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# PRELIMINARY

## 1 Objectives and Scope of the Code

- 1.1 This Code creates a self-regulated industry scheme to enhance compliance with the existing Federal and State-based regulatory framework applying to the door to door marketing of energy to both residential and small business consumers. Not only does the Code seek to improve the compliance of Energy Retailers that subscribe to the Code, but also the Energy Marketing companies that often perform door to door sales on their behalf. Energy Assured Limited's ("EAL") membership comprises both Energy Retailers and Energy Marketers. The Code aims to:
- (1) promote consumer confidence in door to door sales in the energy industry;
  - (2) provide consumers with a better overall experience in energy sales at the door;
  - (3) improve the standards and effectiveness of door to door sales in the energy industry;
  - (4) reduce the rate of Sales Complaints; and
  - (5) discipline and/or remove "rogue" Sales Agents.
- 1.2 To achieve its Objectives, the Code details a scheme that standardises processes and procedures within the door to door retail energy industry to meet a set of EAL Standards by:
- (1) establishing a central register of Sales Agents that have been accredited under the scheme;
  - (2) providing for a national scheme that ensures Sales Agents are recruited, trained and assessed in a consistent manner across the industry;
  - (3) providing for a national scheme for the monitoring of door to door Sales Agents, where any proven breach of the EAL Standards may result in disciplinary measures which could include deregistration from the register for 5 years;
  - (4) providing for a scheme which ensures that when a consumer complains about

the conduct of a Sales Agent with the EAL Standards that these are handled in a consistent manner by Energy Retailers;

- (5) strengthening the regime of compliance to the Code ensuring that Members are consistently monitored independently through monthly reports and annual audits under the Code (which are in addition to the regulatory reporting obligations); and
- (6) imposing sanctions on Members that fail to comply with the requirements set out in the Code, noting that sanctions may also be imposed by the relevant energy regulator.

## 2 Commencement and Interpretation

### 2.1 Commencement

This Code commences six months after the date that authorisation is granted by the Australian Competition and Consumer Commission pursuant to section 88 of the Competition and Consumer Act 2010 (Cth) in respect of this Code.

### 2.2 Definitions

Capitalised Words appearing in this Code have the meaning given to them in the Dictionary at the end, or defined in **bold** in the body, of this Code.

### 2.3 Inconsistency with laws

This Code applies to the extent that it is consistent with Applicable Laws. If this Code is inconsistent with any Applicable Law, that law will apply to the extent of the inconsistency.

### 2.4 EAL Procedures Guideline

This Code operates together with the EAL Procedures Guideline. The Procedures Guideline sets out the procedures, principles and processes that underpin the Code for registering and maintaining of Sales Agents on the EAL Register and recruiting, training and assessing Sales Agents.

### 2.5 Code Supplements Existing Regulatory Regime

This Code sits alongside the Applicable Laws that govern door to door sales across numerous Australian jurisdictions, including the Australian Consumer Law and in anticipation of the commencement of the national energy customer framework, and does not override a Member's obligations under these laws.

- (1) The roles of EAL, the Code Manager and the Code Panel relate to the administration and enforcement of the Code. These roles are separate from the role of applicable jurisdictional energy regulators in administering and enforcing Applicable Laws. The Sanctions that may be imposed under this

Code are in addition to the sanctions that can be imposed by the relevant energy regulator or authority.

- (2) This Code operates separately to the applicable energy ombudsman schemes. The energy ombudsman is an independent dispute resolution body. Consumers can complain about the behaviour of a Sales Agent to either the relevant Energy Retailer in the first instance, or to the applicable energy ombudsman should they choose to do so.

In its communications to consumers, EAL will ensure that consumers fully understand the various avenues of complaint available to them, and that complaints are handled in a manner that does not prejudice a consumer's recourse to other avenues of complaint, including by operating in the manner sets out in clause 9.1.

## THE EAL STANDARDS

### 3 Compliance with the EAL Standards

- 3.1 Members, their agents/contractors, and all Sales Agents must comply with the EAL Standards set out below.
- 3.2 The EAL Standards include those embodied standards in the Applicable Laws that govern door to door sales across numerous Australian jurisdictions, including the Australian Consumer Law and in anticipation of the commencement of the national energy customer framework.
- 3.3 The EAL Standards apply to the extent that they are consistent with Applicable Laws. If the EAL Standards are inconsistent with any Applicable Law then that Applicable Law will apply to the extent of the inconsistency.

### 4 Consumer Contact

#### 4.1 Sales Agents must:

- (1) only make sales calls during “permitted hours” under the Applicable Laws which, at the time of the publication of this Code **do not** include:
  - (a) any time on a Sunday or public holiday;
  - (b) any time before 9am on any other day; or
  - (c) any time after 6pm on any other day (or 5pm if the other day is a Saturday),

unless it is with the consumer’s consent in accordance with Applicable Laws, in relation to which a record must be kept of such consent provided;

- (2) respect a consumer’s premises where there is a notice that clearly states that the Sales Activity is not allowed;

- (3) as soon as possible on making contact, identify themselves, the Energy Retailer they represent and their purpose;
- (4) produce an identity card, which clearly displays the Energy Retailer's name, the Sales Agent's name and photograph, the business address and contact details of the Energy Retailer, an expiry date for validity of the card, and the EAL Logo;
- (5) not misrepresent themselves or the purpose of their visit and state that the purpose of his or her visit is to seek the consumer's agreement to enter into an energy retail contract;
- (6) advise that he or she is not permitted to remain on the premises for more than an hour unless consent is provided in writing;
- (7) advise that he or she must leave the premises immediately on request as soon as practicable and in any event before starting to negotiate a contract and immediately cease contact with a consumer who clearly indicates that contact is inconvenient, unwelcome or inappropriate before or during the negotiation of a contract;
- (8) if contact is ceased, record that the consumer is not to be contacted by the Energy Retailer for at least 30 days after the request was made;
- (9) explain that if the consumer is not happy with the way they have been dealt with, they can contact the Energy Retailer or energy ombudsman to make a complaint; and
- (10) provide the consumer with a copy of EAL Marketing Material in accordance with clause 9.5, if requested by the consumer or where a consumer expresses an interest in obtaining more information.

**4.2** Members must maintain records, including the date and the approximate time of contact with the consumer to allow the subsequent identification of the Sales Agent involved in a particular Sales Activity. This will assist in dealing with any Sales Complaint or query. Records are to be maintained for a minimum period of two years.

## **5 Entering into a Contract**

### **5.1 Sales Agents must:**

- (1) take appropriate steps to ensure that the consumer has the authority to enter into a contract for the energy supplied at the premises;
- (2) provide in writing before the formation of a contract information about:
  - (a) the consumer's right to terminate the contract during applicable cooling off and other termination periods; and
  - (b) the way in which a consumer may exercise that right.
- (3) provide the following information to a consumer in accordance with all applicable laws, including the Australian Consumer Law, regarding the

essential provisions of the terms of supply, so as to ensure that the consumer understands what they are committing themselves to, including:

- (a) that they are entering into a contract to transfer their energy supply to the Energy Retailer;
  - (b) all applicable prices, charges, early termination payments and any penalties that may apply, information on security deposits, service levels, concessions or rebates, billing and payment arrangements and how any of these matters are calculated and may be changed, inclusive of the declaration that the price offered is inclusive of all costs, including GST;
  - (c) the commencement date and duration of the contract, the availability of extensions, and the termination of the contract if the consumer moves out during the term of the contract;
  - (d) the consumer's obligations with respect to electronic transactions;
  - (e) the consumer's right to complain to the Energy Retailer in respect of any energy marketing activity of the Sales Agent and, if the complaint is not satisfactorily resolved by the retailer, of the consumer's right to complain to the energy ombudsman; and
  - (f) that the Sales Agent may receive a fee or commission if the consumer enters into a contract;
- (4) provide the consumer with:
- (a) a copy of the contract and any information and documentation required to be provided to the consumer in accordance with Applicable Laws, which must include but is not limited to:
    - (i) details contained in clause 5.1(3);
    - (ii) a prominent notice on the front page of the contract about the rights of the consumer to terminate the contract in accordance with Applicable Laws;
    - (iii) the notice that may be used by the consumer to terminate the contract;
    - (iv) the full name, ABN or ACN, address, e-mail address, phone number and fax number of the Energy Retailer that the Sales Agent represents; and
  - (b) the Sales Agent's name, and Company ID Number, and the full name of the details of the company they work for if different to the Energy Retailer;
  - (c) information about the Energy Retailer's Sales Complaint Handling Process, including details of the relevant ombudsman; and
  - (d) a copy of EAL Marketing Material in accordance with clause 9.5.

## 5.2 Energy Retailers must:

- (1) ensure that they provide Sales Agents with documents and information that are required to be provided to consumers under the Applicable Laws;
- (2) design contract forms and supporting documentation so that the consumer

- clearly understands the terms of the contract that they are entering into; and
- (3) ensure that the Post Sale Verification Procedure is conducted with each consumer that has entered into a contract in accordance with clause 18.2.

## **6 Ethical and Lawful Conduct**

**6.1 Sales Agents can only conduct Sales Activities on behalf of the Member with whom they are currently registered on the EAL Register.**

**6.2 Sales Agents must:**

- (1) be courteous and professional;
- (2) not provide the consumer with information that is misleading or deceptive, in particular over potential savings or false assumptions about the product, or misrepresent the consumer's rights and obligations;
- (3) not engage in unconscionable conduct;
- (4) not engage in the use of high-pressure tactics (such as coercion and harassment);
- (5) ensure a consumer's privacy is maintained;
- (6) not exploit a person's inexperience, vulnerability, credulity or loyalties;
- (7) ensure that safety is maintained for themselves and the consumer; and
- (8) not commit forgery or fraud.

## ROLES AND RESPONSIBILITIES

### 7 Rights and Obligations of Members

#### 7.1 Where an Energy Retailer engages an Energy Marketer to conduct Sales Activities on its behalf:

- (1) the Energy Marketer must be a Member;
- (2) both the Energy Retailer and the Energy Marketer must comply with this Code, and all Applicable Laws (and accordingly, all clauses that refer to a “Member” or “Energy Marketer” must be complied with by the Energy Marketer as appropriate); and
- (3) the Energy Retailer must provide to the Code Manager a documented governance framework that details how the roles and responsibilities for compliance with this Code and the Procedures Guidelines have been allocated between the parties. This compliance framework will be used by the Code Manager in identifying and considering issues in accordance with clauses 26, 27 and 28.

#### 7.2 Members must comply with the EAL Standards.

#### 7.3 Members must ensure that Sales Agents engaged by them comply with clause 8.

#### 7.4 Members must comply with the processes for the operation, maintenance and registration of Sales Agents on the EAL Register as determined in the Procedures Guideline and this Code.

#### 7.5 Members must only engage Sales Agents to conduct Sales Activities that:

- (1) are registered under the EAL Register and have attained an appropriate Accreditation Status in accordance with clause 14.2 and the Procedures Guideline;

- (2) have been recruited in accordance with clause 15; and
- (3) have been trained and assessed in accordance with clause 16 and the Procedures Guideline.

- 7.6 Energy Retailers must handle Sales Complaints in accordance with clause 17.
- 7.7 Members must monitor the compliance of Sales Agents with the EAL Standards in accordance with clause 18.
- 7.8 Members must categorise and record breaches of the EAL Standards by Sales Agents in accordance with clauses 19 and 20.
- 7.9 Members must discipline Sales Agents in accordance with clause 21.
- 7.10 Where applicable, Members must make an application to deregister a Sales Agent in accordance with clause 22.
- 7.11 Members must continually monitor report on, and submit to audits on, the extent of their compliance with the Code in accordance with clauses 23, 24 and 25, including reporting on their compliance in accordance with obligations under the relevant Applicable Law.
- 7.12 Members that fail to comply with this Code will be subject to disciplinary procedures for non-compliance in accordance with clauses 27 and 28.
- 7.13 Members must comply with any standards/guidelines set by the Code Manager.
- 7.14 Each Member must promote this Code by:
- (1) ensuring that their representatives are aware of the Code and its contents and that Sales Agents have a copy of the Code with them when performing Sales Activities;
  - (2) displaying the EAL Logo prominently on Sales Agent ID badges;
  - (3) ensuring that Sales Agents provide the EAL Marketing Material about the Code when:
    - (a) they enter into an energy supply contract; or
    - (b) on the consumer's request;
  - (4) ensuring that as part of its Post Sale Verification Procedures that they verify with the consumer that they were made aware of the Code and its purpose.

**7.15** Each Energy Retailer must also promote this Code by:

- (1) making copies of the Code available to consumers on request via email or post; and
- (2) displaying information about the Code on its website, including at least the information set out in clause 9.5;

**7.16** In order to comply fully with the Applicable Laws and the EAL Standards, the Member is likely to have to provide additional information to the consumer. This additional information must not be inconsistent with the information contained in the EAL Marketing Material.

**7.17** Nothing in this section excuses a Member from its obligations to comply with the Applicable Law, including reporting incidents of Sales Agent forgery or fraud to the police.

## **8 Rights and Obligations of Sales Agents**

**8.1** Members must ensure that Sales Agents:

- (1) comply with the EAL Standards and Applicable Laws;
- (2) only conduct Sales Activities on behalf of the Member with which they are currently registered on the EAL Register; and
- (3) only undertake Sales Activities in accordance with their Accreditation Status, in accordance with clause 14.2 and the Procedures Guideline.

## **9 Role of Energy Assured Limited**

**9.1** EAL has been established to administer the Code. It was established to achieve the same objects as the Code seeks to achieve. For the purposes of this Code, EAL:

- (1) is not a dispute resolution body;
- (2) will refer consumers back to their Energy Retailer to resolve their dispute directly if they have not contacted the Energy Retailer previously;
- (3) will refer consumers to the relevant energy ombudsman if they have attempted to have their complaint resolved by the Energy Retailer and are dissatisfied with that response; and
- (4) will investigate allegations of non-compliance with the Code to supplement existing regulatory regimes and promote uniformity and consistency in door to door marketing in the energy industry in accordance with clause 26.

**9.2** The membership, governance structure and procedures of EAL are set out in its Constitution.

9.3 EAL will consult on, and participate in, decision making on matters set out in this Code.

9.4 EAL will promote the Code by:

- (1) displaying information about the Code and its Members on its website and copies of this Code and the Procedures Guideline;
- (2) developing EAL Marketing Material (**EAL Marketing Material**) that is to be used by Sales Agents when undertaking Sales Activities and displayed on the EAL website in the six most common languages spoken in Australia;
- (3) promoting and communicating about the progress of the Code with energy ombudsmen, relevant energy regulators, government agencies, Consumer Advocacy Groups and associations through correspondence;
- (4) requiring Members to undertake marketing activities, including those set out in clauses 7.14 and 7.15 and providing Members with EAL Marketing Material that promotes the Code to consumers; and
- (5) undertaking any other promotional, marketing or advertising campaign necessary or worthwhile to ensure that the Code becomes visible and understood amongst energy ombudsmen, relevant energy regulators, government agencies, Consumer Advocacy Groups and associations and consumers.

9.5 For the purposes of clause 9.4(2), the EAL Marketing Material that promotes the Code to the consumer must clearly state the following information:

- (1) that the Energy Retailer (and the Energy Marketer that represents them, if applicable) is a Member of EAL and has adopted and will comply with the Code;
- (2) why the Code was established and how it interacts with the Applicable Law, inclusive of the Australian Consumer Law, and, when introduced, the national energy customer framework retail and the relevant energy regulations governing door to door sales;
- (3) a summary of the EAL Standards- i.e. what the consumer can expect from Sales Agents;
- (4) how the consumer can make a complaint or provide feedback about a Sales Agent under the EAL Code;
- (5) how a Sales Complaint will be treated by the Energy Retailer;
- (6) the implications if a Sales Agent is found to have breached the EAL Standards;
- (7) that the Sales Agent has been recruited and trained in accordance with the EAL Code;
- (8) the Member is a member of EAL;
- (9) contact details of the Energy Retailer;
- (10) the EAL website address;
- (11) that the Code operates separately to the energy ombudsman scheme applying in the consumer's State or Territory and that they may separately utilise that scheme if they wish to;

- (12) the role of the Code Manager and Code Panel; and
- (13) how the material located in the EAL Marketing Material can be obtained in six different languages.

**9.6 EAL will publish an Annual Report on its website. The Annual Report will, at a minimum, address the following matters:**

- (1) a report from both the Chairman of EAL and the Code Panel;
- (2) an overview of the Code;
- (3) an overview of the Compliance Audits undertaken;
- (4) statistics (without naming the Sales Agents involved) of proven breaches and deregistration applications against Sales Agents dealt with under clauses 19 and 22, such as the number of breaches recorded per Level made during the year, the outcomes of any Deregistration Applications and the number of appeals heard under clause 29 (to the extent that they are not confidential);
- (5) statistics (naming the Energy Retailers involved) of Sales Complaints made to an Energy Retailer as a proportion of consumers contacted and divided into categories and the types of complaints received from data obtained from monthly reports under clause 25.
- (6) examples of the type of Sales Complaints received and how these were addressed;
- (7) statistics (without naming the Members involved) of the number of issues identified against Members dealt with under clause 27 the outcome of those issues that resulted in the imposition of Sanctions under clause 28 and the number of appeals heard under clause 30 (to the extent that they are not confidential);
- (8) examples of Member issues identified and how these were addressed;
- (9) the nature of industry wide systemic issues and how these have been resolved;
- (10) details of Sanctions 5 and Sanction 6 issued that were imposed and the naming of the Member;
- (11) statistics of the number of Sanctions and Appeals considered and heard by each Panel Member; and
- (12) outcomes or recommendations of any Code review.

**9.7 EAL will provide the relevant energy regulator with a copy of the Annual Report before publication under clause 9.6.**

## **10 Role of Code Manager**

**10.1 A Code Manager will be appointed by EAL to carry out the administration and day-to-day supervision of the Code. The Code Manager is independent to the Members.**

## 10.2 The Code Manager:

- (1) oversees the operation of the EAL Register;
- (2) oversees the promotion of the Code;
- (3) develops appropriate training material on the Code so Members are fully aware of their obligations, including, in accordance with clause 11.1(8);
- (4) monitors Members' compliance with the Code and Procedures Guideline;
- (5) ensures that corrective action is taken where Members fail to meet their obligations under the Code;
- (6) investigates complaints about the conduct of Members in accordance with clause 26;
- (7) may issue guidelines from time to time to assist Members and Sales Agents to comply with the Code;
- (8) in combination with the Code Panel, administers Sanctions and appeals in accordance with this Code;
- (9) provides quarterly updates to the EAL board, Members, energy ombudsmen and jurisdictional energy regulators on the number and nature of:
  - (a) Warning Notices and proposed Sanctions on Members and the reasons for those Sanctions being proposed; and
  - (b) the result of Warning Notices being imposed; and
- (10) will engage with the relevant energy ombudsman to share information on Member issues identified and the Levels of Sales Complaints received.

## 11 Stakeholder Working Group

11.1 The Code Manager will establish and engage a working group comprising representatives from the industry, Consumer Advocacy Groups, energy ombudsmen and any other interested party (**Stakeholder Working Group**). The Stakeholder Working Group will meet bi-annually to consider the effectiveness of the Code. The meetings will, at a minimum, deal with the following matters:

- (1) overview and general feedback on the development of the Code;
- (2) discussions on areas in which the Code can be improved;
- (3) review of the EAL Marketing Material;
- (4) overview of any Compliance Audits undertaken;
- (5) discussion as to types of breaches made by Sales Agents under the EAL Standards and the appropriateness of the categorisation of Levels under clause 20;
- (6) overview of Warning Notices issued and the nature of Sanctions imposed similar to that provided under clause 10.2(9);
- (7) details of any industry wide systemic breaches of the EAL Standards and how they have been addressed; and
- (8) appropriate training packages to address community concerns about door to door sales in the energy industry.

- 11.2 Feedback from the Stakeholder Working Group will be referred to EAL and the Code Panel, by the Code Manager. EAL and the Code Panel will consider that feedback and, where appropriate, adopt recommendations made. Where recommendations are made for changes to the Code or the provision of additional training packages, the Code Manager will provide feedback at the next scheduled Stakeholder Working Group as to how these are being addressed.
- 11.3 For the purposes of clause 11.1, the Code Manager will issue a notice of invitation for participation to the first meeting of the Stakeholder Working Group within two months after the date that authorisation is granted by the Australian Competition and Consumer Commission pursuant to section 88 of the *Competition and Consumer Act 2010* (Cth), in respect of this Code. The notice of invitation will detail proposed dates for the meeting taking into consideration travel costs and commitments of Stakeholder Working Group participants.

## 12 Role and composition of the Code Panel

- 12.1 The Code Panel is independent to the Members and the Code Manager and must be composed of five individuals with a variety of professional backgrounds, none of whom have been engaged by a Member in the previous two years or have any actual or potential conflict of interest. Panel Members will be appointed by EAL and consist of:
- (1) one person with relevant experience, at a senior level, in the energy retailing industry;
  - (2) one person with relevant experience, at a senior level, in a regulatory or government body that administers consumer laws or marketing codes that govern door to door sales activities;
  - (3) one person with relevant experience, at a senior level, in a Consumer Advocacy Group;
  - (4) one person with relevant experience, at a senior level, in either a regulatory or government body that administers consumer laws or marketing codes that govern door to door sales activities or with relevant experience, at a senior level, in a Consumer Advocacy Group; and
  - (5) one person with current legal qualifications, preferably in the energy industry.
- 12.2 Each Panel Member will hold office for a term of three years and will be eligible for re-appointment for one further term of two years.
- 12.3 The Code Panel must elect a Chairman.

12.4 The Code Panel will meet on a quarterly basis with the Code Manager to:

- (1) review the strategic operations of the Code and put forward recommendations or improvements;
- (2) determine an appropriate roster to ensure that to the extent reasonably practicable, the hearing of complaints and appeals against decisions made against Sales Agents and Members are shared evenly between Panel Members (**Roster**);
- (3) establish procedures for the determination of Sanctions under clause 28.10 and the hearing of appeals under clauses 29 and 30;
- (4) review recent determinations of Sanctions proposed and imposed on Members to ensure consistency is maintained;
- (5) determine the appropriate requirements for the scope of the Code review; and
- (6) review quarterly progress reports prepared by the Code Manager under clause 13.6.

12.5 A single member of the Code Panel will consider a complaint made against a Member at first instance where a Sanction is proposed to be imposed in accordance with clause 28.9 and 28.10.

12.6 A member or members of the Code Panel will hear appeals against Sanctions imposed on Sales Agents and Members in accordance with clauses 29 and 30.

12.7 If a Panel Member is of the view that they are conflicted or lack the expertise to make a decision under clause 28.10, 29 or 30, the Panel Member must excuse themselves from participating in the determination and the next Panel Member on the Roster will be enlisted in their place.

## 13 Review of the Code

13.1 The Code will be reviewed at least every two years by an independent entity with legal or auditing expertise capable of assessing the effectiveness of the Code and familiar with the energy industry (**Independent Firm**).

13.2 The scope of the review will be determined by EAL, the Code Manager and the Code Panel. The review will be conducted in consultation with the energy ombudsmen and the relevant energy regulators, government agencies and Consumer Advocacy Groups.

13.3 The Independent Firm will have access to matters considered by the Code Panel, the EAL Register, monthly reports, Audit Reports, Annual Reports and

any other information necessary for the Independent Firm to assess and make recommendations on the effectiveness of the Code.

- 13.4 The Independent Firm must produce a report with a list of recommendations.
- 13.5 The report, recommendations and criteria used to select adopted recommendations will be provided to all parties consulted under clause 13.2. Where a recommendation is not adopted, EAL will provide details as to why the recommendation was not adopted.
- 13.6 It is an obligation on the Code Manager to provide quarterly progress reports to the EAL Board and the Code Panel on the progress of the adoption of the recommendations.
- 13.7 For the purposes of this clause 13, the review of the Code cannot make recommendations that change the objectives as set out in the EAL Constitution.

# 4

## EAL REGISTER, RECRUITMENT AND TRAINING

### 14 EAL Register

14.1 The EAL Register will be created and administered by the Code Manager.

#### 14.2 Members must:

- (1) register all Sales Agents engaged by it on the EAL Register;
- (2) manage the Accreditation Status' of all Sales Agents; and
- (3) manage their Sales Agents and operate and access the EAL Register,

in accordance with the Procedures Guideline (and summarised below).

Accreditation Status	Description	Duration of Status	Privileges
Provisional	Applies to new Sales Agents pending completion of training and passing of Competency Assessment	Between four and six weeks	Can undertake Sales Activities under supervision by an Experienced Sales Agent after Off-job Training and Off-job Assessment have been successfully completed
Approved	Sales Agent has passed Formal and Annual Competency Assessment by an approved Assessor	1 year	Can undertake Sales Activities Can display EAL Logo

Accreditation Status	Description	Duration of Status	Privileges
Development	Sales Agent has not passed Competency Assessment or has committed a Level 2 Breach under the Code of Practice and is undergoing further training.	Up to 15 Business Days	Can undertake Sales Activities under supervision by an Experienced Sales Agent Can display EAL Logo
Suspended	Sales Agent suspended from undertaking Sales Activities pending outcome of investigation and determination of Deregistration Application as a result of an alleged Level 3 Breach under the Code of Practice.	Up to 15 Business Days or until the Deregistration Application is finally determined	Cannot undertake Sales Activities or display EAL Logo
Deregistered	Agent has been deregistered in accordance with the Sanctions Process	5 Years	Cannot undertake Sales Activities or display EAL Logo
Inactive	Sales Agent on authorised leave	Up to 3 Months	Cannot undertake Sales Activities or display EAL Logo
Active	Sales Agent returned from leave but not yet re-taken and passed Competency Assessment	Generally up to 10 Business Days	Can undertake Sales Activities under supervision by an Experienced Sales Agent Can display EAL Logo
Leaver	Sales Agent is no longer engaged by Member or is "Inactive" for more than 3 months	Unspecified	Cannot undertake Sales Activities or display EAL Logo

## 15 Recruitment

### 15.1 Members must only engage Sales Agents that:

- (1) have sufficient knowledge and skills;
- (2) have sufficient relevant experience and training with supporting references; and
- (3) present themselves in a respectable manner,

to enable them to suitably perform the role of a Sales Agent, noting the important role that Sales Agents play as the 'public face' of the industry.

### 15.2 Members must only engage Sales Agents that have:

- (1) passed a 100-point identification check;
- (2) provided proof of address; and
- (3) passed a criminal history check or a criminal history check is pending, in accordance with clause 16.1(2).

### 15.3 If a Sales Agent has been previously registered on the EAL Register to another Member, the Member proposing to engage the Sales Agent may contact that Member to ascertain the Sales Agent's competency.

## 16 Training and Competency Assessment

### 16.1 A Member may only permit a Sales Agent to engage in Sales Activities on its behalf:

- (1) where the Sales Agent has successfully completed a Formal Competency Assessment by an approved Assessor; or
- (2) if the Member has deployed the Sales Agent in the field as part of On-job Training, or on a probationary basis pending a satisfactory criminal history check (or other) being obtained, where the Sales Agent is appropriately supervised until the Formal Competency Assessment has occurred.

### 16.2 In order to pass a Formal Competency Assessment, a Member must ensure that a Sales Agent undertakes Off-job Training on at least the following matters:

- (1) the operation of the Code, in particular, the monitoring, Sales Complaint, disciplinary procedures and the Levels of breaches as well as the operation of the EAL Register;
- (2) the EAL Standards and all relevant laws and regulation;
- (3) the legislative and regulatory obligations applying to the supply of energy in the jurisdiction in which the Sales Agent is to operate, including the Energy Retailer's obligations and consumer rights;
- (4) information about the Member necessary to fulfil the role;
- (5) product knowledge and sales techniques to effectively perform the role;

- (6) changes in the market and to products/services;
- (7) respecting consumer privacy, ethnicity and diversity;
- (8) recognition and treatment of vulnerable consumers;
- (9) safety as it relates to the consumer and the Sales Agent;
- (10) the role of the energy ombudsman;
- (11) examples as to what constitutes misleading, deceptive or unconscionable conduct and false representation (inclusive of coercion and harassment) in the energy industry;
- (12) what the Sales Agent must give to and disclose to the consumer; and
- (13) any matters identified through consultation and addressed under clause 11 and must:
- (14) include defined monitoring procedures to ensure consistency of training delivery; and
- (15) be effective and up to date.

**16.3 A Member must ensure that a new Sales Agent also undertakes On-job Training before it can pass a Formal Competence Assessment.**

## SALES COMPLAINTS HANDLING, COMPETENCE MONITORING AND SALES AGENT DISCIPLINE

- 17 Sales Complaints made about conduct of Sales Agents**
- 17.1 Energy Retailers must have an internal Sales Complaint Handling Process (Sales Complaint Handling Process) for receiving, recording and actioning Sales Complaints:**
- (1) received from consumers, Consumer Advocacy Groups, any energy ombudsmen, energy regulator, government agency or other Member;
  - (2) referred by the Code Manager; and
  - (3) that complies with the applicable Australian Standard on Complaints Handling, that, at a minimum, meets the requirements of this clause 17.
- 17.2 For the purposes of this clause 17 the Code Manager is not a dispute resolution body. Any Sales Complaints made to the Code Manager about conduct of a Sales Agent will be referred:**
- (1) back to the responsible Energy Retailer to resolve their dispute directly if the consumer, Consumer Advocacy Group, Stakeholder or Member has not already done so; or
  - (2) to the relevant energy ombudsman if the consumer is dissatisfied with the Energy Retailer's response to their Sales Complaint.
- 17.3 An Energy Retailer must investigate each Sales Complaint received within 5 Business Days of receiving the complaint and deal with the Sales Complaint in accordance with relevant legislation and the Energy Retailer's internal practices.**
- 17.4 The Energy Retailer must provide feedback to the complainant on the outcome of the Sales Complaint within 21 days of receiving the Sales Complaint and, where a Sales Complaint is substantiated, redress the complaint in accordance with the**

Applicable Laws and the Energy Retailer's internal practices.

- 17.5 The Energy Retailer must provide consumers with the appropriate contact details for the relevant energy ombudsman should the Sales Complaint not be resolved to the consumer's satisfaction.
- 17.6 For each Sales Complaint, the Energy Retailer must record at least:
- (1) the date, or approximate date, of the incident;
  - (2) the date of the Sales Complaint;
  - (3) the reason for the Sales Complaint;
  - (4) a date and description of how the Sales Complaint was resolved; and
  - (5) the corrective action taken, if required, including disciplinary action taken against the Sales Agent and the Sales Agent's details.
- 17.7 Where it is proven, upon investigation of a Sales Complaint, that a Sales Agent has breached the EAL Standards:
- (1) the breach must be attributed a Level 1, Level 2 or Level 3 Breach in accordance with clause 20;
  - (2) disciplinary action must be taken against the Sales Agent in accordance with clause 21; and
  - (3) the breach must be recorded in the Competence Record Register.
- 17.8 Annexure A summarises the operation of the Sales Complaints Handling Process.

## 18 Competence Monitoring

- 18.1 An Energy Retailer must have procedures in place to monitor and record, on an ongoing basis, its Sales Agents' compliance with the EAL Standards (including Applicable Laws) (**Competence Monitoring**) which must include but is not limited to:
- (1) an independent Post Sale Verification Procedure that is done and recorded on all consumers that enter into a contract with the Energy Retailer;
  - (2) monthly random assessments of 5% of Sales Agents that have obtained an Approved Accreditation Status; and
  - (3) an annual Formal Competence Assessment in accordance with the Procedures Guideline.
- 18.2 For the purposes of clause 18.1(1) the Post Sale Verification Procedure must be conducted and recorded independently to the Sales Agent, and must not be undertaken by any individual that performs face to face marketing on behalf of the Member, but may include:
- (1) a call centre that is independent to the Member; or

- (2) a separate verification team contained within the Member's business.

**18.3 For the purposes of clause 18.1(2), the assessment of Sales Agents may include, however is not limited to:**

- (1) the "mystery shopping" of a sample of consumers that were contacted by Sales Agents but did not enter into a contract; or
- (2) assessments of Sales Agents undertaken whilst the Sales Agents perform Sales Activities where;
  - (a) the Sales Agent is randomly selected; and
  - (b) the assessment is performed by an Approved Assessor based on the On-Job Assessment Form contained in the Procedures Guideline.

**18.4 Where it is proven, upon an investigation of conduct arising from Competence Monitoring, that a Sales Agent has breached the EAL Standards:**

- (1) the breach must be attributed a Level 1, Level 2 or Level 3 Breach in accordance with clause 20;
- (2) disciplinary action must be taken against the Sales Agent in accordance with clause 21; and
- (3) the breach will be recorded in the Competence Record Register.

## **19 Competence Record Register**

**19.1 An Energy Retailer must operate a Competence Record Register that records all established breaches of the EAL Standards (**Competence Record**) arising from Sales Complaints made about Sales Agents under clause 17 and any breaches identified through the Competence Monitoring Process under clause 18.**

**19.2 Each Competence Record must contain:**

- (1) details of the Sales Agent that breached the EAL Standards;
- (2) the date of the breach and the date, or approximate date, of the incident;
- (3) details of how the breach was detected, be it through a Sales Complaint or the Competence Monitoring Process;
- (4) who raised the Sales Complaint or who performed the Competence Monitoring;
- (5) the date that the Level of breach was attributed;
- (6) the Level of breach attributed under clause 20;
- (7) the section(s) of the EAL Standard or Applicable Law breached;
- (8) the State or Territory in which the breach occurred; and
- (9) a brief description of the breach.

**19.3 Competence Records must be retained for a minimum of two years on the**

Competence Record Register.

- 19.4 The Competence Record Register will be reviewed by the Code Auditor in the course of the annual Compliance Audit.
- 19.5 Energy Retailers must monitor the Competence Record Register on a regular basis to identify, investigate and address systemic issues. For example, Energy Retailers must monitor trends in Sales Complaints:
- (1) to identify whether a particular Sales Agent is recording higher complaints than other Sales Agents; and
  - (2) to identify whether a larger number of complaints are being made in relation to a particular matter of compliance.
- 19.6 Where an Energy Retailer identifies a systemic issue under clause 19.5, the Energy Retailer must take corrective action to address the deficiency and prevent against re-occurrence. Examples of corrective action that may need to be taken, include, but are not limited to:
- (1) assessment and revision of training packages that are being provided to Sales Agents to address the issue identified; and
  - (2) assessing the scope and appropriateness of On-job training.
- 19.7 Where an Energy Retailer has identified a systemic issue under clause 19.5 the Energy Retailer must report the issue to the Code Manager as part of the Monthly Reporting under clause 25.3(8).
- 19.8 Where an Energy Retailer identifies a systemic issue which is in breach of a current law or regulation then this must be reported to the relevant energy regulator, or authority, in accordance with its regulatory obligations.

## 20 Levels of Breaches of EAL Standards

- 20.1 For the purposes of clauses 17.7 and 18.4, if a Sales Agent breaches the EAL Standards, the breach must be categorised as a Level 1, Level 2 or Level 3 Breach depending on the severity of the breach.
- 20.2 In determining the appropriate Level that is to be attributed to a breach by a Sales Agent, an Energy Retailer must take into account the following matters:
- (1) the seriousness of the breach;
  - (2) whether the breach has been repeated by the Sales Agent;
  - (3) whether the breach is part of a persistent course of different breaches

- recorded against the Sales Agent; and
- (4) any mitigating or aggravating circumstances that warrant considering appropriating a different Level of breach.

### 20.3 For the purposes of clause 20.1:

- (1) A breach of an EAL Standard will be a **Level 1 Breach** where the breach is minor. A minor breach would occur where there is a technical compliance failure or behaviour of a Sales Agent generally arising from poor procedures, where either a warning or some simple coaching or re-training is the most appropriate remedy. Examples of conduct which would constitute a Level 1 Breach include (but are not limited to):
  - (a) Sales Agent did not have their ID badge visible when contacting a consumer;
  - (b) Sales Agent failed to provide consumer with complete details of the EAL scheme;
  - (c) Sales Agent failed to record contact information on walk sheets;
  - (d) Sales Agent was flippant or rude to the consumer.
- (2) A breach of an EAL Standard will be a **Level 2 Breach** where it is a serious or persistent breach. A serious breach will occur where the arising breach is more than a technical or superficial breach of the EAL Standards and that breach involved was central to the role of a Sales Agent or disclosures by a Sales Agent. Examples of conduct which would constitute a Level 2 Breach include (but are not limited to):
  - (a) two Level 1 Breaches in the course of three consecutive months;
  - (b) advising a consumer that they could only have the marketing information if they signed a contract;
  - (c) advising a consumer, by genuine mistake, that they will not incur early termination fees from their existing retailer, or that these would be waived by their existing retailer if they switch; or
  - (d) promising the consumer, by genuine mistake, a discount that does not apply to that particular consumer.
- (3) A breach of an EAL Standard will be a **Level 3 Breach** where it amounts to wilful or gross misconduct. Wilful or gross breaches are breaches of the EAL Standards that warrant dismissal and cannot be remedied through re-training. Examples of conduct which would constitute a Level 3 Breach include (but are not limited to):
  - (a) two Level 2 Breaches in the course of six consecutive months;
  - (b) forgery or fraud;
  - (c) taking advantage of an individual, whom a reasonable person could tell was not capable of making an informed decision, for example an elderly person;

- (d) intentionally engaging in misleading or deceptive conduct; or
- (e) advising a consumer that the Sales Agent had signed other people up in the street and named the consumers;
- (f) entering a consumer's premises without permission.

20.4 Where a Level 2 or Level 3 Breach is recorded against a Sales Agent, the responsible Energy Retailer must review, to the extent practicable, the previous five consumer contracts generated by the Sales Agent before the identified breach and the five consumer contracts generated after the identified breach. Should the review identify that any of those contracts were not entered into in accordance with the EAL Standards or Applicable Laws, the Energy Retailer must contact the consumers concerned and rectify the breach.

20.5 Upon completion of its review, under clause 20.4, the Energy Retailer must notify (where applicable) the relevant energy regulator of the breach, the action that was taken to address the breach, the remedial steps implemented and if appropriate, the proposed consumer redress.

## 21 Disciplining of Sales Agents

21.1 If a Member discovers that a Sales Agent is not meeting the EAL Standards, the Member must:

- (1) notify the Sales Agent of the failure; and
- (2) if appropriate, implement a period of re-training or development.

21.2 If a Sales Agent has failed to comply with the EAL Standards and a Level 2 Breach is attributed to the Sales Agent under clause 20, the Member must:

- (1) notify the Sales Agent of the failure;
- (2) implement a period of re-training or development; and
- (3) change the Sales Agent's status in the EAL Register from "Approved" to "Development" for the period of re-training.

21.3 If it is alleged that a Sales Agent has failed to comply with the EAL Standards such that if established, a Level 3 Breach would be attributed to the Sales Agent under clause 20, the Member must:

- (1) notify the Sales Agent of the allegation;
- (2) submit to the Code Manager a Deregistration Application in accordance with clause 22; and
- (3) change the Sales Agent's status in the EAL Register from "Approved" to "Suspended" for the duration of and, if applicable, pending the outcome of a Deregistration Application.

21.4 Members must establish written procedures that detail the specific disciplinary action to be taken against a Sales Agent for various breaches of the EAL Standards that reflect clause 20 and 21.

## 22 Deregistration of Sales Agents

22.1 A Member must apply to the Code Manager to deregister a Sales Agent where a Sales Agent has failed to comply with the EAL Standards and a Level 3 Breach is attributed to the Sales Agent under clause 21 (**Deregistration Application**).

22.2 Deregistration Applications must be made to the Code Manager by either the Energy Retailer, or the Energy Marketer, in a manner that substantially conforms with the Form A set out in Annexure D.

22.3 The Code Manager must exercise his or her discretion reasonably and determine on the evidence before him or her:

- (1) if there is sufficient evidence to establish that the Sales Agent breached the Code;
- (2) if there is insufficient evidence to ascertain the extent of the breach, to seek additional information from the Energy Retailer, Energy Marketer, Sales Agent or any other source;
- (3) if satisfied that there has been a breach of the Code, whether the breach of the Code or cumulative breaches of the Code warrant the deregistration of the Sales Agent and if so, to deregister the Sales Agent; or
- (4) if not satisfied that the Sales Agent has breached the Code or that deregistration is not warranted, to dismiss the Deregistration Application.

22.4 In making a determination under clause 22.3, the Code Manager must have regard to previous decisions made about the deregistration of Sales Agents so as to promote consistency of treatment of Sales Agents.

22.5 The determination must be made by the Code Manager within 10 Business Days of the receipt of the Deregistration Application.

22.6 The Code Manager will record in writing his or her reasons for the determination, and provide a copy of these reasons, in a form that substantially conforms with Form B contained in Annexure E (**Deregistration Notice**). The Deregistration Notice must be provided to both the Member and the Sales Agent, at the addresses provided for in the Deregistration Application.

22.7 If a Sales Agent is deregistered, the deregistration will last for a period of five

years from the issue of the Deregistration Notice after which time, the Sales Agent may apply for a new registration and again engage in Sales Activities.

- 22.8 If a Sales Agent is not deregistered then the Accreditation Status of the Sales Agent will be returned to the last Accreditation Status that they were issued before their suspension.
- 22.9 Either the Sales Agent or the Member may appeal the determination under clause 22.3 to one member of the Code Panel in accordance with clause 29.

## REPORTING, AUDIT AND MEMBER DISCIPLINE

### 23 Constant Vigilance

- 23.1 A Member must have a clear governance and control framework to monitor and encourage compliance with the Code on an ongoing basis.
- 23.2 Members must respond within 2 Business Days to questions from the Code Manager relating to their Code compliance.
- 23.3 Members must utilise the results of Sales Complaint Handling, Competence Monitoring and Compliance Audit processes set out in this Code to pro-actively manage Code compliance.
- 23.4 Part 6 of this Code is separate to the rights of any relevant energy regulator to undertake audits, require reporting and take enforcement action in accordance with their powers and functions.

### 24 Compliance Audit

- 24.1 Each Energy Retailer must submit to a Compliance Audit on a yearly basis. The Compliance Audit will be conducted by the Code Auditor.
- 24.2 The scope of the Compliance Audit and procedures to be tested will be determined by EAL in consultation with the Code Auditor. In particular, and at a minimum, the Compliance Audit will cover:
- (1) the adequacy of controls for compliance with the Code shared between an Energy Retailer and Energy Marketer, including the governance framework developed under clause 7.1(3);

- (2) whether or not the Energy Marketer engaged by the Energy Retailer is subject to the Compliance Audit and if so, will cover these same matters in relation to the Energy Marketer;
- (3) issues relating to contacting and contracting with consumers and ethical conduct of Sales Agents;
- (4) the adequacy of recruitment, training, assessment and monitoring of Sales Agents;
- (5) the adequacy of Sales Complaint handling processes;
- (6) the consistency and accuracy of the Member's categorisation of breaches of the EAL Standards in accordance with clause 20; and
- (7) the sufficiency of record keeping and reporting.

24.3 The Compliance Audit may include random checks (on both the Energy Retailer, and the Energy Marketer they engage) and surprise field checks on Sales Agents. Otherwise, the Code Auditor will give reasonable notice of a Compliance Audit to the Energy Retailer and the Energy Marketer.

24.4 Members must give the Code Auditor access to the information necessary for the purposes of the Compliance Audit unless to do so would cause the Member to breach any law or the terms of any agreement to which it is a party.

24.5 The Code Auditor will prepare a detailed report of findings for each Energy Retailer (**Audit Report**). The Audit Report will be provided to the Energy Retailer that was the subject of the Audit Report, the relevant energy regulator and the Code Manager. Each Audit Report will:

- (1) detail the procedures and documentation that were reviewed;
- (2) set out the results of the review;
- (3) identify areas of non-compliance; and
- (4) prescribe action plans agreed with the Energy Retailer to address areas of non-compliance by the Energy Retailer.

24.6 A consolidated report of the results of all Compliance Audits will be prepared by the Code Auditor and provided to the EAL Board, Members, the Code Panel, and at the next scheduled Stakeholder Working Group meeting summarising:

- (1) the extent and type of breaches of the EAL Standards;
- (2) the procedures and documentation that were reviewed; an outline of any major or important instances of non-compliance, inclusive of potential industry-wide systemic issues identified;
- (3) corrective measures that have been prescribed to address compliance issues; and
- (4) any other relevant observations.

## 25 Monthly Reporting

- 25.1 Each Energy Retailer must prepare a report each month about its compliance with the Code (**Monthly Report**).
- 25.2 Each Energy Retailer must provide the Monthly Report to the Code Manager within 14 days of the end of each month about its compliance with the Code in that month. The Code Manager may, at the request of an Energy Retailer, extend the deadline for the provision of a Monthly Report by up to 7 additional days.
- 25.3 The scope of the Monthly Reports will be agreed to between the Energy Retailer and the Code Manager but must include at least:
- (1) the number of Sales Agents on the EAL Registry registered to the Energy Retailer;
  - (2) the number and details of “Approved” Sales Agents that were randomly audited for the month in accordance with clause 18.1(2);
  - (3) the number of Formal Competency Assessments that were undertaken by the Member in accordance with clause 18.1(3) and the result;
  - (4) relevant indicators of the extent to which the EAL Register is being maintained by the Energy Retailer;
  - (5) the number of consumers contacted by, or on behalf of, the Energy Retailer in the month by State, based on walk sheet data;
  - (6) details of Sales Complaints received in the month including but not limited to for each Sales Complaint:
    - (a) the date of the incident;
    - (b) the date of the Sales Complaint;
    - (c) the nature of the Sales Complaint;
    - (d) the State in which the incident occurred;
    - (e) the date the Sales Complaint was resolved;
    - (f) whether the Sales Complaint was proven and recorded in the Competence Register and the Level of Breach attributed to the Sales Complaint;
  - (7) any new Competence Record for the month;
  - (8) any issues identified through monitoring the Competence Record Register under clause 19.6 and the corrective action undertaken;
  - (9) the outcome of action taken under clause 20.4; and
  - (10) progress made to implement action items arising from any Compliance Audit, Warning Notice issued under clause 27 or Sanction imposed under clause 28.

## 26 Investigation of alleged Code breaches by Members

26.1 The Code Manager must investigate all potential breaches of the Code by Members raised:

- (1) in Monthly Reports;
- (2) through the annual Compliance Audit; or
- (3) following the receipt of a complaint substantially in the form of Form C as set out in Annexure F (**Member Complaint**) from another Member, the energy ombudsman, Consumer Advocacy Groups any energy regulator or regulatory body or the government (**Complainant**).

26.2 Where a complaint is received by the Code Manager from a consumer about the conduct of a Member, the Code Manager will refer the consumer;

- (1) back to the responsible Member to resolve the complaint directly if the consumer has not already done so; or
- (2) provide the consumer with contact details of the relevant energy ombudsman or regulator if the consumer is dissatisfied with the Member's response to their complaint.

26.3 For the purposes of clause 26.2 (2) the relevant energy ombudsman or regulator can investigate the complaint independent to this Code or lodge a Member Complaint in accordance with clause 26.1 (3).

26.4 The Code Manager must:

- (1) seek additional information from the Member or Complainant or any other source if necessary;
- (2) ascertain whether the issue is attributable to the Energy Retailer or the Energy Marketer; and
- (3) investigate and assess the issue as soon as reasonably practicable in order to minimise consumer dissatisfaction and to help raise industry standards;
- (4) notify the Complainant of the outcome of the investigation.

## 27 Warning Notices

27.1 Where an issue of compliance is identified by the Code Manager under clause 26, then the Code Manager must issue the responsible Member(s) with a notice warning them that they are suspected of having breached the Code and recommending that remedial action be undertaken to address the issue (**Warning Notice**).

27.2 The Warning Notice must specify (at a minimum):

- (1) the nature and extent of suspected Code breaches;

- (2) recommended corrective action to be undertaken, based on discussions held with the Member where possible;
- (3) the timeframe in which the issue must be addressed;
- (4) responsibility of whom is to address the issue based on the investigation undertaken in 26.2 (be it the Energy Retailer or the Energy Marketer); and
- (5) the Sanction that will be likely to be sought under clause 28 if:
  - (a) the issue is not addressed in accordance with the Warning Notice; or
  - (b) the Member does not establish (to the satisfaction of the Code Manager) that there is good reason why the Warning Notice cannot or should not be complied with in whole or in part because, for example:
    - (i) the suspected Code breaches did not occur;
    - (ii) satisfactory remedial action has already been undertaken; or
    - (iii) the corrective action recommended under clause 27.2(2) is inappropriate or cannot be reasonably undertaken in the timeframe specified under clause 27.2(3),applying the principles set out in the flowchart in Annexure B.

**27.3** Where the issue of compliance relates to a systemic or material breach in accordance with this clause 27, which is in contravention of an Energy Retailer's obligation under the law or regulations than this breach must be reported by the Energy Retailer to the relevant regulator or authority.

## **28 Sanction Process**

- 28.1** Subject to clause 27.2, the Code Manager must impose a Sanction on a Member if the Member fails to meet the obligations imposed on it under a Warning Notice and the Code Manager has not waived the requirement to comply with any aspect of that Warning Notice.
- 28.2** If the Code Manager determines to impose a Sanction under this clause 28, the Code Manager must impose a Sanction 1, 2, 3, 4, 5 or 6 based on the following table:

Sanction No.	Description of Sanction	Description of Breach	Examples (however not limited to) breaches that may attract the Sanction
1	<p>The Member provides a written undertaking to the Code Manager that the breach will not be repeated.</p> <p>EAL board is notified of the breach; however the Member is not named.</p>	<p>The breach is considered a <b>minor operational breach</b></p>	<p><b>Minor Operational Breach</b></p> <ul style="list-style-type: none"> <li>• Minor failures in maintaining the EAL Register properly.</li> <li>• Not registering a Sales Agent in accordance with the Registry Process.</li> <li>• Number of Sales Agents that passed Formal Competency Assessments undertaken for the month does not match with the amount of Sales Agents that obtained an Approved status in the EAL Register</li> <li>• Not providing the Code Manager consistently with accurate Monthly Reports.</li> <li>• Failure to consistently meet threshold of Random Assessment of Sales Agents, in accordance with clause 18.1(2), as identified in the Monthly Report based on the number of Sales Agents recorded with an Approved Accreditation Status on the EAL Register.</li> <li>• Failing to adhere to action plans that arise out of the Annual Compliance Audit on minor compliance issues that are isolated and operational in nature and do not impact the public.</li> </ul>
2	<p>Formal letter of admonishment is issued to the EAL Member.</p> <p>Member details to the Code Manager its strategy to rectify the issue and implements an agreed action plan to prevent the</p>	<p>1 The breach is considered to be a <b>serious operational breach</b></p> <p>2 The breach was considered to be an isolated yet <b>material breach</b></p>	<p><b>Serious Operational Breach</b></p> <ul style="list-style-type: none"> <li>• Substantial failures in maintaining the EAL Register as detected from a reconciliation with data provided from the monthly reporting and the EAL Register.</li> <li>• Not undertaking the adequate training of Sales</li> </ul>

Sanction No.	Description of Sanction	Description of Breach	Examples (however not limited to) breaches that may attract the Sanction
	<p>problem(s) reoccurring, at its cost. EAL board is notified of the Member's breach and the Member is named.</p>	<p>of the EAL Standards; or</p> <p>3 The Member has been issued three or more Sanction 1's in the course of three months.</p>	<p>Agents in accordance with the Code as identified during an investigation by the Code Manager. Recruitment of a deregistered Sales Agent as identified through the reporting of this breach under clause 26.1(3) by another Member.</p> <ul style="list-style-type: none"> <li>• Contracting with an Energy Marketer that is not a Member of EAL and identified through the reporting of this breach under clause 26.1(3).</li> <li>• Failure to record and monitor the Level of Breaches of Sales Agents, as identified through monthly reporting.</li> <li>• Failure to adhere to action plans that arise out of the Annual Compliance Audit on major compliance issues that are isolated and operational in nature and do not impact the public.</li> <li>• A trend that depicts a discrepancy in the application of Level 1, Level 2 and Level 3 Breaches in the Competence Record Register as compared to the type of Sales Complaints described under clause 20</li> <li>• Discrepancy detected between the Competence Record and the Monthly Report that indicates that a Member did not undertake a review of contracts where a Sales Agent recorded a Level 2 or Level 3 Breach, in accordance with clause 20.4.</li> </ul>

Sanction No.	Description of Sanction	Description of Breach	Examples (however not limited to) breaches that may attract the Sanction
			<p><b>Material breach</b></p> <ul style="list-style-type: none"> <li>• A Sales Agent commits a Level 2 or 3 Breach which was not properly detected and addressed by the Member, despite having the appropriate controls in place, and the breach impacted a large number of consumers.</li> <li>• A Sales Agent breached the EAL Standards and on investigation it was found that the Sales Agent was deregistered.</li> <li>• A Sales Complaint is raised to the Code Manager about the conduct of a Sales Agent and on further investigation it was found that the Sales Agent was not registered properly on the EAL Register.</li> <li>• Member did not ensure appropriate supervision of a Sales Agent whose Accreditation Status required the Sales Agent to be supervised and the Sales Agent breached the EAL Standards whilst unsupervised.</li> </ul>
3	<p>Formal letter of admonishment is issued to the EAL Member.</p> <p>Member details to the Code Manager its strategy to rectify the issue and implements an agreed action plan to prevent the problem(s) reoccurring, at its cost.</p>	<p>The breach was a <b>systemic breach</b> of either:</p> <ol style="list-style-type: none"> <li>1.The EAL Standards which impacted, or had the potential to impact a large number of consumers; or</li> <li>2.Operational breaches that are</li> </ol>	<ul style="list-style-type: none"> <li>• The quantity of Level 1, 2 or 3 Breaches for the month exceeds 1% of the number of consumers contacted for the month, as identified through the Sales Complaints provided for in the monthly reports to the amount of homes visited taken from walk sheet data.</li> <li>• Where under clause 26.1 (3) the Code Manager receives statements that are</li> </ul>

Sanction No.	Description of Sanction	Description of Breach	Examples (however not limited to) breaches that may attract the Sanction
	<p>EAL board, the relevant energy regulator and the energy ombudsman are notified of the Member's breach and the Member is named.</p>	<p>not isolated in nature and directly result in a breach of the EAL Standards which impact a large number of consumers.</p>	<p>intentionally misleading or deceptive in nature being made consistently in relation to a particular matter by one or more Sales Agents and the Member, to which the Member Complaint relates, cannot demonstrate that the breach was not an inherent issue with the Member's compliance to the Code or due to a specific, individual or isolated factor.</p> <ul style="list-style-type: none"> <li>• Failure to take action under clause 19.7.</li> <li>• Failure to review consumer contracts in accordance with clause 20.4, where the breach is not isolated and resulted in further breaches to the EAL Standard.</li> <li>• Sales Agents continually failed to complete walk sheets so that consumers that cannot be contacted again under the Applicable Laws are contacted by the Member.</li> </ul>
4	<p>Member appoints an independent Code Auditor to audit the areas of activity where the breach(es) occurred at the Member's cost.</p> <p>Following the audit, Member details to the Code Manager its strategy to rectify the issue and implements an agreed action plan to prevent the problem(s) reoccurring, at its cost</p>	<ol style="list-style-type: none"> <li>1. Member has been issued three or more Sanction 2's in the course of six months; or</li> <li>2. Member has been issued two Sanction 2's and one Sanction 3 in the course of six months; or</li> <li>3. Member has been issued two Sanction 3's in the course of six months.</li> </ol>	

Sanction No.	Description of Sanction	Description of Breach	Examples (however not limited to) breaches that may attract the Sanction
	<p>Formal Letter of admonishment is issued to the EAL Member.</p> <p>EAL board, the relevant energy regulator and the energy ombudsman are notified of the breach and the Member is named.</p>		
5	<p>As per sanction 3.</p> <p>Additionally, other Stakeholders and the public will also be notified of the breach.</p>	<p>1. Member has failed to comply with agreed action plan arising from audit conducted under Sanction 4; or</p> <p>2. two Sanction 4's have been imposed on the Member in the course of twelve months.</p>	
6	<p>Member will be deregistered (permanently or temporarily) and the Member's membership of EAL cancelled.</p> <p>A public statement will be issued that identifies the Member, states the section of the Code that has been breached and the period of Deregistration.</p>	<p>1. one Sanction 5 has been imposed and the Member continues to fail to comply with the agreed action plan arising from the audit conducted under Sanction 4; or</p> <p>2. two Sanction 5's have been imposed on the Member in the course of twelve months.</p>	

### 28.3 For the purposes of clause 28.2:

- (1) a **minor operational breach** is a breach of the Code that is operational and minor in nature however does not have a direct public facing impact. A minor operational breach will occur when the arising breach is a small technical or superficial breach of the operations of the Code;
- (2) a **serious operational breach** is a breach of the Code that is operational and serious in nature however does not have a direct public facing impact. A serious operational breach will occur when the arising breach is more than a technical or superficial breach of the operations of the Code, and is a clear contravention of a Members obligations under the Code;

- (3) a **material breach** is a significant breach of the EAL Standards that is isolated in nature yet has impacted, or has the potential to impact, a large number of consumers. A material breach will occur when the arising breach is a breach of the EAL Standards, and where a Member can demonstrate that the breach was not an inherent issue with the Members compliance to the Code, and was rather, due to a specific, individual, or isolated factor;
- (4) a **systemic breach** is a breach of the EAL Standards, that is not isolated in nature and may have affected, or have the potential to affect, a large number of consumers. A systemic breach will occur when the arising breach is a breach of the EAL Standards and where a Member cannot demonstrate that the breach is not an inherent overall issue with the Members compliance to the Code. For the purposes of this Code where a minor or serious operational breach occurs that results in a direct breach of the EAL Standards on a large number of consumers, and is not considered an isolated incident, than this would be categorised as a systemic breach.

**28.4 In making a determination under clauses 27, 28.1 and 28.2, the Code Manager must have regard to:**

- (1) any previous Warning Notice or Sanction imposed on the Member in the past two years;
- (2) previous decisions made under a Warning Notice about the Sanctioning of Members so as to promote consistency of treatment of Members under this clause 28; and
- (3) costs of compliance for Members by ensuring that any action required is proportionate to the issue that it seeks to remedy. As far as the law allows, the Code Manager will take account of the circumstances of the case and the attitude of the Member when considering action.

**28.5 Where an Energy Retailer engages an Energy Marketer, and upon investigation it is found that a breach, or area of non-compliance, is attributable to the Energy Marketer, then the Code Manager or Code Panel (as the case may be) may determine that either:**

- (1) both the Energy Retailer and Energy Marketer is subject to the Sanction;
- (2) a different Sanction is imposed on the Energy Marketer as is to the Energy Retailer; or
- (3) only the Energy Marketer receives the Sanction.

**28.6 Unless immediate remedial action is required, before a Sanction is imposed, the Code Manager will provide an opportunity for the Member to discuss the circumstances of the failure to meet its obligations under the Warning Notice and the proposed Sanction and, if possible, resolve points of difference. Following that discussion or where immediate action is required, the Code Manager must**

issue a notice that substantially conforms with Form D as set out in Annexure G (**Notice of Breach**). The Notice of Breach must record, in writing, the Code Manager or Panel Member's reasons for the determination and include a copy of all documents and information supplied to or obtained by him or her in reaching that determination.

- 28.7 The Code Manager must serve the Notice of Breach on the Member by forwarding the Notice of Breach by ordinary pre-paid post to the registered office of the Member and/or to any other postal address, electronic address or fax number provided by the Member.
- 28.8 The Sanction proposed will be deemed to be accepted by the Member, unless a notice of appeal is lodged in accordance with clause 30 within 10 Business Days of the Date of Service of the Notice of Breach.
- 28.9 Where the proposed Sanction is more significant than a Sanction 1, one member of the Code Panel must approve the Sanction in accordance with clause 28.10 before it can be imposed.
- 28.10 The Code Manager must provide the Panel Member with a draft Notice of Breach prepared as though it was to be provided to the Member under clause 28.6. The Panel Member must consider the Member's conduct and proposed Sanction as though it were the Code Manager under clauses 28.1 to 28.5 and in doing so:
- (1) must consider the proposed Sanction in accordance with the preliminary determination made by the Code Manager and the evidence before them;
  - (2) may seek additional information or evidence in relation to the alleged breach from the Member or any other source;
  - (3) must uphold the determination of the Code Manager, or substitute his, her or their determination for that of the Code Panel Member;
  - (4) inform the Code Manager of the determination within 10 Business Days of his or her receipt of the draft Notice of Breach; and
  - (5) record in writing his or her reasons for the decision.

# 7

## APPEALS

### 29 Sales Agent Appeal Process

- 29.1 Appeals about a determination of the Code Manager under clause 22 can be made by either the Sales Agent or Member (**Appellant**) by delivering to the Code Manager a Notice of Appeal (within 10 Business Days of the Date of Service of the Deregistration Notice) that substantially conforms with Form E as set out in Annexure H .
- 29.2 The Notice of Appeal shall not be deemed to have been delivered unless and until the prescribed sum has been paid, as provided for in Annexure C.
- 29.3 The Code Manager must refer the appeal to a single Panel Member for determination, within 5 Business Days of receiving the Notice of Appeal, and the Panel Member must determine the appeal within 10 Business Days of his or her receipt of the Notice of Appeal from the Code Manager.
- 29.4 The Code Manager and Panel Member may, at his or her absolute discretion, grant an extension of time to the Appellant to provide further information.
- 29.5 The appeal shall be on one or more of the following grounds, but no other:
- (1) the Code Manager's discretion exercised pursuant to clause 22.3 was not exercised reasonably;
  - (2) the Appellant was denied natural justice; or
  - (3) new and material evidence has come into the possession of the Appellant at a time such that it was not possible for the new and material evidence to be provided to the Code Manager for his or her consideration prior to the Code Manager's determination of the Complaint.

29.6 Appeals are conducted and determined on the parties' written submissions, and information and documents provided by the parties, the Code Manager or from any other source.

29.7 The Panel Member shall:

- (1) follow any policy formulated by EAL for the purposes of conducting appeals, and any policies established under clause 12.4;
- (2) consider the allegation(s) *de novo* insofar as it is relevant to the ground of appeal;
- (3) uphold the determination of the Code Manager or substitute his or her determination for that of the Code Manager;
- (4) advise the Code Manager of the determination within 10 Business Days of determining the Appeal and any required action required including however not limited to the removal of the Suspension Accreditation Status of the Sales Agent on the EAL Register should the deregistration be revoked; and
- (5) record in writing his or her reasons for the determination.

29.8 For the sake of clarity:

- (1) the Panel Member's determination with respect to the grounds raised in the appeal is final and there is no further appeal; and
- (2) the determination of the Code Manager to Deregister a Sales Agent remains in force until the Panel Member determines otherwise on appeal.

## 30 Member Appeal Process

30.1 To appeal a determination of the Code Manager or single Panel Member the Member must deliver to the Code Manager a Notice of Appeal (within 10 Business Days of the Date of Service of the Notice of Breach) that substantially conforms with Form F as set out in Annexure I.

30.2 The Notice of Appeal shall not be deemed to have been delivered unless, and until the prescribed sum has been paid, as provided for in Annexure C.

30.3 The Member may appeal the Sanction as follows:

- (1) an appeal against Sanction 1 is made to a single Panel Member,
- (2) an appeal against Sanction 2 or 3 is made to a single Panel Member or 3 Panel Members at the election of the Member, and
- (3) an appeal against Sanctions 4 to 6 is made to 3 Panel Members.

30.4 The Code Manager shall refer the Notice of Appeal to the Panel Member(s) for determination within 5 Business Days of the receipt of the Notice of Appeal, and

the Panel Member(s) shall determine the appeal within 10 Business Days of his, her or their receipt of the Notice of Appeal.

- 30.5 The single Panel Member who is responsible for the issue of a Notice of Breach or any other determination on appeal shall not be one of the three (3) Panel Members dealing with the appeal.
- 30.6 The Code Manager or Panel Member(s) may, at his, her or their discretion, grant an extension of time to the Member to provide further information.
- 30.7 The appeal shall be on one or more of the following grounds, but no other:
- (1) the Code Manager or Panel Member's discretion was not exercised reasonably;
  - (2) the Member was denied natural justice; or
  - (3) new material evidence has come into the possession of the Member at a time such that it was not possible for the new material evidence to be provided to the Code Manager or Panel Member for their consideration prior to the Code Manager's determination of the Complaint.
- 30.8 Appeals are conducted and determined on the parties' submissions, information and documentation provided by the parties and the Code Manager or from any other source.
- 30.9 At his, her or their discretion, the Panel Member(s) and/or Code Manager may determine that the determination of the Appeal be conducted by a hearing in person or by teleconference if the Sanction is of sufficient gravity to warrant such a hearing. Legal representation is not permitted at the hearing, but legal assistance is permitted.
- 30.10 The Code Manager and Panel Member(s) shall follow any policy formulated by EAL for the purposes of the appeal.
- 30.11 The Panel Member(s):
- (1) must follow any policy formulated by EAL for the purposes of conducting appeals, and any policy under clause 12.4.
  - (2) must consider the Complaint *de novo* insofar as it is relevant to a ground of appeal in the Appeal;
  - (3) may seek additional information or evidence in relation to the Complaint from the Responsible Energy Retailer, Agent or any other source;
  - (4) must uphold the determination of the Code Manager or Panel Member, or substitute his, her or their determination for that of the Code Manager or Panel Member;

- (5) inform the Code Manager of the outcome within 10 Business Days of determining the Appeal and any action that must be taken under the determination, including removal of the Warning Notice and Sanction recorded against records of that Member under 28.4 ; and
- (6) must record in writing his, her or their reasons for the determination

30.12 The determination of the appeal by the Panel Member(s) is final. For the sake of clarity, there is no further appeal.

30.13 The Code Manager shall notify the parties of the determination of the appeal at the address provided in the Notice of Appeal or at any other address provided by the parties.

# DICTIONARY

In this Code:

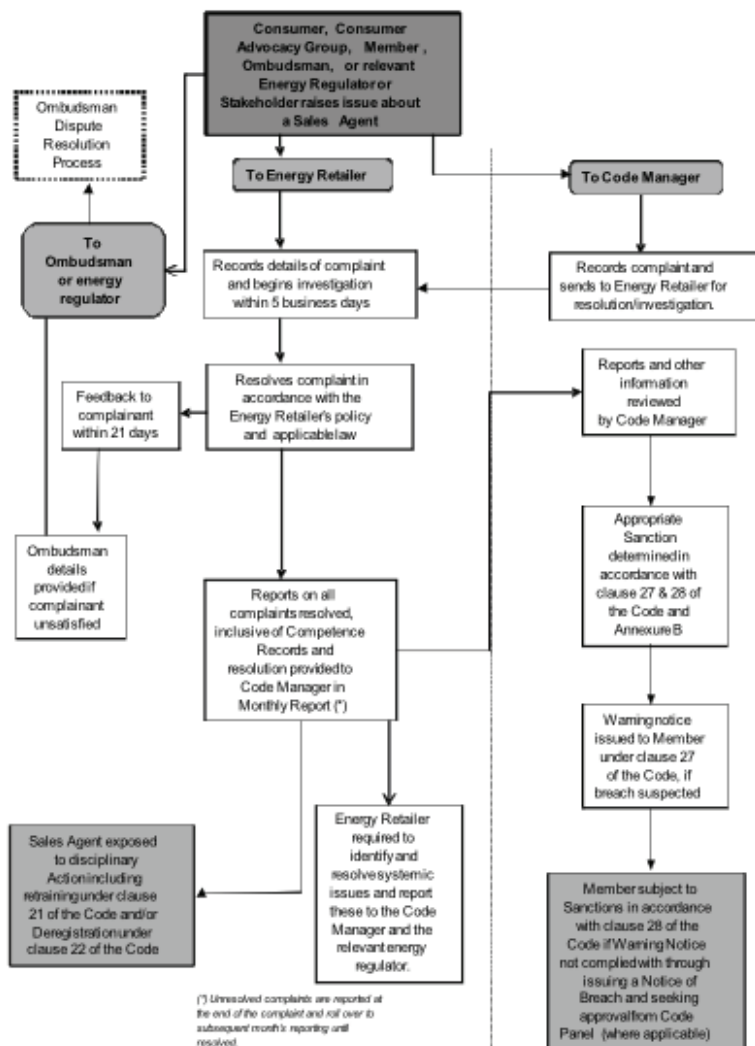
- (1) **Accreditation Status** means one of the levels of accreditation that may be attained by a Sales Agent as set out in the Procedures Guideline;
- (2) **Annual Report** means a report prepared by EAL under clause 9.6;
- (3) **Applicable Law** means all rules, regulations, codes, statutes, guidelines, licences, legislation, orders in council, tariffs, proclamations, directions or standards that relate to the marketing, sale and supply of energy;
- (4) **Assessor** means an individual that has met the qualifications set out in the Procedures Guideline;
- (5) **Australian Consumer Law** means Schedule 2 to the Competition and Consumer Act 2010 (Cth);
- (6) **Business Day** means a day not being a Saturday, a Sunday or a public holiday in the jurisdiction in which the Sales Agent conducts Sales Activities,
- (7) **Code** means this Code of Practice and any documents incorporated in it, including the Procedures Guideline;
- (8) **Code Auditor** means an independent body (which will be a reputable firm of auditors) engaged by EAL to review Member compliance with the Code;
- (9) **Code Manager** means the individual appointed by EAL to carry out the day to day administration and management of the Code whose role is set out in clause 10;
- (10) **Code Panel** means the panel of five people who are independent of EAL, the Code Manager, and the Members whose role is set out in clause 12;
- (11) **Competence Record Register** means the record that is used to measure Levels of breaches that are recorded against a Sales Agent under clause 19;

- (12) **Compliance Audit** means a formalised audit conducted by the Code Auditor on individual Member compliance with the Code;
- (13) **Consumer Advocacy Group** means any non-government consumer or community organisation that provides a voice for consumers.
- (14) **Date of Service** is deemed to be three (3) Business Days after the Notice of Breach is posted, faxed or emailed to the Member;
- (15) **Deregistration Application** means an application made to the Code Manager requesting that a Sales Agent be deregistered from the EAL Register;
- (16) **EAL** means Energy Assured Limited;
- (17) **EAL Logo** means the EAL logo that demonstrates that the Sales Agent complies with this Code;
- (18) **EAL Register** means the database register of Sales Agents accredited under the Code which is administered and monitored by EAL;
- (19) **EAL Standards** means the standard for the conduct of Sales Activities as set out in clauses 3 to 6;
- (20) **Energy Marketer** means a company that engages in Sales Activities on behalf of Energy Retailers;
- (21) **Energy Retailer** means an entity that holds a valid licence or similar authorisation, issued by the relevant energy regulator, to retail electricity and/or gas in the State or Territory to which the retail licence relates;
- (22) **Experienced Sales Agent** is a Sales Agent that has met the conditions contained in clause 10.2 of the Procedures Guideline.
- (23) **Formal Competency Assessment** means an assessment of the competency of the Sales Agent to comply with the EAL Standards that must be undertaken by a Sales Agent before they can achieve or maintain an Accreditation Status that enables them to conduct Sales Activities unsupervised;
- (24) **Level 1, 2 or 3 Breach** means a breach of the EAL Standards that has been categorised in accordance with clause 20;
- (25) **Marketing Codes** means the relevant jurisdictional Marketing Codes that govern door to door sales in the retail energy market;
- (26) **Member** means an Energy Retailer or Energy Marketer that has signed the EAL Constitution and in doing so, agreed to adhere to this Code;
- (27) **Off-job Training** means a classroom-based Sales Agent induction program which should be conducted in a formal environment by an individual that is qualified to provide such training;
- (28) **On-job Training** means field training undertaken by a Sales Agent under the supervision of an Experienced Sales Agent;
- (29) **Panel Member** means a member of the Code Panel;

- (30) Procedures Guideline** means the procedural rules that underlie this Code with which Members must adhere to in order to comply with this Code;
- (31) Post Sale Verification Procedure** means a procedure whereby a consumer is communicated with after they have entered into a new energy supply contract and before the consumer is transferred to the new Energy Retailer to verify and confirm that the consumer has entered into a new energy supply contract and that the consumer was satisfied with the way that the sale was conducted. As a minimum, the Post Sale Verification Procedure must involve asking the consumer the following verification questions:
- (a) Do you understand that you are changing from your current retailer to retailer YYY? Could you please confirm that you accept our offer and agree to proceed with the switch request from your current retailer to YYY for the retail supply of electricity and/or gas to your premises?
  - (b) Do you understand that you have a “X business day cooling off period” in which you can cancel this contract without incurring any exit fees?
  - (c) Do you understand that you should receive one more final bill from your current retailer and that the next one will be from “retailer YYY”?
  - (d) Has the Sales Agent provided you with information on the Energy Assured Code of Practice?
- (32) Sales Activities** means the face-to-face marketing of energy supply to consumers;
- (33) Sales Agent** means any individual authorised by a Member who solely represents a Member (and/or a Member’s associated companies) for the purposes of engaging in Sales Activities where the principal function of such individual is to market energy supply alone or energy supply and other domestic utility services to domestic consumers;
- (34) Sales Complaint** means a complaint made by a consumer, energy ombudsman, relevant energy regulator, government agency, Consumer Advocacy Group or other interested party about a Sales Agent’s Sales Activities;
- (35) Sales Complaints Handling Process** means the process for handling Sales Complaints established by an Energy Retailer under clause 17;
- (36) Sanction** means disciplinary action or any other sanction imposed on a Member under clause 28;
- (37) SIDN** means the Sales Agent Identification Number allocated to a Sales Agent when they are first registered on the EAL Register.

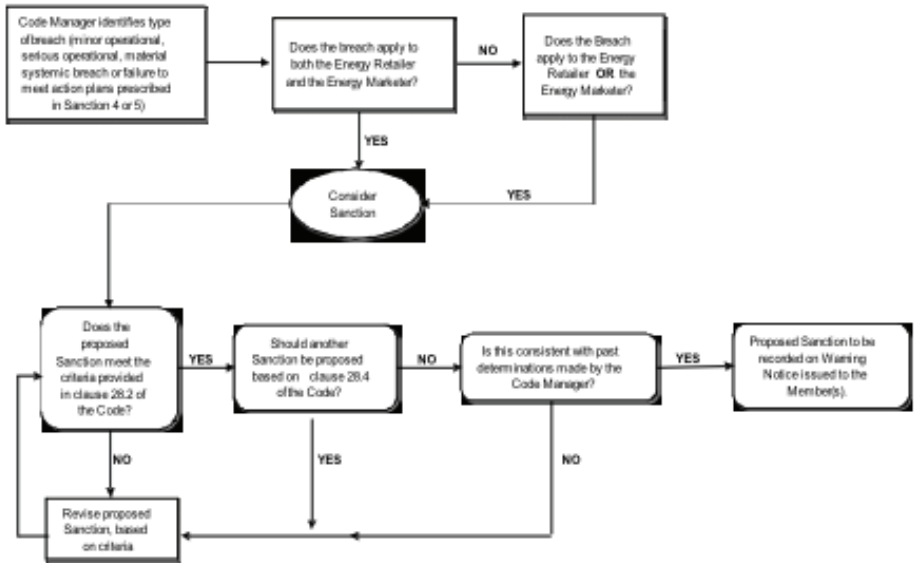
# Annexure A

## Sales Complaint Handling and Sanctions Process (Flow Chart)



## Annexure B

### Determining an Appropriate Member Sanction (Flow Chart)



# Annexure C

## Security for Appeal

Appellant	Matter Appealed	Number of Panel Members Hearing the Appeal	Cost
Agents	Deregistration	1	\$100
Energy Retailers	Sanction 1	1	\$300
	Sanction 2	1	\$300
	Sanction 2	3	\$900
	Sanction 3	1	\$300
	Sanction 3	3	\$900
	Sanction 4	3	\$900
	Sanction 5	3	\$900
Energy Marketer	Sanction 6	3	\$900
	Sanction 1	1	\$300
	Sanction 2	1	\$300
	Sanction 2	3	\$900
	Sanction 3	1	\$300
	Sanction 3	3	\$900
	Sanction 4	3	\$900
	Sanction 5	3	\$900
	Sanction 6	3	\$900

1. Appeals shall be accompanied by cash or a cheque drawn in favour of "Energy Assured Limited" for the prescribed sum set out above.
2. The Code Manager may, following a request by an Appellant, agree to waive the sum payable above on hardship grounds.
3. The Panel Member(s) determining the appeal may determine in his, her or their absolute discretion that the Sales Agent or Member is liable for EAL's reasonable costs of conducting the appeal and the quantum of those costs, taking into account again any request by an Appellant for a waiver or reduction of the costs on hardship grounds.
4. If the Deregistration or Sanction is dismissed on appeal, the Appellant will not be liable for the costs of the appeal, and any monies paid to EAL for the costs of the appeal will be returned to the Appellant.
5. If the Complaint is not dismissed on appeal, the Code Manager shall issue a tax invoice for the costs of the appeal as determined by the Panel Member(s).
6. Members and Sales Agents agree and undertake to pay to EAL the costs of conducting the appeal as determined by the Panel Member(s) within twenty eight (28) days of receiving a tax invoice from EAL.
7. The Costs are effective as of 1 July 2011, and will escalate by 5% per annum

# Annexure D

## Form A - Deregistration Application

<b>Name of Sales Agent*</b>	
<b>Address of Sales Agent*</b>	
<b>Contact Details of Sales Agent*</b> (fax, email, home phone, telephone, other contacts of Sales Agent)	
<b>Energy Assured ID Number*</b>	
<b>Name Member Complainant*</b>	
<b>Address of Member Complainant</b>	
<b>Section Code Allegedly Breached*</b>	
<b>Description of Actions, Omissions and Circumstances which comprise the Breach*</b>	
<b>Evidence in Support of the above</b> (Attach any documents you wish to be considered)	
<b>Steps Taken to Notify Sales Agent of the Sales Complaint and application to deregister the Sales Agent*</b>	
<b>Details of Previous Breaches of the Code</b>	
<b>Response and any documents received from the Sales Agent*</b>	
<b>Date of Receipt of Deregistration Application</b>	

## IMPORTANT NOTES

- 1 Fields marked with an asterisk (\*) are mandatory. Failure to complete mandatory fields will result in the rejection of the application.
- 2 Failure to provide sufficient information or evidence about the Complaint may result in the dismissal of the Complaint.
- 3 Note that a copy of this Deregistration Application and any other particulars, information and documents provided with it or at any other time during the determination of the application will be made available to the Sales Agent named in the Deregistration Application.
- 4 In making a Deregistration Application the Member warrants that:
  - (1) the information and facts provided in and to be inferred from the Deregistration Application are accurate and true to the best of their knowledge and are not misleading in any material way;
  - (2) information provided to the Code Manager may be communicated, published, recorded and audited or used in any other way provided for by the Code, and an authority to use the information has been obtained from the relevant person.
  - (3) if the response of the Sales Agent is not in writing, by providing particulars of the response. the Member has made all reasonable attempts to contact the Sales Agent to notify him or her of the Sales Complaint and provided the Sales Agent with a reasonable opportunity to respond to the Sales Complaint; and
  - (4) the Member has submitted with Form A the Sales Agent's response to the Sales Complaint, by providing a copy of any written response by the Sales Agent
- 5 Decisions by the Code Manager are presumed to be reasonable and objective.
- 6 Sales Agents and Members acknowledge that they have:
  - (1) no right of action in any court or jurisdiction; and
  - (2) no right to damages or any form of compensation or indemnity against EAL or any officer or subcontractor of EAL as a consequence of any costs of any nature which the Sales Agent or Member may incur (including, but not limited to, legal costs) in answering the Deregistration Application; or
  - (3) any losses or damages of any nature (including claims based on defamation, negligence and breach of privacy) which the Sales Agent or Member may incur directly or indirectly due to actions or omissions of the Code arising out of or in connection to the Deregistration Application, including but not limited to findings and Deregistration imposed by the Code Manager
- 7 The Code Manager shall use his or her best endeavours to meet the time-limits set out in the Code, but may extend the time-limits if he or she has a reasonable excuse. Failure to meet any time-limits does not invalidate acts or omissions undertaken pursuant to or incidental to the Deregistration Application.
- 8 The Code Manager shall maintain a record of all correspondence and documents relating to the Deregistration Application and the determination (including on appeal) for a period of 2 years.

# Annexure E

## Form B - Deregistration Notice

<b>Name of Sales Agent</b>	
<b>Address of Sales Agent</b>	
<b>Contact Details of Sales Agent</b> (fax, email, home phone, telephone, other contacts of Sales Agent)	
<b>Energy Assured ID Number</b>	
<b>Particulars of Breach(es)</b>	
<b>Evidence in support of Breach(es)</b>	
<b>Deregistration Period</b>	

Copies of the Code of Practice and other relevant documents (including policies) are available from the Code Manager on request. You should review these documents carefully and contact the Code Manager if you have any queries.

<b>Date of Issue</b>	
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# Annexure F

## Form C - Member Complaint

<b>Name of Member*</b>	
<b>Date of Complaint*</b>	
<b>Section of Code Allegedly Breached*</b>	
<b>Description of Actions, Omissions and Circumstances Comprising the Breach*</b>	
<b>Evidence in Support of the above</b> (attach any documents you wish to be considered)	
<b>Details of Previous Known Breaches of the Code</b>	

<b>Date of Receipt of Member Complaint</b>	
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## IMPORTANT NOTES

- 1 Fields marked with an asterisk (\*) are mandatory. Failure to complete mandatory fields will result in the rejection of the application.
- 2 Failure to provide sufficient information or evidence about the Complaint may result in the dismissal of the Complaint.
- 3 Note that a copy of this Complaint and any other particulars, information and documents provided with it or at any other time during the determination of the application will be made available to the Member named in the Complaint.
- 4 In making a Member Complaint you warrant that:
  - (1) the information and facts provided in and to be inferred from the Member Complaint and during the course of the determination are accurate and true to the best of your knowledge and are not misleading in any material way;
  - (2) information provided to the Code Manager or the Panel Member may be communicated, published, recorded and audited or used in any other way provided for by the Code, and an authority to use the information has been obtained from the relevant person.
- 5 Decisions by the Code Manager and members of the Panel are presumed to be reasonable and objective.
- 6 Members acknowledge that they have:
  - (1) no right of action in any court or jurisdiction; and
  - (2) no right to damages or any form of compensation or indemnity against EAL or any officer or subcontractor of EAL as a consequence of any costs of any nature which the Member may incur (including, but not limited to, legal costs) in answering the Complaint; or
  - (3) any losses or damages of any nature (including claims based on defamation, negligence and breach of privacy) which the Member may incur directly or indirectly due to actions or omissions of the Code Manager or Panel Member(s) arising out of or in connection to the Member Complaint, including but not limited to findings and Sanctions imposed by the Code Manager or a member of the Panel.
- 7 The Code Manager and Panel Member(s) shall use their best endeavours to meet the time-limits set out in the Code, but may extend the time-limits if they have a reasonable excuse. Failure to meet any time-limits does not invalidate acts or omissions undertaken pursuant to or incidental to the determination.
- 8 The Code Manager shall maintain a record of all correspondence and documents relating to Member Complaint and the determination of complaints (including on appeal) for a period of 2 years.
- 9 The Code Manager and/or Panel Member(s) may refer a Member Complaint to a government agency where appropriate as determined under the Code.

- 10 Any person providing information to the Code Manager and/or Panel Member(s) pursuant to the Sanctions process agrees and understands that the information may be communicated, recorded and audited
- 11 Members shall ensure that their contact details for Service of a Notice of Breach and the receipt of reasons, determinations and other correspondence are given to the Code Manager and are up to date at all times.

# Annexure G

## Form D - Notice of Breach

ISSUED IN ACCORDANCE WITH CLAUSE 28.6 OF THE CODE OF PRACTICE

<b>Name of Member</b>	
<b>Section(s) of Code found to be breached</b>	
<b>Particulars of Breach</b>	
<b>Evidence in Support of the breach(es)</b>	
<b>Sanction and any particulars and terms</b>	

Copies of the EAL Constitution, Code of Practice, Procedures Guidelines, and other relevant documents (including policies) are available from the Code Manager on request. You should review these documents carefully and contact the Code Manager if you have any queries.

<b>Date of issue</b>	
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# Annexure H

## Form E - Notice of Appeal (Sales Agent)

<b>Name of Appellant*</b>	
<b>Contact Details of Appellant*</b>	
<b>Name of the Complainant*</b>	
<b>Energy Assured ID Number</b>	
<b>Ground(s) of Appeal*</b>	
<b>Particulars of Ground(s) of Appeal</b>	
<b>Evidence in Support of Appeal (Attach any documents you wish to be considered).</b>	
<b>Determination to which the Appellant will Consent</b>	

You must enclose a cash or cheque in the sum of \$\_\_\_\_\_ made payable to "Energy Assured Limited" as security for the costs of the appeal. This sum will be repaid if your appeal is successful.

<b>Date of Receipt of Notice of Appeal</b>	
<b>Panel Member that will be hearing the Appeal:</b>	
<b>Date Referred to Panel Member:</b>	

## IMPORTANT NOTES

- 1 Fields marked with an asterisk (\*) are mandatory. Failure to complete mandatory fields will result in rejection of the Notice of Appeal
- 2 Failure to provide sufficient information or evidence about the complaint may result in dismissal of the appeal
- 3 In making an appeal, you warrant that:
  - (1) the information and facts provided in and to be inferred from the appeal and during the course of the appeal determination are accurate and true to the best of your knowledge and are not misleading in any material way;
  - (2) information provided to the Panel Member may be communicated, published, recorded and audited or used in any other way provided for by the Code, and an authority to use the information has been obtained from the relevant person.
- 4 Decisions by the member of the Panel are presumed to be reasonable and objective.
- 5 Sales Agents and Members acknowledge that they have:
  - (1) no right of action in any court or jurisdiction; and
  - (2) no right to damages or any form of compensation or indemnity against EAL or any officer or subcontractor of EAL as a consequence of any costs of any nature which the Sales Agent or Member may incur (including, but not limited to, legal costs) in answering the appeal; or
  - (3) any losses or damages of any nature (including claims based on defamation, negligence and breach of privacy) which the Sales Agent or Member may incur directly or indirectly due to actions or omissions of the Code Manager or Panel Member(s) arising out of or in connection to the appeal, including but not limited to findings and final determination imposed by the member of the Panel.
- 6 The Panel Member shall use their best endeavours to meet the time-limits set out in the Code, but may extend the time-limits if they have a reasonable excuse. Failure to meet any time-limits does not invalidate acts or omissions undertaken pursuant to or incidental to the appeal.
- 7 Time is of the essence for delivery of any appeal. However, the Panel Member(s) may, at their absolute discretion, determine the appeal if he, she or they believe there were reasonable grounds for the Appellant failing to comply with the relevant time-limit.
- 8 The Code Manager shall maintain a record of all correspondence and documents relating to appeal and the determination of the appeal for a period of 2 years.
- 9 Any person providing information to the Code Manager and/or Panel Member(s) pursuant to the appeal agrees and understands that the information may be communicated, recorded and audited

# Annexure I

## Form F - Notice of Appeal (Member)

<b>Name of Appellant*</b>	
<b>Contact Details of Appellant for correspondence*</b>	
<b>Name of other party to Complaint*</b>	
<b>Ground(s) of Appeal*</b>	
<b>Particulars of Ground(s) of Appeal*</b>	
<b>Evidence in Support of Appeal</b>	
<b>Sanction to which the Appellant will Consent</b>	
<b>Time requested to provide further information not contained in this Notice of Appeal and Reasons</b>	

You must enclose cash or a cheque in the sum of \$\_\_\_\_\_ made payable to "Energy Assured Limited" as security for the costs of the appeal. This sum will be repaid if your appeal is successful.

\_\_\_\_\_  
\*Signature

\_\_\_\_\_  
\*Print Name

<b>Date of Receipt of Notice of Appeal</b>	
<b>Panel Member(s) that will be hearing the Appeal:</b>	
<b>Date Referred to Panel Member:</b>	

## IMPORTANT NOTES

- 1 Fields marked with an asterisk (\*) are mandatory. Failure to complete mandatory fields will result in rejection of the Notice of Appeal
- 2 Failure to provide sufficient information or evidence about the complaint may result in dismissal of the appeal
- 3 In making an appeal, Appellants warrant that:
  - (1) the information and facts provided in and to be inferred from the Complaint and the Appeal and during the course of the Complaints Process are accurate and true to the best of their knowledge and are not misleading in any material way;
  - (2) information provided to the Code Manager or Complaints Panel may be communicated, published, recorded and audited or used in any other way provided for by the Complaints Process, and an authority to use the information has been obtained from the relevant person.
- 4 Decisions by the Code Manager and members of the Panel are presumed to be reasonable and objective.
- 5 Members acknowledge that they have:
  - (1) no right of action in any court or jurisdiction; and
  - (2) no right to damages or any form of compensation or indemnity against EAL or any officer or subcontractor of EAL as a consequence of any costs of any nature which the Member may incur (including, but not limited to, legal costs) in answering the Complaint; or
  - (3) any losses or damages of any nature (including claims based on defamation, negligence and breach of privacy) which the Member may incur directly or indirectly due to actions or omissions of the Code Manager or Panel Member(s) arising out of or in connection to the appeal, including but not limited to findings and Sanctions imposed by the Code Manager or a member of the Panel.
- 6 The Code Manager and Panel Member(s) shall use their best endeavours to meet the time-limits set out in the Code but may extend the time-limits if they have a reasonable excuse. Failure to meet any time-limits does not invalidate acts or omissions undertaken pursuant to or incidental to the appeal.
- 7 Time is of the essence for delivery of any appeal.. However, the Code Manager and/ or Panel Member(s) may, at their absolute discretion, determine the appeal if he, she or they believe there were reasonable grounds for the Appellant failing to comply with the relevant time-limit.
- 8 The Code Manager shall maintain a record of all correspondence and documents relating to appeal and the determination of appeal for a period of 2 years.
- 9 Any person providing information to the Code Manager and/or Panel Member(s) pursuant to the appeal agrees and understands that the information may be communicated, recorded and audited



For further information on the Code please write to:

**The Code Manager**

Suite 2, Level 4, 189 Kent Street,  
Sydney NSW 2000

[info@energyassured.com.au](mailto:info@energyassured.com.au)

[www.energyassured.com.au](http://www.energyassured.com.au)