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1 STATEMENT OF COMMITMENT

Newmont Goldcorp Australia Pty Ltd and its Related Bodies Corporate (***Newmont Goldcorp***) is committed to fostering a culture of ethical behaviour and good corporate governance. Newmont Goldcorp will not tolerate any corrupt, illegal or other undesirable conduct by Newmont Goldcorp’s employees, officers, vendors or contractors nor condone victimisation of an individual who intends to make a disclosure or has disclosed such conduct in accordance with this Whistleblower Standard (***Standard***).

Newmont Goldcorp supports and encourages the reporting of potential wrongdoing through people having the confidence to speak up and make disclosures without fear of retribution or retaliation. This Standard supports Newmont Goldcorp’s Code of Conduct and is designed to promote open communication throughout Newmont Goldcorp, develop practices that reduce the risk of wrongdoing within Newmont Goldcorp and safeguard the reputation, values and ethics of Newmont Goldcorp and its people.

2 PURPOSE

The purpose of this Standard is:

- (a) to ensure individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
- (b) to ensure disclosures are dealt with appropriately and on a timely basis;
- (c) to provide transparency around Newmont Goldcorp’s framework for receiving, handling and investigating disclosures;
- (d) to encourage individuals to make a disclosure;
- (e) to provide information about the protections available to individuals who make a disclosure under this Standard;
- (f) to help detect, address and deter wrongdoing; and
- (g) to promote a workplace environment in which everyone feels safe, supported and encouraged to speak up if they have any concerns about potential wrongdoing.

3 SCOPE – WHO DOES THIS STANDARD APPLY TO?

This Standard applies to ‘Eligible Whistleblowers’.

An Eligible Whistleblower is an individual who is, or has been, any of the following:

- (a) an Officer of Newmont Goldcorp;
- (b) an employee of Newmont Goldcorp;
- (c) a supplier of goods or services to Newmont Goldcorp (whether paid or unpaid);
- (d) an employee of a person that supplies goods or services to Newmont Goldcorp (whether paid or unpaid);
- (e) an Associate of Newmont Goldcorp; or
- (f) a relative, dependent or spouse of an individual referred to in subparagraphs (a) to (e).

By way of example, this Standard applies to but is not limited to:

- (a) current and former employees, including employees who are permanent, part time, fixed term or temporary, interns, secondees, managers, and directors; and
- (b) current and former contractors, consultants, service providers and suppliers.

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The scope of this Standard is regional. It applies to all directors, officers and employees of Newmont Goldcorp. It is applicable to all sites and in all phases of the mine life cycle including exploration, design, construction, operation and closure.

4 WHAT MATTERS ARE COVERED BY THIS STANDARD?

This section outlines the types of conduct that can be disclosed under this Standard, such conduct is referred to as 'Disclosable Matters'. This section also outlines conduct that is not covered by this Standard and may need to be reported through alternative means.

4.1 Disclosable Matters covered by this Standard

If you are an Eligible Whistleblower you can make a disclosure under this Standard if you have reasonable grounds to suspect that the information you disclose:

- (a) concerns Misconduct, or an improper state of affairs or circumstances in relation to Newmont Goldcorp; or
- (b) indicates that Newmont Goldcorp, or an officer or employee of Newmont Goldcorp has engaged in conduct that:
 - (i) constitutes an offence against, or a contravention of, a provision of:
 - A the Corporations Act;
 - B the Australian Securities and Investments Commission Act 2001 (Cth);
 - C the Banking Act 1959 (Cth);
 - D the Financial Sector (Collection of Data) Act 2001(Cth);
 - E the Insurance Act 1973 (Cth);
 - F the Life Insurance Act 1995 (Cth);
 - G the National Consumer Credit Protection Act 2009 (Cth);
 - H the Superannuation Industry (Supervision) Act 1993 (Cth); or
 - I an instrument made under an act referred to in any of subparagraphs A to H;
 - (ii) constitutes an offence against any law of the Commonwealth of Australia that is punishable by imprisonment for a period of 12 months or more; or
 - (iii) represents a danger to the public or the financial system.

By way of example, a Disclosable Matter can include but is not limited to:

- (a) a failure to comply with, or a breach of, legal or regulatory requirements;
- (b) a breach of Newmont Goldcorp's Code of Conduct and any other Newmont Goldcorp Policy, Standard, Standard or Procedure;
- (c) illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
- (d) fraud, money laundering or misappropriation of funds;
- (e) offering or accepting a bribe;
- (f) financial irregularities; or
- (g) where a person who has made a disclosure or is believed or suspected to have made or be planning to make a disclosure in accordance with this Standard has suffered from victimisation or retaliation.

Disclosable Matters can include conduct that may not involve a breach of law. By way of example, a disclosure about 'misconduct or an improper state of affairs or circumstances' may

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not involve illegal conduct in relation to Newmont Goldcorp but may instead indicate a systemic issue that a regulator should know about to properly perform its functions.

Information that indicates a significant risk to public safety or the stability of, or confidence in, the financial system is also a Disclosable Matter, even if it does not involve a breach of a particular law.

4.2 Matters not covered by this Standard

4.2.1 Other Matters and Personal Work Related Grievances

Disclosures that do not concern Disclosable Matters are not covered by this Standard because such disclosures will not qualify for protection under the Corporations Act. However, such disclosures may be protected under other legislation, such as the *Fair Work Act 2009* (Cth). Accordingly, if your disclosure concerns conduct that is not within the definition of a Disclosable Matter, such as a Personal Work-Related Grievance, you may wish to seek independent legal advice about any rights or protections you may have under employment or contract law.

Newmont Goldcorp employees can raise Personal Work-Related Grievances, complaints or other concerns not covered by this Standard:

- (a) with their direct manager, supervisor or superintendent;
- (b) with Human Resources;
- (c) with an Ethics Advocate;
- (d) with the Legal Department; or
- (e) through the Ethics Solution Tool.

5 MAKING A DISCLOSURE

5.1 Overview

Newmont Goldcorp encourages individuals to make disclosures to Newmont Goldcorp in the first instance. This will allow Newmont Goldcorp to identify and address any potential wrongdoing as early as possible. Disclosing matters and allowing Newmont Goldcorp to investigate such matters in the first instance will help to build confidence and trust in this Standard.

Newmont Goldcorp offers several ways in which you can make a disclosure. The ways in which a disclosure can be made are outlined below. You can choose how and to whom you would like to make a disclosure. However, in order to qualify for protection under the Corporations Act a disclosure must be made to an Eligible Recipient.

A disclosure can be made verbally (in person or by phone) or in writing (via email or letter):

- (a) to a Whistleblower Protection Officer
- (b) to an Eligible Recipient; or
- (c) through the Ethics Solution Tool.

To ensure the appropriate escalation and timely investigation of Disclosable Matters, Newmont Goldcorp encourages disclosures to be made to a Whistleblower Protection Officer in the first instance where possible.

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Further, if an Eligible Whistleblower requires additional information or has any questions prior to making a disclosure the Eligible Whistleblower can contact a Whistleblower Protection Officer.

5.2 Eligible Recipient

In order to qualify for protection a disclosure must be made to an ‘Eligible Recipient’.

An Eligible Recipient is:

- (a) an Officer or Senior Manager (eg, the Site Leadership Team and the Australian Regional Leadership Team) of Newmont Goldcorp;
- (b) an external or internal auditor, or a member of an audit team conducting an audit, of Newmont Goldcorp;
- (c) an actuary of Newmont Goldcorp;
- (d) a legal practitioner (including the Legal Department of Newmont Goldcorp); or
- (e) a person authorised by Newmont Goldcorp to receive disclosures that may qualify for protection (ie, Whistler Blower Protection Officers and the Ethics Solution Tool).

5.3 Whistleblower Protection Officer

Newmont Goldcorp has appointed internal Whistleblower Protection Officers who will be authorised to receive disclosures under this Standard. Whistleblower Protection Officers will be provided with training as to how to receive and handle disclosures made under this Standard.

A disclosure can be made to a Whistleblower Protection Officer by email at the following email address wpo@newmont.com.

If the disclosure involves a Whistleblower Protection Officer, a Director, Senior Manager or Officer of Newmont Goldcorp you can make the disclosure to Legal Department of Newmont Goldcorp. If the disclosure involves the Legal Department you can make the disclosure through the Ethics Solution Tool.

5.4 Ethics Solution Tool (online or by phone)

Disclosures can also be made through the Ethics Solution Tool. The Ethics Solution Tool is a confidential reporting system provided by an independent third party vendor.

The Ethics Solution Tool can be accessed online at the following link: <https://secure.ethicspoint.com/domain/media/en/gui/25132/index.html> or by phone (call 1800 881 011 then enter: 800 968 8010 for calls within Australia).

We note that if you (as an Eligible Whistleblower) submit a disclosure through the Ethics Solution Tool and identify yourself in that disclosure, you will be deemed to have consented to your disclosure being disclosed to the members of Newmont Goldcorp’s Ethics Team for the purposes of investigating your disclosure.

5.5 Post

Disclosures can also be made by way of post to Level 2, 388 Hay Street, Subiaco, WA, 6008 marked to the attention of the Company Secretary, Legal Department, Newmont Goldcorp.

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5.6 Regulatory Bodies (ASIC or APRA)

You can make a disclosure to ASIC, APRA or a commonwealth body prescribed by regulation. Please refer to the following link for details on how to contact ASIC <https://asic.gov.au/about-asic/contact-us/>

Please refer to the following link for details on how to contact APRA <https://www.apra.gov.au/contact-us>

5.7 Public Interest and Emergency Disclosures

In certain limited circumstances, disclosures can be made to:

- (a) a member of Parliament of the Commonwealth of Australia, the Parliament of a State or the legislature of a Territory; or
- (b) a journalist.

This option will only be available where the disclosure is a public interest disclosure or an emergency disclosure.

A 'public interest disclosure' is the disclosure of information to a journalist or a parliamentarian, where:

- (a) at least 90 days have passed since the Eligible Whistleblower made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation;
- (b) the Eligible Whistleblower does not have reasonable grounds to believe that action is being, or has been, taken to address the matters to which the previous disclosure related;
- (c) the Eligible Whistleblower has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and
- (d) before making the public interest disclosure, the Eligible Whistleblower has given written notice to the body referred to in subparagraph (a) (ie the body to which the previous disclosure was made) that:
 - (i) includes sufficient information to identify the previous disclosure; and
 - (ii) states that the Eligible Whistleblower intends to make a public interest disclosure.

An 'emergency disclosure' is the disclosure of information to a journalist or parliamentarian where:

- (a) the Eligible Whistleblower has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by regulation;
- (b) the Eligible Whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
- (c) before making the emergency disclosure, the Eligible Whistleblower has given written notice to the body referred to in subparagraph (a) (ie the body to which the previous disclosure was made) that:
 - (i) includes sufficient information to identify the previous disclosure; and
 - (ii) states that the Eligible Whistleblower intends to make an emergency disclosure; and
- (d) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

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If you are considering making an emergency disclosure or public interest disclosure Newmont Goldcorp encourages you to contact a Whistleblower Protection Officer or an independent legal practitioner to ensure that you understand the criteria for making an emergency disclosure or public interest disclosure that qualifies for protection.

5.8 Legal Practitioner

Disclosures can be made to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the provisions related to the whistleblowers provisions in the Corporations Act.

5.9 Anonymous Disclosures

A disclosure can be made anonymously if you do not wish to disclose your identity. You can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. Disclosures that are made anonymously will still be protected under the Corporations Act provided you met the criteria for protection.

You are encouraged (but not required) to disclose your identity when making a disclosure. Providing your identity will allow Newmont Goldcorp to investigate your disclosure more effectively and it assists Newmont Goldcorp with monitoring your wellness and protection from victimisation or retaliation.

Newmont Goldcorp encourages Eligible Whistleblowers who wish to remain anonymous to maintain ongoing two-way communication with Newmont Goldcorp, so Newmont Goldcorp can ask follow-up questions or provide feedback. This option can be facilitated through the Ethics Solution Tool.

6 WHAT LEGAL PROTECTIONS ARE AVAILABLE TO ELIGIBLE WHISTLEBLOWERS?

6.1 Qualifying for Protection under the Corporations Act

An individual making a disclosure under this Standard will qualify for protection under the Corporations Act if:

- (a) the individual is an Eligible Whistleblower;
- (b) the individual has made a disclosure of information relating to a Disclosable Matter;
- (c) the disclosure has been made directly to:
 - (i) an Eligible Recipient;
 - (ii) ASIC, APRA or another Commonwealth body prescribed by regulation;
 - (iii) to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the Corporations Act; or
- (d) the individual has made an emergency disclosure or public interest disclosure.

The legal protections that are available to Eligible Whistleblowers who qualify for protection under the Corporations Act are set out in Schedule 1 to this Standard. The legal protections, set out in Schedule 1 of this Standard, to the extent the protections apply, apply not only to internal disclosures made to Newmont Goldcorp, but to disclosures to legal practitioners,

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regulatory and other external bodies (eg, ASIC or APRA) and an emergency or public interest disclosure.

6.2 Qualifying for Protection under the Taxation Administration Act

The Taxation Administration Act gives special protection to disclosures about a breach of any Australian tax law by Newmont Goldcorp or misconduct in relation to Newmont Goldcorp’s tax affairs if the following conditions are satisfied:

- (a) the person making the disclosure is an Eligible Whistleblower;
- (b) the disclosure is made to:
 - (i) a person authorised by Newmont Goldcorp to receive disclosures;
 - (ii) a director, secretary or senior manager of Newmont Goldcorp;
 - (iii) an auditor, or a member of an audit team conducting an audit, of the financial or tax affairs of Newmont Goldcorp;
 - (iv) a registered tax agent or BAS agent who provides tax or BAS services to Newmont Goldcorp;
 - (v) any other employee or officer of Newmont Goldcorp who has functions or duties that relate to the tax affairs of the company,

(each referred to as an **Eligible Recipient**);

- (vi) the Taxation Commissioner; or
- (vii) a legal practitioner for the purpose of obtaining legal advice or representation in relation to a disclosure; and
- (c) if the disclosure is made to an Eligible Recipient, the Eligible Whistleblower:
 - (i) has reasonable grounds to suspect that the information indicates misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of Newmont Goldcorp or an associate of Newmont Goldcorp; and
 - (ii) considers that the information may assist the Eligible Recipient to perform functions or duties in relation to the tax affairs of Newmont Goldcorp or an associate of Newmont Goldcorp; and
- (d) if the disclosure is made to the Commissioner of Taxation, the Eligible Whistleblower considers that the information may assist the Commissioner to perform his or her functions or duties under a taxation law in relation to Newmont Goldcorp or an associate of Newmont Goldcorp.

The legal protections that are available to Eligible Whistleblowers who qualify for protection under the Taxation Administration Act are set out in Schedule 1 of this Standard.

7 INVESTIGATING DISCLOSURES

Disclosures made under this Standard will be received and treated seriously with the utmost sensitivity. All matters will be addressed fairly and objectively. Making a disclosure does not guarantee that the matter will be formally investigated. All disclosures will be assessed and considered by Newmont Goldcorp.

Newmont Goldcorp will assess and consider each disclosure to determine:

- (a) if it falls within this Standard; and
- (b) whether a formal investigation is required.

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If an investigation is required, Newmont Goldcorp will appoint an authorised person to undertake the investigation. The relevant person appointed as the investigator will investigate the substance of the disclosure to determine whether there is evidence in support of the matters raised or, alternatively, to refute the disclosure made.

To ensure fairness and independence, investigations and investigators will be independent of the person making the disclosure, the individuals who are the subject of the disclosure, and the department or business unit involved.

8 SUPPORT AND PRACTICAL PROTECTION FOR ELIGIBLE WHISTLEBLOWERS

8.1 Protecting the identity of Eligible Whistleblowers

Newmont Goldcorp has a legal obligation to protect the confidentiality of an Eligible Whistleblower’s identity. Newmont Goldcorp’s priority is to protect the identity of individuals who make disclosures that qualify for protection.

Newmont Goldcorp will endeavour to preserve the confidentiality of individuals who make disclosures that qualify for protection. Newmont Goldcorp will take such confidentiality into account when sharing and storing information. The identity of an individual who has made a disclosure will not be disclosed unless the individual has consented to their identity being disclosed or the disclosure is allowed or required by law.

8.2 Protection from victimisation

Newmont Goldcorp is committed to making sure that individuals who make disclosures under this Standard that qualify for protection feel supported and protected from victimisation or retaliation. Newmont Goldcorp prohibits any form of victimisation or retaliation against individuals who make disclosures that qualify for protection, or individuals who are believed to have done so (including conduct against that person’s colleagues, employer (if a contractor) or relatives).

Any individual who victimises or retaliates against another individual who qualifies for protection may be subject to disciplinary action (including but not limited to termination of employment or engagement). In some circumstances, this may also be a criminal offence punishable by imprisonment. Newmont Goldcorp may refer any person that has engaged in victimisation or retaliation to law enforcement authorities for further investigation.

9 FAIR TREATMENT

Newmont Goldcorp is committed to ensuring the fair treatment of its employees who are mentioned in a disclosure that qualifies for protection, including those who are the subject of a disclosure. To ensure fair treatment:

- (a) disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
- (b) each disclosure will be assessed and may be the subject of an investigation;
- (c) the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported; and
- (d) an employee who is the subject of a disclosure will be advised about:

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- (i) the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness, and prior to any actions being taken; and
- (ii) the outcome of the investigation provided it is permitted by law and appropriate to do so (but a copy of the investigation report will not be provided).

10 AVAILABILITY OF THIS STANDARD

A copy of this Standard is available on Prospector (for Newmont Goldcorp employees) and is publically available at <https://www.newmontgoldcorp.com/> (for non-employees of Newmont Goldcorp). Further, where applicable, Newmont Goldcorp will provide training in respect of this Standard.

11 REVIEW AND AMENDMENT

This Standard will be reviewed periodically to ensure it is effective and remains consistent with all relevant legislative requirements, as well as the changing nature of Newmont Goldcorp as an organisation.

This Standard does not form part of any terms of employment or engagement with Newmont Goldcorp. This Standard may be applied, amended, withdrawn or replaced from time to time at the sole discretion of Newmont Goldcorp.

This Standard can only be amended with the approval of the Legal Department. Any amendments to this Standard will be effected by the posting an updated version of the document on Prospector (for Newmont Goldcorp employees) or <https://www.newmontgoldcorp.com/> (for non-employees of Newmont Goldcorp).

12 DEFINITIONS

The meanings of the terms used in this Standard are set out below:

Term	Description
APRA	means the Australian Prudential Regulation Authority
ASIC	means the Australian Securities and Investments Commission
Associate	has the meaning given by section 9 of the Corporations Act or section 318 of the Income Tax Assessment Act 1936 (Cth) (where applicable)
Code of Conduct	means that document available under the About Us/ Governance and Ethics tabs at www.newmontgoldcorp.com (or any successor page)
Corporations Act	means the Corporations Act 2001 (WA) , including regulations made for the purposes of that Act
detriment	has the meaning given by section 1317ADA of the Corporations Act
Director	has the meaning given by section 9 of the Corporations Act

Disclosable Matter	has the meaning given by section 1317AA of the Corporations Act
Eligible Recipient	has the meaning given by section 1317AAC of the Corporations Act
Eligible whistleblower	has the meaning given by section 1317AAA of the Corporations Act
Journalist	has the meaning given by section 1317AAD(3) of the Corporations Act
Misconduct	has the meaning given by section 9 of the Corporations Act
Officer	has the meaning given by section 9 of the Corporations Act
Legal Practitioner	has the meaning given by section 9 of the Corporations Act
Personal work-related grievance	<p>means that the information disclosed concerns a personal work-related grievance of the discloser if:</p> <ul style="list-style-type: none"> (a) the information concerns a grievance about any matter in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally; and (b) the information: <ul style="list-style-type: none"> (i) does not have significant implications for the regulated entity to which it relates, or another regulated entity, that do not relate to the discloser; and (ii) does not concern conduct, or alleged conduct, referred to in paragraph 1317AA(5)(c), (d), (e) or (f) of the Corporations Act. <p>See section 1317AADA of the Corporations Act</p>
Related Body Corporate	has the meaning given by section 9 of the Corporations Act
Senior Manager	has the meaning given by section 9 of the Corporations Act
Taxation Administration Act	means the Taxation Administration Act 1953 (Cth)
Whistleblower Protection Officer	means a person or persons authorised by Newmont Goldcorp to receive disclosures in accordance with this Standard

13 DOCUMENT CONTROL

Author	Approver	Change made	Date of change
Elle Farris	Andrew Kennedy	New Document. Did not require Regional Governance Committee approval due to the legislative requirement change.	24/12/2019

14 SCHEDULE 1 – Legal Protections available to Eligible Whistleblowers under the Corporations Act and the Taxation Administration Act

1. Identity Protection (Confidentiality)

The confidentiality of an Eligible Whistleblower’s identify is protected. It is illegal for a person to disclose the identity of an Eligible Whistleblower (or information that is likely to lead to the identification of an Eligible Whistleblower) which they have obtained directly or indirectly because the Eligible Whistleblower has made a disclosure that qualifies for protection under the Corporations Act or Taxation Administration Act unless:

- (a) the Eligible Whistleblower has consented to the disclosure; or
- (b) a permitted exception applies.

1.1 Permitted Exceptions

The identity of an Eligible Whistleblower (or information that is likely to lead to their identity becoming known) may be disclosed if the disclosure is made:

- (a) to ASIC, APRA, Australian Taxation Office or a member of the Australian Federal Police;
- (b) to a legal practitioner for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act or the Taxation Administration Act); or
- (c) to a person or body prescribed by regulations.

A person can disclose the information contained in a disclosure with or without the consent of an Eligible Whistleblower if:

- (a) the information does not include the discloser’s identity;
- (b) the disclosure of the confidential information is reasonably necessary for the purposes of investigating the conduct disclosed by the Eligible Whistleblower; and
- (c) all reasonable steps are taken to reduce the risk of the Eligible Whistleblower being identified.

Further, ASIC, APRA or the Australian Federal Police can disclose the identity of an Eligible Whistleblower, or information that is likely to lead to the identification of the Eligible Whistleblower, to a Commonwealth, state or territory authority to help the authority in the performance of its functions or duties.

2. Immunities

2.1 Disclosures that qualify for protection not actionable

If an Eligible Whistleblower makes a disclosure that qualifies for protection:

- (a) the Eligible Whistleblower is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure;
- (b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against an Eligible Whistleblower on the basis of the disclosure; and
- (c) the information is not admissible in evidence against the person in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information. However, in respect of disclosures made under the Taxation Administration Act, this immunity will only

apply if the disclosure was a disclosure of information to the Taxation Commissioner.

Such protections do not prevent a person being subject to any civil, criminal or administrative liability for conduct of the person that is revealed by the disclosure.

Further, in respect of disclosures made under the Taxation Administration Act the immunity does not prevent the Taxation Commissioner from issuing an assessment of taxation or imposing an administrative penalty in respect of an Eligible Whistleblower's own tax liability – in cases where the disclosure also reveals information about the Eligible Whistleblower's personal tax affairs. In such cases, the Taxation Commissioner may treat the disclosure as a voluntary disclosure for the purpose of imposing an administrative penalty.

2.2 Qualified Privilege

To ensure protection for Eligible Whistleblowers against defamation proceedings, Eligible Whistleblowers will have 'qualified privilege' (as defined in the Corporations Act) in respect of a disclosure. This means that an Eligible Whistleblower will not be, in the absence of malice, liable to an action for defamation in respect of a disclosure.

2.3 Contracts may not be terminated for disclosure

A contract to which an Eligible Whistleblower is a party may not be terminated on the basis that his or her disclosure constitutes a breach of the contract.

3. Protection from Victimisation

A person cannot engage in conduct (detrimental conduct) that:

- (a) causes any detriment to an Eligible Whistleblower or another person;¹ or
- (b) constitutes the making of a threat to cause any such detriment to an Eligible Whistleblower or another person,² where the person who engages in the detrimental conduct (being the victimiser):
- (c) believes or suspects that the Eligible Whistleblower (or another person) made, may have made, proposes to make or could make a disclosure that qualifies for protection; and
- (d) the belief or suspicion is the reason, or part of the reason, for the conduct.

Detriment includes but is not limited to, any of the following:³

- (a) dismissal of an employee on the basis of the disclosure;
- (b) injury of an employee in his or her employment;
- (c) alteration of an employee's position or duties to his or her disadvantage on the basis of the disclosure;
- (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;

¹ For example, this may be a person involved in receiving or investigating the disclosure, or a colleague, supporter, friend or family member of the whistleblower.

² A threat may be express or implied, or conditional or unconditional. An Eligible Whistleblower (or another person) who has been threatened in relation to a disclosure does not have to actually fear that the threat will be carried out.

³ Conduct is intended to include both actions and inaction and also apply to entities whose employees victimise an Eligible Whistleblower.

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- (h) damage to a person's reputation;
- (i) damage to a person's business or financial position; or
- (j) any other damage to a person.

4. Protecting the identity of Eligible Whistleblowers and other victims in court proceedings

The identity of Eligible Whistleblowers and other victims will also be protected. Identifying information in respect of an Eligible Whistleblower or other victims is not to be disclosed to courts.

In this regard, a person is not to be required to:

- (a) disclose to a court or tribunal the identity of an Eligible Whistleblower, or information that is likely to lead to the identification of the Eligible Whistleblower; or
- (b) produce to a court or tribunal a document containing the identity of an Eligible Whistleblower or information likely to lead to the identification of the Eligible Whistleblower,

except where it is necessary to do so for the purposes of giving effect to the whistleblower regime under the Corporations Act or the Taxation Administration Act, or where the court or tribunal thinks it necessary in the interests of justice to do so.

5. Costs

An Eligible Whistleblower or another person who has been victimised because of a disclosure (the claimant) who seeks an order under the relevant compensation provisions of the Corporation Act or the Taxation Administration Act will be protected from having an award of costs made against them in such proceedings except in limited circumstances as prescribed in the Corporations Act or the Taxation Administration Act.

6. Compensation and Remedies

An Eligible Whistleblower (or any other employee or person) can seek compensation and other remedies through the courts if:

- (a) the Eligible Whistleblower has suffered loss, damage or injury because of a disclosure; and
- (b) the entity in question failed to take reasonable precautions and exercise due diligence to prevent detrimental conduct (victimisation).

It is advisable that individuals seeking compensation or remedies seek independent legal advice.

For details on what compensation or remedies may be available please refer to the Corporations Act or the Taxation Act.

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