

Energy Assured Limited

ABN 63 146 921 904
Suite 3, Level 5, 189 Kent Street
Sydney NSW Australia 2000

Tel + 61 2 9241 2671
Fax +61 2 9251 5425

www.energyassured.com.au

2 May, 2014

Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Dr Chadwick,

A91390 & A91391 – Energy Assured Limited – submission

Thank you for your letter of 8 April and the Draft Determination.

Attached please find Energy Assured's submission addressing the comments and conditions proposed by ACCC.

Thank you for giving Energy Assured the opportunity to respond. I trust this submission will meet with the Commission's approval and look forward to the Final Determination.

Please contact me if you would like any further information.

Yours sincerely,



Anne Whitehouse
Chief Executive Officer

ENERGY ASSURED LIMITED: SUBMISSION RESPONDING TO ACCC'S DRAFT DETERMINATION

Introduction

Energy Assured refers to the draft determination A91390 & A91391 dated 8 April 2014 in relation to the Energy Assured Code of Practice for face to face electricity and gas sales (**Draft Determination**).

Energy Assured is grateful for the ACCC's favourable Draft Determination. Like the ACCC, Energy Assured is of the view that the Energy Assured Scheme will continue to deliver public benefits by building upon the effective measures delivered by the Scheme during its existing authorisation.

Whilst the most visible and measurable beneficial outcomes of the Scheme to date have arisen in the context of individual Sales Agent discipline, Energy Assured has always had a parallel emphasis on Member compliance. With regard to the ACCC's suggestion that there has been insufficient focus upon the responsibility of Energy Retailers and Marketers, Energy Assured considers that it has been the Members' commitment to the scheme and adherence to the requirements that has led to only a low number of sanctions being necessary.

The Code Manager engages regularly with Members to aid those Members to comply with the Code and applicable laws. When an issue of potential non-compliance (whether isolated or systemic) arises, the Code Manager investigates it and contacts the Member. If a breach has occurred, the Code Manager will issue a Warning Notice to the Member, requiring comprehensive rectification of the issue. Members are responsive to compliance issues raised with them by the Code Manager, almost without exception. However, if the issue is not rectified, a sanction is imposed on the Member.

Energy Assured's response to the imposition of conditions and provisos in the Draft Determination

Energy Assured appreciates the feedback from the ACCC on its proposed Code and Procedures Guideline. Although Energy Assured is of the view that the Code as proposed prior to the Draft Determination will achieve significant public benefits, it is prepared to incorporate a vast majority of the conditions and other feedback contained in the Draft Determination, as discussed below. Marked-up versions of the Code and Procedures Guideline, demonstrating the amendments made following the Draft Determination, are **enclosed** with this submission.

To assist the ACCC, the original conditions have been extracted below, with Energy Assured's response embedded amongst them.

Reinstatement of clause 24 of the Code of Practice to include the requirement for yearly compliance audits of members by an independent firm of auditors

Despite the significant expense of doing so, Energy Assured is prepared to retain the independent compliance audit regime instead of instituting a new compliance check regime and would be prepared to amend the Code accordingly (**Code 24**). Energy Assured will also vary the scope of the audit to include checking for any systemic issues.

Sub-agent principals

Energy Assured notes the ACCC's comments in relation to the involvement of Sub-agent Principals within the Code, particularly at [100] to [101] of the Draft Determination. Although this is already the practice of Energy Assured, Energy Assured would be prepared to amend the Code to make clear that Sales Agents engaged by Sub-agent Principals are subject to the same regime (in terms of recruitment, training, registration process and discipline) as applies to Sales Agents engaged directly by Members (**Code 7.5, 7.6, 8, 14.2, Dictionary and Procedures Guideline**).

Condition C1 – Information to be disclosed by Comparators

Within 6 months of the date on which authorisation is granted, Energy Assured must amend the Code of Practice to provide that where a comparator engaging in face to face sales recommends an energy contract or retailer to a customer, the comparator or its sales agent must:

- a) provide the customer with a list of all retailers available to that customer (whether represented by the comparator or not), with each retailer that the sales agent is comparing for the customer being highlighted on that list.*

While Energy Assured appreciates the ACCC's purpose in seeking this inclusion, Energy Assured is unable to make this revision. Not only is it impractical (if not impossible) to comply with but it could lead to unnecessary complexity and cause customer confusion.

- Firstly, a Sales Agent would need to have an up to date list of all licenced energy retailers. A list of all authorised energy retailers has been extracted from the AER website on 28/4/14 and is shown at **Appendix 1**. This list only covers ACT, NSW, QLD and SA and comprises more than 40 different entities with around 80 separate authorisations.
 - A list of this size is arguably meaningless to a customer or would otherwise confuse them.
 - Also, this list changes regularly. The requirement to ensure an up to date list at all times is overly burdensome. If a Sales Agent did not have the most up to date list available, he could inadvertently be providing incorrect information to a customer.
- Secondly, just because an energy retailer is authorised in a jurisdiction, they may not have an offer available for a particular customer class. For example, Ergon Energy holds authorisations in each jurisdiction but may not offer energy contracts at the residential level in all of those areas.
- Thirdly, a company that may be authorised and generally has offers available in a jurisdiction, may choose at certain times or for certain regions, meter types or household credit ratings (amongst other reasons), not to have an offer available for a particular category or cluster of households or businesses. A Comparator would have no knowledge of this for the companies that the Comparator does not represent and would have significant difficulty in obtaining this information and ensuring that it remains current.

Energy Assured submits that the disclosure requirements for Sales Agents working for Comparators should remain that the Sales Agent must disclose his name, the name of the Comparator, the names of the energy retailers it represents and must point out to the customer that offers may be available from other energy retailers not represented by the Comparator.

- b) if the comparator will receive a higher commission for the energy contract recommended than for energy contracts against which the recommended contract has been compared, inform the customer that this is the case, and*

Energy Assured would be prepared to make this revision (**Code 4.2(5)**). However, Energy Assured notes that while a Sales Agent would be aware of different commissions that could be payable to himself (although as previously outlined, Sales Agents do not receive different commissions based on the product selected), the Sales Agent is unlikely to be aware of any specific commission arrangements the Comparator may have with the Energy Retailers it represents.

- c) provide any further information requested by the customer about how the comparators commission for the energy contract being recommended compares to the commission received for other energy contracts used as a point of comparison (condition C1a).*

Energy Assured is unable to make this revision as proposed as it is very broadly put and could require the Sales Agent to disclose confidential information. It also could lead to an anti-competitive outcome to the extent that it could reduce Sales Agent contestability to represent Comparators. However, Energy Assured proposes some alternative drafting that, it submits, will achieve a similar result (**Code 4.2(6)**)

Within 6 months of the date on which authorisation is granted, Energy Assured must amend the Code of Practice to provide that any comparison tools used in face to face sales must be accurate and that the underlying assumptions on which the comparison is based must also be disclosed (condition C1b).

Energy Assured would be prepared to make revisions to this effect. However, it has sought to clarify the drafting (**Code 4.3 and 4.2(4)**).

Additionally, as the ACCC is aware, the Code is intended to cover face to face marketing, not other channels such as online or telesales. In anticipation of the ACCC providing future guidance about Comparator services, Energy Assured has inserted a new clause **4.4** to cover compliance with any future guideline on Comparators issued by ACCC as it relates to face to face sales.

Condition C2 – Independent auditing of systemic issues

Within 6 months of the date on which authorisation is granted, Energy Assured must amend the Code of Practice to include new clauses 24.2(8) and 24.2(9) as follows:

24.2(8) whether any Systemic Issues have arisen.

24.2(9) where systemic issues are identified, the adequacy of steps taken to address these issues;

and to include the following definition of “Contacts” and of a “Systemic Issues” in the Code of Practice dictionary:

Contacts means the number of home visits taken from walk sheet data.

Systemic Issue means any one of the following:

- a systemic breach as defined in clause 28.3,
- any breach that attracts a level 3 sanction under clause 28.2, or
- the quantity of level 1, 2 and 3 breaches recorded against sales agents representing the Member for the quarter (as a percentage of the Member's Contacts for the quarter) is more than double the average quantity of level 1, 2 and 3 breaches recorded against sales agents representing all Members (as a percentage of total Contacts for all Members for the quarter).

Energy Assured would be prepared to make these revisions with some minor changes to drafting (**Code 24 and Dictionary**).

Condition C3 – responsibilities of energy retailers and marketers

*Within 6 months of the date on which authorisation is granted, Energy Assured must amend clause 4.1 of the Code of Practice to provide that clause 4 applies to members by the insertion of the words "Members and" before "Sales Agents must" (**condition C3a**).*

Energy Assured would be prepared to make a revision to this effect (**Code 4.1**).

*Within 6 months of the date on which authorisation is granted, Energy Assured must amend clause 5.1 of the Code of Practice to provide that clause 5 applies to members by the insertion of the words "Members and" before "Sales Agents must" (**condition C3b**).*

Energy Assured would be prepared to make a revision to this effect (**Code 5.1**).

Condition C4 – Sanctions against members for systemic breaches

Within 6 months of the date on which authorisation is granted, Energy Assured must amend clause 28.2 of the Code of Practice to provide that, in relation to level 3 sanctions:

- all established breaches of the Code of Practice, as opposed to just breaches established following complaints (including breaches of relevant laws) are to be included when determining whether the threshold for triggering a level 3 sanction has been reached or exceeded (**condition C4a**)
- a level 3 sanction must be applied for any Systemic Issue identified by the independent auditor pursuant to clause 24.2(8) of the Code of Practice unless a level 3 sanction has already been applied for the breach (**condition C4b**).

The ACCC also proposes to include conditions of authorisation in its final determination requiring the following in relation to clause 28.2:

- instead of the single 1% threshold, a gradation of thresholds with increasingly stronger warnings and sanctions should be used (**condition C4c**),
- the lowest threshold (which may lead only to a requirement on a member to resolve the underlying issues and no sanction) is set considerably lower than 1% of customers contacted (**condition C4d**).

Energy Assured would be prepared to amend the Code to clarify the circumstances in which it will be appropriate for the Code Manager to impose a level 3 sanction on a Member where the Member has failed to comply with a Warning Notice. It suggests that the revisions made in the table in clause 28.2 will answer the concerns of the ACCC raised above. This includes a substantial revision downwards of the breach threshold that will trigger a sanction 3 – which is now to be 0.1% of Contacts in any quarter (rather than 1%)(**Code 28.2**)).

The ACCC also proposes to include a condition of authorisation in its final determination requiring that clause 28.2 of the Code of Practice be amended to provide

*that where a level 3 or level 4 sanction is imposed, EAL must notify the Australian Competition and Consumer Commission of the member's breach (**condition 4e**).*
Energy Assured would be prepared to make a revision to this effect (**Code 28.2**).

Condition C5 – Energy Assured monitoring of systemic breaches

Within 6 months of the date on which authorisation is granted, Energy Assured must amend clause 24.6(3) of the Code of Practice to read as follows:

*24.6(3) any Systemic Issues, including options for addressing those Systemic Issues (**condition 5a**).*

Energy Assured would be prepared to make a revision to this effect (**Code 24.6(3)**).

*Energy Assured must monitor the compliance registers of members in order to identify Systemic Issues (**condition 5b**).*

This is already undertaken by the Code Manager and will continue to be undertaken as part of the Quarterly Reporting and Compliance Audit processes. However, Energy Assured would be prepared to make a revision to this effect if it would assist (**Code 26.2**).

*Within 6 months of the date on which authorisation is granted, Energy Assured must amend clause 24.6(3) of the Code of Practice to provide that consolidated reports of the results of compliance checks are prepared at least annually (**condition 5c**).*

The production of consolidated reports already occurs annually. However, Energy Assured would be prepared to make this revision if it would assist (**Code 24.6**).

Timing of commencement of new authorisation

As the ACCC is aware, Energy Assured's current Authorisations expire on 14 July 2014. In the interests of simplicity and as a show of good faith of Energy Assured's commitment to answering the concerns of the ACCC raised in its Draft Determination expediently, Energy Assured would be prepared to adopt the Draft Determination feedback to the extent set out above from the date of re-authorisation, rather than 6 months thereafter as proposed in some aspects of the Draft Determination. Accordingly, and to allow Energy Assured sufficient time to make transitional arrangements, Energy Assured requests that (assuming a Final Determination is made in its favour), the revocation of the existing Authorisation and the commencement of the new Authorisation not commence before 14 July 2014.

Appendix 1

AER - Public register of authorised retailers and authorisation applications – NSW/ACT/SA/TAS (28.04.14)

Title	Sector	Region	Status	Effective date
<u>ActewAGL Retail - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>ActewAGL Retail - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>AGL Energy Sales & Marketing - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>AGL Retail Energy - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>AGL Sales (Queensland Electricity) - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>AGL Sales (Queensland) - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>AGL Sales - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>AGL Sales - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>AGL South Australia - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>AGL South Australia - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Alinta Energy Retail Sales Pty Ltd - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		

		<u>Tasmania</u>		
<u>Alinta Energy Retail Sales Pty Ltd - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Aurora Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Aurora Energy - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Australian Power and Gas - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Australian Power and Gas - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Blue NRG - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Click Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>CO Zero - authorised electricity retailer</u>	<u>Electricity</u>		<u>Current</u>	12-Dec-13
<u>Cogent Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Cova Uauthorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	21-Feb-14
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Cova U Pty Ltd - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	21-Feb-14
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>CS Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		

<u>Diamond Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Dodo Power & Gas - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Historical</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Dodo Power & Gas - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Historical</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>EDL Retail - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	9-Aug-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>EnergyAustralia (formerly TRUenergy) - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>EnergyAustralia (formerly TRUenergy) - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>EnergyAustralia Yallourn (formerly TRUenergy Yallourn) - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Ergon Energy Queensland - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>ERM Power Retail - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>ERM Power Retail Pty Ltd - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	14-Dec-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>GoEnergy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>GoEnergy - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		

		<u>South Australia</u>		
<u>GridX Power - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Infigen Energy Holdings - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Mar-13
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Infigen Energy Markets - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>International Power (Retail) - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Lumo Energy (NSW) - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Lumo Energy (NSW) - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Lumo Energy (QLD) - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Lumo Energy (SA) - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Lumo Energy (SA) - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Lumo Energy Australia - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Lumo Energy Australia - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		

<u>M2 Energy Pty Ltd (trading as Commander Power & Gas) - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>M2 Energy Pty Ltd (trading as CommanderPower & Gas) - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>M2 Energy Pty Ltd (trading as Dodo Power & Gas) - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>M2 Energy Pty Ltd (trading as Dodo Power & Gas) - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Macquarie Bank Limited - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	11-Apr-14
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Metered Energy Holdings - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	20-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Metered Energy Holdings - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	20-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Momentum Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Momentum Energy - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Neighbourhood Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>OC Energy Pty Ltd application for</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Open</u>	

<u>electricity retailer authorisation</u>		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Origin Energy (Vic) - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Origin Energy Electricity - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Origin Energy LPG - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Origin Energy Retail - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>OzGen Retail - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Pacific Hydro Retail Pty Ltd - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>People Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	11-Oct-13
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Pooled Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	12-Dec-13
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Powerdirect - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Powershop Australia - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Progressive Green - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		

<u>QEnergy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Red Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Red Energy - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Sanctuary Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Simply Energy - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Simply Energy - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>Stanwell Corporation - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Sun Retail - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>Sun Retail - authorised gas retailer</u>	<u>Gas</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
<u>TrustPower Australia Holdings - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	1-Jul-12
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>WINenergy Pty Ltd - authorised electricity retailer</u>	<u>Electricity</u>	<u>New South Wales</u>	<u>Current</u>	21-Jun-13
		<u>Australian Capital Territory</u>		
		<u>South Australia</u>		
		<u>Tasmania</u>		
<u>WINenergy Retail Pty Ltd application for electricity retailer authorisation - withdrawn</u>	<u>Electricity</u>	<u>Australian Capital Territory</u>	<u>Historical</u>	
		<u>South Australia</u>		

		<u>Tasmania</u>		
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ENERGY ASSURED LIMITED

CODE OF PRACTICE

As amended ~~November~~ May 2013

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Annexure A - Sales Complaint Handling Process (Flow Chart)

Annexure B - Determining an Appropriate Member Sanction (Flow Chart)

Annexure C - Security for Appeal - effective 16 January 2014. Fees increase 5% each year.

Annexure D - Form A - Deregistration Application

Annexure E - Form B - Deregistration Notice

Annexure F - Form C - Member Complaint

Annexure G - Form D - Notice of Breach

Annexure H - Form E - Notice of Appeal (Sales Agent)

Annexure I - Form F - Notice of Appeal (Member)

PART 1: 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 face to face 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 Marketers that often perform face to face sales on their behalf. These Energy Marketers may represent just one retailer or offer a comparator service as a Comparator. Energy Assured's membership comprises both Energy Retailers and Energy Marketers. The Code aims to:
- (1) promote consumer confidence in face to face sales activities in the energy industry;
 - (2) provide consumers with a better overall experience in energy marketing during face to face sales;
 - (3) improve the standards and effectiveness of face to face 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 face to face retail energy industry to meet a set of Energy Assured 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 Sales Agents, where any proven breach of the Energy Assured Standards may result in disciplinary measures and deregistration from the Energy Assured 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 Energy Assured Standards, these are handled in a consistent manner by Energy Retailers and Comparators;
 - (5) strengthening the regime of compliance to the Code, ensuring that Members are consistently monitored independently through [Quarterly Reports](#) and Compliance [Audit Checks](#) 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 or authority.

2 Interpretation

2.1 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.

2.2 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.

2.3 **Energy Assured Procedures Guideline**

This Code operates together with the Energy Assured Procedures Guideline. The Procedures Guideline sets out the procedures, principles and processes that underpin the Code for registering and maintaining Sales Agents, Experienced Sales Agents, Assessors and Sub-agent Principals on the Energy Assured Register and recruiting, training and assessing Sales Agents.

2.4 **Code Supplements Existing Regulatory Regime**

This Code sits alongside the Applicable Laws that govern face to face sales across numerous Australian jurisdictions, including the Australian Consumer Law and does not override a Member's obligations under these laws.

- (1) The roles of Energy Assured, 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. Each energy ombudsman is an independent dispute resolution body. Consumers can complain about the behaviour of a Sales Agent to either the relevant Energy Retailer or Comparator in the first instance, or to the applicable energy ombudsman, should they choose to do so.

In its Marketing Material, Energy Assured 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 set out in clause 9.1.

PART 2: THE ENERGY ASSURED STANDARDS

3 Compliance with the Energy Assured Standards

- 3.1 Members, their agents/contractors, and all Sales Agents must comply with the Energy Assured Standards set out below.
- 3.2 The Energy Assured Standards include those embodied standards in the Applicable Laws that govern face to face sales across numerous Australian jurisdictions, including the Australian Consumer Law.
- 3.3 The Energy Assured Standards apply to the extent that they are consistent with the Applicable Laws. If the Energy Assured 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 [and Members through their Sales Agents](#) must:

- (1) only make door to door 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, of which a record must be kept;
- (2) comply with any signs at a consumer’s premises indicating:
 - (a) canvassing is not permitted at the premises; or
 - (b) no advertising or similar material is to be left at the premises or in a receptacle associated with the premises;
- (3) as soon as possible on making contact, identify themselves, the Energy Retailer(s) (and in the case of a Sales Agent representing a Comparator, the Comparator) 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 they represent, (or in the case of a Sales Agent representing a Comparator, the name of the Comparator, and the business address and contact details of the Comparator), an expiry date for validity of the card, and the Energy Assured Logo;
- (5) for door to door sales, not misrepresent themselves or the purpose of their visit and state that the purpose of his or her visit is to assist the consumer to enter into an energy retail contract;
- (6) for door to door sales, 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) for door to door sales, advise that he or she must leave the premises immediately on request 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) ensure that during a Post Sale Verification Procedure, the telephone is not used with the loud speaker setting engaged and that a customer is not coached during the call;

- (9) for door to door sales, if contact is ceased, record that the consumer is not to be contacted by the Energy Retailer (or in the case of a Sales Agent representing a Comparator, the Comparator) for at least 30 days after the request was made;
- (10) explain that if the consumer is not happy with the way they have been dealt with, they can contact the Energy Retailer, Comparator or energy ombudsman to make a complaint; and
- (11) provide the consumer with a copy of the 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 A Sales Agent who represents a Comparator must:

- (1) explain to the consumer that they represent the Comparator and that the Comparator offers a comparison service;
- (2) show the consumer a list of all Energy Retailers the Comparator represents; and
- (3) if the Comparator does not represent all energy retailers, it must tell the consumer this;
- (4) disclose to the consumer the general basis upon which the comparison is made (e.g. consumption profile, geographical area, term of the contract);
- (5) if the Comparator or Sales Agent will receive a higher commission for the energy contract recommended than for other energy contracts against which the recommended contract has been compared, inform the customer that this is the case; and
- (6) provide any further information reasonably requested by the consumer about any such higher commission, although there will not be any obligation for the Sales Agent or Comparator to disclose the quantum of any commission.

4.3 A Comparator must use all reasonable endeavours to ensure that any comparison tool used by its Sales Agents in face to face sales is accurate.

4.34.4 Comparators and Energy Retailers engaging Comparators must comply with any industry guideline which may be issued by the ACCC concerning comparator websites in so far as they relate to face to face selling.

4.44.5 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 retained:

- (1) for a period of two years; or
- (2) where a consumer has within that period made a complaint or referred a dispute to the energy ombudsman in relation to energy marketing activities – for the period the complaint remains unresolved,

whichever is the longer period.

4.54.6 Members must ensure that it and its appropriate officers and employees have immediate access, or a right of immediate access, to each such record.

4.64.7 Members must comply with any requirement that applies in their State or Territory to create and maintain a “no contact list” for use by its Sales Agents.

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5 Entering into a Contract

5.1 Sales Agents [and Members through their 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, including a 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) if any requirement is to be or may be complied with by an electronic transaction – how the transaction is to operate and, as appropriate, an indication that the customer will be bound by the electronic transaction or will be recognised as having received the information contained in the electronic transaction;
 - (e) the consumer's right to complain to the Energy Retailer or Comparator in respect of any energy marketing activity of the Sales Agent and, if the complaint is not satisfactorily resolved by the Energy Retailer, 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 or Comparator that the Sales Agent represents; and
- (b) the Sales Agent's name, and Company ID Number, and the full name and details of the company they work for, if different to the Energy Retailer or Comparator;
- (c) information about the Energy Retailer or Comparator's Sales Complaints Handling Process, including details of the relevant energy ombudsman; and
- (d) a copy of the 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. Mandatory questions for the Post Sale Verification Procedure are included in the Dictionary.

6 Ethical and Lawful Conduct

6.1 Sales Agents can only conduct Sales Activities on behalf of the Member(s) with whom they are currently registered on the Energy Assured 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 in relation to potential savings or false assumptions about the product (and in the case of a Sales Agent representing a Comparator, about the service the Comparator provides), 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) comply with any sign at a consumer's premises indicating that canvassing is not permitted at the premises;
- (7) not exploit a person's inexperience, vulnerability, credulity or loyalties;
- (8) ensure that safety is maintained for themselves and the consumer;
- (9) not commit forgery or fraud; and
- (10) for door to door sales, leave immediately on a customer's request and obtain the customer's written consent to remain on premises for over an hour.

PART 3: 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 Energy Assured 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 Energy Assured Register as determined in the Procedures Guideline and this Code.
- 7.5 Members must only engage Sales Agents (whether directly or indirectly) to conduct Sales Activities that:
- (1) are registered under the Energy Assured 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 14.4; and
 - (3) have been trained and assessed in accordance with clause 16 and the Procedures Guideline.
- 7.6 Members may not engage Sales Agents that have been Deregistered:
- (1) as an Experienced Sales Agent, Assessor or trainer;
 - (2) to manage teams of Sales Agents either directly or indirectly, including as a Sub-agent Principal;
 - (3) in any position where they may influence or have contact with Sales Agents, including the recruitment of Sales Agents; or
 - (4) in any campaign activity linked to face to face marketing.
- 7.7 Energy Retailers and Comparators must handle Sales Complaints in accordance with clause 17.
- 7.8 Members must monitor the compliance of Sales Agents with the Energy Assured Standards in accordance with clause 18.
- 7.9 Members must categorise and record breaches of the Energy Assured Standards by Sales Agents in accordance with clauses 19 and 20.
- 7.10 Members must discipline Sales Agents in accordance with clause 21.

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- 7.11 Where applicable, Members must make an application to deregister a Sales Agent in accordance with clause 22.
- 7.12 Members must continually monitor, report on, and submit to [Energy Assured Compliance Checks Audits](#) on the extent of their compliance with the Code in accordance with clauses 23, 124 and 25, including reporting on their compliance in accordance with obligations under the relevant Applicable Law.
- 7.13 Members that fail to comply with this Code will be subject to disciplinary procedures for non-compliance in accordance with clauses 27 and 28.
- 7.14 Members must comply with any standards/guidelines set by the Code Manager.
- 7.15 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 Energy Assured Logo prominently on Sales Agent ID badges;
 - (3) ensuring that Sales Agents provide the Marketing Material about the Code when:
 - (a) the consumer enters into an energy supply contract; or
 - (b) on the consumer's request; and
 - (4) ensuring that as part of its Post Sale Verification Procedures they verify with the consumer that the customer was made aware of the Code and its purpose.
- 7.16 Each Energy Retailer and Comparator 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.
- 7.17 In order to comply fully with the Applicable Laws and the Energy Assured 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 Marketing Material.
- 7.18 Nothing in this section excuses a Member from its obligations to comply with Applicable Laws, including reporting incidents of Sales Agent forgery or fraud to the police.

8 Rights and Obligations of Sales Agents and Sub-agent Principals

- 8.1 Members must ensure that [all](#) Sales Agents [engaged by it directly or indirectly](#):
- (1) comply with the Energy Assured Standards and Applicable Laws;
 - (2) only conduct Sales Activities on behalf of the Member with which they are currently registered on the Energy Assured Register; and
 - (3) only undertake Sales Activities in accordance with their Accreditation Status, in accordance with clause 14.2 and the Procedures Guideline.
- 8.2 Members must ensure that Sub-agent~~cy~~ Principals (and their respective Sales Agents) comply with the Code and the Procedures Guideline [and in particular the Energy Assured Standards, the regime for recruitment, training and monitoring, the process for Sales Agent registration on the EAL Register and the Sales Agent disciplinary process.](#)

9 Role of Energy Assured Limited

- 9.1 Energy Assured 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, Energy Assured:
- (1) is not a dispute resolution body;
 - (2) does not resolve customer complaints;
 - (3) will refer consumers back to their Energy Retailer or Comparator (if applicable) to resolve their dispute directly if they have not contacted the Energy Retailer or Comparator previously.
 - (4) will refer consumers to the relevant energy ombudsman if they have attempted to have their complaint resolved by the Energy Retailer or Comparator, and are dissatisfied with that response; and
 - (5) will investigate allegations of non-compliance with the Code to supplement existing regulatory regimes and promote uniformity and consistency in face to face marketing in the energy industry in accordance with clause 26.
- 9.2 The membership, governance structure and procedures of Energy Assured are set out in its Constitution.
- 9.3 Energy Assured will consult on, and participate in, decision making on matters set out in this Code.
- 9.4 Energy Assured 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 Marketing Material that is to be used by Sales Agents when undertaking Sales Activities and displayed on the Energy Assured 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 7.15 and 7.16 and providing Members with 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 Marketing Material that promotes the Code to consumers must clearly state the following information:
- (1) that the Energy Retailer(s) (and any Energy Marketer that represents them, if applicable) is a Member of Energy Assured and has adopted, and will comply with, the Code;
 - (2) why the Code was established and how it interacts with Applicable Laws, inclusive of the Australian Consumer Law, the national energy customer framework, where applicable, and any other relevant energy regulations governing face to face sales;

- (3) a summary of the Energy Assured 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 Energy Assured Code;
- (5) how a Sales Complaint will be treated by the Energy Retailer or Comparator;
- (6) the implications if a Sales Agent is found to have breached the Energy Assured Standards;
- (7) that the Sales Agent has been recruited and trained in accordance with the Energy Assured Code;
- (8) that the Member is a member of Energy Assured;
- (9) the contact details of the Energy Retailer or Comparator;
- (10) the Energy Assured 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 Marketing Material can be obtained in six different languages.

9.6 Energy Assured 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 Energy Assured and the Chairman of the Code Panel;
- (2) an overview of the Code;
- (3) an overview of the Compliance [Checks-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 parties involved) of Sales Complaints made to an Energy Retailer or Comparator as a proportion of consumers contacted and divided into categories showing the types of complaints received from data obtained from [Quarterly 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 Sanction 5s and Sanction 6s issued 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 Energy Assured 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 The Code Manager is responsible for the administration and day-to-day supervision of the Code. The Code Manager is independent of the Members.

10.2 The Code Manager:

- (1) oversees the operation of the Energy Assured 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 including [overseeing the conducting of Compliance ChecksAudits](#);
- (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 Energy Assured 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 the Marketing Material;

- (4) discussion as to types of breaches made by Sales Agents under the Energy Assured Standards and the appropriateness of the categorisation of Levels under clause 20;
- (5) overview of Warning Notices issued and the nature of Sanctions imposed similar to that required under clause 10.2(9);
- (6) overview of results of Compliance [ChecksAudits](#);
- (7) details of any industry wide Systemic Issues and how they have been addressed; and
- (8) appropriate training packages to address community concerns about face to face sales in the energy industry.

11.2 Feedback from the Stakeholder Working Group will be referred to Energy Assured and the Code Panel by the Code Manager. Energy Assured 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.

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 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 Energy Assured and consist of at least:

- (1) one person with relevant experience, at a senior level, in the energy retailing industry;
- (2) at least one person with relevant experience, at a senior level, in a regulatory or government body that administers consumer laws or Marketing Codes that govern face to face sales activities;
- (3) one person with relevant experience, at a senior level, in a Consumer Advocacy Group; and
- (4) 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 at least three times each year 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 and Sales Agent appeals 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 clauses 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 (or equivalent qualifications) 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 Energy Assured, 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 Energy Assured Register, [Quarterly Reports](#), Compliance [Audit Checks](#), 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, Energy Assured 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 Energy Assured 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 set out in the Energy Assured Constitution.

PART 4: ENERGY ASSURED REGISTER, RECRUITMENT AND TRAINING

14 Energy Assured Register

14.1 The Energy Assured Register is administered by the Code Manager.

14.2 Members must:

- (1) register all Sales Agents engaged by it [directly or indirectly](#) on the Energy Assured Register;
 - (2) manage the Accreditation Status' of all Sales Agents; and
 - (3) manage their Sales Agents and operate and access the Energy Assured Register,
- in accordance with the Procedures Guideline (and summarised below).

14.3 [Members must register all Assessors, Experienced Sales Agents and Sub-agent Principals on the Energy Assured Register.](#)

Accreditation Status	Description	Duration of Status	Privileges
Provisional	Applies to new Sales Agents pending completion of training and passing of Competency Assessment.	Up to 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. Can display Energy Assured Logo.
Approved	Sales Agent has passed Formal Competency Assessment or Annual Competency Assessment by an approved Assessor.	1 year.	Can undertake Sales Activities. Can display Energy Assured Logo.
Development	Sales Agent has not passed Formal 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 Energy Assured 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. The Suspension can be extended for a further 15 days where additional consideration is necessary.	Cannot undertake Sales Activities or display Energy Assured Logo.

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Accreditation Status	Description	Duration of Status	Privileges
Deregistered	Agent has been deregistered in accordance with the Sanctions Process.	5 Years.	Cannot undertake Sales Activities or display Energy Assured Logo.
Inactive	Sales Agent on authorised leave.	Up to 3 Months.	Cannot undertake Sales Activities or display Energy Assured Logo.
Active	Sales Agent returned from leave but not yet re-taken and passed Formal Competency Assessment.	Generally up to 10 Business Days.	Can undertake Sales Activities under supervision by an Experienced Sales Agent. Can display Energy Assured 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 Energy Assured Logo.

14.4 ~~Members must register all Assessors, Experienced Sales Agents and Sub-agent Principals on the Energy Assured Register.~~

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 have a criminal history check pending, in accordance with clause 16.1(2).

15.3 If a Sales Agent has been previously registered on the Energy Assured 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 For the avoidance of doubt, where the Member permitting a Sales Agent to engage in Sales Activities on its behalf under this clause 16 is a Comparator, only the Comparator is required to comply with this clause 16.
- 16.3 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 Energy Assured Register;
 - (2) the Energy Assured Standards and all Applicable Laws;
 - (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.
- 16.4 A Member must ensure that a new Sales Agent also undertakes On-job Training before the Sales Agent can pass a Formal Competency Assessment.

PART 5: SALES COMPLAINTS HANDLING, COMPETENCE MONITORING AND SALES AGENT DISCIPLINE

17 Sales Complaints made about conduct of Sales Agents

- 17.1 Energy Retailers and Comparators must have an internal Sales Complaints 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; and
 - (2) referred by the Code Manager,
- that complies with the applicable Australian Standard on complaints handling and, at a minimum, meets the requirements of this clause 17.
- 17.2 Comparators representing Energy Retailers must forward any Sales Complaint relating to, or applying to an Energy Retailer the Comparator represents that is:
- (1) received from consumers, Consumer Advocacy Groups, any energy ombudsman, energy regulator, government agency or other Member; or
 - (2) referred to it by the Code Manager,
- to the relevant Energy Retailer within 3 Business Days of receiving the Sales Complaint.
- 17.3 Where a Sales Complaint does not relate to, or apply to, any particular Energy Retailer that the Comparator represents, the Comparator must manage that Sales Complaint itself in accordance with this clause 17.
- 17.4 An Energy Retailer or a Comparator that has received a Sales Complaint must investigate it within 5 Business Days of receiving the complaint and deal with the Sales Complaint in accordance with relevant legislation and the Energy Retailer's or Comparator's internal practices. The Energy Retailer or Comparator 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 relevant Energy Retailer's or Comparator's internal practices.
- 17.5 The Energy Retailer or Comparator, 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 or Comparator, 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 Energy Assured 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 Energy Retailers and Comparators must have procedures in place to monitor and record, on an ongoing basis, its Sales Agents' compliance with the Energy Assured Standards (including Applicable Laws) (**Competence Monitoring**) which must include but is not limited to:

- (1) for door to door sales, an independent Post Sale Verification Procedure that is completed and recorded for every consumer that enters 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 Competency 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 by the responsible Energy Retailer independently of the Sales Agent, and must not be undertaken by any individual that performs door to door marketing on behalf of the Energy Retailer, but may include:

- (1) a call centre that is independent of the Energy Retailer; or
- (2) a separate verification team contained within the Energy Retailer's business.

18.3 For the purposes of clause 18.1(2), the assessment of Sales Agents may include, but 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 Energy Assured 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 Energy Retailers and Comparators must operate a Competence Record Register that records all established breaches of the Energy Assured 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 Energy Assured 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 Energy Assured 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 Manager~~ in the course of Compliance [ChecksAudits](#).

19.5 Energy Retailers and Comparators must monitor the Competence Record Register on a regular basis to identify, investigate and address Systemic Issues. For example, Energy Retailers or relevant Comparators 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 or a Comparator identifies a Systemic Issue under clause 19.5, the Energy Retailer or Comparator 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 or Comparator has identified a Systemic Issue under clause 19.5, the Energy Retailer or Comparator must report the issue to the Code Manager as part of the Quarterly Reporting under clause 25.3(8).

19.8 Where an Energy Retailer or Comparator 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 Energy Assured Standards

- 20.1 For the purposes of clauses 17.7 and 18.4, if a Sales Agent breaches the Energy Assured 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 or Comparator 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 a different Level of breach.
- 20.3 For the purposes of clause 20.1:
- (1) A breach of an Energy Assured 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 a consumer with complete details of the Energy Assured scheme;
 - (c) Sales Agent failed to record contact information on walk sheets; or
 - (d) Sales Agent was flippant or rude to the consumer.
 - (2) A breach of an Energy Assured 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 Energy Assured 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 Energy Assured Standard will be a **Level 3 Breach** where it amounts to wilful or gross misconduct. Wilful or gross breaches are breaches of the Energy Assured 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;
- (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;
- (g) failing to disclose the true purpose of the visit; ~~or~~
- (h) failing to leave the premises when requested including: or
- (i) ignoring a Do Not Knock notice.

20.4 Where a Level 2 or Level 3 Breach is recorded against a Sales Agent, the responsible Energy Retailer or the responsible Comparator 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 Energy Assured Standards or Applicable Laws, the Energy Retailer or Comparator must contact the consumers concerned and rectify the breach.

20.5 Upon completion of its review, under clause 20.4, the Energy Retailer or Comparator 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 Sales Agents

21.1 If a Member discovers that a Sales Agent is not meeting the Energy Assured 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 Energy Assured 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 Energy Assured 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 Energy Assured 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

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- (3) change the Sales Agent's status in the Energy Assured 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 Energy Assured Standards that reflect clauses 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 Energy Assured 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 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 Where the evidence supplied in a Deregistration Application does not include a statement by the Sales Agent, the Code Manager will contact the Sales Agent and invite the Sales Agent to make a statement. If a statement is received within five Business Days, it will be considered with other evidence provided in the Deregistration Application.

22.5 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 consistent treatment of Sales Agents.

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

22.7 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.

22.8 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.

22.9 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.

22.10 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.

PART 6: REPORTING, COMPLIANCE ~~AUDIT~~~~CHECKS~~ AND MEMBER DISCIPLINE

23 Members' 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 to questions from the Code Manager relating to their Code compliance within 2 Business Days.
- 23.3 Members must utilise the results of Sales Complaint Handling, Competence Monitoring and Compliance ~~Check-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 Energy Assured 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)~~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 Energy Assured Standards in accordance with clause ~~2020~~;
 - (7) the sufficiency of record keeping and reporting
 - (8) whether any Systemic Issues have arisen; and
 - (9) where Systemic Issues are identified, the adequacy of steps taken to address them.
- 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.

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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 at least annually and provided to the Energy Assured Board, Members, the Code Panel, and at the next scheduled Stakeholder Working Group meeting summarising:

- (1) the extent and type of breaches of the Energy Assured 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) any Systemic Issues and steps taken to address those Systemic Issues;
- (4) corrective measures that have been prescribed to address compliance issues; and
- 23.4(5) any other relevant observations.

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24 — Compliance Checks

24.1 Each Member must submit to a Compliance Check when required by the Code Manager. Compliance Checks will be conducted by the Code Manager periodically and at least annually.

24.2 The scope of the Compliance Checks and procedures to be tested will be determined by Energy Assured. In particular, and at a minimum, the Compliance Checks 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) issues relating to contacting and contracting with consumers and ethical conduct of Sales Agents;
- (3) the adequacy of recruitment, training, assessment and monitoring of Sales Agents;
- (4) the adequacy of Sales Complaint handling processes;
- (5) the consistency and accuracy of the Member's categorisation of breaches of the Energy Assured Standards in accordance with clause 20; and
- (6) the sufficiency of record keeping and reporting.

24.3 The Compliance Checks may include random checks on Members and surprise field checks on Sales Agents. Otherwise, the Code Manager will give reasonable notice of Compliance Checks to the Member.

24.4 Members must give the Code Manager access to the information necessary for the purposes of the Compliance Checks 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 — Energy Assured will prepare a detailed report of findings for each Member. This report will be provided to the relevant Member and any relevant energy regulator. Each report will:~~

- ~~(1) — outline the areas reviewed;~~
- ~~(2) — set out the results of the review;~~
- ~~(3) — identify areas of non-compliance; and~~
- ~~(4) — prescribe action plans agreed with the Member to address areas of non-compliance by the Member.~~

~~24.6 — Energy Assured will prepare a consolidated report of the results of all Compliance Checks and provide this to the Energy Assured Board, Members, the Code Panel, and at the next scheduled Stakeholder Working Group meeting summarising:~~

- ~~(1) — the extent and type of breaches of the Energy Assured Standards;~~
- ~~(2) — the procedures and documentation that were reviewed;~~
- ~~(3) — an outline of any major or important instances of non-compliance, inclusive of potential industry-wide systemic issues identified;~~
- ~~(4) — corrective measures that have been prescribed to address compliance issues; and~~
- ~~(5) — any other relevant observations.~~

25 Quarterly Reporting

- 25.1 Each Energy Retailer and Comparator must prepare a report each quarter about its compliance with the Code (**Quarterly Report**).
- 25.2 Each Energy Retailer or Comparator must provide the Quarterly Report to the Code Manager within 14 days of the end of each quarter about its compliance with the Code in that quarter. The Code Manager may, at the request of an Energy Retailer or relevant Comparator, extend the deadline for the provision of a Quarterly Report by up to 7 additional days.
- 25.3 The scope of the Quarterly Reports will be agreed to between the Energy Retailer or Comparator and the Code Manager but must include at least:
- (1) the number of Sales Agents on the Energy Assured Registry registered to the Energy Retailer or Comparator;
 - (2) the number and details of “Approved” Sales Agents that were randomly audited for each month of the quarter 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 Energy Assured Register is being maintained by the Energy Retailer or Comparator;
 - (5) the number of consumers contacted by, or on behalf of, the Energy Retailer or Comparator in the quarter by State, based on walk sheet data;
 - (6) details of Sales Complaints received in the quarter, including but not limited to:
 - (a) the date of the incident;
 - (b) the date of the Sales Complaint;
 - (c) the nature of the Sales Complaint;

- (d) the State or Territory 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 quarter;
- (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 [CheckAudit](#), 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 Quarterly Reports;
- (2) through any Compliance [CheckAudit](#); 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**).

~~(3)~~26.2 [The Code Manager must monitor successive Quarterly Reports and Compliance Audits of Members in order to identify any Systemic Issues.](#)

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~~26.2~~26.3 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~~26.4 For the purposes of clause 26.3(2) the relevant energy ombudsman or regulator can investigate the complaint independent to this Code or lodge a Sales Complaint in accordance with clause 26.1(3).

~~26.4~~26.5 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 or both;
- (3) investigate and assess the issue as soon as reasonably practicable in order to minimise consumer dissatisfaction and to help raise industry standards; and
- (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 undertaken with the Member where possible;
- (3) the timeframe in which the issue must be addressed;
- (4) whose responsibility it is to address the issue based on the investigation undertaken in clause 26.2 (be it the Energy Retailer and/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~~ ~~Issue or material breach~~ in accordance with this clause 27, which is in contravention of an Energy Retailer's or Comparator's obligation under the law or regulations, then this breach must be reported by the Energy Retailer or Comparator respectively 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:

Sanction No.	Description of Sanction	Description of Breach	Examples (which do not limit) of breaches that may attract the Sanction
1	The Member provides a written undertaking to the Code Manager that the breach will not be repeated. Energy Assured board is notified of the breach;	The breach is considered a minor operational breach .	<ul style="list-style-type: none">Minor failures in maintaining the Energy Assured Register properly.Not registering a Sales Agent, Experienced Sales Agent, Assessor or Sub-agent cy Principal in accordance with the Registry Process.

Sanction No.	Description of Sanction	Description of Breach	Examples (which do not limit) of breaches that may attract the Sanction
	however the Member is not named.		<ul style="list-style-type: none"> 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 Energy Assured Register. Not providing the Code Manager consistently with accurate Quarterly Reports. Failure to consistently meet threshold of random assessment of Sales Agents, in accordance with clause 18.1(2), as identified in the Quarterly Report based on the number of Sales Agents recorded with an Approved Accreditation Status on the Energy Assured Register. Failing to adhere to action plans that arise out of Compliance Audit Checks on minor compliance issues that are isolated and operational in nature and do not impact the public. Team Leaders, Managers or Sub-agent Principals act in a manner that is in conflict with the principles of the Code in their dealings with Sales Agents.
2	<p>Formal letter of admonishment is issued to the 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) recurring, at its cost.</p> <p>Energy Assured board is notified of the Member's breach and the Member is named to the Energy Assured Board.</p>	<ol style="list-style-type: none"> The breach is considered to be a serious operational breach; The breach is considered to be an isolated yet material breach of the Energy Assured Standards; or The Member has been issued three or more Sanction 1s in the course of three months. 	<ul style="list-style-type: none"> Substantial failures in maintaining the Energy Assured Register. Not undertaking the adequate training of Sales Agents in accordance with the Code. Recruitment of a deregistered Sales Agent. Contracting with an Energy Marketer that is not a Member of Energy Assured. Failure to record and monitor the Level of Breaches of Sales Agents, as identified through Quarterly Reporting. Failure to adhere to action plans that arise out of Compliance Audit Checks on major compliance issues that are isolated and operational in nature and do not impact the public. 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. Discrepancy detected between the Competence Record and the Quarterly Report that indicates that a Member did not undertake a review of contracts where a Sales Agent recorded a Level 2 or

Sanction No.	Description of Sanction	Description of Breach	Examples (which do not limit) of breaches that may attract the Sanction
			<p>Level 3 Breach, in accordance with clause 20.4.</p> <ul style="list-style-type: none"> Failure to adequately monitor Sub-agent Principal arrangements to ensure their Sales Agents are trained and disciplined appropriately. <p>Material breach</p> <ul style="list-style-type: none"> A Sales Agent commits a Level 2 or Level 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. A Sales Agent breached the Energy Assured Standards and on investigation it was found that the Sales Agent was deregistered. 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 Energy Assured Register. The 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 Energy Assured Standards whilst unsupervised.
3	<p>Formal letter of admonishment is issued to the Energy Assured 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>Energy Assured Board, the relevant energy regulator, <u>the ACCC</u> and the energy ombudsman are notified of the Member's breach and the Member is named to <u>the Energy Assured board, the regulator and ombudsman those bodies.</u></p>	<p>The breach was a systemic breach of either:</p> <ol style="list-style-type: none"> the Energy Assured Standards which impacted, or had the potential to impact a large number of consumers; or Operational breaches that are not isolated in nature and directly result in a breach of the Energy Assured Standards which impact a large number of consumers. <p><u>Where a Systemic Issue has been identified by the Compliance Audit and a level 3 sanction has not already been imposed for that issue.</u></p>	<ul style="list-style-type: none"> The quantity of Level 1, 2 or 3 Breaches <u>and any other breaches of the Energy Assured Standards identified for a Member</u> for the quarter exceeds <u>0.1%</u> of the number of <u>consumers contacted</u> <u>Contacts by that Member for the quarter, as identified through the Sales Complaints provided for in the quarterly reports to the amount of homes visited taken from walk sheet data.</u> Where under clause 26.1(3) the Code Manager receives <u>complaints of</u> statements that are intentionally misleading or deceptive in nature being made consistently in relation to a particular matter by one or more Sales Agents and/or <u>the Members</u> <u>and there was no indication that such conduct was isolated, 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</u>

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Sanction No.	Description of Sanction	Description of Breach	Examples (which do not limit) of breaches that may attract the Sanction
			<p>a specific, individual or isolated factor.</p> <ul style="list-style-type: none"> • Failure to take action under clause 19.7. • Failure to review consumer contracts in accordance with clause 20.4, where the breach is not isolated and resulted in further breaches to the Energy Assured Standards. • Continual failure of Sales Agents to complete walk sheets so that consumers cannot be contacted again by the Member under the Applicable Laws. • Failure to adhere to action plans that arise out of Compliance Audit Checks on major compliance issues.
4	<p>Member appoints an independent Code Auditor at the Member's cost to audit the areas of activity where the breach(es) occurred.</p> <p>Following the audit, Member details to the Code Manager its strategy to rectify the issue and implements an agreed action plan at its cost to prevent the problem(s) recurring.</p> <p>Formal Letter of admonishment is issued to the Energy Assured Member.</p> <p>Energy Assured board, the relevant energy regulator, the ACCC and the energy ombudsman are notified of the breach and the Member is named to the Energy Assured Board, Regulator and Ombudsman bodies.</p>	<ol style="list-style-type: none"> 1. Member has been issued three or more Sanction 2s in the course of six months; or 2. Member has been issued two Sanction 2s and one Sanction 3 in the course of six months; or 3. Member has been issued two Sanction 3s in the course of six months. 	
5	<p>As per Sanction 3.</p> <p>Additionally, other Stakeholders and the public will also be notified of the breach.</p>	<ol style="list-style-type: none"> 1. Member has failed to comply with agreed action plan arising from audit conducted under Sanction 4; or 2. two Sanction 4s have been imposed on the Member in the course of twelve months. 	
6	<p>Member will be expelled (permanently or temporarily) and the</p>	<ol style="list-style-type: none"> 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 	

Sanction No.	Description of Sanction	Description of Breach	Examples (which do not limit) of breaches that may attract the Sanction
	Member's membership of Energy Assured cancelled. 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.	2. two Sanction 5s have been imposed on the Member in the course of twelve months.	

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 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 breach is more than a technical or superficial breach of the operations of the Code, and is a clear contravention of a Member's obligations under the Code;
- (3) a **material breach** is a significant breach of the Energy Assured 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 breach is a breach of the Energy Assured 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; and
- (4) a **systemic breach** is a breach of the Energy Assured 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 there ~~is a breach of the Energy Assured Standards and where a Member cannot demonstrate that where~~ the arising breach ~~the breach indicates 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 Energy Assured 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 (including a Comparator), 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(s) and Energy Marketer is subject to the Sanction;
- (2) a different Sanction is imposed on the Energy Marketer to that imposed on the Energy Retailer(s); 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 him or her;
- (2) may seek additional information or evidence in relation to the alleged breach from the Member or any other source;
- (3) must either uphold the determination of the Code Manager, or substitute his or her 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.

PART 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 their absolute discretion, grant an extension of time to the Appellants 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.
- 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 Energy Assured 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 including but not limited to the removal of the 'Deregistered' Accreditation Status of the Sales Agent on the Energy Assured 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.
- 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 Energy Assured for the purposes of the appeal.
- 30.11 The Panel Member(s):
- (1) must follow any policy formulated by Energy Assured for the purposes of conducting appeals, and any policy under clause 12.4.
 - (2) must consider the breach *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 breach from the responsible Energy Retailer, Comparator, Agent or any other source;
 - (4) must either 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 of any action that must be taken under the determination, including the removal of the Warning Notice and Sanction recorded against records of that Member under clause 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 Energy Assured under clause 9.6;
- (3) **Applicable Laws** 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;
- ~~(7)(8)~~ **Code Auditor** means an independent body (which will be a reputable firm of auditors) engaged by Energy Assured;
- ~~(8)(9)~~ **Code Manager** means the individual appointed by Energy Assured to carry out the day to day administration and management of the Code whose role is set out in clause 10;
- ~~(9)(10)~~ **Code Panel** means the panel of people who are independent of Energy Assured, the Code Manager, and the Members whose role is set out in clause 12;
- ~~(10)(11)~~ **Comparator** means an Energy Marketer that engages in Sales Activities for more than one Energy Retailer at a customer's premises;
- ~~(11)(12)~~ **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)(13)~~ **Compliance Check Audit** means a formalised audit conducted by the Code Auditor on individual Member compliance with the Codean activity conducted by the Code Manager to check a Member's compliance with the Code. Activities can include, but are not limited to desktop audit, site visits, Sales Agent interviews and mystery shopping;
- (14) **Consumer Advocacy Group** means any non-government consumer or community organisation that provides a voice for consumers;
- (15) **Contacts** means the number of home visits taken from walk sheet data;
- ~~(13)~~
- ~~(14)(16)~~ **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)(17)~~ **Deregistration Application** means an application made to the Code Manager requesting that a Sales Agent be deregistered from the Energy Assured Register;
- ~~(16)(18)~~ **Energy Assured** means Energy Assured Limited;
- ~~(17)(19)~~ **Energy Assured Logo** means the Energy Assured logo that demonstrates that the Sales Agent complies with this Code;

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- ~~(18)~~(20) **Energy Assured Register** means the database register of Sales Agents accredited under the Code which is administered and monitored by Energy Assured;
- ~~(19)~~(21) **Energy Assured Standards** means the standards for the conduct of Sales Activities as set out in clauses 3 to 6;
- ~~(20)~~(22) **Energy Marketer** means a company that engages in Sales Activities on behalf of Energy Retailers;
- ~~(21)~~(23) **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)~~(24) **Experienced Sales Agent** is a Sales Agent that has met the conditions contained in clause 10.2 of the Procedures Guideline. Experienced Sales Agents must be registered on the Energy Assured Register;
- ~~(23)~~(25) **Formal Competency Assessment** means an assessment of the competency of a Sales Agent to comply with the Energy Assured 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)~~(26) **Level** means the level of a breach of the Energy Assured Standards, as categorised in accordance with clause 20;
- ~~(25)~~(27) **Level 1, 2 or 3 Breach** means a breach of the Energy Assured Standards that has been categorised in accordance with clause 20;
- ~~(26)~~(28) **Marketing Codes** means the relevant jurisdictional Marketing Codes that govern face to face sales in the retail energy market;
- ~~(27)~~(29) **Marketing Material** means the marketing material developed by Energy Assured in accordance with clause 9.4(2), which contains the information set out in clause 9.5;
- ~~(28)~~(30) **Member** means an Energy Retailer or Energy Marketer that has signed the Energy Assured membership form which indicates their agreement to abide by Energy Assured Constitution and in doing so, agreed to adhere to this Code;
- ~~(29)~~(31) **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;
- ~~(30)~~(32) **On-job Training** means field training undertaken by a Sales Agent under the supervision of an Experienced Sales Agent;
- ~~(31)~~(33) **Panel Member** means a member of the Code Panel;
- ~~(32)~~(34) **Procedures Guideline** means the procedural rules that underpin this Code to which Members must adhere to in order to comply with this Code;
- ~~(33)~~(35) **Post Sale Verification Procedure** means a procedure whereby a consumer is communicated with after they have entered into a new energy supply contract via a door to door sale and before the consumer is transferred to the new Energy Retailer. The Post Sale Verification Procedure is 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 “retailer YYY” for the retail supply of electricity and/or gas to your premises?

- (b) Do you understand that you have a ten 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?

~~(34)~~(36) **Quarterly Report** has the meaning given to it in clause 25.1.

~~(35)~~(37) **Sales Activities** means the face to face marketing of energy supply to consumers, including through door to door, kiosk, and other marketing mediums, but excluding marketing that occurs at the premises of an Energy Retailer;

~~(36)~~(38) **Sales Agent** means any individual authorised by a Member who solely represents a Member (and/or a Member's associated companies or Sub-Agency Principal) for the purposes of engaging in Sales Activities, where the principal function of such individual is to market either energy supply alone or energy supply and other domestic utility services to domestic consumers;

~~(37)~~(39) **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;

~~(38)~~(40) **Sales Complaints Handling Process** means the process for handling Sales Complaints established by an Energy Retailer under clause 17.1 or Comparator under clause 17.2;

~~(39)~~(41) **Sanction** means disciplinary action or any other sanction imposed on a Member under clause 28;

~~(40)~~(42) **SIDN** means the sales agent identification number allocated to a Sales Agent when they are first registered on the Energy Assured Register;

~~(43)~~ **Sub-agent Principal** means an entity-organisation of Sales Agents engaged by an Energy Marketer to undertake Sales Activities on its behalf;

~~(41)~~(44) **Sub-agent Principal** means the person(s) responsible for the engagement of the Sales Agents in the Sub-agent;

~~(45)~~ **Systemic Issue** means any one of the following:

(a) a Systemic Breach as defined in clause 28.3;

(b) any systemic breach for which a level 3 sanction is imposed under clause 28.228.2 or

(c) the quantity of Level 1, 2 and 3 breaches recorded against Sales Agents representing the Member for a quarter (as a percentage of the Member's Contacts for the quarter) is more than double the average quantity of Level 1, 2 and 3 breaches recorded against Sales Agents representing all Members (as a percentage of total Contacts for all Members for the quarter).

~~(42)~~ and

~~(43)~~(46) **Warning Notice** has the meaning given to it in clause 27.

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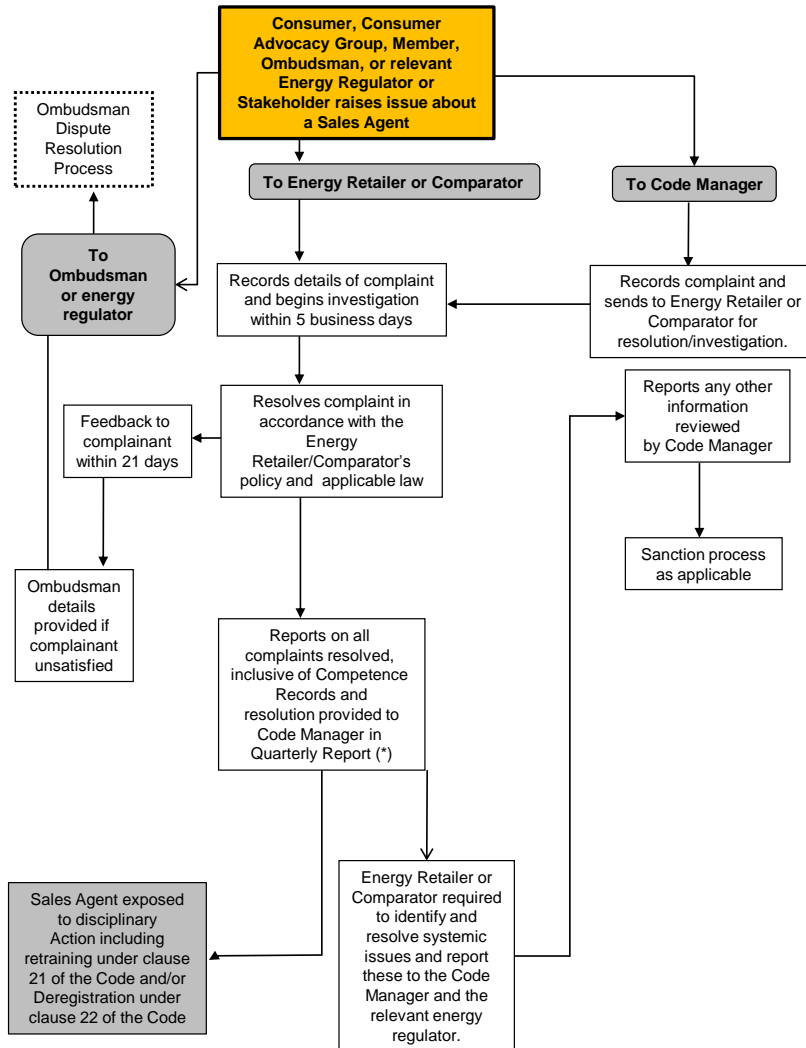
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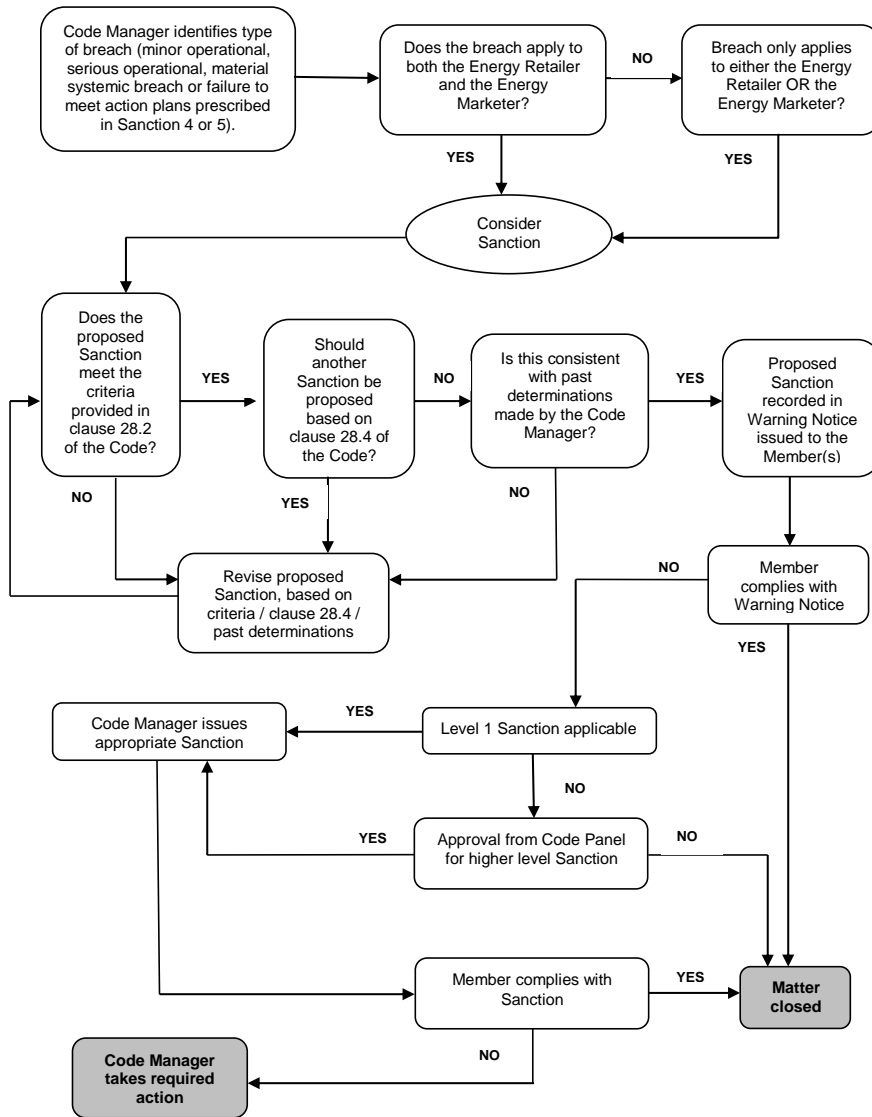
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Annexure A - Sales Complaint Handling Process (Flow Chart)



(*) Unresolved complaints are reported at the end of the complaint and roll over to subsequent month's reporting until resolved.

Annexure B - Determining an Appropriate Member Sanction (Flow Chart)



Annexure C - Security for Appeal - effective 16 January 2014. Fees increase 5% each year.

Appellant	Matter Appealed	Number of Panel Members Hearing the Appeal	Cost
Sales Agents	Deregistration	1	\$110.25
Energy Retailers	Sanction 1	1	\$330.75
	Sanction 2	1	\$330.75
	Sanction 2	3	\$992.25
	Sanction 3	1	\$330.75
	Sanction 3	3	\$992.25
	Sanction 4	3	\$992.25
	Sanction 5	3	\$992.25
	Sanction 6	3	\$992.25
Energy Marketer	Sanction 1	1	\$330.75
	Sanction 2	1	\$330.75
	Sanction 2	3	\$992.25
	Sanction 3	1	\$330.75
	Sanction 3	3	\$992.25
	Sanction 4	3	\$992.25
	Sanction 5	3	\$992.25
	Sanction 6	3	\$992.25

1. Appeals shall be accompanied by cash or a cheque drawn in favour of "Energy Assured Limited" for the prescribed sum set out above or may be electronically transferred to Energy Assured's bank account.
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 Energy Assured'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 Energy Assured 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 Energy Assured the costs of conducting the appeal as determined by the Panel Member(s) within twenty eight (28) days of receiving a tax invoice from Energy Assured.
7. The costs are effective as of 1 January 2014, and will escalate by 5% per annum thereafter.

Annexure D - Form A - Deregistration Application

Name of Sales Agent*	
Address of Sales Agent*	
Contact details of Sales Agent* (fax, email, home phone, telephone, other contacts of Sales Agent)	
SIDN*	
Name of Member complainant*	
Address of Member complainant	
Section(s) of Code allegedly breached*	
Description of actions, omissions and circumstances which comprise the alleged breach*	
Evidence in support of the alleged breach (Attach any documents you wish to be considered)	
Steps taken to notify Sales Agent of the Sales Complaint and application to deregister the Sales Agent*	
Details of previous breaches of the Code by the Sales Agent	
Response and any documents received from the Sales Agent*	
Date of Deregistration Application	

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 Energy Assured or any officer or subcontractor of Energy Assured as a consequence of
 - (a) 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
 - (b) 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 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 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

Name of Sales Agent	
Address of Sales Agent	
Contact details of Sales Agent (fax, email, home phone, telephone, other contacts of Sales Agent)	
Energy Assured ID Number	
Particulars of breach(es)	
Evidence	
Deregistration period	

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.

Date of issue	
----------------------	--

Annexure F - Form C - Member Complaint

Name of Member*	
Date of Complaint*	
Section of Code allegedly breached*	
Description of actions, omissions and circumstances comprising the alleged breach*	
Evidence in support of the above (attach any documents you wish to be considered)	
Details of previous known breaches of the Code	

Date of receipt of Member Complaint	
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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 Member Complaint may result in the dismissal of the Member Complaint.
- 3 Note that a copy of this Member 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 Member 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; and
 - (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 Energy Assured or any officer or subcontractor of Energy Assured as a consequence of
 - (a) any costs of any nature which the Member may incur (including, but not limited to, legal costs) in answering the Complaint; or
 - (b) 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

Name of Member	
Section(s) of Code found to be breached	
Particulars of breach	
Evidence in support of the breach(es)	
Sanction and any particulars and terms	

Copies of the Energy Assured 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.

Date of issue	
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Annexure H - Form E - Notice of Appeal (Sales Agent)

Name of Appellant*	
Contact details of Appellant*	
Name of the Complainant*	
Energy Assured ID Number	
Ground(s) of appeal*	
Particulars of ground(s) of appeal	
Evidence in support of appeal (Attach any documents you wish to be considered).	
Determination to which the appellant will consent	

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.

Date of receipt of Notice of Appeal	
Panel Member that will be hearing the appeal:	
Date Referred to Panel Member:	

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; and
 - (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 Energy Assured or any officer or subcontractor of Energy Assured 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)

Name of Appellant*	
Contact details of Appellant for correspondence*	
Name of other party to Complaint*	
Ground(s) of appeal*	
Particulars of ground(s) of appeal*	
Evidence in support of appeal	
Sanction to which the Appellant will consent	
Time requested to provide further information not contained in this Notice of Appeal and Reasons	

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*

Date of receipt of Notice of Appeal	
Panel Member(s) that will be hearing the appeal:	
Date referred to Panel Member:	

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; and
 - (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 Energy Assured or any officer or subcontractor of Energy Assured 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.

Energy Assured Limited Procedures Guideline

Introduction

1 Aims

- 1.1 This document is called the Energy Assured Limited Procedures Guideline (**Procedures Guideline**).
- 1.2 The Code of Practice (**Code**) and this Procedures Guideline, provide Members with a uniform and standardised industry approach for:
- (1) training and recruiting Sales Agents;
 - (2) tracking and registering Sales Agents;
 - (3) assessing Sales Agents through an accreditation process;
 - (4) ensuring Member compliance;
 - (5) dealing with Sub-agent Principals;
 - (6) applying a framework in which Members can apply to the Code Manager to deregister a Sales Agent from the Energy Assured Register for material breaches of the Energy Assured Standards; and
 - (7) the appeal process for Sales Agents and Members.

2 Interpretation

- 2.1 This Procedures Guideline sets out the procedures, principles and processes that underpin the Code for the operation of the Energy Assured Scheme for:
- (1) registering and maintaining Sales Agents on the Energy Assured Register;
 - (2) recruiting, training and assessing Sales Agents;
 - (3) the application of fees; and
 - (4) dealing with Sub-agent Principals.
- 2.2 If any part of this Procedures Guideline is inconsistent with the Code, the Code will prevail to the extent of the inconsistency.
- 2.3 Capitalised words appearing in this Procedures Guideline have the meaning given to them in the Dictionary section, are defined in the Code or defined in **bold** in the body, of this Procedures Guideline.

3 Operational Personnel

- 3.1 Each Member must ensure that they have an appropriate governance framework and operational personnel to comply with the Code and this Procedures Guideline including appointing personnel to fulfil the roles set out in Annexure C.

Energy Assured Register

4 Registration of Sales Agents, Assessors and Sub-agent Principals =

4.1 Members must:

- (1) obtain the following information about each Sales Agent, Assessor and Sub-agent Principal (as applicable)(**Registree**) ("**Details**") in writing:
 - (a) first name;
 - (b) middle name;
 - (c) surname;
 - (d) date of birth;
 - (e) passport number or Australian driver's licence number or proof of ID number;
 - (f) Australian State or Territory of residence;
 - (g) photograph; and
 - (h) any additional information required by the Code Manager from time to time.
- (2) ensure that the Registree understands that the Details will be used on the Energy Assured Register, how those Details will be used, and who will have access to those Details;
- (3) obtain the written agreement of the Registree to use their Details on the Energy Assured Register; and
- (4) retain copies of the Details and the written agreements signed by each Registree.

4.2 Before the Sales Agent undertakes Sales Activities, the Member must create or update a record for each Sales Agent engaged by it by populating the Energy Assured Register with the Details about each Sales Agent along with the following information (**Sales Agent Profile**):

- (1) Sales Agent ID number given by the Member;
- (2) Energy Retailer;
- (3) Energy Marketer (if applicable);
- (4) start date;
- (5) Accreditation Status;
- (6) award date;
- (7) extension award date (if applicable);
- (8) expiry date;
- (9) extension expiry date;
- (10) Confirmation of criminal history check and 100 point identity check;
- (11) if the Sales Agent is an Experienced Sales Agent, that fact; and
- (12) any additional information required by the Code Manager from time to time.

- 4.3 Upon the creation of each Sales Agent Profile, the Sales Agent will be allocated a unique Sales Agent Identity Number (**SIDN**).
- 4.4 The SIDN will be the primary means by which the Member will store records on the Energy Assured Register. The SIDN can be different to a Sales Agent's ID number issued by the Member.
- 4.5 Once a SIDN is issued, the Member can affix the Energy Assured Logo to the Member's Identification Badge, highlighting to the consumer that the Sales Agent is being accredited under the Energy Assured Scheme.
- 4.6 In addition to Sales Agents, Members must register all Experienced Sales Agents, Assessors and Sub-agent Principals that they engage, on the Energy Assured Register.

5 Register Maintenance

- 5.1 Members must ensure that the data contained in the Energy Assured Register is accurate and up-to-date within the timeframes prescribed in this Procedures Guideline.
- 5.2 All Members must routinely check the Energy Assured Register for all Sales Agent recruits during both the recruitment process and when creating or updating a Sales Agent Profile.
- 5.3 Members must keep a record of Sales Agent's details that will reconcile with information contained in the Energy Assured Register.
- 5.4 Each Member must carry out a monthly reconciliation between the Sales Agents detailed on the Energy Assured Register for that Member and the Member's own internal database of Sales Agents (**Reconciliation**). The Reconciliation should be prepared in accordance with the guidance notes issued by the Code Manager and should be submitted to the Code Manager at the same time as an Energy Retailer would be required to submit a Report under the Code.

6 Access to Energy Assured Register

- 6.1 A Member will only be permitted to access the Sales Agent Profiles of Sales Agents directly or indirectly engaged by it. A Member will not have access to the Sales Agent Profiles of Sales Agents engaged by other Members unless:
 - (1) the Member is an Energy Retailer and those Sales Agents are engaged indirectly by the Energy Retailer through an Energy Marketer; or
 - (2) the Sales Agent has been given an Accreditation Status of Leaver or Deregistered.
- 6.2 The Code Manager may inform any Member of the deregistration of any Sales Agent.
- 6.3 Any Member may view the following details of any Sales Agent registered on the Energy Assured Register, in accordance with clause 6.1:
 - (1) first name;
 - (2) middle name;
 - (3) surname;
 - (4) Sales Agent photograph;
 - (5) SIDN; and
 - (6) history of Accreditation Status.
- 6.4 In order to view the information about a Sales Agent listed in clause 6.2, a Member must have the Sales Agent's date of birth and one of the following:

- (1) SIDN; or
- (2) passport number; or
- (3) driver's licence number (Class C or Class R); or
- (4) proof of ID number.

- 6.5 Each Member may nominate persons who are authorised to access the Energy Assured Register on its behalf (**Authorised Users**). The role of an Authorised User is set out in Annexure C. Members must provide up to date details of Authorised Users and their level of permitted access to the Code Manager on a quarterly basis.
- 6.6 The Code Manager may access any Sales Agent Profile recorded on the Energy Assured Register.
- 6.7 Energy Assured and Members must ensure that they have procedures in place to protect the confidentiality of the information contained on the Energy Assured Register and protect the privacy of Sales Agents.

7 Accreditation Procedures

- 7.1 In this clause 7, a reference to a Member is a reference to the Member that has engaged the Sales Agent.
- 7.2 The Sales Agent's Accreditation Status and corresponding privileges may be one of the following:

Accreditation Status	Description	Duration of Status	Privileges
Provisional	Applies to new Sales Agents pending completion of training and passing Competency Assessment.	Between four and six weeks.	<ul style="list-style-type: none"> Can undertake Sales Activities under supervision by an Experienced Sales Agent after Off-job Training and Off-job Assessment have been successfully completed. Can display Energy Assured Logo.
Approved	<ul style="list-style-type: none"> Sales Agent has passed a Formal Competency Assessment by an Assessor. Sales Agent has passed an Annual Competency Assessment by an Assessor. 	1 year.	<ul style="list-style-type: none"> Can undertake Sales Activities. Can display Energy Assured Logo.
Development	Sales Agent has not passed a Formal Competency Assessment or has committed a Level 2 Breach under the Code and is undergoing further training.	Up to 15 Business Days.	<ul style="list-style-type: none"> Can undertake Sales Activities under supervision by an Experienced Sales Agent. Can display Energy Assured Logo.
Suspended	Sales Agent suspended from undertaking Sales Activities pending outcome of investigation and	Up to 15 Business Days or until the Deregistration	Cannot undertake Sales Activities or display Energy Assured Logo.

Accreditation Status	Description	Duration of Status	Privileges
	determination of a Deregistration Application as a result of an alleged Level 3 Breach under the Code.	Application is finally determined. The Suspension can be extended for a further 15 days where additional consideration is necessary.	
Deregistered	Agent has been deregistered in accordance with the Code.	5 Years.	Cannot undertake Sales Activities or display Energy Assured Logo.
Inactive	Sales Agent on authorised leave.	Up to 3 Months.	Cannot undertake Sales Activities or display Energy Assured Logo.
Active	Sales Agent returned from leave but not yet re-taken and passed Formal Competency Assessment.	Generally up to 10 Business Days.	<ul style="list-style-type: none"> • Can undertake Sales Activities under supervision by an Experienced Sales Agent. • Can display Energy Assured 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 Energy Assured Logo.

7.3 Provisional Accreditation Status

A Member may enter a Provisional Accreditation Status for a Sales Agent in the Energy Assured Register:

- (1) if a Sales Agent has never been registered on the Energy Assured Register or was deregistered from the Energy Assured Register more than five years ago, after the process specified in clauses 4.1 and 4.2 has been followed; or
- (2) if a Sales Agent is already registered on the Energy Assured Register but had a Leaver Accreditation Status, the Member must log into the Energy Assured Register, search for the Sales Agent and update all information contained in the Energy Assured Register with the Sales Agent's Details in accordance with clauses 4.1 and 4.2. If there are any discrepancies between the information existing on the Energy Assured Register about a Sales Agent and the Details provided, an explanatory note must be placed on record in the Sales Agent's file.

The first day that the Sales Agent engages in Sales Activities in the field will be listed as the start date in the Energy Assured Register for that Sales Agent (**Start Date**).

7.4 Approved Accreditation Status

A Sales Agent's Provisional Accreditation Status will automatically change to Approved four weeks after the Start Date (**Award Date**). The Member must ensure that the Sales Agent has passed the Formal Competency Assessment prior to the Award Date.

If a Sales Agent does not pass the Formal Competency Assessment by the Award Date, but is considered to have the potential to do so, the Provisional Accreditation Status period can be extended for a further two weeks and a new Award Date must be noted in the Energy Assured Register (**Extension Award Date**). The Compliance Manager (whose role is set out in Annexure C), or their authorised delegate, must agree to the Provisional Accreditation Status being extended to the Extension Award Date. The Extension Award Date must be noted on the Energy Assured Register, and be kept on record for Compliance Check purposes.

The Approved Accreditation Status will expire twelve months from the Award Date, or the Extension Award Date (**Expiry Date**).

One month before the Expiry Date, a notice in writing will be sent to the Member through the Energy Assured Registry stating the date on which the Sales Agent's Accreditation Status will expire.

Before the Expiry Date, the Sales Agent must pass a Formal Competency Assessment.

Should an Agent not pass the Formal Competency Assessment before the Expiry Date, the Member must seek an extension of up to a period not exceeding 4 weeks past the Expiry Date (**Extension Expiry Date**) and reflect a change in status in the Energy Assured Register as depicted in clauses 7.5 or 7.6. The Compliance Manager or their authorised delegate must agree to the extension of the Expiry Date to the Extension Expiry Date. The Extension Expiry Date must be noted on the Energy Assured Register, and be kept on record for Compliance Check purposes.

On the Expiry Date, or the Extension Expiry Date, the Energy Assured Register will automatically renew the Sales Agent's Approved Accreditation Status for a further 12 months (resetting the Expiry Date for a further 12 months); unless the Member advises that the Sales Agent has not passed the Formal Competency Assessment.

7.5 Development Accreditation Status

A Member must enter a Development Accreditation Status for a Sales Agent in the Energy Assured Register:

- (1) if a Sales Agent with an Approved Accreditation Status is found not to have been meeting the Energy Assured Standards in accordance with the Code and a period of re-training or development is assessed as being necessary; and
- (2) within five Business Days of determining that the Sales Agent does not meet the Energy Assured Standards.

The relevant training and development must be undertaken and a Formal Competency Assessment must be performed within ten Business Days of the Development Accreditation Status being entered for the Sales Agent. After that time, the Sales Agent must be given an Approved or Suspended Accreditation Status as the case may be.

7.6 Suspended Accreditation Status

Where a Member is of the reasonable belief that a Sales Agent has breached the Energy Assured Standards in a way that may warrant Deregistration, the Member must enter a Suspended Accreditation Status for the Sales Agent in the Energy Assured Register and that status will remain on the Energy Assured Register for the Sales Agent until the investigation of the Sales Agent's conduct is completed (**Suspension Period**).

The Member must inform the Sales Agent in writing that the Sales Agent's Energy Assured Accreditation Status will be suspended pending the outcome of a thorough investigation (**Suspension Notice**). The Suspension Notice must contain:

- (1) details of the Sales Agent's right to appeal under clause 29 of the Code should suspension lead to a Deregistration Application; and

- (2) a direction that within one Business Day, the Sales Agent must cease to undertake Sales Activities on behalf of the Member, cease to use the Energy Assured Logo when conducting Sales Activities and return any identification that displays the Energy Assured Logo.

Wherever possible, and subject to a Member's documented disciplinary procedures, the Suspension Period should not be greater than 15 Business Days or until the Deregistration Application is finally determined. An extension of 15 days can be entered in the Register by the Member if additional time is required to conclude the investigation into their conduct.

If, at the end of the Suspension Period, there is found to be no issue regarding a Sales Agent's competence, the Sales Agent's Accreditation Status will be returned to the Accreditation Status which was registered immediately prior to their suspension and the details of the suspension will be removed from the Energy Assured Register.

If, at the end of the Suspension Period, the Sales Agent is found to have failed to meet the Energy Assured Standards in a way that warrants Deregistration, the Member must make an application to the Code Manager to Deregister the Sales Agent from the Energy Assured Register in accordance with the Code.

7.7 Deregistration Accreditation Status

A Member who finds that a Sales Agent no longer meets the Energy Assured Standards in a manner that cannot be remedied by re-training and development must, in accordance with the Member's internal procedures, make a Deregistration Application.

Deregistration from the Energy Assured Register will usually occur after a Suspension Period. However, if a serious breach of the Energy Assured Standards has occurred there is no requirement that there first be a Suspension Period.

Where a Member lodges a Deregistration Application, the Member must send the Sales Agent a notice in writing (by recorded delivery) that the Member has made a Deregistration Application (**Deregistration Notice**). The Deregistration Notice must contain:

- (1) details of the Sales Agent's right to appeal under clause 29 of the Code; and
- (2) a direction that within 1 Business Day, the Sales Agent must cease to undertake Sales Activities on behalf of the Member cease to use the Energy Assured Logo when conducting Sales Activities and return any identification that displays the Energy Assured Logo.

The Code Manager will review the Deregistration Application including evidence provided and administer any resulting Deregistration in accordance with the Code. If the evidence does not include a statement by the Sales Agent, the Code Manager will write to the Sales Agent inviting the Sales Agent to submit a statement prior to determining the Deregistration Application. The Sales Agent will have five Business Days to provide that statement.

7.8 Inactive/Active Accreditation Status

A Member must enter an Inactive Accreditation Status for a Sales Agent in the Energy Assured Register where the Sales Agent has an Approved Accreditation Status but has temporarily ceased Sales Activities on behalf of a Member (but has not left the Member). The Member must update the Energy Assured Register to reflect the change in the Sales Agent's Accreditation Status within 5 Business Days of the Sales Agent being deemed "Inactive".

If a Sales Agent's Accreditation is Inactive for more than 3 months, the Sales Agent's Accreditation Status will be automatically changed to "Leaver".

During any period that the Sales Agent has an Inactive Accreditation Status, the Member must not allow the Sales Agent's SIDN to be used, and must maintain any of the Sales Agent's collateral displaying the Energy Assured Logo at its premises.

A Member may enter an Active Accreditation Status for a Sales Agent where the Sales Agent has an Inactive Accreditation Status and wishes to re-commence Sales Activities on behalf of the Member. The Member must update the Energy Assured Register to reflect the change in the Sales Agent's Accreditation Status within 15 Business Days of the Sales Agent returning from leave. During the Active Accreditation Status period the Sales Agent must undertake Sales Activities under supervision of an Experienced Sales Agent until deemed competent to resume Sales Activities under an "Approved Status" after completing an On-job Assessment.

7.9 Leaver Accreditation Status

A Member must enter a Leaver Accreditation Status for a Sales Agent in the Energy Assured Register where the Sales Agent leaves the employment or engagement of the Member or has had an Inactive Accreditation Status for more than 3 months. The Member must update the Energy Assured Register to reflect the change in the Sales Agent's Accreditation Status within 5 Business Days of the Sales Agent no longer being engaged by the Member.

8 Registration Fees

- 8.1 A Member must pay a fee (**Registration Fee**) to Energy Assured when the Sales Agent is first registered by the Member on the Energy Assured Register (**Provisional Fee**) and when the Sales Agent attains an Approved Accreditation Status (**Approved Fee**).
- 8.2 A Provisional Fee is payable in relation to a Sales Agent six days from the Start Date. Should the Sales Agent no longer be employed by the Member on that date, the Member should remove the Sales Agent from the Energy Assured Register, and no Provisional Fee will be incurred.
- 8.3 An Approved Fee is payable in relation to a Sales Agent on the Award Date, or the Extension Award Date (as applicable).
- 8.4 An Approved Fee is also payable every 12 months on the Expiry Date or Extension Expiry Date (as applicable), to maintain a Sales Agent's Accreditation Status.
- 8.5 Registration Fees will be collated and forwarded to the Member in electronic format for payment (**Batch Bill**) on the same date each month (**Batch Date**). A Member must pay a Batch Bill within 14 days of the Batch Date. The Batch Bill will be based on all Provisional and Approved Fees due for the month preceding the Batch Date.

8.6 Registration Fees will be determined by the Board of Energy Assured.

8.6.7 No Registration Fee will be payable to register Experienced Sales Agents, Assessors or Sub-agent Principals.

Recruitment, Training and Competence

9 Recruitment

- 9.1 Members may only engage Sales Agents that have:
 - (1) sufficient knowledge and skills;
 - (2) sufficient previous relevant experience and training with supporting references; and
 - (3) an appropriate demeanour and 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.
- 9.2 Members may only engage Sales Agents that have:
 - (1) passed a 100-point identification check in accordance with Annexure A;

- (2) provided relevant Details and consented to the use of those Details for the Energy Assured Register;
- (3) provided proof of address; and
- (4) passed a criminal history check.

9.3 A record must be kept in the Sales Agent's HR file by the Member that provides consent for the criminal history check, the date the check was requested, the report, and any subsequent action taken as a result of the report, subject to the Member's Recruitment Policy.

9.4 When a Sales Agent has previously been listed on the Energy Assured Register and has provided a SIDN, the Member must obtain the consent of the Sales Agent to review the Sales Agent's Accreditation Status history in the Energy Assured Register and may contact the Energy Assured Member which previously engaged the Sales Agent for reference purposes. Where a Sales Agent has not previously been registered on the Energy Assured Register, the Member must obtain appropriate references in accordance with the Member's internal recruitment policies.

9.5 Members must keep a record of all background checks and eligibility checks on the Sales Agent's file.

9.6 If a Sales Agent ceases to represent the Member, a copy of his or her record must be retained by the Member for a minimum of 12 months.

10 Training

10.1 All new Sales Agents must undergo:

- (1) Off-job Training; and
- (2) On-job Training under the supervision of an Experienced Sales Agent whilst on a Provisional Accreditation Status.

10.2 For the purposes of clause 10.1(2), an Experienced Sales Agent must be registered within the Energy Assured Register as an Experienced Sales Agent and at the time of conducting the supervision have:

- (1) an Approved Accreditation Status under the Energy Assured Register;
- (2) not had a breach of the Energy Assured Standards registered against their performance in last 12 months in the Competence Register Record; and
- (3) been provided with training to effectively supervise new Sales Agents under the Energy Assured Standards.

10.3 Members must ensure that the outcomes of the Off-job Training and On-job Training are clearly documented to ensure consistency in the training methodologies used.

10.4 Off-job Training can be run in conjunction with On-job Training as long as the new Sales Agents do not meet with consumers unsupervised until they have passed an Off-job Assessment.

10.5 Whilst it is the responsibility of the Member to ensure that Sales Agents are trained appropriately to standards that meet the requirements of Applicable Laws, there are a number of minimum requirements that must be covered in Off-job Training as set out in the Code.

10.6 Each new Sales Agent must complete a written assessment that demonstrates that the Sales Agent has successfully attended and understood the Member's Off-job Training (**Off-job Assessment**). The Member must keep the Off-job Assessment in the Sales Agent's file, signed and dated by the Sales Agent and the trainer that conducted the Off-job Training.

- 10.7 During On-job Training, the new Sales Agent must demonstrate the ability to perform to the Energy Assured Standards as determined by the Member, including demonstrating the ability to promote and sell the product. The Sales Agent must be assessed on their performance (**On-job Assessment**) based on the sample provided in Annexure B and in accordance with Annexure D. The Member must keep the On-job Assessment in the Sales Agent's file, signed and dated by the Sales Agent and the individual who conducted the On-job Training.
- 10.8 Prior to obtaining an Approved Accreditation Status, the new Sales Agent must demonstrate that they are competent in, and can consistently meet, all of the Energy Assured Standards by completing a Formal Competency Assessment. The Formal Competency Assessment:
- (1) must be based on the sample provided in Annexure B;
 - (2) must be in accordance with Annexure D;
 - (3) must be administered by an Assessor who must observe the Sales Agent directly and consider other key performance evidence, as determined by the Member; and
 - (4) cannot be completed until the Sales Agent has successfully completed the On-job Assessment and Off-job Assessment.
- 10.9 For the purposes of clause 10.8 (3), an Assessor must be registered within the Energy Assured Register at the time of conducting the supervision, be independent of the Sales Agent and the Sales Agent's supervisor/team leader and have:
- (1) worked for a Member for not less than three months;
 - (2) an Approved Accreditation Status under the Energy Assured Register;
 - (3) not had a breach of the Energy Assured Standards registered against their performance under the Competence Records Register in last 12 months; and
 - (4) been provided with training to effectively assess new Sales Agents under the Energy Assured Standards,
- or have been engaged externally by the Member to perform the role of Assessor and have received appropriate training to perform assessments on Sales Agents under the Energy Assured Standards.
- 10.10 Members must ensure that they have policies and procedures in place that detail the requirements in conducting a Formal Competency Assessment on a Sales Agent.
- 10.11 Stages of Accreditation in the first 4 weeks:

Training/Assessment Outcome	Accreditation Status	Sales Agent Privileges
Completion of Off-job Training	Provisional	If passed "Off-job Assessment" can commence On-job Training.
Commencement of On-job Training	Provisional	Must be accompanied by an Experienced Sales Agent when visiting consumers. When deemed competent and passed "On-job Assessment" can visit consumers unsupervised, however with ongoing support.
Formal Competency Assessment (within 4 weeks)	Approved	When deemed competent and reviewed by qualified Assessor under a Formal Competency

		Assessment, may visit consumers alone with normal supervision.
Assessments demonstrate Sales Agent has not been operating to the Energy Assured Standards	<ul style="list-style-type: none"> Withdrawn for serious or persistent Sales Complaints or misconduct; or Changed back to Development if was at Approved. 	See clause 7.

11 Annual Competency Assessment

- 11.1 In addition to the training and assessment that must be undertaken by a new Sales Agent in accordance with clause 10, Members must ensure that they conduct a Formal Competency Assessment on Sales Agents with an Approved Status each year before the Expiry Date (**Annual Competency Assessment Process**).
- 11.2 The Annual Competency Assessment Process will be reviewed by the Compliance Manager (whose role is set out in 0Annexure C) to ensure that it is carried out against the Energy Assured Standards.
- 11.3 The Code Manager will review the Annual Competency Assessment Process to ensure consistency across all Members.
- 11.4 The Code Manager retains the right to visit Members in order to verify that appropriate measures are being taken in respect of the Annual Competency Assessment Process.
- 11.5 Roles & responsibilities of individuals involved in the Annual Competency Assessment Process are set out in Annexure C.
- 11.6 Members must ensure that they keep a record of Sales Agent assessments, including results of the Formal Competency Assessment, and the date by which the next Formal Competency Assessment must be administered.
- 11.7 Members must:
- (1) appoint and train their Assessors/Experienced Sales Agent and keep records of those appointments and training;
 - (2) ensure that for all assessments conducted on Sales Agents that a record of which Assessor/Experienced Sales Agent conducted the assessment is maintained;
 - (3) demonstrate to the Compliance Manager that the Member has adequate internal control processes to monitor the quality and consistency of the work of Assessors/Experienced Sales Agents including:
 - (a) sampling the assessments of Assessors/Experienced Sales Agents to ensure consistency and quality in assessments conducted;
 - (b) ensuring up to date records of internal verification and sampling activity are maintained and these are available for Energy Assured Compliance Check purposes;
 - (c) ensuring that Assessors/Experienced Sales Agents remain competent to assess and are provided with information and guidance to ensure that they understand their responsibilities under the Energy Assured Standards and are provided guidance on the Sales Complaint Handling Process;
 - (d) ensuring that all assessment forms are signed by both the Sales Agent and the Assessor/Experienced Sales Agent performing the assessment; and

- (e) where a failure in an assessment is identified, have in place procedures to review previous assessments done by the Assessor/Experienced Sales Agent where the failure has been identified, and, if required, conduct reassessments of any suspect historical assessments.
- (4) where an Assessor/Experienced Sales Agent has breached their responsibilities in ensuring Sales Agents are competently assessed under the Energy Assured Standards, have procedures in place to ensure that corrective action is taken, which may include Deregistration.

12 Sub-agent Principals

As stated in the Code, Energy Marketers may engage Sub-agent Principals to conduct Sales Activities on their behalf. Energy Marketers must ensure that Sub-agent Principals and their managers-Sales Agents must meet the Energy Assured Standards, and Members may be sanctioned for failing to adequately manage Sub-agency Principals or their Sales Agents.

Dictionary

13 Definitions

13.1 In this Procedures Guideline:

- (1) **Accreditation Status** means one of the levels of accreditation that may be attained by a Sales Agent as set out in clause 7;
- (2) **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;
- (3) **Business Day** means a day that is not a Saturday, Sunday or public holiday in jurisdiction in which the Sales Agent conducts Sales Activities;
- (4) **Code Manager** means the individual appointed by Energy Assured to carry out the day to day administration and management of the Code whose role is set out in the Code;
- (5) **Code** means the Code of Practice and any documents incorporated in this Procedures Guideline;
- (6) **Code Panel** means the panel of people who are independent of the Energy Assured, the Code Manager and the Members whose role is set out in the Code;
- (7) **Competence Assessment Process** means controls, processes and systems that enable the assessment of the competency of Sales Agents to comply with the Energy Assured Standards;
- (8) **Competence Records Register** means the record that is used to measure Levels of breaches that are recorded against a Sales Agent under clause 19 of the Code;
- (9) **Deregistration Application** means an application made to the Code Manager requesting that a Sales Agent be deregistered from the Energy Assured Register;
- (10) **Energy Assured** means Energy Assured Limited;
- (11) **Energy Assured Logo** means the Energy Assured logo that demonstrates that the Sales Agent complies with this Code;
- (12) **Energy Assured Register** means the database register of Sales Agents accredited under the Energy Assured Scheme which is administered and monitored by Energy Assured;

- (13) **Energy Assured Scheme** means the training and accreditation scheme for Sales Agents;
- (14) **Energy Assured Standards** means the standards for the conduct of Sales Activities as set out in the Code;
- (15) **Energy Marketer** means a company that engages in Sales Activities on behalf of Energy Retailers;
- (16) **Energy Retailer** means an entity that holds a valid licence or similar authorisation, issued by the relevant government regulator, to retail electricity and/or gas;
- (17) **Formal Competency Assessment** means an assessment of the competency of the Sales Agent to comply with the Energy Assured 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;
- (18) **Member** means an Energy Retailer or Energy Marketer that has signed the Energy Assured Constitution and in doing so, agreed to adhere to this Code;
- (19) **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;
- (20) **On-job Training** means field training undertaken by a Sales Agent under the supervision of an experienced Sales Agent;
- (21) **Sales Activities** means the face-to-face marketing of energy supply to consumers;
- (22) **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;
- (23) **Sales Complaint** means a complaint made by a consumer, Consumer Advocacy Group, energy ombudsman, relevant regulator, government agency or other interested party about a Sales Agent's Sales Activities;
- (24) **Sales Complaint Handling Process** means the process for handling Sales Complaints established by an Energy Retailer under the Code;
- (25) **Sanction** means disciplinary action or any other sanction imposed on a Member under the Code; ~~and~~
- ~~(26) **SIDN** means Sales Agent Identification Number allocated to a Sales Agent when they are first registered on the Energy Assured Register;~~
- ~~(27) **Sub-agent** means an organisation of Sales Agents engaged by an Energy Marketer to undertake Sales Activities on its behalf; and~~
- ~~(28) **Sub-agent Principal** means the person(s) responsible for the engagement of the Sales Agents in the Sub-agent.~~
- ~~(26) -~~

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Annexure A

100-point identification check

IDENTIFICATION	SCORE	SIGHTED
Primary		
Passport – a current passport or expired passport (can be expired maximum of two years, but not cancelled)	70	
Citizenship certificate – or certified copy	70	
Birth Extract/Birth certificate – or certified copy	70	
Secondary		
Licence issued under an Australian State law (e.g. Drivers licence)	40	
Identification Card issued under an Australian State Law (e.g. Proof of Age)	40	
Employment ID		
• ID card issued by employer (name & address)	35	
• ID card issued by employer (name only)	25	
Letter from employer (within last two years)		
• Confirming name and address	35	
Student ID Card (Tertiary)		
• Must contain a photo and/or signature	40	
Rates Notice	25	
Credit/debit cards/passbooks (only one per institution)	25	
Medicare Card (signature not required)	25	
Membership card (club, union or trade, professional bodies)	25	
Foreign Driver License (name & signature)	25	
Records of a public utility – phone, water, gas or electricity bill (must have name & address)	25	
Rent receipt from a licensed real estate agent	25	
Recent arrival in Australia– Valid Passport	100	
TOTAL		

Annexure B

On-job Assessment Form (Sample)

Sales Agent	Name	SIDN	
	Date of Assessment	Date of previous Assessment	
Assessor	Name	SIDN	
Personal Preparation	Appearance meets Member's standards	YES	NO
	ID card visible, current and in good condition	YES	NO
	Sales presenter up to date and complete	YES	NO
	Walk sheet process understood	YES	NO
Out in the field	Uses walk sheet (or equivalent) accurately	YES	NO
	Respects "do not knock" notices	YES	NO
	Respects property, customer privacy and OH&S obligations	YES	NO
Approach to Consumer	States name	YES	NO
	Presents ID	YES	NO
	Correctly states purpose of visit	YES	NO
	Advises customer that the Sales Agent must leave if asked to do so	YES	NO
	States name of Company (Member) they represent	YES	NO
	Establishes consumer is decision maker or authorised to enter into a contract	YES	NO
Presentation	Uses sales presenter during sales pitch	YES	NO
	Carries out accurate price comparisons	YES	NO
	Correct feature of the product is given (inclusive of eligibility for concessions, rebates or grants)	YES	NO

	Does not use cooling off period as a sales pitch	YES	NO
	Does not provide false, derogatory or misleading statements	YES	NO
	Recognises when to end visit	YES	NO
Sales Agent behaviours	Courteous & Professional	YES	NO
	Does not exaggerate or use high pressure techniques	YES	NO
	Takes into account ethnicity/diversity	YES	NO
	Recognises and respects a vulnerable situation	YES	NO
	Obtains explicit informed consent to switch energy retailer	YES	NO
Contract	Ensures the customer has a copy of the contract & right to cancel notice	YES	NO
	Ensures the customer has welcome pack inclusive of complaints procedure	YES	NO
	Ensures the customer has pricing form	YES	NO
	Ensures the customer has written acknowledgement & price fact sheet where required	YES	NO
	Ensures the customer has contact details	YES	NO
	Leaves Energy Assured marketing material	YES	NO
	Ensures the sales verification call is conducted appropriately without any coaching by the Sales Agent	YES	NO
Contract administration	All fields filled in correctly	YES	NO
	Signed and dated by completed correctly	YES	NO
	Signed by agent with SIDN easily displayed	YES	NO
Other	Understands Sales Complaints & Breach Levels that could be raised against them	YES	NO
	Displays behaviours that addresses a Sales Complaint (if applicable)	YES	NO
	Sales Agent Cancellation Rate within average benchmark	YES	NO
	Other Key Performance Indicators	YES	NO

Annexure C

Roles and Responsibilities

Role	Appointed by	Responsibilities within the Assessment & Monitoring Process
Energy Assured Code Manager	Energy Assured Board	<ul style="list-style-type: none"> Undertakes all responsibilities outlined in CI 10.2 of the Code.
Energy Assured Code Operations Manager	Energy Assured CEO	<ul style="list-style-type: none"> Assists the Code Manager in the day to day administration and management of the Code.
Energy Assured Compliance Manager	Energy Retailer	<ul style="list-style-type: none"> Oversees the operation of the Energy Assured Scheme and fully understands the Member's obligations under the Code and Procedures Guideline. Ensures that the Energy Marketer that they may use adheres to the Code and this Procedures Guideline. Ensures that all systems and procedures are open to the scrutiny of the Code Manager as requested and within the prescribed time frames. Ensures compliance under the Code and Procedures Guidelines by ensuring that: <ol style="list-style-type: none"> Sales Agents are recruited as determined in accordance with the Code and Procedures Guideline; appropriate measures are adopted to ensure that Sales Agents are competent under the Energy Assured Standards; the registration process is being followed; Sales Agents are properly assessed under the Formal and Annual Competency Assessments; issues are monitored as determined in the Sales Complaints Handling Process and the Competence Register; and that there is appropriate documentation, systems and processes to meet these requirements. Responsible for applications to Code Manager for deregistration of Sales Agent. Provides Compliance Reports to Code Manager. Liaises with Code Manager.
Member Operations Manager	Member	<ul style="list-style-type: none"> Providing assistance and support to Assessors. Providing information that supports application for change in Accreditation Status of the Sales Agent. Ensuring Assessors are accurately interpreting the Energy Assured Standards and have the systems in place that identify discrepancy with interpretations. Monitoring that all assessments are fair, valid, qualitative and reliable. Liaising with the Compliance Manager.

Role	Appointed by	Responsibilities within the Assessment & Monitoring Process
		<ul style="list-style-type: none"> Monitoring the Energy Assured Register, the Sales Complaint Handling Process and the Competence Register. Ensuring that all relevant information is provided to the Assessors to facilitate an appropriate assessment of a Sales Agent. Ensuring that it has appropriate systems, procedures & documentations in place that meet requirements under the Code and Procedures Guideline. Maintaining accurate and verifiable Sales Agent assessment and achievement central records as required by the Code and Procedures Guideline for all Off-Job, On-Job and Formal Competency Assessments. Approving changes in Accreditation Status' of Sales Agents and responsibility for ensuring Authorised Users update the Energy Assured Register as required.
Assessor	Member	<ul style="list-style-type: none"> Administers Formal Competency Assessment on Sales Agents. Depending on outcome of assessment, makes recommendations of training needs of Sales Agent and/or a change in Accreditation Status in the Energy Assured Register as required by the Member's Operation Manager. Assesses evidence of Sales Agent competence against the Energy Assured Standards. Is independent to the Sales Agent and their team leader. Conducts random assessments in accordance with the Code.
Experienced Sales Agent	Member	<ul style="list-style-type: none"> Delivery of On-job Assessment on new Sales Agents, prior to new Sales Agent being allowed to visit consumers unaccompanied. Providing accurate and verifiable On-job Assessment and achievement records to the Operations Manager.
Authorised User	Member	<ul style="list-style-type: none"> Dependent on level of access can: <ul style="list-style-type: none"> Search Agents; Amend Agents; Create Agents; and/or Run Reports. Sole individual allowed to search and change the Accreditation Status of a Sales Agent in the Energy Assured Register

Annexure D

On-job and Formal Competency Assessment

On-job Assessment	
Visit by Sales Agent to consumer accompanied by Experienced Sales Agent. The Sales Agent must clearly understand the standards he/she is to be assessed against and the way in which he/she is going to be informally assessed.	<p>Sample of what may be used:</p> <ul style="list-style-type: none"> Experienced Sales Agent to ensure new Sales Agent understands the requirements under the On-job Competency Assessment; Experienced Sales Agent ensures that the new Sales Agent understands how the Energy Assured Accreditation Status works and under what circumstances it may be changed; Experienced Sales Agent to ensure that the new Sales Agent is aware of the Energy Assured Standards and how they are going to be assessed in the future; and/or Experienced Sales Agent to conduct an On-job Assessment on the new Sales Agent.
Formal Competency Assessment	
Stage 1 Prepare for the Assessment (Sales Agent and Assessor). The Sales Agent must clearly understand the standards he/she is to be assessed against and the way in which he/she is going to be formally assessed.	<p>Sample Questions that may be asked:</p> <ul style="list-style-type: none"> Are you aware of the purpose of this Assessment? Can you explain the various levels of Accreditation Status and under what circumstances can the Accreditation Status be Deregistration? Have you read the Code and do you understand it? Can you describe some of the Energy Assured Standards and how you can be in breach of them? When you were last accompanied on a visit to a consumer, by whom and what was the feedback you received? Have you received any other feedback about your performance, e.g. from Sales complaints, quality assurance checks etc... What have you learnt from previous feedback and what have you changed? Have you been informed about the disciplinary procedures that apply to you if you breach the Energy Assured Standards and do you understand your rights of appeal, if there is a change in Accreditation Status to Deregistered?
Stage 2 Collecting the Evidence (Sales Agent & Assessor)	<p>Responsibilities:</p> <ul style="list-style-type: none"> Assessor to ensure he/she understands the Competency Assessment. Assessor to gather any supplementary documentary evidence before the assessment (this will vary dependent on tenure of the Sales Agent). Assessor to gather information as a result of the Formal Competency Assessment. Assessor to gather results of Off-job Assessment and On-job Assessment of Sales Agent. Sales Agent to introduce the Assessor to consumers, but assure that the Assessor is simply there as an observer. Assessor to record activities on the Member's Formal Competency Assessment form.
Stage 3	<p>Responsibilities:</p> <ul style="list-style-type: none"> Assessor to take into account achievements noted during observation.

	<ul style="list-style-type: none">• Assessor to identify evidence that does not meet the requirements of the Energy Assured Standards and to discuss the identified evidence with the Sales Agent and give feedback.• Assessor to agree an action plan if necessary, to undertake further training and record the agreed actions in writing• Assessor to provide a written recommendation as to the Sales Agent's competence. Members are to ensure that they provide Sales Agents with a guide as to how this is to be determined. The Code Manager will review these to ensure consistency across all Members.• Assessor to inform the Sales Agent of the recommendation, inclusive a change in status if warranted, that all assessments are subject to verification by the Operations Manager, and that if he/she disagrees with the assessment decision, he/she has a right to appeal under the Members Dispute Resolution Process.• Sales Agent to enter his/her comments in the appropriate section inclusive of how they felt with the process or the decision.
Stage 4 Agent Verification Process (Energy Assured Responsible Person)	<p>Responsibilities:</p> <ul style="list-style-type: none">• The Member's Operations Manager to ensure assessments have been appropriately and consistently carried out by the Assessor.• Subject to the disciplinary procedures that apply to the Sales Agent under the Code, the Member's Operations Manager to authorise any change in Accreditation Status in the Energy Assured Register as an outcome of the assessment.