

Independent Review:  
Operational Stage  
Terms of reference

December 2023



Australian  
Carbon Industry  
**Code of Conduct**



## Introduction

On 1 of July 2018, the **Carbon Market Institute** (CMI) commenced one of the world's first voluntary domestic Carbon Industry Code of Conduct, designed to promote market integrity, consumer protection and accountability for industry practitioners and service providers across Australia.

The Code has been implemented in a staged manner, commencing with the initial **Foundation Stage** on 1 July 2018. The Foundation Stage was in place for two years, and the Code is now in an **Operational Stage** which includes annual self-audit reporting and commenced on 1 July 2020. Currently, the Code has 38 Signatories, one Industry Supporter (Clean Energy Finance Corporation) and 3 Government Partners that have confirmed their support (NSW, Queensland and Western Australia Governments).

CMI is committed to strengthening the integrity and transparency of the Australian carbon market and carbon industry, and as required by the Code, proposes to appoint an independent person to conduct the second review of the Code and to make recommendations in relation to its future direction and scope.

An Independent Review is required by the Code:

- Section 1.4 of the Code states the Code will be updated from time to time to reflect legislative or policy changes, evolving industry concerns and independent reviews of the Code. The aim is to proactively ensure that the Code remains relevant and is consistent with the current best practice.
- Section 2.6(9) of the Code states changes to the Code may be identified through regular reviews of the Code which will assess the Code's effectiveness and possible areas for improvement. Any major changes will be undertaken in consultation with the key stakeholders including Signatories, industry, the Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) and the Clean Energy Regulator (**CER**).
- Section 3.10(4) of the Code requires that an **Independent Review (the Review)** of the Code, Code Reporting, Code Administrator, Panel and Panel Terms of Reference be undertaken every three (3) years following commencement of the Operational Stage, in order to appropriately consider the operation of the Code and Code framework and whether it is meeting its stated purpose, objectives, vision and mission and whether the scope remains adequate.
- Section 3.10(4) of the Code requires the review to be undertaken by a suitably qualified independent person/body (**the Reviewer**) and must include making a recommendation to re-appoint the Code Administrator (or not). The decision to reappoint the Code Administrator (or not) should be informed by the review, the views of the Code Review Panel in its Annual Report, and through broader stakeholder consultation.
- Section 3.10(5) of the Code requires the Review to be conducted in consultation with relevant stakeholders including, but not limited to Signatories, government partners, and industry supporters. In completing the Review, the Reviewer will have access to all necessary documentation required to undertake the Review, including procedures and reporting from the Code Administrator.
- Section 3.10(7) of the Code requires that the results of the Review must be published online.

There have also been some significant policy developments that will affect the industry which are relevant to the Code review. These include the Independent Review of ACCUs led by Professor Ian Chubb, which made several recommendations directly touching on the Code including that "carbon service providers and carbon market advisors, including agents, should be accredited and regulated" (Recommendation 12). Also, the *Safeguard Mechanism (Crediting) Amendment Bill 2023* was assented to on 31 March 2023, will create a substantial new (compliance) demand for ACCUs which will also significantly affect the ACCU market. These developments and the implications for the industry and best practise should be considered in the forthcoming review of the Code.



## Terms of Reference for Review

Section 1.4 of the Code requires the Code to be updated from time to time to reflect legislative or policy changes, evolving industry concerns and independent reviews of the Code. The aim is to ensure the Code remains relevant and is consistent with current best practice.

This Terms of Reference for this 3 year review are divided into the following parts:

1. Code Requirements and Current Scope;
2. Administration of the Code, including reporting;
3. Code Review Panel;
4. Code Administrator; and
5. Strategic Review, including consideration of Chubb Review Recommendations and Other Matters.

**Parts 1 - 4** relate to operational review matters (Operational Review) and **Part 5** relates to a strategic review of the Code (Strategic Review).

## Scope of work

The Reviewer will review, and **provide advice and recommendations** on the following:

### Part 1: The Code Requirements and Current Scope

- 1.1. Extent to which the current scope and interpretation under the Code in section 1.5 is appropriate or should be updated and/or expanded, including whether the scope of services the Code applies to should be expanded and whether the distinction between signatories providing project services and advisory services should be retained, including how this relates to section 1.6 of the Code.
- 1.2. Extent to which the Code text and requirements in Section 2 of the Code currently meet the purposes and objectives in Section 1.1 of the Code.
- 1.3. Extent to which Section 2 of the Code should be amended or streamlined to better achieve the Code's purpose and objectives (Section 1.1), vision (Section 1.2), mission (Section 1.3), listed outcomes and principles (Section 1.4) and general principles (Section 2.1).
- 1.4. When advising on 1.1 and 1.2 above, please consider:
  - 1.4.1. the recommendations of the Chubb Independent Review of ACCUs;
  - 1.4.2. any changes in legislation that need to be reflected in an updated Code;
  - 1.4.3. the costs and benefits for Signatories of the Code in complying with the requirements of an updated Code (including consideration of any additional administration and auditing requirements if the Code scope should be expanded); and
  - 1.4.4. any changes, including those recommended by relevant regulatory or administrative agencies (e.g. DCCEEW, CER, ASIC, ACCC), that could enhance the compliance of Signatories and reduce duplication between government regulation and requirements under the Code; and
  - 1.4.5. the practical aspects of administration of the Code, including the effectiveness of the review processes and the corrective action steps available to the Code Administrator.



## Part 2: Administration of the Code

- 2.1 Are any amendments necessary to the Code’s auditing, breach, governance and operational procedures set out in Sections 2, 3 and 4?
- 2.2 What sort of additional guidance and/or training material covering Code Signatory obligations set out in Section 2 of the Code is necessary for the next three years?

## Part 3: The Code Review Panel

- 3.1 Operation and effectiveness of the Code Review Panel.
- 3.2 What additional expertise is required for the Code Review Panel for the next 3 years (and does Section 3.2(2) of the Code need to be amended or expanded)?

## Part 4: The Code Administrator

- 4.1 Operation and effectiveness of Code Administrator.
- 4.2 Are there any options for any other person/organisations to become a suitable future Code Administrator, taking into consideration the relevant recommendations of the Chubb Review and any relevant DCCEEW Implementation Plan?
- 4.3 Should the Code adopt a different legal structure to reinforce Signatories’ commitments to Code requirements? For example, should Code Signatories be required to enter into a contract with the Code Administrator?
- 4.4 Are any changes recommended to the current Code fee framework, including fees for any categories of Signatories?
- 4.5 Are sufficient human resources available to administer the Code, taking into account all the items noted in this Terms of Reference? (Including taking into account the number of increasing Code signatories and any expanded scope of the Code, and the need for effective auditing processes.

## Part 5: Strategic Review, Including Chubb Review Recommendations and Other Matters

- 5.1 What role should the Code play in light of Recommendation 12 of the Chubb Independent Review of ACCUs Final Report (December 2022), which recommended the introduction of mandatory performance standards for, and accreditation and regulation of, carbon service providers and carbon market advisors, including agents, including consideration of any implementation plan or recommendations from DCCEEW?
- 5.2 How can the Code better engage with indigenous stakeholders and ensure that Signatories are implementing and operationalising best practise Free Prior and Informed Consent principles?
- 5.3 Can the Code better facilitate delivery of credible, independently verified and additional co-benefits from Signatories? If so, how? Should the Code include stronger commitments to ensure Signatories are adopting best practise for this? Should the scope of the Code expand to better support and protect consumers on the demand side of the market, including building in additional protections for purchasers of carbon credits or people relying on integrity or co-benefit claims made by Signatories?



- 5.4 Does the Code have a role to play in supporting the development of and/or operationalising best practise industry standards such as the Core Carbon Principles from the Integrity Council for the Voluntary Carbon Market (ICVCM) and the Voluntary Carbon Market Initiative Code of Practice?
- 5.5 Are there any other best practise standards or frameworks<sup>1</sup> that the Code should align with to better engage with the demand side of the carbon market?
- 5.6 In what ways could the Code better support Code Signatories to understand their regulatory requirements, for example around giving financial advice and dealing in ACCUs in the Australian market or in making environmental claims?
- 5.7 Are there any new signatory or supporter categories that are recommended, or enhancements/revisions of existing categories?
- 5.8 Provide any recommendations relevant to any other strategic matter, including matters raised in consultation with stakeholders to the Code.

## Process

In formulating its advice, the Reviewer may obtain specialist technical advice regarding the considerations listed under the Scope of Work of this Terms of Reference with the express permission of the Carbon Market Institute.

In developing its advice and recommendations to the Scope of Work of this Terms of Reference the Reviewer must consult with all Key Stakeholders and may consult with other Relevant Stakeholders. The Carbon Market Institute will work with the Reviewer to design and implement stakeholder consultation, with the objective of informing the Reviewer in developing its advice and recommendations.

The Reviewer will have access to all information provided, collected and utilised by the Code Administrator in administering the Code.

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<sup>1</sup> For example, ISO Net Zero Guidelines, UK Transition Taskforce guidance, ISSB Investor Group on Climate Change's (IGCC) Statement of Commitment - <https://igcc.org.au/joining-igcc/> ; or the 6 Principles for Responsible Investment - <https://www.unpri.org/about-us/what-are-the-principles-for-responsible-investment> .



## Independent Reviewer

The Independent Reviewer appointed to lead this review is Finity Consulting lead by Vicki Mullen in accordance with the Terms of Reference provided in the EOI and the relevant governance provisions of the Code. Vicki Mullen will be supported in her work by Rade Musulin (Finity Principal) and Olivia Brodhurst (Specialist Advisor), who will work together to ensure that the views of key and relevant stakeholders on matters outlined in the Terms of Reference.

Please see detailed biographical information about Review project team.



**Vicki Mullen**

Senior Consultant Lawyer,  
regulatory affairs expert  
BA/LLM GAICD

Vicki is a lawyer with nearly 30 years' experience in government and financial services, with a strong focus on public policy, regulatory affairs and stakeholder engagement. Vicki has worked in every arm of government, including roles with the High Court of Australia, the NSW Parliament, the NSW Cabinet Office, and a senior Minister. She has worked extensively in industry advocacy across the financial services sector. She is an expert on industry self-regulation and industry and professional codes of practice. During her time with the Insurance Council of Australia, she provided secretariat support for the 2012 Independent Review of the General Insurance Code of Practice (GICOP). She was then responsible for the arrangements to establish the independent Code Governance Committee for the GICOP. Vicki is currently the independent Chair of AFIA's Insurance Premium Funding Code Compliance Committee. She is a senior consultant with Finity Consulting, working with clients across the financial services sector, including involvement with Finity's Climate and Sustainability Practice team.



**Olivia Brodhurst**

Specialist Advisor, Project  
Management & Stakeholder  
Engagement

Olivia is an independent, outcomes focused, consultant. She works with organisations to build knowledge and understanding of climate change risks and opportunities and evaluate options for adjusting practices and infrastructure to improve sustainability and resilience. Olivia has experience working within Local Government to develop emissions reduction strategies. She has conducted analysis of carbon credit markets and available credits on the spot market to facilitate offsetting of emissions and enable industry to understand the co-benefits that their investment may also be supporting. Olivia has also worked in natural resource management in Queensland and for the South Australian government.



**Rade Musulin**

Principal

Rade is a leading actuary, with 40 years' experience in insurance specialising particularly in property pricing, natural perils, reinsurance, agriculture, catastrophe risk modelling, public policy developments and climate risk. Rade was awarded Actuary of the Year by the Actuaries Institute in 2023 for his work on climate risk. He has spent the majority of his career specialising in tropical cyclone risk in the United States, Asia and Australia. He was previously CEO of the FBAlliance, part of the Farm Bureau mutual organisation, providing insurance to the agricultural sector in the US. Rade is a long-serving member of the Climate Risk Task Force of the International Actuarial Association (IAA). He has attended COP 27 and COP 28 as a delegate of the IAA.

Finity Consulting team lead by Vicki Mullen has been appointed to this role independently of her current roles, and appropriate non-disclosure agreements have been put in place to protect privacy of information shared by Signatories and other stakeholders with Ms Mullen in her capacity as Independent Reviewer of the Code of Conduct.

Ms Mullen's review support team is also covered by similar such agreements to ensure independence and confidentiality of process and information for the duration and following the review.

for more information please contact

Code Administrator

[code.administrator@carbonmarketinstitute.org](mailto:code.administrator@carbonmarketinstitute.org)



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