

Education, Monitoring
and Enforcement
**Administrator's
approach**

July 2021



Australian
Carbon Industry
Code of Conduct



Purpose and Scope

The Code seeks to set a higher standard of practice than current legislation requires, and in doing so create consistency of practice across industry and improve the baseline performance of market participants. This is in line with the Code's mission to enhance the integrity, transparency and accountability of Australia's carbon industry.

This guidance document aims to provide clarity to Signatories, clients and stakeholders on the Administrator's approach to compliance in the Operational Stage of the Code. This includes:

- Responsibilities of different stakeholders;
- A risk-based approach to compliance;
- Education;
- Monitoring, and
- Enforcement.

For a detailed explanation of the process by which the Code Administrator (Administrator) will respond to complaints and suspected breaches of the Code please refer to the **Administrator's Complaints Handling and Breaches Procedure** published on the Code website.

Objectives and Guiding Principles

The Administrator acknowledges the shared responsibility that Signatories, the Code and other stakeholders have to uphold and enhance the reputation of Australia's carbon industry. The Administrator's approach to compliance is to prioritise supportive engagement that assists Signatories to understand and meet compliance obligations, rather than enforcing punitive sanctions that drive Signatories away.

The Administrator will seek to deter, detect and respond to non-compliance in a consistent and fair manner. This approach has been developed to align with the below guiding principles to:

- Encourage transparency and trust between Signatories and the Administrator;
- Encourage Signatory accountability and alignment with best practice;
- Educate on and advocate for consumer protection;
- Prioritise guidance, education and engagement with Signatories where best practice is not demonstrated;
- Have regard to Signatories' demonstration of efforts and endeavours to align with best practice;
- Exercise discretion when assessing cases of non-compliance; and
- Implement a staged approach to enforcing compliance, raising industry standards, increasing expectations and improving consistency over time.



Responsibilities of Signatories

Signatories are responsible for complying with their obligations under the Code and Code guidance, including to develop and conduct their business in line with industry best practice and interacting with their clients and other stakeholders in a professional and ethical manner.

Signatories have shown strong support for the Code and its continued role in promoting transparency, accountability and integrity in the carbon industry and this is expected to continue.

Responsibility of the Code Administrator

The Code Administrator is responsible for assessing Signatory applications to join the Code; developing training and supporting guidance material to assist Signatories in understanding their obligations and how to comply with the Code; monitoring Code compliance; undertaking compliance audits and initiating enquiries into compliance; facilitating and enforcing compliance with the Code; enforcing sanctions, suspensions and removals; referring cases to the Code Review Panel; and overseeing promotion of the Code.

Responsibility of the Code Review Panel

The Code Review Panel is an expert panel responsible for providing oversight, monitoring and direction of the Code, including to arbitrate compliance cases that are both referred from the Code Administrator and referred through appeals against actions and sanctions imposed by the Code Administrator.

A Risk-Based Approach to Compliance

To assist in determining the appropriate compliance response, an intelligence-led risk-based approach that considers the behaviour, motivations and levels of practice of Signatories will be used, noting treatment of different Signatory behavioural groups:

- 1. Signatories that are engaging with the Administrator** maintain regular contact with the Administrator to ensure they understand their obligations under the Code, conduct self-assessments of their ability to comply, provide requested information on time, and actively promote the Code to clients and stakeholders.

These Signatories will be least likely to contravene obligations and will be promoted as demonstrating industry best practice.

- 2. Signatories experiencing difficulty in meeting obligations** contact the Administrator early to identify difficulties in understanding and/or meeting obligations under the Code, seek guidance on how to correct identified non-compliance, demonstrate progress in developing internal systems and processes to improve compliance.

These Signatories will receive support in order to meet compliance obligations.

- 3. Signatories that are unwilling to meet their obligations** rarely contact the Administrator to confirm their understanding of their obligations under the Code, do not reply promptly to requests for information, information provided is often incomplete or inaccurate, fail to take steps to remedy non-compliance and are not genuine in their efforts to meet obligations under the Code.

These Signatories are likely to experience stronger compliance action.



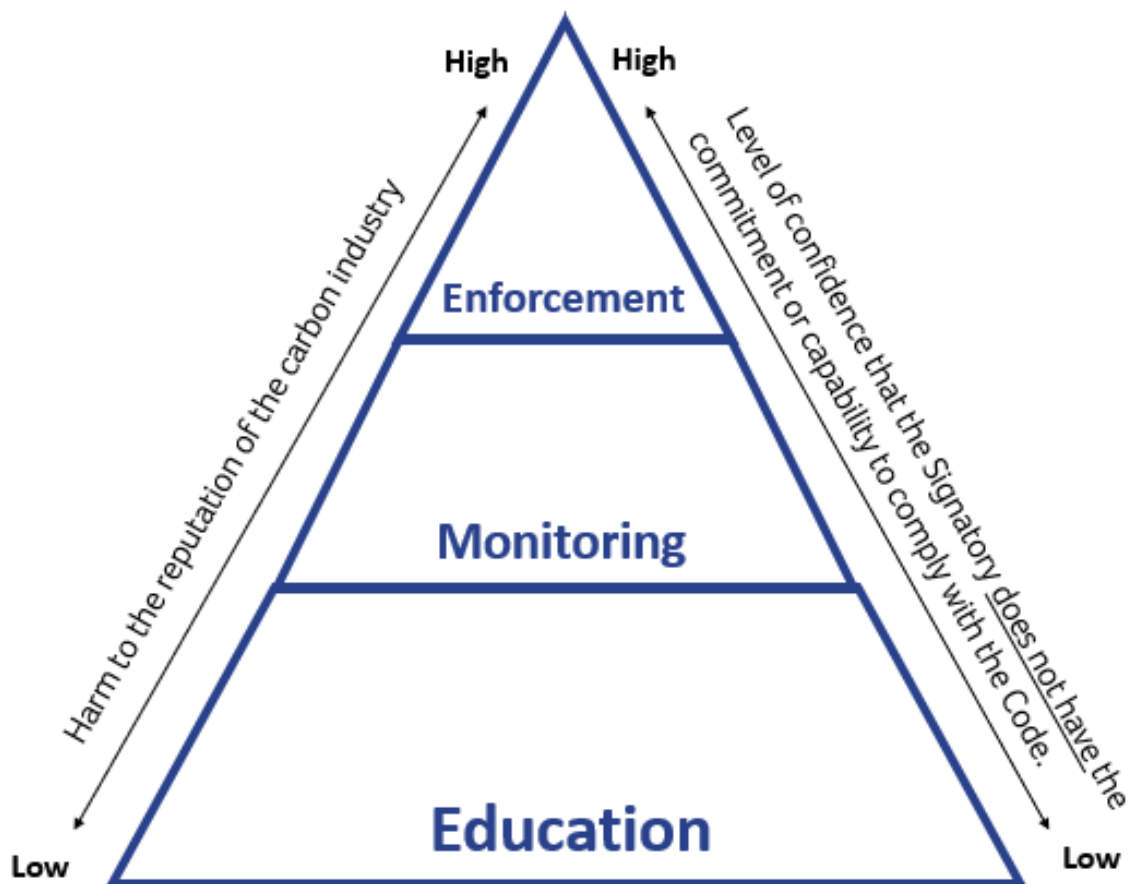
The Administrator's Interactions with Signatories

The focus for the Administrator will be to engage with Signatories in order to provide advice and support to help them to understand their obligations and how to comply with them.

Figure 1 shows that the focus of the Administrator's efforts will be on education and monitoring, with Signatories being subject to enforcement action where:

1. There is a high level of confidence that Signatories are not committed or do not have the capability to comply with Code obligations; and
2. Where identified non-compliance represents a high level of actual or perceived harm to the carbon industry.

Figure 1: The Administrator's education, monitoring and enforcement approach to promote and ensure compliance.





Education

Prevention of non-compliance is preferable to taking action after non-compliance has occurred. To educate Signatories, the Administrator will:

- Collaborate with Signatories and other stakeholders to co-design guidance materials on how to comply with Code obligations;
- Publish fact sheets, checklists and handouts to promote the Code and its rules;
- Hold workshops and webinars for Signatories to raise questions; and
- Incorporate feedback from Signatories, clients and stakeholders to improve the Administrator's systems and processes, and understanding of best practice, where appropriate.

Monitoring

The Administrator will monitor and review compliance under the Code to ensure Signatories continue to operate professionally and in compliance with Code obligations. Compliance monitoring activities will be undertaken by the Administrator through:

- Ongoing informal engagement between the Administrator and Signatories;
- Audit compliance checks;
- Annual self-audit checklists completed by Signatories;
- Analysis of client complaints;
- Investigation of cases in which Signatories may have breached the Code;
- Analysis of conciliation and arbitration cases;
- Media reports;
- Signatory renewal process;
- Information received from other Signatories; and
- Any additional sources.

The Administrator will achieve its responsibilities to monitor Code compliance in an efficient and targeted way, with careful consideration of balancing administrative burden to both the Administrator and Signatories with ensuring that Code risks are adequately monitored.

The Administrator will target compliance monitoring activities in the initial years of the Operational Stage of the Code by:

- Requiring Signatories to provide certain evidence or documents for review and assessment by the Administrator for new Signatory applications and annual Signatory reporting;
- Building capability in understanding and obtaining access, where possible, to public and certain non-public information on Signatories' compliance activities under regulatory or other carbon offset schemes and reducing Code compliance monitoring activities where Code risks are adequately addressed through other schemes;
- Utilising information obtained from compliance monitoring and investigations of complaints and breaches to identify emerging risks and to target future compliance monitoring and education activities; and
- Publishing compliance priorities and results of compliance monitoring efforts in annual report/website.



Enforcement

The Administrator will undertake enforcement action as necessary to stop harm and to disrupt business practices that are contrary to the Code. **Table 1** identifies: when enforcement action could likely occur; examples of matters the Administrator will consider when deciding to investigate; and the enforcement options available to the Administrator under the Code.

Table 1: Matters for Considering Enforcement Action and Enforcement Options

Enforcement action is likely to occur when:	Considerations for undertaking an investigation include:	Options available for the Administrator to take enforcement action include:
<ul style="list-style-type: none"> • Reasonable grounds have been established that a breach has occurred; • A Signatory has not taken steps to return to compliance; and • There is evidence of deliberate non-compliance. 	<ul style="list-style-type: none"> • Evidence of repeated non-compliance over time; and • The impact of the non-compliance on the integrity of the Code and risk to the reputation of the carbon industry. 	<ul style="list-style-type: none"> • Request Signatories to take action to remedy non-compliance within an agreed timeframe and to provide evidence to the Administrator; • Request Signatories to appoint an independent auditor to audit areas of non-compliance and provide results and actions to the Administrator; • Identify Signatories with unrectified severe breaches in Annual Report or on the Code website; and • The suspension and removal of Signatories from the Code.

for more information please contact

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