

## **METAL BANK LIMITED WHISTLEBLOWER POLICY**

### **1. Introduction**

Metal Bank Limited (the **Company** or **Metal Bank**) is committed to the highest standards of conduct and ethical behaviour in conducting its business and to promoting and supporting a culture of honest and ethical behaviour amongst its Personnel.

Metal Bank's Code of Ethical Business Conduct encourages the reporting of any instances of actual or suspected unethical, illegal, fraudulent or undesirable conduct in breach of the Code or any of its policies or any applicable laws.

### **2. Purpose**

This policy encourages people to speak out if they become aware of Potential Misconduct. It also sets out the process for making a report and provides protections and measures so that those persons who speak out may do so confidentially and without fear of intimidation, disadvantage or reprisal.

### **3. Who does this policy apply to?**

This policy applies to all directors, employees (full time, part time, casual), individual contractors and consultants (**Personnel**) of the Company, as well as anyone with information about Potential Misconduct, including all former Personnel, suppliers, contractors and consultants.

### **4. What is speaking out?**

Anyone with information about **Potential Misconduct** is encouraged to report that information to a Protected Disclosure Officer.

### **5. What is Potential Misconduct?**

Potential Misconduct is any suspected or actual misconduct or improper state of affairs or circumstances in relation to the Company or any Personnel of the Company. You should speak out even when you are unsure if something is Potential Misconduct.

**Potential Misconduct** may include a breach of policy or the law, or information that indicates a danger to the public or Metal Bank's business or reputation. Examples include:

- dishonesty or unethical behaviour
- fraud or corruption, including bribery
- criminal activity
- violence, victimisation, harassment or intimidation
- breach of Metal Bank's Code of Conduct or other policies
- breaches of law or regulations
- unauthorised use of the Company's confidential information

- conflicts of interest
- unsafe work practices, environmental damage or health risks;
- conduct likely to cause financial loss to Metal Bank or damage its reputation.

Potential Misconduct does not generally include personal work-related grievances.

Work-related grievances are grievances relating to your employment that have implications for you personally (such as a disagreement between you and another employee or a decision about your promotion). Generally, these grievances should be raised under the relevant company policy or dispute resolution process, to allow those issues to be resolved effectively. In some cases, these grievances may qualify for legal protection as set out in the Annexure to this policy.

There are special protections for whistleblowers who disclose information concerning misconduct or an improper state of affairs or circumstances in relation the Company under the Corporations Act and others for tax whistleblowers. These special protections are set out in the Annexure to this policy.

#### **6. Who can speak out?**

Any Personnel or other person with information about Potential Misconduct is encouraged to report it under this policy. This includes all current and past employees, officers, suppliers, contractors and consultants.

It is expected and required that current Personnel of Metal Bank who become aware of actual or suspect potential cases of Potential Misconduct will make a report under this policy or under other applicable policies.

#### **7. Who can I speak out to?**

Metal Bank has appointed Protected Disclosure Officers named below that you are encouraged to speak out to under this policy. You can make your report by email, telephone or in person.

Protected Disclosure Officers:

**Sue-Ann Higgins**, Company Secretary

Phone: 0408 737 868

Email: [sue-ann@metalbank.com.au](mailto:sue-ann@metalbank.com.au)

**Guy Robertson**, Director and Chief Financial Officer

Phone: 0407 983 270

Email: [guy@metalbank.com.au](mailto:guy@metalbank.com.au)

Reports may also be posted to c/- PO Box Q128, Queen Victoria Building, NSW 1230 Australia or delivered to the Company's registered office – Suite 506, Level 5, 50 Clarence St, Sydney, NSW 2000 (marked "Confidential" and to the attention of one of the Protected Disclosure Officers).

While it is Metal Banks' preference that you raise reports with the Protected Disclosure Officers, you may also raise the matter with an "officer" or "senior manager" of the Company. This includes all directors or a senior manager in the Company who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the Company, or who has the capacity to affect significantly the Company's financial standing.

**8. What information should I provide?**

You should provide as much information as possible, including details of the Potential Misconduct, people involved, dates, locations and if any more evidence may exist.

When reporting Potential Misconduct you will be expected to have reasonable grounds to believe the information you are disclosing is true, but you will not be penalised even if the information turns out to be incorrect. However, you obviously must not make a report that you know is not true or is misleading. Where it is found that a person has knowingly made a false report, this will be considered a serious matter and will result in disciplinary action.

**9. Can I make an anonymous report?**

Metal Bank encourages the reporting of Potential Misconduct, however we appreciate that speaking out can be difficult.

You can make an anonymous report if you do not want to reveal your identity. However, we encourage you to provide your name because it will make it easier to investigate and address your report.

If you do not provide your name, any investigation will be conducted as best as possible in the circumstances. However, an investigation may not be possible unless sufficient information is provided, and it may make it difficult to offer you the same level of practical support if we do not know your identity.

If you do provide your name, it will only be disclosed if you provide your consent, or in exceptional circumstances where the disclosure is allowed or required by law (e.g. in dealings with a regulator). If you have concerns about this, you can discuss this with the Protected Disclosure Officer or other recipient of your report.

**10. How will the Company respond to a report?**

All reports made under this policy will be received and treated sensitively and seriously, and will be dealt with promptly, fairly and objectively.

Metal Bank's response to a report will vary depending on the nature of the report and the amount of information provided. Your report may be addressed and resolved informally (such as assisting employees to change their behaviour) or through formal investigation

Should a report not be able to be resolved informally or Metal Bank otherwise determines an investigation is required, Metal Bank will commence and conduct investigations in a timely manner. An investigation will be fair and independent from any persons to whom the report relates. All Personnel must cooperate fully with any investigation.

When appropriate, a person being investigated will be provided with details of the report that involves them (to the extent permitted by law) and be given an opportunity to respond. Where appropriate, Metal Bank will provide feedback to you regarding the investigation's progress and/or outcome (subject to considerations of the privacy of those against whom allegations are made).

Where a report is submitted anonymously, Metal Bank will conduct the investigation and its enquiries based on the information provided to it.

#### **11. What protection exists for whistleblowers**

Metal Bank is committed to ensuring confidentiality in respect of all matters raised under this policy, and that those who make a report are treated fairly and do not suffer detriment.

##### **Protection against detrimental conduct**

No person may cause detriment to someone else (or threaten to do so) because of a belief that person has made or will make a report of Potential Misconduct under this policy. Examples of detriment include discrimination, harassment, causing physical or psychological harm, damaging property, and varying an employee's role or duties.

You should tell a Protected Disclosure Office or other recipient listed in section 7 if you or someone else, is being, or has been subject to detrimental conduct. The Company will treat this very seriously.

Any person involved in detrimental conduct will be subject to disciplinary action. In some circumstances, this may also be a criminal offence punishable by imprisonment.

The company may implement other protections to ensure you are treated fairly and do not suffer detriment because you speak out. These protections will depend on the circumstances but may include such things as monitoring and managing the behaviour of other Personnel, relocating Personnel, offering you a leave of absence while a matter is investigated, and rectifying any detriment that you have suffered.

##### **Protection of your identity and confidentiality**

Subject to compliance with legal requirements, upon receiving a report under this policy, Metal Bank will only share your identity as a whistleblower or information likely to reveal your identity if:

- i. you consent;
- ii. the concern is reported to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA), the Tax Commissioner or the Australian Federal Police (AFP); or
- iii. the concern is raised with a lawyer for the purpose of obtaining legal advice or representation.

If Metal Bank needs to investigate a report, it may disclose information that could lead to your identification, but it will take reasonable steps to reduce this risk.

Any disclosures of your identity or information likely to reveal your identity will be made on a strictly confidential basis.

#### **Protection of files and records**

All files and records created from an investigation will be retained securely.

Unauthorised release of information to someone not involved in the investigation (other than senior managers or directors who need to know to take appropriate action, or for corporate governance purposes) without your consent as a whistleblower will be a breach of this policy.

Whistleblowers are assured that a release of information in breach of this policy will be regarded as a serious matter and will be dealt with under Metal Bank's disciplinary procedures.

Further information regarding the protections offered under Australian law to persons who speak out is available in the Annexure to this policy.

#### **12. Group reporting procedures**

The Board will receive a summary of reports made under this policy on a quarterly basis. The Board will be provided additional information about any material incidents raised.

#### **13. Further Information**

If you have any questions arising from this policy, please contact the Company Secretary.

This policy will be available on the Company's public website.

This policy does not form part of terms of employment and may be amended from time to time.

**Approved by the Board**  
**19 December 2019**

## Annexure

### Special protections under the Corporations Act<sup>1</sup>

The Corporations Act gives special protection to disclosures about any misconduct or improper state of affairs relating to Metal Bank if the following conditions are satisfied:

- a) the whistleblower is or has been:
  - i) an officer or employee of a Metal Bank Group company;
  - ii) an individual who supplies goods or services to a Metal Bank Group company or an employee of a person who supplies goods or services to a Metal Bank Group company;
  - iii) an individual who is an associate of a Metal Bank Group company; or
  - iv) a relative, dependent or dependent of the spouse of any individual referred to at i) to iii) above;
  
- b) the report is made to:
  - i) a Protected Disclosure Officer;
  - ii) an officer or senior manager of a Metal Bank Group company concerned;
  - iii) Metal Bank' external auditor (or a member of that audit team)<sup>2</sup>;
  - iv) an actuary of a Metal Bank Group company<sup>3</sup>;
  - v) ASIC;
  - vi) APRA; or
  - vii) a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Corporations Act;
  
- c) the whistleblower has reasonable grounds to suspect that the information being disclosed concerns misconduct, or an improper state of affairs or circumstances in relation to the Metal Bank Group. This may include a breach of legislation including the Corporations Act, an offence against the Commonwealth punishable by imprisonment for 12 months or more, or conduct that represents a danger to the public or financial system.

Examples of conduct which may amount to a breach of the Corporations Act include: insider trading, insolvent trading, breach of the continuous disclosure rules, failure to keep accurate financial records, falsification of accounts, failure of a director or other officer of the Group to act with the care and diligence that a reasonable person would exercise, or to act in good faith in the best interests of the corporation or failure of a director to give notice of any material personal interest in a matter relating to the affairs of the company.

- d) The protections given by the Corporations Act when these conditions are met are:
  - i) the whistleblower is immune from any civil, criminal or administrative legal action (including disciplinary action) for making the disclosure;
  - ii) no contractual or other remedies may be enforced, and no contractual or other right may be exercised, against the whistleblower for making the report;

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<sup>1</sup> See Part 9.4AAA of the *Corporations Act 2001* (Cth)

<sup>2</sup> Metal Bank' external auditor can be found in its Annual Report

<sup>3</sup> Metal Bank does not currently have an actuary

- iii) in some circumstances, the reported information is not admissible against the whistleblower in criminal proceedings or in proceedings for the imposition of a penalty;<sup>4</sup>
- iv) anyone who causes or threatens to cause detriment to a whistleblower or another person in the belief or suspicion that a report has been made, or may have been made, proposes to or could be made, may be guilty of an offence and may be liable for damages;
- v) a whistleblower's identity cannot be disclosed to a Court or tribunal except where considered necessary; and
- vi) the person receiving the report commits an offence if they disclose the substance of the report or the whistleblower's identity, without the whistleblower's consent, to anyone except ASIC, APRA, the AFP or a lawyer for the purpose of obtaining legal advice or representation in relation to the report.

### **Confidentiality**

If a report is made, the identity of the discloser must be kept confidential unless one of the following exceptions applies:

- a) the discloser consents to the disclosure of their identity;
- b) disclosure of details that might reveal the discloser's identity is reasonably necessary for the effective investigation of the matter;
- c) the concern is reported to ASIC, APRA, or the AFP; or
- d) the concern is raised with a lawyer for the purpose of obtaining legal advice or representation.

### **Special Protections under the Taxation Administration Act**

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

- a) the whistleblower is or has been:
  - i) an officer or employee of a Metal Bank Group Company;
  - ii) an individual who supplies goods or services to a Metal Bank Group Company or an employee of a person who supplies goods or services to a Metal Bank Group company;
  - iii) an individual who is an associate of a Metal Bank Group company;
  - iv) a spouse, child, dependent or dependent of the spouse of any individual referred to at (i) to (iii) above;
- b) the report is made to:
  - i) a Protected Disclosure Officer;
  - ii) a director, secretary or senior manager of a Metal Bank Group Company concerned;
  - iii) any Metal Bank Group Company external auditor (or a member of that audit team)<sup>5</sup>;
  - iv) a registered tax agent or BAS agent who provides tax or BAS services to a Metal Bank Group company<sup>6</sup>;

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<sup>4</sup> Such as where the disclosure has been made to ASIC or APRA, or where the disclosure qualifies as a public interest or emergency disclosure

<sup>5</sup> Metal Bank' external auditor can be found in its Annual Report

<sup>6</sup> Metal Bank' tax agent is its auditor

- v) any other employee or officer of Metal Bank who has functions or duties relating to tax affairs of the company (e.g. an internal accountant) (**Metal Bank recipients**);
  - vi) the Commissioner of Taxation; or
  - vii) a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Taxation Administration Act; and
- c) if the report is made to a Metal Bank recipient, the 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 a Metal Bank Group Company or an associate of that company; and
    - ii) considers that the information may assist the Metal Bank recipient to perform functions or duties in relation to the tax affairs of a Metal Bank Group Company or an associate of the company; and
  - d) if the report is made to the Commissioner of Taxation, the whistleblower considers that the information may assist the Metal Bank recipient to perform functions or duties in relation to the tax affairs of a Metal Bank Group Company or an associate of the company.

The protections given by the Taxation Administration Act when these conditions are met are:

- a) the whistleblower is immune from any civil, criminal or administrative legal action (including disciplinary action) for making the disclosure;
- b) no contractual or other remedies may be enforced, and no contractual or other right may be exercised, against the whistleblower for making the report;
- c) where the disclosure was made to the Commissioner of Taxation, the reported information is not admissible against the whistleblower in criminal proceedings or in proceedings for the imposition of a penalty, except where the proceedings are concerned with whether the information is false;
- d) unless the whistleblower has acted unreasonably, a whistleblower cannot be ordered to pay costs in any legal proceedings in relation to a report;
- e) anyone who causes or threatens to cause detriment to a whistleblower or another person in the belief or suspicion that a report has been made, or may have been made, proposes to or could be made, may be guilty of an offence and liable to pay damages;
- f) a whistleblower's identity cannot be disclosed to a Court or tribunal except where considered necessary; and
- g) the person receiving the report commits an offence if they disclose the substance of the report or the whistleblower's identity, without the whistleblower's consent, to anyone except the Commissioner of Taxation, the AFP or a lawyer for the purpose of obtaining legal advice or representation in relation to the report.

### **Confidentiality**

If a report is made, the identity of the discloser will be kept confidential unless one of the following exceptions applies:

- a) the discloser consents to the disclosure of their identity;
- b) disclosure of details that might reveal their identity is reasonably necessary for the effective investigation of the allegations;
- c) the concern is reported to the Commissioner of Taxation or the AFP; or
- d) the concern is raised with a lawyer for the purpose obtaining legal advice or representation.