Notice of Determination

by the Life Code Compliance Committee (Life CCC) on alleged non-compliance with the Life Insurance Code of Practice by a subscriber

Reference:	CX 4245	**Date:**	21 December 2018
Code sections:	11.1[1]		
Investigation:	Monitoring conducted by the Life CCC		

The alleged Code breach

In August-September 2017, the Life Insurance Code Compliance and Monitoring team (Code team) conducted an audit of the websites operated by Subscribers to the Life Insurance Code of Practice (the Code).

Section 11.1[2] of the Code requires Subscribers to make consumers aware of the Code, "which will include providing information about the Code on our websites and in our relevant marketing documents".

The audit revealed that the Subscriber did not operate a website under either its common or corporate names. Its parent company, which has a different name, did have a website which included information about life insurance services offered by the Subscriber under an "Insurance" tab. The main page of this 'Insurance' tab had the FSC logo issued by the FSC to be used only by Code subscribers. This logo linked to the PDF version of the Code provided by the Financial Services Council (FSC).

The Code team sought further information from the Subscriber through correspondence and meetings.

Findings in accordance with Charter clause 7.4(b)(iii)[3]

The Life CCC assessed the matter and determined there was a breach of Section 11.1 of the Code, which was proven in whole.

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[1] The Code section is provided in full in the last section of the Determination.

[2] The Code section is provided in full in the last section of the Determination.

[3] The Life CCC is bound by its Charter to use the terminology 'the reported allegation was proven in whole or in part or was unfounded.' This in essence requires the Life CCC to state if it determined there was a breach or not. The Life CCC will explain its determination in plain language in the body of the Determination.

The Life CCC findings and conclusion

Section 11.1 of the Code requires subscribers to make consumers aware of the Code and provides as follows:

We will make **our** customers aware of the **Code**, which will include providing information about the **Code** on **our** websites and in **our** relevant marketing documents.

The Code defines "**we**", "**us**" and "**our**" as follows:

we, us and **our** mean the entity that is bound by the **Code**, and includes **our Authorised Representatives** but not an authorised representative of a company related to **us**.

As a result, the terms **we**, **us** and **our** mean the entity that subscribes to the Code and appears on the Financial Services Council's (FSC) register of Code subscribers at https://www.fsc.org.au/policy/life-insurance/code-of-practice/.

The Life CCC considered all the information from the Subscriber and determined there was a breach of Section 11.1 because the Subscriber had provided incorrect and misleading information on its parent company's website that the parent was a Code subscriber. In forming its decision, the Life CCC considered that the Subscriber is a wholly owned subsidiary of a parent company. The parent company used the FSC Subscriber logo on its website, however the parent company was not a Code subscriber. There was a lack of information on the parent company's website to clarify which corporate entity issued the life insurance products and was the Code subscriber.

While Section 11.1 does not place an explicit obligation on the Code subscriber to have a website, there is an assumption that a website exists. There was concern in this matter that the Subscriber's customers may not have access to online information to indicate it is a Code subscriber. The Committee was of the view that consumers need to be able to find information online that identifies which entity issues the life insurance products and whether that entity was a Code subscriber. Further, consumers need to be able to easily find relevant information on the internet about the Code and how to make a Code breach allegation.

The Life CCC concluded that, as the parent company is neither an authorised representative of the Subscriber nor a Code subscriber itself, the FSC Code logo should not have been used on its website without an explanation as to which entity is the Code subscriber.

The Life CCC further was of the view that the Subscriber should provide clarification on the parent company's website which states "these (insurance) products are issued by [the Subscriber's name], which is a subscriber to the Life Insurance Code of Practice".

The Life CCC noted that the Subscriber had taken a number of remedial actions including:
- it added clarification, including subscriber information and the FSC logo to the appropriate pages on its parent company's website; and
- it enhanced the prominence and clarity of information; and, included statements identifying it as a Code subscriber in marketing materials and other documents, including Product Disclosure Statements, annual insurance reminders and post-sale welcome letters.

The Life CCC was satisfied that the above-noted remedial actions were sufficient to address the issue.

Relevant Code Section/s

Section 11.1:

We will make **our** customers aware of the **Code**, which will include providing information about the **Code** on **our** websites and in **our** relevant marketing documents.

The Code defines "**we**", "**us**" and "**our"** as follows:

we, us and **our** mean the entity that is bound by the **Code**, and includes **our Authorised Representatives** but not an authorised representative of a company related to **us**.

The Life CCC is the independent body responsible for the administration and enforcement of the Life Insurance Code of Practice (the Code). It acts in accordance with the Life CCC Charter, which sets out the powers, duties, functions and responsibilities of the Committee, subject to any provisions in the Code. This de-identified Determination is issued in accordance with clause 7.4 of the Life CCC's Charter in order to assist all subscribers in understanding their Code obligations.