

BOD AUSTRALIA LIMITED

ABN 89 601 225 441

WHISTLEBLOWER POLICY

1. Purpose of this policy

The purpose of this policy is to support BOD Australia's commitment to the highest standards of ethical conduct and to provide everyone working at BOD Australia with the means to raise concerns, without the fear of retaliation, regarding Reportable Conduct.

2. Who is covered by this policy?

This policy applies to all Eligible Persons, which includes any individual who is or has been:

- (a) A director, officer or employee of the BOD Australia Group;
- (b) a supplier of goods or services to the BOD Australia Group (whether paid or unpaid), including their employees;
- (c) an associate of the BOD Australia Group; and
- (d) a relative, dependent or dependent of the spouse of any individual referred to above.

3. What is "Reportable Conduct"?

A Discloser may make a report under this policy if they have reasonable grounds to suspect that a BOD Australia director, officer, employee, contractor, supplier, tenderer or other person who has business dealings with BOD Australia has engaged in conduct (**Reportable Conduct**) which:

- (a) is dishonest, fraudulent or corrupt, including bribery or other activity in breach of the BOD Australia Anti-bribery Policy;
- (b) is illegal activity (such as theft, violence, harassment or intimidation, criminal damage to property or other breaches of state or federal law);
- (c) is unethical or in breach of BOD Australia' policies (such as dishonestly altering company records or data, adopting questionable accounting practices or wilfully breaching BOD Australia' Code of Conduct or other policies or procedures);
- (d) is potentially damaging to BOD Australia, a BOD Australia employee or a third party, such as unsafe work practices, environmental damage, health risks or abuse of BOD Australia' property or resources;
- (e) amounts to an abuse of authority;
- (f) may cause financial loss to BOD Australia or damage its reputation or be otherwise detrimental to BOD Australia' interests;
- (g) involves harassment, discrimination, victimisation or bullying, other than personal work-related grievances as defined in the *Corporations Act 2001* (Cth) (**Corporations Act**);
- (h) conduct which indicates a significant risk to public safety or the stability of, or confidence in, the financial system, even if it does not involve a breach of a particular law;
- (i) failure to comply with, or a breach of, legal or regulatory requirements;
- (j) engaging in, or threatening to engage in, detrimental conduct against a person who has made, is suspected to have made, or suspected to be planning to make, a report under this policy; or
- (k) involves any other kind of misconduct or an improper state of affairs or circumstances.

Reportable conduct can include conduct which does not involve a contravention of a particular law. For example, where the information would be of interest to a regulatory authority or suggest a risk of customer harm. In addition, information that suggests a significant risk to public safety or stability of the financial system is reportable conduct even if it does not involve a breach of a particular law.

A Discloser can still qualify for protection even if their report of reportable conduct ultimately turns out to be incorrect or is not substantiated provided that they had a reasonable basis for making the report.

4. What is not “Reportable Conduct”?

Reports which are not about reportable conduct under Australian Whistleblower Protection Laws will not qualify for statutory protection (even though BOD Australia may provide an Eligible Person with protection under this policy). In some circumstances, reports which do not qualify as reportable conduct may still be protected under other legislation, such as the Fair Work Act 2009.

For example, even though harassment, discrimination and bullying are listed in the policy as conduct which amounts to ‘reportable conduct’ for the purpose of the policy, personal work-related grievances are not generally considered reportable conduct under this Policy or Australian Whistleblower Protection Laws.

Personal work-related grievances are issues or concerns which have, or tend to have, implications for the Eligible Person personally. For example, an interpersonal conflict between the Eligible Person and another employee, a decision relating to the Eligible Person’s engagement, transfer or promotion, a decision relating to the Eligible Person’s terms and conditions of engagement or a decision to suspend or terminate the Eligible Person’s engagement, or otherwise to discipline the Eligible Person.

There may be some instances where a personal work-related grievance also has significant implications for BOD Australia and qualifies for protection. For example, if it includes information about misconduct beyond the Eligible Person’s personal circumstances, demonstrates a systemic issue or where BOD Australia has breached employment or other laws punishable by imprisonment for a period of 12 months or more, or an entity in the group engages in conduct that represents a danger to the public.

When this is determined to be the case, a report will be considered to be reportable conduct and handled in accordance with this policy.

5. Who can a report be made to?

BOD Australia has several channels for making a report if an Eligible Person becomes aware of any issue or behaviour which an Eligible Person considers to be Reportable Conduct.

For the purposes of this policy to ensure appropriate escalation and timely investigation, it is requested that reports are made to any one of BOD Australia’s Protected Disclosure Officers, listed below:

Chief Executive Officer Jo Patterson	Phone: 0411 759 541 Email: jopatterson@bodaustralia.com
Chief Operating Officer Craig Weller	Phone: 0431 568 220 Email: craigweller@bodaustralia.com
Company Secretary Stephen Kelly	Phone: 0415 719 695 Email: stephenk@kcgadvisors.com.au
Head of Finance Charles Altshuler	Phone: 0404 923 809 Email: charlesaltshuler@bodaustralia.com

Reports may also be posted to c/- Level 1, 377 New South Head Road, Double Bay NSW 2028 (marked to the attention of one of the Protected Disclosure Officers).

While it is BOD Australia’ preference that Eligible Persons raise reports with the Protected Disclosure Officers, it is important to note that under the Corporations Act, reports may also be made to:

- (a) an “officer” or “senior manager” of the company. These are defined in the Corporations Act as “a director, or a senior manager in the company who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the company, or who has the capacity to affect significantly the company’s financial standing.”
- (b) BOD Australia’s external auditor (including a member of an audit team conducting an audit) who is

currently:

Nexia Sydney
Level 16, 1 Market Street Sydney NSW 2000
Telephone: (02) 9251 4600

- (c) Disclosures to other external parties such as a legal practitioner, ASIC and APRA may also qualify for protection under the Corporations Act.

A report can be made on an anonymous basis and still be protected under the Corporations Act. Under this policy, an anonymous disclosure includes a disclosure in which the discloser does not identify themselves, and is sent from an email address from which the discloser's identity cannot be determined.

Disclosers who choose to remain anonymous are encouraged to maintain ongoing communication with BOD Australia (e.g. through an anonymous email).

A discloser may choose to adopt a pseudonym for the purposes of their disclosure, and not use their true name. For example, in circumstances where the discloser's identity is known to their supervisor or the Protected Disclosure Officer, but the discloser prefers not to disclose their identity to others.

While BOD Australia will take all reasonable efforts to ensure anonymity is maintained, disclosers lodging anonymous reports should be aware that if the matter is eventually heard in court, anonymity may be lifted in limited circumstances by a court order.

6. BOD Australia's investigation of reportable conduct

BOD Australia will investigate all matters reported under this policy as soon as practicable after the matter has been reported. A Protected Disclosure Officer may, with the consent of the individual making the report (**Discloser**), appoint a person to assist in the investigation of a report. Where appropriate, BOD Australia will provide feedback to the Discloser regarding the investigation's progress and/or outcome (subject to considerations of the privacy of those against whom allegations are made).

The investigation will be conducted in an objective and fair manner, and otherwise as is reasonable and appropriate having regard to the nature of the Reportable Conduct and the circumstances.

While the particular investigation process and enquiries adopted will be determined by the nature and substance of the report however in general the following processes will be applied:

- (a) Where a report is not submitted anonymously, a Protected Disclosure Officer or investigator will contact the Discloser to discuss the investigation process as soon as practicable upon receipt of the report, including to discuss who may be contacted and such other matters as are relevant to the investigation.
- (b) Where a report is submitted anonymously, BOD Australia will conduct the investigation and its enquiries based on the information provided to it. However, BOD Australia may not be able to undertake an investigation if the report leaves out key facts or information, and the Discloser has refused or omitted to provide a means of contacting them.
- (c) If the disclosure relates to serious misconduct, BOD Australia's Audit, Risk and Compliance Committee should be notified immediately.
- (d) To ensure fairness and independence, investigations will be independent of the discloser, the individuals who are the subject of the disclosure, and the department or business unit involved.
- (e) BOD Australia will not disclose information that is contained in a report as part of its investigation process without the Discloser's consent, except where:
 - i. the information does not include the Discloser's identity;
 - ii. information relating to the Discloser's identity or other information that is likely to lead to the identification of the discloser (e.g. the Discloser's name, position title and other identifying details) has been redacted; and
 - iii. it is reasonably necessary for investigating the issues raised in the disclosure.

- (f) The Chair of the Audit, Risk and Compliance Committee will be responsible for handling and investigating reports relating to the Chief Executive Officer, Protected Disclosure Officer, or a director of BOD Australia.
- (g) A non-executive director will be responsible for handling and investigating reports relating to the Chair of the Audit, Risk and Compliance Committee.

7. Review process

If a Discloser is not satisfied with the outcome of an investigation, they may contact a Protected Disclosure Officer, the Chair of the Board, or the Chair of the Audit, Risk and Compliance Committee.

BOD Australia is not obliged to reopen an investigation if it finds that the investigation was conducted properly, or new information is either not available or would not change the findings of the investigation.

Any review will be conducted by an individual who was not involved in handling and investigating the original disclosure. The results of any review will be presented to the Audit, Risk and Compliance Committee.

A Discloser may lodge a complaint with a regulator, such as ASIC or APRA, if they are not satisfied with the outcome of BOD Australia's investigation.

8. Ensuring fair treatment of individuals mentioned in a disclosure

BOD Australia strives to ensure the fair treatment of individuals who are mentioned in a disclosure that qualifies for protection, including those who are the subject of a disclosure.

A report made under this policy will be handled confidentially where it is practical and appropriate in the circumstances.

Each disclosure will be assessed, and if it is determined that an investigation is required, the objective of that investigation will be to determine whether there is enough evidence to substantiate or refute the matters reported.

An employee who is the subject of a report will be advised about:

- (a) the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness, and prior to any actions being taken (for example, if the disclosure is to be the subject of an investigation or if the disclosure is serious and needs to be referred to ASIC, APRA or the Federal Police); and
- (b) the outcome of the investigation (but they will not be provided with a copy of the investigation report).

9. Protection of whistleblowers

BOD Australia is committed to ensuring confidentiality in respect of all matters raised under this policy, and that those who make a report are treated fairly and do not suffer detriment.

(a) Protection against detrimental conduct

Detrimental treatment includes dismissal, demotion, harassment, discrimination, disciplinary action, bias, threats or other unfavourable treatment connected with making a report.

If a Discloser is subjected to detrimental treatment as a result of making a report under this policy the Discloser should:

- (i) inform a protected disclosure officer, officer or senior manager within their relevant division/business unit immediately under the divisional whistleblower policy; or
- (ii) raise it in accordance with clause 5 of this policy.

(b) Protection of Discloser's identity and confidentiality

BOD Australia has a legal obligation to protect a Discloser's identity and is committed to ensuring that reports are managed with appropriate confidentiality and in accordance with the policy and statutory confidentiality regimes where applicable.

In accordance with the Corporations Act, BOD Australia will not disclose information that is likely to lead to a Discloser's identification as part of its investigation process unless:

- (i) the information does not include the Discloser's identity;
- (ii) BOD Australia removes information relating to the Discloser's identity or other information that is likely to lead to identification of the Discloser (ie their name, position title and any other identifying details); and
- (iii) it is reasonably necessary for investigation the issues raised in the Discloser's report.

Other steps BOD Australia will take in practice to protect the confidentiality of the Discloser's identity include, but are not limited to, redacting, where possible, their personal information or references to witnessing an event, contacting them (where possible) to help identify aspects of their report that could inadvertently identify them and reminding individuals involved in investigating their report of confidentiality requirements.

Other than in circumstances required by law, any unauthorised disclosure of information in the Discloser's report without their consent (including their identity) will be a breach of the policy and will be dealt with under BOD Australia's disciplinary procedures. It may also be an offence subject to penalties under Australian Whistleblower Protection Laws. If a Discloser believes there has been a breach of their confidentiality, they can make a complaint under the processes described in the policy. They may also lodge a complaint with a regulator, such as ASIC, APRA or the ATO, for investigation.

(c) *Protection of files and records*

All files and records created from an investigation will be retained securely.

Unauthorised release of information to someone not involved in the investigation (other than senior managers or directors who need to know to take appropriate action, or for corporate governance purposes) without the Discloser's consent as a whistleblower will be a breach of this policy.

Whistleblowers are assured that a release of information in breach of this policy will be regarded as a serious matter and will be dealt with under BOD Australia's disciplinary procedures.

The Corporations Act gives special protection to disclosures about breaches of that Act, provided certain conditions are met – refer to **Annexure A** for further details.

The *Taxation Administration Act 1953* (Cth) (**Taxation Administration Act**) also gives special protection to disclosures about breaches of any Australian tax law, provided certain conditions are met – refer to **Annexure B** for further details.

The above protections apply from the time a Discloser makes a report addressing Reportable Conduct, irrespective of whether a report has been made internally, externally, to a legal practitioner, regulatory body or a public interest or emergency disclosure in accordance with the requirements of the Corporations Act. A Discloser may also be eligible to seek compensation and other remedies if the Discloser suffer loss, damage or injury in specific circumstances. The Discloser should seek independent legal advice in these circumstances, or can contact ASIC, APRA or the ATO.

10. Duties of employees in relation to reportable conduct

It is expected that employees of BOD Australia who become aware of actual or suspect on reasonable grounds, potential cases of Reportable Conduct will make a report under this policy or under other applicable policies.

11. Group reporting procedures

Protected Disclosure Officers will report to the BOD Board of Directors on the number and type of whistleblower incident reports annually, to enable BOD Australia to address any issues at a divisional/business unit and/or Group level.

These reports will be made on a 'no names' basis, maintaining the confidentiality of matters raised under this policy.

The Audit, Risk and Compliance Committee will receive copies of all whistleblower reports from Protected

Disclosure Officers (as appropriate). In addition, serious and/or material Reportable Conduct will be considered by the Protected Disclosure Officers for immediate referral to the Chairman of the Audit and Risk Committee.

12. Amendment of policy

This policy cannot be amended without approval of the BOD Australia Board. It will be reviewed from time to time to ensure that it remains effective and meets good practice standards and the requirements of BOD Australia.

Annexure A – Special protections under the Corporations Act¹

The Corporations Act gives special protection to disclosures about any misconduct or improper state of affairs relating to BOD Australia if the following conditions are satisfied:

- (a) the whistleblower is or has been:
 - (i) an officer or employee of a BOD Australia Group company;
 - (ii) an individual who supplies goods or services to a BOD Australia Group company or an employee of a person who supplies goods or services to a BOD Australia Group company;
 - (iii) an individual who is an associate of a BOD Australia Group company; or
 - (iv) a relative, dependent or dependent of the spouse of any individual referred to at (i) to (iii) above;
- (b) the report is made to:
 - (i) a Protected Disclosure Officer;
 - (ii) an officer or senior manager of a BOD Australia Group company concerned;
 - (iii) BOD Australia' external auditor (or a member of that audit team)²;
 - (iv) ASIC;
 - (v) APRA; or
 - (vi) a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Corporations Act;
- (c) the whistleblower has reasonable grounds to suspect that the information being disclosed concerns misconduct, or an improper state of affairs or circumstances in relation to the BOD Australia Group. This may include a breach of legislation including the Corporations Act, an offence against the Commonwealth punishable by imprisonment for 12 months or more, or conduct that represents a danger to the public or financial system.

Examples of conduct which may amount to a breach of the Corporations Act include: insider trading, insolvent trading, breach of the continuous disclosure rules, failure to keep accurate financial records, falsification of accounts, failure of a director or other officer of the Group to act with the care and diligence that a reasonable person would exercise, or to act in good faith in the best interests of the corporation or failure of a director to give notice of any material personal interest in a matter relating to the affairs of the company.

- (d) The protections given by the Corporations Act when these conditions are met are:
 - (i) the whistleblower is immune from any civil, criminal or administrative legal action (including disciplinary action) for making the disclosure;
 - (ii) no contractual or other remedies may be enforced, and no contractual or other right may be exercised, against the whistleblower for making the report;
 - (iii) in some circumstances, the reported information is not admissible against the whistleblower in criminal proceedings or in proceedings for the imposition of a penalty;³
 - (iv) anyone who causes or threatens to cause detriment to a whistleblower or another person in the belief or suspicion that a report has been made, or may have been made, proposes to or could be made, may be guilty of an offence and may be liable for damages;
 - (v) a whistleblower's identity cannot be disclosed to a Court or tribunal except where considered necessary; and

¹ See Part 9.4AAA of the *Corporations Act 2001* (Cth).

² BOD Australia' external auditor can be found in its Annual Report and as at December 2019 was Nexia Sydney.

³ Such as where the disclosure has been made to ASIC or APRA, or where the disclosure qualifies as a public interest or emergency disclosure.

- (vi) the person receiving the report commits an offence if they disclose the substance of the report or the whistleblower's identity, without the whistleblower's consent, to anyone except ASIC, APRA, the AFP or a lawyer for the purpose of obtaining legal advice or representation in relation to the report.

Confidentiality

If a report is made, the identity of the discloser must be kept confidential unless one of the following exceptions applies:

- (a) the discloser consents to the disclosure of their identity;
- (b) disclosure of details that might reveal the discloser's identity is reasonably necessary for the effective investigation of the matter;
- (c) the concern is reported to ASIC, APRA, or the AFP; or
- (d) the concern is raised with a lawyer for the purpose of obtaining legal advice or representation.

Annexure B – Special Protections under the Taxation Administration Act

The Taxation Administration Act gives special protection to disclosures about a breach of any Australian tax law by BOD Australia or misconduct in relation to BOD Australia Group's tax affairs if the following conditions are satisfied:

- (a) the whistleblower is or has been:
 - (i) an officer or employee of a BOD Australia Group Company;
 - (ii) an individual who supplies goods or services to a BOD Australia Group Company or an employee of a person who supplies goods or services to a BOD Australia Group company;
 - (iii) an individual who is an associate of a BOD Australia Group company;
 - (iv) a spouse, child, dependent or dependent of the spouse of any individual referred to at (i) to (iii) above;
- (b) the report is made to:
 - (i) a Protected Disclosure Officer;
 - (ii) a director, secretary or senior manager of a BOD Australia Group Company concerned;
 - (iii) any BOD Australia Group Company external auditor (or a member of that audit team);
 - (iv) a registered tax agent or BAS agent who provides tax or BAS services to a BOD Australia Group company;
 - (v) any other employee or officer of BOD Australia who has functions or duties relating to tax affairs of the company (e.g. an internal accountant);
(BOD Australia recipients)
 - (vi) the Commissioner of Taxation; or
 - (vii) a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Taxation Administration Act; and
- (c) if the report is made to a BOD Australia recipient, the whistleblower:
 - (i) has reasonable grounds to suspect that the information indicates misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of a BOD Australia Group Company or an associate of that company; and
 - (ii) considers that the information may assist the BOD Australia recipient to perform functions or duties in relation to the tax affairs of a BOD Australia Group Company or an associate of the company; and
- (d) if the report is made to the Commissioner of Taxation, the whistleblower considers that the information may assist the BOD Australia recipient to perform functions or duties in relation to the tax affairs of a BOD Australia Group Company or an associate of the company.

The protections given by the Taxation Administration Act when these conditions are met are:

- (a) the whistleblower is immune from any civil, criminal or administrative legal action (including disciplinary action) for making the disclosure;
- (b) no contractual or other remedies may be enforced, and no contractual or other right may be exercised, against the whistleblower for making the report;
- (c) where the disclosure was made to the Commissioner of Taxation, the reported information is not admissible against the whistleblower in criminal proceedings or in proceedings for the imposition of a penalty, except where the proceedings are concerned with whether the information is false;
- (d) unless the whistleblower has acted unreasonably, a whistleblower cannot be ordered to pay costs in any legal proceedings in relation to a report;

- (e) anyone who causes or threatens to cause detriment to a whistleblower or another person in the belief or suspicion that a report has been made, or may have been made, proposes to or could be made, may be guilty of an offence and liable to pay damages;
- (f) a whistleblower's identity cannot be disclosed to a Court or tribunal except where considered necessary; and
- (g) the person receiving the report commits an offence if they disclose the substance of the report or the whistleblower's identity, without the whistleblower's consent, to anyone except the Commissioner of Taxation, the AFP or a lawyer for the purpose of obtaining legal advice or representation in relation to the report.

Confidentiality

If a report is made, the identity of the discloser will be kept confidential unless one of the following exceptions applies:

- (a) the discloser consents to the disclosure of their identity;
- (b) disclosure of details that might reveal their identity is reasonably necessary for the effective investigation of the allegations;
- (c) the concern is reported to the Commissioner of Taxation or the AFP; or
- (d) the concern is raised with a lawyer for the purpose obtaining legal advice or representation.