

Whistleblowing Policy

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POLICY

Australian Investment Exchange Ltd (**AUSIEX**) holds Australian Financial Services Licence (**AFSL**) Number 241400 and is a participant of the Australian Stock Exchange (**ASX**) and Chi-X Australia (**Chi-X**), providing trade execution, settlement and clearing services.

1. Introduction

A whistleblower protection program is an important element in detecting corrupt, illegal or other undesirable conduct. It is designed to:

- encourage the reporting of matters that may cause financial or non-financial loss or reputational damage;
- enable AUSIEX to effectively deal with reports from whistleblowers in a way that will protect their identity and provide for secure storage of their information;
- protect the whistleblower against reprisals by any person internal or external to AUSIEX; and
- provide the appropriate infrastructure to support the whistleblower program.

Part 9.4AAA of the *Corporations Act 2001 (Cth)* (**Corporations Act**) sets out the requirements that must be met in a whistleblower protection program. The whistleblower may qualify for immunity for making the disclosure and any future victimisation of that person is prohibited. There is statutory immunity for whistleblowers making “protected disclosures.” Any information provided must be treated confidentially.

2. Policy Objective

The purpose of this Policy (**Policy**) is to explain the regulatory obligation(s) for establishing a whistleblower protection program and how AUSIEX meets its obligations. It is important that “eligible whistleblowers”¹ know that there is a framework in which they can disclose wrongdoing if they become aware of it, without facing victimisation or reprisals.

The purpose of this Policy is to achieve:

- effective compliance with relevant laws;
- a healthy and safe working environment;
- effective management;
- good morale; and
- demonstrating that AUSIEX takes seriously its obligation to encourage and protect whistleblowers.

This Policy is not intended to replace other reporting processes, such as those for dispute resolution or incident and breach management, except where the issue is of a wrongdoing and existing reporting systems have failed to deal with the issue adequately.

This Policy will be made available to employees and officers of AUSIEX on its intranet, and to external parties on its internet site.

¹ As defined in Section 1317AAA of the Corporations Act

3. Can I Make a Protected Disclosure?

In Australia, the Corporations Act and the *Taxation Administration Act 1953* (Cth) provide for protection of whistleblowers (**Whistleblower Regime**).

Disclosures made on or after 1 July 2019 in accordance with the requirements of the Whistleblower Regime are called "protected disclosures".

You can make a "protected disclosure" under the Whistleblower Regime if:

- (a) you are an "eligible whistleblower"; and
- (b) the disclosure you make is about a disclosable matter; and
- (c) you make the disclosure directly to a person who is eligible to receive a protected disclosure.

If you make a disclosure that meets all of these requirements, you will qualify for protection under the Whistleblower Regime. This is the case even if your disclosure later turns out to be incorrect.

Each of these requirements are explained further in the below table.

(a) You must be an "eligible whistleblower"

You are an "eligible whistleblower" if you are, or have previously been:

- A. an **officer** of AUSIEX;
- B. an **employee** of AUSIEX;
- C. a person who **supplies goods or services** to AUSIEX, and employees of those suppliers;
- D. an **individual associate** of AUSIEX;
- E. either:
 - I. in relation to the Corporations Act, a **relative, dependant, or spouse of a dependant** of any of the above individuals; or
 - II. in relation to the Tax Administration Act, a **spouse, child, dependant, or spouse of a dependent** of any of the above individuals.

(b) You must make a disclosure about a "disclosable matter"

Only disclosures of certain types of information will qualify for protection under the Australian whistleblower laws.

What is a "disclosable matter" under the Corporations Act?

Information is a "disclosable matter" under the Corporations Act if the eligible whistleblower has reasonable grounds to suspect that the information disclosed:

- a) concerns misconduct or an improper state of affairs or circumstances in relation to AUSIEX. Misconduct includes fraud, negligence, default, breach of trust and breach of duty. Conduct does not necessarily need to be "unlawful" to fall within the scope of "misconduct or an improper state of affairs or circumstances", and may include:
 - I. systemic improper conduct within AUSIEX that is causing, or may cause, harm;

- II. conduct that indicates a significant risk to public safety or the financial system;
 - III. conduct that is not in the interests of the public; and
 - IV. unsafe work practices and other significant safety concerns; or
- b) indicates that AUSIEX or any employee or officer has engaged in conduct that:
- I. constitutes a contravention of specific legislation, including but not limited to the Corporations Act and the *Australian Securities and Investments Commission Act 2001*;
 - II. constitutes an offence against any other law of the Commonwealth that is punishable by at least 12 months' imprisonment; or
 - III. represents a danger to the public or the financial system.

An example of where you will unlikely have "reasonable grounds" to suspect alleged wrongdoing is where you make a deliberately false report.

What types of matters do not qualify for legal protection under the Corporations Act?

Except in certain circumstances, a personal work-related grievance (for example a disclosure about an interpersonal conflict or a disciplinary decision) will not be protected.

A personal work-related grievance **will** be protected if:

- A. the grievance also concerns allegations of victimisation; or
- B. the grievance:
 - I. constitutes a contravention of specific legislation, including but not limited to the Corporations Act and the *Australian Securities and Investments Commission Act 2001*;
 - II. constitutes an offence against any other law of the Commonwealth that is punishable by at least 12 months' imprisonment; or
 - III. represents a danger to the public or the financial system; or
- C. the grievance also has significant implications for AUSIEX (or another entity) that do not relate to the eligible whistleblower; or
- D. the disclosure is made to a legal practitioner in order to obtain legal advice or legal representation in relation to the Whistleblower Regime.

What is a "disclosable matter" under the Tax Administration Act?

Information is a "disclosable matter" under the Tax Administration Act if:

- A. the eligible whistleblower has reasonable grounds to suspect that the information concerns misconduct or an improper state of affairs or circumstances in relation to the **tax affairs of AUSIEX or an associate of AUSIEX**; and
- B. the eligible whistleblower considers that the information may assist the eligible recipient to perform their functions or duties in relation to the tax affairs of AUSIEX or an associate of AUSIEX.

(c) You must make the disclosure directly to someone authorised to receive a protected disclosure

Reporting within AUSIEX

The following individuals have been appointed as the main recipient for AUSIEX for the purposes of receiving protected disclosures under the Corporations Act and the Tax Administration Act:

- A. Paul Williams, Head of Risk & Compliance
- B. Stephen Tudjman, Head of Legal and Governance

AUSIEX encourages all eligible whistleblowers to contact the above individuals as the Disclosure Officer as the best person to assess and manage a disclosure.

Within AUSIEX, the following individuals are also an "eligible recipient" authorised to receive protected disclosures:

<i>Corporations Act disclosures</i>	<i>Tax-related disclosures</i>
<ul style="list-style-type: none"> A. an officer of AUSIEX; B. a senior manager of AUSIEX, namely each member of the AUSIEX Leadership Team; C. an auditor, or a member of an audit team conducting an audit, of AUSIEX. 	<ul style="list-style-type: none"> A. a director or secretary of AUSIEX; B. a senior manager of AUSIEX (as defined in the left column); C. any other employee or officer of AUSIEX who has functions or duties that relate to the tax affairs of AUSIEX; D. an auditor, or a member of an audit team conducting an audit, of AUSIEX; E. a registered tax agent or BAS agent who provides tax agent services or BAS services to AUSIEX.

If an eligible whistleblower has concerns about the process AUSIEX adopts in progressing a whistleblower investigation, the Head of Human Resources has been appointed as the Whistleblower Investigation Officer (**WIO**). The WIO assesses and monitors any risks of Detrimental Conduct and reviews, considers any complaints of detrimental conduct and takes the necessary steps to protect whistleblowers from those risks.

Reporting outside of AUSIEX

An eligible whistleblower may also make a protected disclosure to:

- A. the Australian Securities and Investments Commission (**ASIC**), the Australian Prudential Regulation Authority (**APRA**)² or a prescribed Commonwealth authority. ASIC has issued information sheets or guides on whistleblowers' rights and protections, which are available [here](#);

² Note that AUSIEX is not regulated by APRA

- B. a legal practitioner in order to obtain legal advice or legal representation in relation to the Whistleblower Regime;
- C. in limited circumstances, a journalist or member of Parliament. This would need to meet the strict criteria set out under the Corporations Act. It is important that you understand the criteria for making a protected disclosure to a journalist or member of Parliament being doing so. We recommend that you contact an independent legal adviser if you wish to obtain further information regarding the strict criteria for making a protected disclosure to a journalist or member of Parliament.

If the protected disclosure relates to the tax affairs of AUSIEX, then an eligible whistleblower may make a protected disclosure to:

- A. a legal practitioner in order to obtain legal advice or legal representation in relation to the Whistleblower Regime;
- B. in certain circumstances, the Commissioner of Taxation. ATO has issued a guide on tax whistleblowing, which is available [here](#).

4. How May Disclosures be Made?

There is no requirement for disclosures to be made in a particular form. Disclosures may be made in writing (e.g. via email), in person or via telephone.

You may make a protected disclosure on an anonymous basis and may choose to remain anonymous during and after any investigation into the protected disclosure. For example, if AUSIEX receives a disclosure from an email address from which the sender's identity cannot be determined and the discloser does not identify themselves in the email, it will be reached as an anonymous disclosure.

If you choose to make an anonymous disclosure, we recommend that you maintain ongoing two-way communication so that AUSIEX can ask any follow up questions.

However, we also want you as a whistleblower to feel comfortable raising your concern openly as anonymous disclosures may not be dealt with as effectively as direct reports to an eligible recipient within AUSIEX. AUSIEX also confirms that all whistleblowers who disclose their identity while making a protected disclosure will be afforded confidentiality protections in respect to their identity as outlined in the next Part of this policy.

5. What Protections Are Available If I Make a Protected Disclosure?

If you have made a protected disclosure under the Whistleblower Regime, either directly to AUSIEX or to another person authorised to receive protected disclosures, the following legal protections will apply to you.

(a) Confidentiality regarding your identity

The Whistleblower Regime sets strict confidentiality obligations regarding your identity information if you make a protected disclosure.

It is unlawful for AUSIEX to disclose the identity or information that may lead to the identification of a whistleblower (**Confidential Identity Information**) unless AUSIEX is authorised to do so under the Whistleblower Regime.

There are limited circumstances in which AUSIEX is authorised to disclose Confidential Identity Information, including:

- A. if the disclosure is made with the whistleblower's consent;
- B. if the disclosures is made to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the Whistleblower Regime; or
- C. the disclosure is made to ASIC, a member of the Australian Federal Police (**AFP**) or another body prescribed by the regulations.

If you do disclose your identity when making a protected disclosure, the person who received your disclosure will treat your identity confidentially in accordance with the above confidentiality protections. This includes securely storing documents regarding your protected disclosure, and limiting access to information relating to the protected disclosure to those directly involved in managing and investigating the disclosure.

In some circumstances, it may be necessary for AUSIEX to request your consent to disclose your identity in order to effectively progress with dealing with your protected disclosure. You are under no obligation to provide your consent, but we encourage you do so as it will enable us to fully investigate a protected disclosure and take appropriate action.

If you do not consent to the disclosure of your identity, the matter may nevertheless be referred for investigation, but the investigator will be required to take all reasonable steps to reduce the risk of you being identified as a result of the investigation.

Please be aware that, in practice, people may be able to guess your identity if you have previously mentioned that you are considering making a protected disclosure, or if only a very small number of people has access to the information you are disclosing.

(b) Protection from legal action

Eligible whistleblowers who make a protected disclosure under the Whistleblower Regime are protected from certain legal action taken by AUSIEX or any individuals for making the disclosure, including:

- A. civil, criminal, and administrative (including disciplinary) action against the whistleblower; and
- B. contractual action, including termination of a contract on the basis that making a disclosure is a breach of that contract.

However, these protections do not grant a whistleblower immunity for any of the whistleblower's misconduct that is revealed in their disclosure.

(c) Prohibition against victimisation

It is unlawful for a person to:

- A. engage in any conduct that causes any detriment; or
- B. make a threat to cause any detriment,

to a whistleblower or another person because the person engaging in the conduct believes or suspects that the other person or a third person made, may have made, proposes to make, or could make, a protected disclosure.

"Detriment" includes dismissal, disciplinary action, harassment, discrimination, property damage, reputational damage and other types of damage to a person.

Penalties apply for engaging in any of the conduct referred to above. Any person involved in the contravention may be found liable.

If a person suffers, or is threatened, detriment in contravention of the Whistleblower Regime, the person may apply to the court for an order of compensation or another remedy against those who were involved in the contravention.

6. What If I Make A Disclosure That Does Not Qualify For Protection Under The Whistleblower Regime?

If you do not meet the requirements set out in Part 3 above, then you will not qualify for the legal protections under the Corporations Act or the Tax Administration Act.

However, your disclosure may be protected under other legislation. For example, your disclosure may amount to the exercise of a workplace right. Under the *Fair Work Act 2009 (Cth)*, AUSIEX is prohibited from taking adverse action against employees or contractors because they exercised or propose to exercise any workplace rights.

7. How AUSIEX Will Handle and Investigate Disclosures?

AUSIEX takes all protected disclosures seriously and, where appropriate, will investigate protected disclosures that are reported to an eligible recipient within AUSIEX. All investigations into protected disclosures will be conducted fairly, without any bias or prejudice against either the whistleblower or any other person allegedly involved in the matter.

AUSIEX will need to make preliminary enquiries to:

- (d) assess whether the disclosure falls within the scope of the Whistleblower Regime; and
- (e) determine how best to progress the issues raised in the disclosure, including whether or not a full investigation will be necessary and possible.

If an investigation is necessary and possible then, depending on the nature of the disclosable matter, a protected disclosure will be either:

- (a) investigated internally (by management, internal audit, or the Human Resources team); or
- (b) referred to the appropriate external person for investigation.

The referral of a protected disclosure for investigation will be done in accordance with the confidentiality obligations that AUSIEX owes to the eligible whistleblower. If compliance with AUSIEX's confidentiality obligations will prevent it from conducting a fair investigation, AUSIEX will discuss this with the eligible whistleblower before progressing the matter.

AUSIEX will document and report the findings of an investigation in accordance with its confidentiality obligations. The manner in which it documents and reports those findings will depend on the nature of the disclosure.

It is important to understand that AUSIEX may not be able to commence or progress with an investigation into a protected disclosure in some circumstances, for example because:

- (a) the whistleblower made the disclosure anonymously and did not provide any contact details for AUSIEX to obtain further information from the whistleblower;

- (b) AUSIEX is unable to proceed with the investigation without disclosing the whistleblower's identity, but the whistleblower does not provide consent to such disclosure.

AUSIEX will aim to keep the whistleblower regularly informed of the progress of the investigation and its expected timescale. However, confidentiality concerns, if any, may prevent AUSIEX from providing specific details of the investigation or any disciplinary action taken as a result. All staff should treat any information about the investigation as confidential.

8. Support for Whistleblowers?

By this Policy, AUSIEX is committed to ensuring all personnel feel supported and able to raise issues which relate to any misconduct or improper state of affairs or circumstances within AUSIEX.

Where a protected disclosure is made, AUSIEX will reiterate the requirements of this Policy and the Whistleblower Regime with any person concerned in the investigation of the disclosure.

As stated in Part 7, AUSIEX will conduct investigations into protected disclosures in a manner which is fair in all of the circumstances and will have regard to the protections afforded to the eligible whistleblower and the privacy and fair treatment of persons referred to in the disclosure, including those to whom the disclosure relates.

AUSIEX will determine whether any disciplinary outcomes or other remedies are appropriate after an investigation into a protected disclosure is completed.

If counselling is required, this will be provided under the Employee Assistance Program or other appropriate support services as required.

9. Support for Whistleblowers?

AUSIEX will not tolerate any reprisals or threats of reprisals made against eligible whistleblowers and will take appropriate steps to protect whistleblowers from such retaliation, consistent with the provisions of Part 4 of this Policy.

It is important that all investigations into protected disclosures are conducted in a procedurally fair and confidential manner, to ensure the fair treatment of any individuals named in the protected disclosure or to whom the protected disclosure relates.

No disciplinary action will be taken against any individual implicated in a protected disclosure until an investigation has determined whether any allegations against them are substantiated. However, if appropriate, an implicated employee or officer may be temporarily stood down on full pay pending the outcome of the investigation.

10. Other Information

AUSIEX will ensure compliance with this Policy by requiring that:

- those with specific responsibilities in relation to this Policy receive intensive training (as required); and
- any potential breaches of this Policy are reported in line with the *AUSIEX Incidents and Breaches Policy*.

If you would like further information about how this Policy works and what it covers, please contact Fiona Nash, Head of Human Resources who will treat your discussions confidentially.

11. Accountability for and periodic review of this Policy

This Policy is owned by the Owner (identified in the Accountability table) and has been approved by the Board. It should be reviewed periodically (at least annually) to monitor its effectiveness, suitability and adequacy. Any proposed changes must be approved by the Board.

12. Accountability table

Version	Owner	Approval Date	Approver Name(s)	Role/Function
1.0	Head of Human Resources	24 August 2021	Head of Human Resources	Human Resources