

Breach Detection and Reporting Procedure

1. Procedure Overview

This procedure sets out the arrangements the Board of WOTSO Property (ASX:WOT) (**WOTSO**) has in place to ensure all breaches are reported to the Compliance Officer (**CO**), and appropriately escalated to the Managing Director(s) and Board or, if required, to the appropriate regulator.

Failure to report a breach is treated seriously. Accordingly, WOTSO adopts a no blame policy in relation to breaches, but not so in relation to failure to report.

2. Legal and Industry Standards

- Chapter 5C (Managed Investment Schemes) *Corporations Act 2001* (**Corporations Act**) –sections 601FC (duties of responsible entity) and 601JC(1)(b)-(c) (compliance committee to report breaches).
- Chapter 7 (Financial Services and Markets) *Corporations Act* – sections 912A and regulations 7.6.02A (obligation to notify ASIC) and 7.6.04 (condition on licence), 912D (what are reportable situations), 912DAA (obligation to lodge a report – reportable situations in relation to the licensee), 912DAB (obligation to lodge a report - reportable situations in relation to other financial services licensees), 990K (auditor to report on certain matters), 1041E (false or misleading statements), 1041H (misleading or deceptive conduct).
- Anti-Money Laundering and Counter-Terrorism Financing (**AML/CTF**) Act – sections 54 (reports about receipts of monetary instruments moved into Australia), 126 (when AUSTRAC information can be passed on by an official of a designated agency), 150 (authorised officer may ask questions and seek production of documents), 158 (occupier to provide authorised officer with facilities and assistance), 161 (external audits – risk management etc), 162 (external audits – compliance), 165 (money laundering and terrorism financing risk assessments), 199 (questioning and search powers in relation to monetary instruments) and 204 (breaching a notice requirement).
- ASIC Regulatory Guides (**RG**) 78 (breach reporting by AFS licensees and credit licensees), 104 (AFS licensing: Meeting the general obligations) and 271 (internal dispute resolution).
- AFSL condition 3 – Compliance Measures to Ensure Compliance with Law and Licence.

3. Process

3.1 Introduction

As the holder of an Australian Financial Services Licence (**AFSL**) WOTSO must have in place processes for reporting breaches or non-compliance with obligations under the *Corporations Act* and its AFSL.

A breach is an action that may contravene the law, regulations, codes or organisational standards or WOTSO's policies and procedures.

Certain breaches are reportable situations and must be reported to ASIC or another regulator such as AUSTRAC. This procedure:

- outlines the reportable situations and reporting requirements to ASIC;
- distinguishes a significant breach from a non-significant breach; and
- outlines which events are reportable to clients and scheme members.

3.2 Detection

A breach may be detected through:

- the compliance review program conducted by the CO;
- risk assessment processes;
- findings by the external auditor;
- the complaints handling process;
- any staff member, officer, Board member, authorised representative or contractor, or external service provider; or
- a report from a regulator's audit.

3.3 Closure

The CO will report on the final outcome of a breach to the Board, including the actions taken to address the matter and achieve closure.

Information held by the CO in relation to a significant event (which may include a breach of the law or other regulation) is to be kept secure and archived for at least seven years.

4. Reportable situations

4.1 What is a reportable situation?

All 'reportable situations' (see section 912DAA Corporations Act) must be reported to ASIC.

RG 78 references four types of reportable situations:

- breaches or 'likely breaches' of core obligations that are significant;
- investigations into breaches or likely breaches of core obligations that are significant;
- additional reportable situations; and

- reportable situations about other licensees.

4.2 What is a significant breach?

Any breach or likely breach of a core obligation, if 'significant', must be reported to ASIC. There are two ways to determine whether a breach is significant:

- *Deemed significant breaches:* in certain situations, a breach or likely breach of a core obligation is taken to be significant (see RG 78.39-78.46); and
- *Other breaches that may be significant:* in other situations, a breach or likely breach of a core obligation will need to be considered against the factors in section 912D(5) Corporations Act to determine whether it is significant (see RG 78.47-78.49).

Deemed significant breaches include:

- breaches that constitute the commission of an offence and the commission of the offence is punishable on conviction by a penalty that may include imprisonment for:
 - 3 months or more if the offence involves dishonesty; or
 - 12 months or more in any other case;
- breaches of a civil penalty provision (if the provision is not exempted under the regulations);
- breaches that contravene section 1041H(1) Corporations Act or section 12DA(1) *Australian Securities and Investments Commission Act 2001* (misleading and deceptive conduct); or
- breaches that result, or are likely to result, in material loss or damage to, (for AFS licensees):
 - in all cases—a person or persons to whom the AFS licensee or a representative of the licensee provides a financial product or a financial service as a wholesale or retail client; or
 - in the case of a managed investment scheme—a member or members of the scheme.

4.3 Other breaches that are significant

Except for deemed significant breaches and additional reportable situations, a breach (or likely breach) of a core obligation needs to be assessed to determine whether it is significant having regard to certain factors in section 912D(5) Corporations Act.

These factors are:

- the number or frequency of similar breaches;
- the impact of the breach or likely breach on the licensee's ability to supply the financial services covered by the AFSL;

- the extent to which the breach or likely breach indicates that the licensee's arrangements to ensure compliance with those obligations are inadequate; and
- any other matters prescribed by the regulations.

4.4 Uncertainty whether a breach is significant

Whether a particular breach is significant should be determined objectively (see RG 78.85). WOTSO will seek internal and/or external legal advice where appropriate to assist in clarifying whether a matter is reportable to ASIC.

4.5 Reportable situations that do not require a determination of significance

RG 78 identifies three reportable situations that do not require a 'determination of significance' before being reported to ASIC:

- 'additional reportable situations' (i.e. gross negligence or serious fraud), which must be reported to ASIC and require no determination of significance;
- 'deemed significant breaches', which are automatically taken to be significant by operation of law; and
- 'investigations that continue for more than 30 days', which require consideration of whether there may be a breach, or likely breach, of a core obligation that is significant, but do not require a determination of significance before being reported to ASIC.

4.6 When can multiple reportable situations be grouped together in a single report

Reportable situations may be grouped and reported in a single report when both limbs of the following 'grouping test' are met:

- there is similar, related or identical conduct—this means conduct involving the same or very similar factual circumstances (e.g. similar representations made about the same type of product(s) and/or service(s)); and
- the conduct has the same root cause—this means the underlying cause of the breach (e.g. a specific systems error or process deficiency),

(RG 78.112-78.118).

Each individual reportable situation must be reported within 30 days after WOTSO first knows that, or is reckless with respect to whether, there are reasonable grounds to believe a reportable situation has arisen (see section 912DAA Corporations Act). For example, if an entity chooses to report 15 reportable situations (being separate contraventions of a civil penalty provision) that occurred over a 30-day period on various dates in one single report, it must ensure that the 30 day reporting requirement is met for each individual reportable situation.

5. Other matters

Corporations Regulation 7.6.04 imposes several reporting conditions on an AFS licensee, including:

- if any event occurs that may make a material adverse change to the financial position of the licensee by comparison with its financial position at the time of the application for the AFSL; or as described in documents lodged with the ASIC after the application for an AFSL, the licensee must lodge with ASIC in the prescribed form a notice setting out particulars of the event as soon as practicable, and in any case not later than 3 business days after the licensee becomes aware of the event;
- if there is a change in a matter particulars of which are entered in a register of AFS licensees including changes in:
 - responsible managers;
 - principal business address;
 - Australian Business Number;
 - AFSL name;
 - business name;
 - contact details;
 - external dispute resolution details; or
 - insurance arrangements,

and the change is not a direct consequence of an act by ASIC, the licensee must lodge with ASIC in the prescribed form particulars of the change within 10 business days after the change;

- if there is a change in a matter particulars of which are entered in a register of authorised representatives of the AFL licensees including changes of:
 - name;
 - business address; or
 - authorisations,

and the change is not required to be reported in accordance with section 916F Corporations Act; and the change is not a direct consequence of an act by ASIC, the licensee must ensure that particulars of the change are lodged with ASIC in the prescribed form within 30 business days after the change; and

- if the licensee becomes aware of any change in control of the licensee, it must lodge with ASIC, in the prescribed form, particulars of the change not later than 10 business days after the change.

6. Significant breach of procedures

Procedures set out the steps or actions to be taken to meet WOTSO's obligations and responsibilities under the law and its AFSL. A breach of a procedure can be either significant or non-significant in terms of investors'/clients' interests, or whether it is reportable to a regulator.

A significant breach of a procedure will occur if an action or inaction, or omission or error leads to or results in an actual or potential breach of the law or an AFSL condition, or an event that requires reporting to members, ASIC or another regulator.

The reporting deadlines to ASIC and AUSTRAC will depend on the significance of the breach or event and the concomitant statutory reporting requirement. To identify these deadlines and reporting requirements, refer to the relevant sections of the legislation or seek advice from WOTSO's legal adviser.

7. Breaches of the AML/CTF Act

Any AML/CTF breaches or potential breaches must be reported to the CO as soon as they are identified.

8. Breach Reporting Process

8.1 Overview

On becoming aware of an actual or potential breach or other significant event, the CO must ensure that the respective Compliance Committee and the Board are immediately informed of all matters that are potentially reportable to the regulator and/or require the attention of the Compliance Committee and the Board, including but not limited to:

- any actual or suspected significant adverse event(s); or
- an incident that has had, or is likely to have, individually or collectively with other breaches, a material adverse effect on investors' interests or a material effect on the operations of the licensee (RG 104).

The responsible officer in charge of the function where the significant event has occurred must complete a breach report. The breach report will be provided to the CO who will monitor progress and keep the Board and Compliance Committee informed.

The CO must ensure the matter is recorded in the Breaches Register.

8.2 Member notification of breach

WOTSO has a duty of care to maintain continuous disclosure to scheme members and to notify them of any material changes or significant events that may adversely affect their interests in the fund and/or affect their investment decisions.

Notification may precede an investigation and confirmation of the event. The CO will be responsible for investigating all reported adverse events (including potential breaches of the law).

WOTSO has a duty to notify investors in funds and portfolios of material changes or significant events. It is possible that a material change or significant event will not be a breach of the financial services laws and therefore not be covered by the general obligation to report breaches to ASIC.

Pursuant to section 912DAA Corporations Act, if there are reasonable grounds to believe that a reportable situation has arisen in relation to a licensee, the licensee must lodge a report in relation to the reportable situation with ASIC in the prescribed form

within 30 days after the licensee first knows that, or is reckless with respect to whether, there are reasonable grounds to believe the reportable situation has arisen.

The following are illustrative examples of breaches that may be significant, and do not purport to limit the types of breaches that must be reported to ASIC:

- failure to maintain professional indemnity insurance or an appropriate level of cover;
- failure to prepare cash flow projections;
- previously undetected breaches;
- representatives giving inappropriate advice;
- representatives operating outside the scope of the RE's AFSL authorisations; and
- fraud in the supply of financial services by a representative.

Significant events that are not otherwise breaches of the law that need to be reported to investors might include:

- appointment of a receiver, manager, liquidator or administrator to WOTSO;
- an event or change which could have a definitive effect on the future prospects of market values;
- a major decrease or increase in the value of scheme property;
- a change in control of WOTSO;
- an acquisition of significant assets;
- a large asset re-evaluation;
- some systemic issues (e.g. identification of poor disclosure or communications, administrative or technical errors, product flaws and improper interpretation or application of standard terms might adversely affect members' interests); and
- major changes in the prospects of a scheme or WOTSO.

Some examples of breaches which would not be considered significant may be:

- the isolated provision of inaccurate information by representatives; and
- unit-pricing errors of an immaterial amount involving a small number of clients.

8.3 Reportable investigations

Investigations (searching inquiries in order to ascertain facts) into whether a significant breach (or likely significant breach) of a core obligation has occurred, and that continue for more than 30 days, must be reported to ASIC as a 'reportable situation' (section 912D(1)(c) Corporations Act).

If the investigation commences and concludes within 30 days and there are no reasonable grounds to believe that a reportable situation has arisen, the investigation is not a 'reportable situation'.

8.4 Reportable situations reported to ASIC

WOTSO must notify ASIC in the prescribed form and through the ASIC Regulatory Portal, within 30 calendar days (**reporting period**) after a reportable situation has arisen (**breach report**). The reporting period starts on the day WOTSO first become aware that, or is reckless with respect to whether there are reasonable grounds to believe that, a reportable situation has arisen.

ASIC stresses that a breach report should be lodged within the reporting period if there are reasonable grounds to believe a reportable situation has arisen, and not wait for delay due to internal processing.

The CO has the authority to lodge the breach report and will determine when the reporting period commences.

In the case of investigations, WOTSO must lodge a breach report only in relation to investigations that have continued for more than 30 days. The investigation becomes a reportable situation on day 31 of the investigation, and a breach report must be lodged within 30 days of this date.

8.5 Overview of content of the prescribed reportable situation form

- Date of the reportable situation - must include the date that:
 - the reportable situation arose or the date that WOTSO anticipates it will no longer be able to comply with its obligations; and
 - WOTSO first knew that there were reasonable grounds to believe that a reportable situation had arisen.
- Nature of the reportable situation – must state whether the report relates to:
 - a significant breach of a core obligation;
 - a likely significant breach of a core obligation;
 - an additional reportable situation (serious fraud or gross negligence);
 - an investigation into whether a breach (or likely breach) of a core obligation has occurred that has continued for more than 30 days;
 - an investigation into whether a breach (or likely breach) of a core obligation has occurred that has continued for more than 30 days that discloses that no reportable situation has occurred; or
 - a reportable situation about another licensee.
- Description of the reportable situation - must describe the reportable situation, including the section of the relevant law that sets out the relevant obligation, including any relevant financial services law and any relevant AFSL condition.

- Extent or magnitude of the reported breach (if relevant) - must specify how many reportable situations relate to the breach or likely breach being reporting. In certain circumstances related reportable situations may be grouped in a single report.
- Why the breach is significant (if relevant) - when relevant, identify why the breach is significant. This may involve identifying:
 - that the reportable situation relates to a deemed significant breach; or
 - the factors in section 912D(5) Corporations Act that are considered to apply in determining whether the breach (or likely breach) is significant and required to be reported to ASIC.
- How the reportable situation was identified - must provide details of how WOTSO found out about the reportable situation. For example, the reportable situation may have been identified through WOTSO's compliance arrangements, an audit or review, or as a result of a client complaint.
- How long the breach lasted - must include details as relevant, including whether the breach is still continuing.
- Information about representatives - if an authorised representative is involved, must include:
 - that representative's name and number;
 - if the representative's authorisation has been revoked or suspended; and
 - if the representative's work is being monitored or supervised.
- Whether and how the reportable situation has been rectified (if relevant) - must provide details of plans to rectify the breach (or likely breach). This includes:
 - when rectification is expected to be completed (or a plan for rectifying the breach); and
 - how the rectification will be achieved.

If ongoing steps are being taken to rectify the breach (or likely breach), indicate when a report on WOTSO's progress is expected to be sent to ASIC in rectifying it, as well as a notification that rectification is complete.

- Whether and when affected clients have been compensated — Remediation - must provide details of any remediation program (including preventative measures) that has been or is being developed to compensate clients who have suffered a loss. Include relevant dates or expected dates for the start and conclusion of the remediation program. Information about completion of remediation should also be provided.
- Future compliance – must describe any steps that have been, or will be, taken to ensure future compliance with the obligation.

8.6 Non-significant breach

A non-significant breach is a matter that is not reportable to ASIC or another regulator or has been assessed by the CO as unlikely to materially impact on the interests of members. Though a breach may be categorised as not significant, it will be monitored by the CO to ensure that there are no changes in circumstances or factors that warrant a non-significant breach being re-classified as a significant breach.

The responsible officer in charge of the function where the non-significant breach has occurred completes a breach report. The breach report is provided to the CO who monitors progress and keeps the Board and Compliance Committee informed.

The CO must ensure that all actual or potential non-significant breaches are brought to the attention of the Compliance Committee as soon as practicable but no later than five business days after becoming aware of the breach. The Board will normally be informed by the date of the next scheduled meeting, or sooner if required.

8.7 Recording

The CO is responsible for ensuring that breaches are recorded in the Breaches Register including the reasoning as to whether a particular breach was reportable or not.

A breach will remain open until it is deemed to be closed at a compliance monitoring meeting of the Board.

8.8 Following-up

The CO is responsible for following up breaches to ensure the Breaches Register is kept up to date and the most current information is reported at each compliance monitoring meeting of the Board.

8.9 Resolving

The CO will liaise with the relevant manager to ensure that the cause of the breach is identified and a rectification process is established and implemented.

The CO is responsible for monitoring the rectification process to ensure that all actual or likely breaches are resolved as planned. The rectification action, including date of rectification, will be documented in the Breaches Register.

Any rectification matters that need Board approval, (e.g. significant compensation to investors), will be submitted to the next Board meeting for approval.

Where an actual or likely breach evidences systemic issues, the CO ensures that internal procedures are reviewed in conjunction with the relevant manager and amended where necessary. The CO will review any rectified procedures during future random compliance monitoring.

9. Procedure Standards and Controls

9.1 Procedure standards

The CO is responsible for ensuring that the Breaches Register is properly maintained and accurately reflects the status of events and reportable matters.

The Breaches Register contains the following information:

- the date of the event or breach, (or the date on which WOTSO is likely to breach the relevant obligation), and/or the date on which WOTSO became aware of the event, breach or likely breach;
- if the event or breach is a reportable event, WOTSO is required to report via ASIC Regulatory Portal within 30 days of discovering that a reportable situation has arisen and accordingly will have a record of that date to ensure timely reporting;
- event or breach details including control / process gap(s) and root cause(s);
- event or breach significance;
- whether the event or breach should be reported to the regulator;
- when the event or breach was reported to the Board;
- mitigation plan and expected time to implement;
- date the event or breach was rectified; and
- if the event or breach relates to the AML/CTF Act, reference should be made to the statutory requirements for reporting under that Act.

9.2 Control Points

- The CO will include the monitoring of implementation of the preventative measures in the compliance program and record progress to the Board.
- The CO is required to report all breaches of procedures to the Board by the next available meeting or sooner if required.
- If the consequence of the breach has been rectified, the CO will record the rectification action and its result in the Breaches Register and report this to the Board.
- The CO, through discussions with management, external service providers and compliance reporting, will ensure that all breaches are detected on a timely basis and reported in accordance with this procedure.
- All breaches are to be recorded in the Breaches Register.
- All AUSTRAC reportable matters are recorded in a Reportable Matters Register and monitored for compliance with statutory requirements.

10. Policy Review and Ownership

This policy will be reviewed by the Company Secretary as required.

11. Date of Adoption

This policy was adopted by the Board on 12.10.2023.