alternate may exercise the same powers as their nominator, other than the power to nominate another alternate, and are subject to all the requirements applying to their nominator at the meeting they attend and where their nominator is not present.

4 CGC Compliance Monitoring Process

4.1 Monitoring and information gathering

The CGC is responsible for monitoring and enforcing compliance with the Code in the manner set out in the Code. Without limiting the CGC's Code functions and powers, the CGC may for the purposes of monitoring compliance with the Code:

- (a) make reasonable requests for a Code Subscriber and/or the Service Provider to provide access to information, documents and systems, which the CGC considers necessary to discharge its functions;
- (b) seek independent professional legal, accounting or other advice;
- (c) request each Code Subscriber to lodge an annual data return and survey reporting on their compliance with the Code; and
- (d) enter into appropriate arrangements with the Service Provider or the EDR Scheme for the purpose of facilitating:
 - (i) information exchange relevant to the CGC's functions; and
 - (ii) referrals to the CGC of an allegation that a Code Subscriber has breached the Code.

5 CGC Compliance Investigation Process

5.1 Investigations undertaken by the CGC

- (a) The CGC may commence an investigation of Code compliance in the following ways:
 - (i) in response to an allegation that a Code Subscriber may have breached the Code; or
 - (ii) in response to a referral or report from the Service Provider or the EDR Scheme that a Code Subscriber may have breached the Code; or
 - (iii) as an outcome of the CGC's monitoring and information gathering, if the CGC has reason to suspect that a Code Subscriber may have breached the Code.

5.2 Matters outside the scope of CGC's investigation powers

The CGC:

- (a) has discretion to determine whether a matter falls outside the scope of its investigation powers; and
- (b) may develop a policy on how it will exercise its discretion to consider allegations of Code breaches pursuant to 5.1.

5.3 Process for considering alleged Code breaches

- (a) Subject to clause 5.1, the CGC may, within a reasonable time of receiving a report of an alleged breach, consider that allegation in accordance with this Charter (including clause 11.2) and any operating procedures determined by the CGC in accordance with clause 10.
- (b) Where the CGC investigates an alleged Code breach, the CGC will provide the Code Subscriber with an opportunity to respond to the alleged breach.

5.4 Notice of decision

- (a) Following an investigation in accordance with clause 5.3, the CGC may make a decision in respect of the alleged breach.
- (b) A decision made by the CGC will:
 - (i) be in writing;
 - (ii) include a brief description of the allegation;
 - (iii) include a statement that in the CGC's view the reported allegation was proven in whole or in part or was unfounded;
 - (iv) if applicable, state any finding by the CGC that the Code Subscriber is responsible for serious or systemic non-compliance with the Code;
 - (v) include reasons for the conclusions and findings of the CGC; and
 - (vi) be provided to the Code Subscriber.

6 Sanctions against Code Subscribers

6.1 Imposing a Sanction

The CGC may, in accordance with the Code and the Charter, impose one or more sanctions on a Code Subscriber for a Code breach or a Significant Breach of the Code.

6.2 Reporting to ASIC

The CGC will report Significant Breaches or serious misconduct to ASIC in accordance with the Code.

7 Publications

7.1 Publication of Significant Breaches

When the CGC imposes a sanction of publication on the Code Subscriber for a Significant Breach, the CGC has discretion to set the manner and the duration for which the publication will be made available by the Code Subscriber.

7.2 Publication of de-identified CGC decisions of sanctions imposed on Code Subscribers

- (a) In order to increase Code Subscriber and public awareness of the Code and the functions, powers and responsibilities of the CGC, the CGC may publish de-identified decisions made by the CGC to impose sanctions on Code Subscribers for breaches of the Code including sanctions for Significant Breaches.
- (b) When publishing decisions made by the CGC under clause 7.2(a), the CGC will de-identify confidential information as defined at clause 11.2(a), and any other information which could be used to identify complainants or Code Subscribers, contained in the decisions. The CGC may elect not to publish a decision where the protection of confidential information cannot be effectively achieved by any de-identification process.
- (c) De-identification will not apply when the CGC imposes the sanction of requiring the Code Subscriber to publish the fact they have committed a Significant Breach of the Code.

8 Complaints concerning CGC

8.1 Complaints

- (a) The CGC Chair will consider and investigate any complaint that the CGC has not acted in accordance with the Code or the Charter received by the CGC or referred to it by the ICA or the EDR Scheme.
- (b) The CGC Chair will make recommendations to the CGC in respect of what, if any, steps should be taken in respect of the complaint.
- (c) If the CGC Chair believes that a complaint raises issues which involve the Chair or a CGC Member in a conflict of interest, then the CGC Chair may appoint an Independent person to consider and investigate and make recommendations to the CGC in respect of the subject matter of the complaint.
- (d) The CGC will advise a complainant of its determination in relation to any complaint.
- (e) The CGC Chair may report complaints and their outcomes to the Association Chair.

9 Reporting by CGC

9.1 Collection of information for Annual Report

The CGC will, for each period for which it will prepare an Annual Report, collect and record data for the purposes of analysis and reporting on Code compliance.

9.2 Publication of Annual Report

- (a) By 31 March each year, the CGC will prepare and give to the ICA Board and EDR Scheme Board an Annual Report including the industry data analysis for the period ending on 30 June in the preceding year.
- (b) Each Annual Report will include a fair and adequate summary and analysis of the information specified in clause 9.2(c). It may include any other matters the CGC thinks fit that are consistent with the functions of the CGC under the Code and this Charter.
- (c) The Annual Report will include the following:
 - (i) an outline of the activities of the CGC in the relevant period, including:
 1. information as to the reported allegations of breaches of the Code;
 2. information as to investigated alleged breaches and any corrective measures agreed with Code Subscribers;
 3. information as to any sanctions imposed by the CGC; and
 4. information as to the number of meetings of the CGC and the attendance of CGC Members;
 - (ii) any recommendations on Code improvements and education relevant to the operation of the Code arising out of its experiences of Code compliance in the relevant period; and
 - (iii) a statement that the CGC has complied with the terms of the Charter in the period of the Annual Report and, if there has been any non-compliance, the Annual Report will identify that non-compliance and the reasons for it including any action that may have been instituted by the CGC or the Association to ensure that such non-compliance does not occur in the future.
- (d) Each year, the CGC will prepare and give to the ICA Board and EDR Scheme Board aggregated industry data and consolidated analysis of Code compliance by the Code Subscribers for the relevant period. This information may be provided separately to the Annual Report.

9.3 Provision and lodgment of Annual Report

The CGC will provide a copy of the Annual Report to:

- (a) each Association Member;
- (b) each Code Subscriber;
- (c) the ICA Board;
- (d) the EDR Scheme Board; and
- (e) ASIC.

The CGC will make copies of the Annual Report available to the public. To the maximum extent permitted by law, Annual Reports of the CGC may be provided and made available in electronic form.

10 Policies, guidelines, reporting forms and operating procedures

10.1 Development of reporting forms and operating procedures

The CGC may develop:

- (a) policies and guidelines on the administration of the Code; and
- (b) compliance reporting and other forms; and
- (c) operating procedures related to the activities of the CGC and/or the Service Provider (if relevant);

that is consistent with this Charter and the Code.

In conjunction with the ICA, the CGC will consult with Code Subscribers in developing these policies, guidelines, reporting forms and operating procedures. The CGC may also consult with other organisations and individuals with an interest in the Code, as the CGC sees fit.

11 General principles and procedures

11.1 General principles

When considering an alleged breach, the CGC will:

- (a) ensure a Code Subscriber, or Code Subscribers, to whom an alleged breach or investigation relates is, or are, accorded procedural fairness throughout the course of the CGC's consideration of the alleged breach or conduct of the investigation;
- (b) ensure, as far as practicable, that:
 - (i) a Code Subscriber's business is not disrupted unduly; and
 - (ii) a Code Subscriber's customers are not inconvenienced unduly; and

- (c) act reasonably in all the circumstances.

11.2 Confidentiality of information

- (a) In this Charter, "confidential information" means all technical, commercial and other confidential information and materials of a Code Subscriber, consumer or small business and includes any information or material that discloses or relates to:
 - (i) a Code Subscriber's compliance or non-compliance with the Code;
 - (ii) an actual or alleged breach of the Code;
 - (iii) commercial, financial or legal affairs including but not limited to pricing policies, costing information, supplier lists and customer lists;
 - (iv) a matter to which an obligation of confidence applies under a privacy law; and
 - (v) any other information or material which is of a confidential or sensitive nature, is marked or denoted as being confidential or which a reasonable person to whom that information or material is disclosed, or to whose knowledge that information or material otherwise comes, would consider confidential.
- (b) Subject to clause 11.2(c), a person referred to in clause 2.1(c) will not disclose, or use for a purpose other than contemplated by this Charter or the Code, any confidential information supplied to it in connection with the conduct of the business of the CGC.
- (c) The CGC may disclose any confidential information:
 - (i) within the CGC or to any person to whom disclosure is reasonably required for the purpose of the CGC exercising its functions, powers and responsibilities, under the Code and the Charter;
 - (ii) to any person to whom disclosure of confidential information is required by law;
 - (iii) in response to a request for that confidential information from ASIC or another enforcement agency, the EDR Scheme or the Service Provider;
 - (iv) under corresponding obligations of confidence as imposed by this clause 11 to a person retained to provide advice in accordance with clause 4.1(b), to ASIC or another enforcement agency, the EDR Scheme, the Service Provider, or another person, where the CGC determines that such disclosure is reasonably necessary for the purpose of investigating, determining or imposing a sanction on a Code Subscriber in accordance with the Code; or
 - (v) with the prior written consent of the Code Subscriber.

11.3 External expertise

In discharging its functions the CGC may consult such external parties as the CGC thinks appropriate, provided that the CGC takes reasonable steps to ensure that any such external parties also comply with the requirements of this Charter where applicable.

11.4 Authority to give oral or written public statements

The CGC, and each CGC Member, will not make public statements on behalf of the Association, except:

- (a) as contained in the Annual Report; or
- (b) as required in the performance of its functions and responsibilities as set out in clause 1 of this Charter.

12 Definitions

In this Charter, unless inconsistent with the context or subject matter or otherwise stated:

AFCA means the Australian Financial Complaints Authority.

Annual Report means the report published by the Code Governance Committee.

ASIC means the Australian Securities and Investments Commission or any replacement or successor government agency.

Association Member means a member of the Association.

CGC or Code Governance Committee is the committee established pursuant to the Code Governance Committee Association's Constitution to be responsible for the monitoring, reporting and enforcement of Code compliance.

CGC Chair means the chair of the Code Governance Committee.

CGC Member means a member of the Code Governance Committee.

Code means the General Insurance Code of Practice dated 1 January 2020 as amended in accordance with its terms from time to time.

Code Subscriber means the organisation that has adopted the Code.

Confidential information has the same meaning at clause 11.2(a).

EDR Scheme means AFCA, or any replacement or successor external dispute resolution scheme, whose jurisdiction encompasses subjects addressed by the Code.

EDR Scheme Board means the board of directors of the EDR Scheme.

ICA means the Insurance Council of Australia Limited ABN 50 005 617 318.

ICA Board means the board of directors of the ICA.

Independent means a person who is not an Association Member or a director, officer, employee or agent of any Code Subscriber or ICA Member, ICA, the Service Provider or the EDR Scheme and is free from business or other relationships that could materially interfere with or could reasonably be perceived to materially interfere with the independent exercise of judgement.

Service Provider means the service provider appointed by the Association, through the CGC, from time to time, in accordance with the Code and the Charter, to monitor Code compliance on behalf of the Code Governance Committee.

Significant Breach has the same meaning in the Code
