

Summary of Whistleblower Policy

TEACHERS MUTUAL BANK LIMITED

Effective 16 December 2019

A socially responsible and service culture has been integral to Teachers Mutual Bank Limited's ("TMBL, we, us") operations since our founding in 1966. For over 50 years, doing business ethically and sustainably have driven our model of mutual banking. Being ethical is not just part of our business, it is how we do business. It is built-in, not bolted on. Consistent with these principles and reinforced in our Code of Conduct, we share a responsibility to report unethical, corrupt, illegal or undesirable conduct and to ensure that those who do report can do so safely, securely and with confidence that they will be protected and supported by us.

This Whistleblower Policy has been implemented to ensure employees and other individuals can raise concerns about unethical, corrupt, illegal or undesirable conduct without being subject to victimisation, harassment or discriminatory treatment.

1. Purpose and scope of application

We encourage our employees and individuals who deal with us to report Reportable Conduct under this policy. Early detection of Reportable Conduct allows us to take appropriate action to limit harm to the individual and in particular provide protections to the individual under this policy. However, not all reports of wrongdoing are protected under law. This policy protects an individual at least to the extent of protection under law where the report concerns Reportable Conduct.

This policy sets out:

- who is entitled to protection as a Whistleblower;
- how a Whistleblower can report Reportable Conduct and how we investigate such reports; and
- the protections a Whistleblower is entitled to.

2. Seeking advice or support about this policy

We encourage individuals who have questions about this policy including where:

- they are unsure whether they are covered by this policy or their concerns qualify as a Reportable Conduct or as to whom they should report Reportable Conduct; or
- they are the subject of a report of Reportable Conduct or a witness in an investigation relating to a Reportable Conduct and seek support or assistance.
- they are seeking information about the type of protections and immunities available to Whistleblowers and other persons under this policy, the Corporations Act and the Tax Act.

Individuals can raise issues, queries and concerns regarding this policy with any of the following persons:

- line manager or supervisor.
- the Whistleblower Protection Officer.

- an independent lawyer should you seek legal advice on the operation of the whistleblower regime under the Corporations Act or the Tax Act.
- TMBL's Employee Assistance Program.

3. Who is a Whistleblower under this policy?

To be treated as a Whistleblower, you must:

- be an individual set out in section 3.1; and
- make a report of matters that constitute Reportable Conduct which is defined in section 3.2; and
- report Reportable Conduct to a Designated Officer or other persons set out in section 3.3.

The protections in this policy will also apply to any individuals who have reported Reportable Conduct relating to TMBL to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the whistleblower regime under the Corporations Act or the Tax Act.

3.1 Who can report Reportable Conduct?

Reports concerning Reportable Conduct can be made by any individual who is, or has been any of the following in relation to TMBL:

- Officer or employee of TMBL; or
- Contractors, consultants or supplier of goods and services to TMBL including their current or former employees; or
- Family member of an individual mentioned above.

3.2 What matters are Reportable Conduct?

Any conduct that an individual has reasonable grounds to believe is misconduct or an improper state of affairs or circumstances in relation to TMBL (**Reportable Conduct**). Examples of conduct that is appropriate to report as Reportable Conduct includes conduct that is:

- misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of TMBL and where the individual considers the information may assist the recipient to perform functions and duties in relation to the tax affairs of TMBL.
- in breach of TMBL's Code of Conduct or policies and standards.
- fraudulent or corrupt such as money laundering, evading tax or misappropriation of funds.
- illegal such as theft, the sale or use of prohibited substances, violence or threatened violence, harassment or criminal damage to property.

- unethical such as acting dishonestly, altering records without cause or permission, making false entries in records, engaging in questionable financial practices, offering or accepting a bribe.
- in breach of a law administered by ASIC or APRA and a law of the Commonwealth punishable by 12 months imprisonment or more. Examples include insolvent trading, failure to keep accurate financial records, falsification of accounts, failure by an officer to discharge their statutory director's duties or failure by a director to give notice of material personal interest relating to the affairs of TMBL.
- endangering health and safety or causing damage to the environment.
- giving rise to the possibility of causing financial or non-financial loss to TMBL, likely to damage the financial position or prudential reputation of TMBL, or that might otherwise be detrimental to the interest of TMBL.
- engaging in (or threatening) reprisal, discrimination, harassment, victimisation or adverse action causing damage to a person who has made a report or is believed or suspected to have made or be planning to make a report of Reportable Conduct under this policy.
- deliberately concealing any of the above.

Reportable Conduct generally does not include personal work-related grievances. **Personal work-related grievances** means a grievance about a matter in relation to an individual's employment or former employment having (or tending to have) implications for the individual personally. Examples of personal work-related grievances include complaints an employee or former employee may have concerning interpersonal conflicts, employment terms and conditions or the performance management process. We have grievance procedures for employees that enable employees to raise personal work-related grievances in accordance with the Human Resources Policy.

However, it may be appropriate to report a personal work-related grievance as Reportable Conduct where the grievance:

- relates to detrimental conduct suffered by the individual because of making a previous report under this policy or seeking legal advice about whistleblower protections under this policy or the whistleblower regime under the Corporations Act or the Tax Act, it may be appropriate to report the grievance as a Reportable Conduct; or
- has significant implications for TMBL and wider ramifications than for the individual personally.

Examples of personal work-grievances that could be reported as a Reportable Conduct under this policy include:

- mixed reports. For example where a concern regarding misconduct involving TMBL is accompanied by a personal work-related grievance, or a personal work-related grievance includes information about misconduct involving TMBL.
- where the matter suggests a behaviour or conduct extending beyond the individual's personal circumstances. For example an individual claim of bullying has indicated that there may be a more general culture of bullying or harassment within a division of TMBL.
- TMBL or its officers (or managers) has breached an employment (or other) law punishable by more than 12 months imprisonment, or has engaged in conduct that represents a danger to the public.

If unsure whether a personal work-related grievance is a Reportable Conduct under this policy or a personal work-related grievance that is more appropriately managed through the Human Resources Policy, we encourage individuals to seek guidance from the Whistleblower Protection Officer or seek independent legal advice.

You can still qualify for protection under this policy even if the Reportable Conduct turns out to be incorrect. However, you must not make a report you know is trivial or vexatious in nature and without substance or an unsubstantiated allegation made maliciously or knowingly to be false. There may be legal consequences if you knowingly make a false report.

3.3 Who should you report Reportable Conduct to and how to report?

Designated Officers

We encourage individuals to report Reportable Conduct to TMBL's Designated Officers in the first instance. We have authorised the Designated Officers to receive reports of Reportable Conduct. For the most up-to-date list of Designated Officers and how to contact them please refer to **Schedule 1**.

Regulators

You can report Reportable Conduct to regulators such as ASIC, APRA, ATO or any other Commonwealth authority prescribed by regulation. When reporting Reportable Conduct to a regulator, you will have the benefit of the protections under this policy. For the most up-to-date method of reporting Reportable Conduct to the regulator please refer to **Schedule 2** or contact them directly.

Media and parliamentarians

You can report Reportable Conduct to the media or a parliamentarian where the Reportable Conduct meets the definition of a "public interest disclosure" or an "emergency disclosure" under the Corporations Act (please refer to **Schedule 3** for the definition of "public interest disclosure" and "emergency disclosure").

Before making a public interest or emergency disclosure, we encourage individuals to seek independent legal advice.

Importantly, in order to meet the criteria of a public interest disclosure or an emergency disclosure, you must ensure that:

- a disclosure must have previously been made to ASIC, APRA or a prescribed body and written notice provided to the body to which the disclosure was made; and
- in the case of a public interest disclosure, the Whistleblower must have waited at least 90 days since the disclosure was made to ASIC, APRA or a prescribed body.

4. Protection and support under this policy

In addition to the support and protections set out in this policy, Whistleblowers will qualify for protections available under the whistleblower regime of the Corporations Act or the Tax Act if the report qualifies for protection under the Corporations Act or the Tax Act (please refer to Schedule 3 and Schedule 4 for when a disclosure qualifies for protection, and the protections available, under the Corporations Act and the Tax Act).

5. Anonymity

You can report Reportable Conduct anonymously. You can also choose to remain anonymous over the course of the investigation and after the investigation is finalised. You can refuse to answer questions concerning your report with the Designated Officer, the Whistleblower Protection Officer, Investigator or any other persons managing or dealing with the report you have made if you feel it could reveal your identity.

If you choose to be anonymous, we encourage you to maintain ongoing two-way communication with us in order for us to ask follow up questions or provide feedback on the investigation. It is not always possible to fully investigate anonymous reports.

6. Protection of identity

Where we receive a report of Reportable Conduct under this policy which is:

- a protected disclosure under the Corporations Act or Tax Act, the confidentiality of the Whistleblower's identity is protected under the whistleblower regimes in those laws which include statutory sanctions and remedies if confidentiality is breached (please refer to Schedule 3 and Schedule 4 for when a disclosure qualifies for protection, and the protections available, under the Corporations Act and the Tax Act).
- not a protected disclosure under the Corporations Act or Tax Act including where the individual making the report is not an individual set out in section 3.1, we will use best endeavours to not disclose the identity of the discloser in accordance with this section.

It is illegal for a person to identify the Whistleblower or disclose any information that is likely to lead to the identification of the Whistleblower outside of the permitted circumstances below:

- where the Whistleblower has consented to the disclosure of their identity;
- where the disclosure is made by us in accordance with law (for example, disclosure to our legal practitioners to obtain legal advice relating to the whistleblower regime under the Corporations Act or Tax Act).

Whilst we will use best endeavours to protect your identity, you should be aware that other persons may be able to establish your identity in circumstances such as:

- where you have made reference to reporting Reportable Conduct to other persons or that you are considering making such a report; or
- where you have complained or raised concerns with other people about the subject matter relating to the Reportable Conduct; or
- you are part of a small team that has access to the information relating to the subject of the report; or
- where you are reporting information that was disclosed to you in confidence.

How we protect the identity of Whistleblowers

Below are some practical procedures we have put in place to ensure the protection of the Whistleblower's identity.

- Where the Whistleblower does not consent to the disclosure of their identity or share their identity with particular persons involved in managing or investigating the report (for example, the appointed Investigator), the Whistleblower Protection Officer will disclose the information in the report only if all of the following are satisfied:
 - (a) the information does not disclose the identity of the Whistleblower. All personal information or reference to the Whistleblower will be redacted. The Whistleblower will be referred to in a gender-neutral context.
 - (b) they have taken all reasonable steps to reduce the risk that the Whistleblower will be identified from the information. Where possible, the Whistleblower Protection Officer may contact the Whistleblower to assist in identifying certain aspects of the report that could inadvertently identify the Whistleblower.
 - (c) it is reasonably necessary for investigating the matters raised in the report.
- All reports of Reportable Conduct and all communications and documents relating to the report will be stored confidentially and securely within the confidential Whistleblower Register, accessible only by those directly involved in managing and investigating the report.

- All communications and documents relating to the report such as investigation notes and related matters will only be sent via encrypted email and printed to a secured printer where access is only available to those directly involved in managing and investigating the report.
- All persons managing and investigating the report will receive training in their obligations in respect of the confidentiality of a Whistleblower's identity and how to ensure the security of information and communications in respect of the report.

What can you do if you believe your confidentiality has been compromised?

You can lodge a complaint about an alleged breach of the confidentiality of your identity with the Whistleblower Protection Officer or to the regulator such as ASIC or APRA. Any concerns or issues relating to how we implement measures for ensuring confidentiality of Whistleblowers can also be raised with the Whistleblower Protection Officer.

7. Protection against detrimental conduct

No person may victimise, retaliate against or cause detriment to someone else (or threaten to do so) because of a belief that that person has made or will report Reportable Conduct. We will not tolerate retaliation or causing detriment in this way against any Whistleblower who has or may report Reportable Conduct. Disciplinary action may be taken against any person who engages in such detrimental conduct. Examples of detrimental conduct for the purposes of this section includes:

- Dismissal or termination of employment, or injury or alteration of the employee's position or duties to their disadvantage; or
- Discrimination, harassment or intimidation; or
- Damage to property, reputation, business or financial position.

While all reasonable steps will be taken to protect Whistleblowers, we are not able to provide the same level of protection to Whistleblowers who are not directly employed by TMBL at the time of the report of Reportable Conduct was made, including former employees and external third parties. The process in this policy will be adapted and applied to the extent reasonably possible.

What can you do if you believe you have suffered detriment?

Whistleblowers or other persons who believe they have suffered detriment arising from detrimental conduct may:

- report their concern in accordance with the reporting procedure for Reportable Conduct in 3.3; or
- seek assistance from the Whistleblower Protection Officer or seek independent legal advice.

Whistleblowers or other persons who have suffered loss because of detriment suffered arising from detrimental conduct may seek compensation and other remedies through the courts.

8. Other protections

Where a Whistleblower reports Reportable Conduct that qualifies for protection under the Corporations Act or Tax Act, the Whistleblower is protected from any of the following in relation to the report:

- Civil liability. For example, legal action against the Whistleblower for breach of an employment contract, duty of confidentiality or another contractual obligation.
- Criminal liability. For example, the attempted prosecution of the Whistleblower for unlawfully releasing information or other use of the report against the Whistleblower in a prosecution (other than making a false disclosure).
- Administrative liability. For example, disciplinary action for making the report.

The protections available to Whistleblowers who qualify for protection under the Corporations Act or the Tax Act do not grant the Whistleblower immunity for any misconduct that the Whistleblower has engaged in that is revealed in their report. Individuals may also have access to other statutory protections under anti-discrimination and equal opportunity legislation, and the *Fair Work Act 2009* (Cth), or under the common law and their contracts of employment or engagement with TMBL.

9. Fair treatment of persons mentioned in reports

We will ensure the fair treatment of all persons mentioned in a report from a Whistleblower. We will:

- assess each report on its merits and investigate as appropriate;
- advise the person the subject of a report as and when required by principles of natural justice and procedural fairness and where appropriate having regard to the nature of the report prior to taking external action such as referring the matter to a regulator or law enforcement agency; or commencing a formal investigation;
- advise the person when the conduct raised in the report if proven could lead to allegations of misconduct being made against that person subject of the report which in turn could lead to disciplinary action;
- advise the person of the outcome of the investigation into the report but will not provide a copy of the investigation report or associated material.

10. How we conduct investigations

Below is a summary of the key steps of our investigation process into Reportable Conduct.

Step 1

If the Whistleblower has disclosed their contact details in their report, then they will receive an acknowledgement no later than five (5) business days from receipt of the report by the Designated Officer.

Step 2

The Whistleblower Protection Officer will carry out a preliminary assessment of the report and determine whether the report falls within the scope of this policy, or it is more appropriate to be managed under another TMBL policy and assess the risk of any detrimental conduct to the Whistleblower or any other person because the report has been made.

If the Whistleblower has disclosed their identity and contact details, the Whistleblower Protection Officer may contact the Whistleblower for further information in order to investigate the report.

If the report was made anonymously and the Whistleblower has not maintained two-way communication with TMBL any decision to undertake an investigation and the conduct of any investigation, will be based solely on the report.

Step 3

If the Whistleblower Protection Officer has determined that the report should be investigated, the investigation process will depend on the nature of the matter being investigated. The object of an investigation into a report is to determine whether there is enough evidence to substantiate or refute the Reported Conduct.

All investigations will be conducted on a confidential and strictly 'need to know' basis, having regard to any potential conflicts of interest and any concerns the Whistleblower expresses about the involvement of particular personnel. All investigations will be thorough, objective fair and be conducted independent of the Whistleblower, persons and/or divisions or departments mentioned in the report.

If the report was made anonymously and the Whistleblower has maintained two-way communication with TMBL, the Whistleblower can refuse to answer questions they feel could reveal their identity at any time, including during any follow-up conversation about, or investigation into, the report.

Step 4

The investigator will document the nature and scope of their investigation and findings in a report, maintaining confidentiality. The report will be provided to the Whistleblower Protection Officer and/or the Board within 90 days. The Whistleblower Protection Officer and/or the Board will provide feedback, where appropriate, to the Whistleblower regarding the progress and outcome of, and actions arising from, any investigation. The frequency and timeframe of providing updates regarding the investigation depends on the nature and scope of the matter being investigated.

11. If you are not satisfied with the outcome of our investigation

If you are not satisfied with the outcome of our investigation into your report, you may write to the Whistleblower Protection Officer seeking a review of the findings of the report.

12. Definitions

Unless the context requires, capitalized terms in this policy have the following meaning:

APRA	means the Australian Prudential Regulation Authority.
ASIC	means the Australian Securities and Investment Commission.
ATO	means the Australian Taxation Office.
Corporations Act	means the <i>Corporations Act 2001</i> (Cth).
Designated Officer	the persons listed in Schedule 1.
Investigator	person assigned to investigate the report made by a Whistleblower that concerns Reportable Conduct in accordance with this policy.
Reportable Conduct	has the meaning given in section 3.2.
Tax Act	means the <i>Tax Administration Act 1953</i> (Cth).
TMBL, us, we, our	Teachers Mutual Bank Limited and the entities controlled by it, including Tertiary travel Service Pty Ltd.
Whistleblower	a person who has made, proposes to or could report Reportable Conduct
Whistleblower Protection Officer	means the person designated as the Whistleblower Protection Officer. For the most up-to-date contact details of the Whistleblower Protection Officer, please go Schedule 1.

Schedule 1: Designated Officers

TMBL has authorised each Designated Officer to receive reports of Reportable Conduct from individuals. Each of the following persons are Designated Officers.

1. Reportable Conduct that do not relate to the tax affairs of TMBL

No	Position title	Name	Contact details
Internal Designated Officers			

1	Whistleblower Protection Officer	Helen O'Reilly	horeilly@tmbl.com.au Mobile: 0416 081 301
2	Chair of Risk & Compliance Committee	Michael O'Neill	moneill@tmbl.com.au
3	Chair of Audit Committee	Tyrone Carlin	tcarlin@tmbl.com.au
4	Chief Executive Officer & Company Secretary	Steve James	sjames@tmbl.com.au Mobile: 0409 040 156
5	Deputy Chief Executive Officer & Company Secretary	Brad Hedgman	bhedgman@tmbl.com.au Mobile: 0418 252 893
6	Directors of TMBL	Maree O'Halloran (Chair) Linda Green (Deputy Chair) Tyrone Carlin William Ford John Kouimanos Jennifer Leete Andrew McCreedy Michael O'Neill	mohalloran@tmbl.com.au lgreen@tmbl.com.au tcarlin@tmbl.com.au wford@tmbl.com.au jkouimanos@tmbl.com.au jleete@tmbl.com.au amccreedy@tmbl.com.au moneill@tmbl.com.au
7	Executives of TMBL	Steve James (CEO) Brad Hedgman (Deputy CEO) Nichole Banks Neil Kenzler Craig McMahon Helen O'Reilly Glenn Sargeant Gerard Smith Alan Waugh	sjames@tmbl.com.au Mobile: 0409 040 156 bhedgman@tmbl.com.au Mobile: 0418 252 893 nbanks@tmbl.com.au Mobile: 0447 788 105 nkenzler@tmbl.com.au Mobile: 0417 407 582 cmcmahon@tmbl.com.au Mobile: 0417 212 284 horeilly@tmbl.com.au Mobile: 0416 081 301 gsargeant@tmbl.com.au Mobile: 0413 880 787 gsmith@tmbl.com.au Mobile: 0404 094 591 awaugh@tmbl.com.au Mobile: 0408 418 564
External Designated Officers			
8	Appointed Auditor	Grant Thornton Australia Ltd Contact: Claire Gilmartin	Claire.gilmartin@au.gt.com Phone: 61+2 8297 2469

2. Reportable Conduct that relate to the tax affairs of TMBL

No	Position title	Name	Contact details
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Internal Designated Officers			
1	Whistleblower Protection Officer	Helen O'Reilly	horeilly@tmbl.com.au Mobile: 0416 081 301
2	Chair of Risk & Compliance Committee	Michael O'Neill	moneill@tmbl.com.au
3	Chair of Audit Committee	Tyrone Carlin	tcarlin@tmbl.com.au
4	Chief Executive Officer & Company Secretary	Steve James	sjames@tmbl.com.au Mobile: 0409 040 156
5	Deputy Chief Executive Officer & Company Secretary	Brad Hedgman	bhedgman@tmbl.com.au Mobile: 0418 252 893
6	Employees who have functions or duties that relate to the tax affairs of TMBL	Glenn Sargeant	gsargeant@tmbl.com.au Mobile: 0413 880 787
7	TMBL Directors	Maree O'Halloran (Chair) Linda Green (Deputy Chair) Tyrone Carlin William Ford John Kouimanos Jennifer Leete Andrew McCready Michael O'Neill	mohalloran@tmbl.com.au lgreen@tmbl.com.au tcarlin@tmbl.com.au wford@tmbl.com.au jkouimanos@tmbl.com.au jleete@tmbl.com.au amccready@tmbl.com.au moneill@tmbl.com.au
8	TMBL Executives	Steve James (CEO) Brad Hedgman (Deputy CEO) Nichole Banks Neil Kenzler Craig McMahon Helen O'Reilly Glenn Sargeant Gerard Smith Alan Waugh	sjames@tmbl.com.au Mobile: 0409 040 156 bhedgman@tmbl.com.au Mobile: 0418 252 893 nbanks@tmbl.com.au Mobile: 0447 788 105 nkenzler@tmbl.com.au Mobile: 0417 407 582 cmcmahon@tmbl.com.au Mobile: 0417 212 284 horeilly@tmbl.com.au Mobile: 0416 081 301 gsargeant@tmbl.com.au Mobile: 0413 880 787 gsmith@tmbl.com.au Mobile: 0404 094 591 awaugh@tmbl.com.au Mobile: 0408 418 564
External Designated Officers			
9	Appointed Auditor	Grant Thornton Australia Ltd Contact: Claire Gilmartin	Claire.gilmartin@au.gt.com Phone: 61+2 8297 2469

Schedule 2: How to contact ASIC, APRA or ATO

For the most up-to-date method of reporting Reportable Conduct to the regulator, please refer to the links below or alternatively contact the regulator directly.

Regulator	How to report a Reportable Conduct	Contact details
ASIC	https://asic.gov.au/about-asic/contact-us/how-to-complain/report-misconduct-to-asic/	Website: https://asic.gov.au/about-asic/contact-us/ Telephone: 1300 300 630
APRA	https://www.apra.gov.au/become-a-whistleblower-and-make-a-public-interest-disclosure	Website: https://www.apra.gov.au/contact-us Telephone: 1300 558 849
ATO	https://www.ato.gov.au/general/gen/whistleblowers/	Website: https://www.ato.gov.au/ Telephone: 1800 060 062

Schedule 3: When does a report qualify for protection under the Corporations Act and what protections and immunities are available to a Whistleblower?

Disclosures that qualify for protection under the Corporations Act

Eligible Whistleblowers may be able to obtain certain statutory protections and immunities where they make a disclosure that qualifies for protection under Part 9.4AAA of the Corporations Act.

This Schedule 3 sets out an overview of the requirements that must be met for a disclosure of information to qualify for protection under Part 9.4AAA of the Corporations Act. To avoid doubt, although many of the protections and immunities are mirrored in this Whistleblower Policy, the protections in Part 9.4AAA of the Corporations Act are in addition to protections and immunities specified by this Whistleblower Policy.

Please note that this Schedule 3 is intended for information purposes only and is not legal advice in relation to the application of the whistleblower regime in Part 9.4AAA of the Corporations Act. You should obtain independent legal advice concerning the application of Part 9.4AAA of the Corporations Act.

1. The conditions that must be satisfied before a disclosure qualified for protection under the Corporations Act

- 1.1 The information disclosed relates to a “regulated entity” (a term defined by the Corporations Act) that includes a company and constitutional corporation such as TMBL.
- 1.2 The whistleblower making the disclosure is an “eligible whistleblower” defined by the Corporations Act as an individual who is, or has been, any of the following:
 - (a) An officer or employee of the regulated entity.
 - (b) An individual who supplies services or goods to the regulated entity, or the employee of a person who supplies services or goods to the regulated entity.
 - (c) An individual who is an associated of the regulated entity.
 - (d) A relative or dependant of an individual referred to in paragraphs (a) to (c) above, or the spouse of a dependant of an individual referred to above.
- 1.3 The disclosure is made to a person who is eligible to receive a disclosure under Part 9.4AAA of the Corporations Act, which includes:
 - (a) A person authorised by a regulated entity to receive a disclosure, which for TMBL are the Designated Officers
 - (b) An officer or senior manager of a regulated entity.

- (c) ASIC or APRA.
 - (d) An appointed auditor or actuary of a regulated entity which for TMBL is the entity identified listed in Schedule 1.
 - (e) In limited circumstances, to a journalist or a member of a federal, state or territory Parliament
- 1.4 Subject to paragraph 1.5, the disclosure is about matters the eligible whistleblower has reasonable grounds to suspect may concern the following conduct by the regulated entity (these matters are described the policy as Reportable Conduct):
- (a) misconduct or an improper state of affairs or circumstances in relation to the regulated entity (or a related body corporate).
 - (b) conduct that constitutes an offence against, or contravention of, a law administered by ASIC or APRA.
 - (c) conduct that constitutes an offence against another law of the Commonwealth punishable by more than 12 months imprisonment.
 - (d) conduct that is a danger to the public or the financial system.
- 1.5 The disclosure is not a personal work-related grievance, being a disclosure of information concerning a grievance about any matter in relation to the eligible whistleblower's employment, or former employment, or having (or tending to have) implications for the whistleblower personally. However, a personal work-related grievance will be disclosure qualifying for protection under Part 9.4AAA of the Corporations Act if it either:
- (a) has significant implications for the regulated entity to which it relates, or wider ramifications than those that are personal to the whistleblower.
 - (b) relates to a grievance by the eligible whistleblower about detrimental conduct suffered or threatened due to a person believing or suspecting that a disclosure qualifying for protection under Part 9.4AAA of the Corporations Act has been made, may be made, is proposed to be made, or could be made.
- 1.6 A disclosure that meets the conditions in paragraphs 1.1 to 1.5 of this Schedule 3 is a "qualifying disclosure" for the purposes of the Corporations Act.

2. Other disclosures that qualify for protection under the Corporations Act

- 2.1 There are two additional categories of disclosure that may also be protected under Part 9.4AAA of the Corporations Act, which are as follows:
- (a) where an eligible whistleblower makes a disclosure to a journalist or a Member of Parliament in relation to a regulated entity. To be protected, the whistleblower must already have made a qualifying disclosure (see

paragraph 1.6 of this Schedule 3), certain written notifications in respect of that qualifying disclosure must have been made by the eligible whistleblower to the body that received it, and either:

- (i) the disclosure was in respect of a substantial and imminent danger to someone's health and safety, or the natural environment; or
 - (ii) disclosing the information was in the public interest.
- (b) If the whistleblower makes a disclosure of information to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower regime found in Part 9.4AAA of the Corporations Act. This category does not carry any of the requirements of the disclosure to be a qualifying disclosure (see paragraph 1.6 of this Schedule 3).

2.2 A disclosure that meets the conditions in paragraph 2.1 of this Schedule 3 is referred to as a "protected disclosure".

3. Protections and Immunities available where a "qualifying disclosure" or "protected disclosure" is made under the Corporations Act

Where a qualifying or protected disclosure is made (see paragraph 1.6 and 2.2 of this Schedule 3), Part 9.4AAA of the Corporations Act provides the following protections and immunities:

- Protection of a whistleblower's identity.
- Protecting a whistleblower, or other person, from a range of detrimental conduct (often referred to as victimisation or retaliation) because another person believes or suspects that a qualifying or protected disclosure has been made, may be made, is proposed to be made, or could be made.
- Providing a whistleblower with a range of legal immunities for making a qualifying or protected disclosure.

4. Protection of the eligible Whistleblower's Identity

Part 9.4AAA of the Corporations Act contains a number of provisions to protect the identity of a whistleblower who has made a qualifying or protected disclosure by:

- permitting whistleblowers to make anonymous disclosures.
- subject to a handful of exceptions that authorise the disclosure of a whistleblower's identity (including with the whistleblower's consent or to a relevant regulator or the Australian Federal Police, or to a lawyer for the purpose of obtaining advice about the operation of Part 9.4AAA of the Corporations Act), making it a criminal and civil penalty offence for a person to whom a qualifying or protected disclosure is made, or any other person who has obtained the information directly or indirectly, to

disclose the whistleblower's identity; or information that is likely to lead to the identification of the whistleblower.

- prohibiting the disclosure of a whistleblower's identity by the recipient of a qualifying or protected disclosure to a court or tribunal.

It is not an offence for a person to disclose information regarding a qualifying or protected disclosure without revealing the whistleblower's identity.

5. Protection Against Detrimental Conduct

5.1 Part 9.4AAA of the Corporations Act protects persons from detrimental conduct when a qualifying or protected disclosure has been made, is believed or suspected to have been made, or could be made, and includes significant criminal and civil sanctions to perpetrators should such actions occur.

5.2 Detrimental conduct is defined broadly and includes conduct (without limitation) such as:

- (a) Dismissal of an employee.
- (b) Injury of an employee in their employment.
- (c) Alteration of an employee's position or duties to their disadvantage.
- (d) Discrimination between an employee and other employees of the same employer.
- (e) Harassment or intimidation of a person.
- (f) Harm or injury to a person, including psychological harm.
- (g) Damage to a person's property.
- (h) Damage to a person's reputation.
- (i) Damage to a person's business or financial position.
- (j) Any other damage to a person.

5.3 It is both a criminal and civil penalty offence to engage in detrimental conduct due to a belief or suspicion that a qualifying or protected disclosure has been made, is believed to have been made, or could be made. Features common to both sanctions include:

- (a) a protection against detrimental conduct (see paragraph 5.2 of this Schedule 3).
- (b) the victim protected may be a whistleblower or may be another person who has suffered damage because of a victimiser's conduct.
- (c) threats of detrimental conduct can be express or implied, conditional

or unconditional.

6. Immunities

Where a qualifying or protected disclosure is made, the whistleblower is granted certain immunities from liability, including:

- The whistleblower is not subject to civil, criminal or administrative liability.
- No contractual or other remedy may be enforced against the whistleblower.
- Information disclosed by the whistleblower is not admissible against them (other than in proceedings concerning the falsity of the information provided).

Schedule 4: When does a report qualify for protection under the Tax Act and what protections and immunities are available to a Whistleblower?

Disclosures that qualify for protection under the Tax Act

Eligible Whistleblowers may be able to obtain certain statutory protections and immunities where they make a disclosure that qualifies for protection under Part IVD of the Tax Act. This Schedule 4 provides an overview of the requirements that must be met for a disclosure of information to qualify for protection under Part IVD of the Tax Act.

To avoid doubt, although many of the protections and immunities are mirrored in this Whistleblower Policy, the protections in Part IVD of the Tax Act are in addition to protections and immunities specified in this Whistleblower Policy.

Please note that this Schedule 4 is intended for information purposes only and should not be taken as the provision of legal advice in respect of the operation and application of the whistleblower regime in Part IVD of the Tax Act. You should obtain independent legal advice concerning the application of Part IVD of the Tax Act.

1. Conditions that must be met for a disclosure to qualify for protection under the Tax Act

- 1.1 The information disclosed relates to an entity a term defined in the Tax Act that includes a company, such as TMBL.
- 1.2 The whistleblower making the disclosure is an eligible whistleblower, defined in the Tax Act as an individual who is, or has been, any of the following:
 - (a) An officer (as defined in the Corporations Act) or employee of the entity.
 - (b) An individual who supplies services or goods to the entity, or the employee of a person who supplies services or goods to the entity.
 - (c) An individual who is an associate (as defined in the *Income Tax Assessment Act 1936* (Cth)) of the regulated entity.
 - (d) A spouse, or child of an individual referred to in paragraphs (a) to (c) above, or a dependant of an individual referred to above or such an individual's spouse.
- 1.3 The disclosure is made to a person eligible to receive a qualifying disclosure under Part IVD of the Tax Act, which includes:
 - (a) An eligible recipient of the entity, which is:
 - (i) person authorised by the entity to receive disclosures that may qualify for protection under Part IVD of the Tax Act, which for TMBL are the Designated Officers listed in Schedule 1;
 - (ii) a director, secretary or senior manager of TMBL;

- (iii) any other employee or officer of the entity who has functions or duties that relate to the tax affairs of the entity, who for TMBL are the persons specified as Designated Officers listed in Schedule 1;
- (iv) any auditor of the entity, or a member of an audit team conducting an audit of the entity, who for TMBL are the persons listed in Schedule 1.

(b) The Commissioner of Taxation.

1.4 Where the disclosure of information by an eligible whistleblower is:

- (a) Made to the Commissioner of Taxation, and the eligible whistleblower considers that the information may assist the Commissioner to perform their functions or duties under a taxation law (as defined in the *Income Tax Assessment Act 1997* (Cth)) in relation to the entity or an associated of the entity.
- (b) Made to an eligible recipient of the entity, and the eligible whistleblower:
 - (i) has reasonable grounds to suspect the information indicates misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of the entity or an associated of the entity; and
 - (ii) considers the information may assist the eligible recipient to perform functions or duties in relation to the tax affairs of the entity or an associated of the entity.

1.5 A disclosure of information may also qualify for protection under Part IVD of the Tax Act if the disclosure of information by an individual is made to a legal practitioner for the purpose of obtaining legal advice or representation in relation to the operation of Part IVD of the Tax Act.

1.6 A disclosure that meets all of the requirements in paragraphs 1.1 to 1.4 of this Schedule 4, as well as the disclosure in paragraph 1.5 of this Schedule 4, is referred to as a qualifying disclosure for the purpose of Part IVD of the Tax Act.

2. Protections and immunities available when qualifying disclosure is made under the Tax Act

2.1 Where a qualifying disclosure is made (see paragraph 1.6 of this Schedule 4), Part IVD of the Tax Act provides the following protections and immunities:

- (a) Protection of a whistleblower's identity (see section 3 of this Schedule 4).
- (b) Protecting a whistleblower, or other person, from a range of detrimental conduct (often referred to as victimisation or retaliation) because

another person believes or suspects that a qualifying or protected disclosure has been made, may be made, is proposed to be made, or could be made (see section 4 of this Schedule 4).

- (c) Providing a whistleblower with a range of legal immunities for making a qualifying or protected disclosure (see section 5 of this Schedule 4).

3. Protection of the eligible whistleblower's identity

3.1 Part IVD of the Tax Act contains a number of provisions to protect the identity of a whistleblower who has made a qualifying disclosure by:

- (a) Allowing for whistleblowers to make anonymous disclosures.
- (b) Subject to a handful of exceptions that authorise the disclosure of a whistleblower's identity (including with the whistleblower's consent or to the Commissioner of Taxation or the Australian Federal Police, or to a lawyer for the purpose of obtaining advice about the operation of Part IVD of the Tax Act), making it a criminal offence for a person to whom a qualifying disclosure is made, or any other person who has obtained the information directly or indirectly, to disclose any of the following:
 - (i) the identity of the whistleblower; and
 - (ii) information that is likely to lead to the identification of the whistleblower.
- (c) Prohibiting the disclosure of a whistleblower's identity by the recipient of a qualifying disclosure to a court or tribunal.

3.2 It is not an offence for a person to disclose information regarding a qualifying disclosure without revealing the identity of the whistleblower.

4. Protection from detrimental conduct

4.1 Part IVD of the Tax Act protects persons from detrimental conduct when a qualifying disclosure has been made, is believed or suspected to have been made, or could be made, and includes significant criminal and civil sanctions to perpetrators should such actions occur.

4.2 Detrimental conduct is defined broadly and includes conduct (without limitation) such as:

- (a) Dismissal of an employee.
- (b) Injury of an employee in their employment.
- (c) Alteration of an employee's position or duties to their disadvantage.
- (d) Discrimination between an employee and other employees of the same

employer.

- (e) Harassment or intimidation of a person.
- (f) Harm or injury to a person, including psychological harm.
- (g) Damage to a person's property.
- (h) Damage to a person's reputation.
- (i) Damage to a person's business or financial position.
- (j) Any other damage to a person.

4.3 It is both a criminal and civil penalty offence to engage detrimental conduct due to a belief or suspicion that a disclosure has been made, is believed to have been made, or could be made. Features common to both sanctions include:

- (a) A protection against detrimental conduct (see paragraph 4.2 of this Schedule 4).
- (b) The victim protected may be a whistleblower or may be another person who has suffered damage because of a victimiser's conduct.
- (c) Threats of detrimental conduct can be express or implied, conditional or unconditional.

5. Immunities

Where a qualifying disclosure is made, the whistleblower is granted certain immunities from liability, including:

- The whistleblower is not subject to civil, criminal or administrative liability.
- No contractual or other remedy may be enforced against the whistleblower.
- Information disclosed by the whistleblower is not admissible against them, other than in proceedings concerning the falsity of the information provided.