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PEMBA

WHISTLEBLOWER POLICY



For the purposes of this document “Pemba” refers to the Pemba Group and applies to Pemba Capital Partners Pty Ltd (“Pemba”) and any Related Body Corporate or Associate of Pemba Capital Partners (each as defined under the Corporations Act 2001 (Cth)) (but excluding, for the avoidance of doubt, any investee entity) and any partnership or trust of which Pemba (or any of its Related Bodies Corporate or Associates) is the manager, general partner or trustee (as applicable) (together, the Pemba Group).

This Pemba Group Policy Document includes information about:

- the protections available to whistleblowers under the Corporations Act;
- to whom and how disclosures that qualify for protection under the Corporations Act (or otherwise) may be made;
- how Pemba will support whistleblowers and protect them from detriment;
- how Pemba will investigate disclosures that qualify for protection under the Corporations Act and other disclosures that may not specifically qualify for protection. It is important to note that disclosures that are not about a ‘Disclosable Matter’ do not qualify for protection under the Corporations Act. If the issue disclosed does not fall within the definition of a ‘Disclosable Matter’ Pemba will still make all efforts to protect the person who made the disclosure provided such disclosure is not vexatious; and
- how Pemba will ensure fair treatment of its employees who are mentioned in disclosures, or its employees who are the subject of disclosures.

Furthermore, this Pemba Group Policy Document sets out:

- the purpose of this Policy;
- who this Policy applies to;
- matters to which this Policy applies
- who can receive a disclosure;
- how to make a disclosure;
- legal protections for disclosers;
- support and practical protection for disclosers;
- handling and investigating a disclosure; and
- ensuring fair treatment of individuals mentioned in a disclosure.

1. Introduction

Pemba provides financial services in accordance with its AFS Licence, the law and regulations, while also acting in the best interests of its clients. Pemba has no tolerance for misconduct, unethical behaviour or fraudulent activity of any kind and all representatives are expected to comply with internal Policies and regulatory requirements.

Pemba encourages a positive and open environment which is free from recrimination and victimisation and wants anyone reporting any misconduct as a 'protected whistleblower' (or otherwise) to be comfortable doing so. The Corporations Act provides a whistleblower protection regime for Australia's corporate sector (and this is contained in Part 9.4AAA of the Corporations Act). A person may be a 'protected whistleblower' under the Corporations Act in making a disclosure about alleged misconduct.

Representatives are also referred to Pemba's Grievance Handling Policy which deals with work-related complaints which are not generally part of the whistleblower protection regime.

2. Overview - Purpose of this Policy

The purpose of this Policy is to:

- encourage disclosure of any wrongdoing – if in doubt, then disclose;
- help deter wrongdoing, in line with Pemba's risk management and governance framework;
- ensure individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
- ensure disclosures are dealt with appropriately and on a timely basis;
- provide transparency around Pemba's framework for receiving, handling and investigating disclosures;
- support Pemba's values, code of conduct and commitment to compliance;
- support Pemba's reputation;
- meet Pemba's legal and regulatory obligations.

Pemba aims to develop and maintain a culture of ethical conduct and is committed to a strong compliance culture whereby representatives feel comfortable raising any issues or concerns. All matters disclosed will be taken seriously and investigated and the person making the disclosure will be protected and supported.

3. Who this Policy applies to

There are protections under the Corporations Act that are available to ‘disclosers’ who qualify for protection as a whistleblower. Such disclosers are referred to as “Eligible Whistleblowers”.

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

- (a) an officer or employee of Pemba;
- (b) a supplier of services or goods to Pemba (whether paid or unpaid), including their employees (e.g. current and former contractors, consultants, service providers and business partners);
- (c) an associate of Pemba; and
- (d) a relative, dependant or spouse of the above (i.e. relatives, dependants or spouse of current and former employees, contractors, consultants, service providers, suppliers and business partners).

An Eligible Whistleblower must also have *reasonable grounds* to suspect a ‘Disclosable Matter’ and make the disclosure in good faith.

So a person (the discloser) qualifies for protection as a whistleblower under the Corporations Act if they are an Eligible Whistleblower and the disclosure is:

- a ‘Disclosable Matter’ (refer to Section 4 below); and
- made to an ‘Eligible Recipient’ (refer to Section 5 below) or a designated Commonwealth Authority (such as ASIC or the ATO).

In addition, a person (discloser) qualifies for protection if they have made a disclosure 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 they have made an ‘emergency disclosure’ or ‘public interest disclosure’.

An ‘emergency disclosure’ is the disclosure of information to a journalist or parliamentarian, where the discloser 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 environment. To qualify as an emergency disclosure the following must also be adhered to:

- (a) the discloser must have previously made a disclosure of the information to ASIC (or APRA or the ATO or another Commonwealth body prescribed by regulation);
- (b) before making the emergency disclosure, the discloser must give written notice to the body to which the previous disclosure was made (in (a) above) that includes sufficient information to identify the previous disclosure states that the discloser intends to make an emergency disclosure; and
- (c) 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.

A 'public interest disclosure' is the disclosure of information to a journalist or parliamentarian, where the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest. To qualify as a public interest disclosure the following must also be adhered to:

- (a) at least 90 days have passed since the discloser made the disclosure to ASIC (or APRA or the ATO or another Commonwealth body prescribed by regulation);
- (b) the discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure; and
- (c) before making the public interest disclosure, the discloser has given written notice to the body which the previous disclosure was made (in (a) above) that includes sufficient information to identify the previous disclosure states that the discloser intends to make an emergency disclosure.

Eligible Whistleblowers are protected under the Corporations Act in relation to the confidentiality of their identity and victimisation. Eligible Whistleblowers can claim compensation if Pemba fails to protect them from any reprisal for making a disclosure.

It is important to note that disclosures that are not about a 'Disclosable Matter' do not qualify for protection under the Corporations Act e.g. personal work-related grievances such as interpersonal conflicts, terms and conditions of employment, disciplinary action taken by Pemba. Nevertheless, Pemba encourages all employees to report any issues of concern (including work-related grievances). To re-iterate, if in doubt, then disclose. If the issue disclosed does not fall within the definition of a 'Disclosable Matter' Pemba will still make all efforts to protect the person who made the disclosure provided such disclosure is not vexatious.

4. Matters to which this Policy applies (in terms of protection under the Corporations Act) i.e. Disclosable Matters which qualify for protection under the Corporations Act

Disclosable Matters involve information that the discloser has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances, in relation to Pemba (or any related body corporate).

An allegation with no supporting information is not likely to be considered as having 'reasonable grounds to suspect'.

'Misconduct' is defined (section 9 of the Corporations Act) and includes fraud, negligence, default, breach of trust and breach of duty.

The phrase 'improper state of affairs or circumstances' is not specifically defined and may not involve unlawful conduct but may indicate a systemic issue or relate to business behaviour and practices that may cause consumer harm.

The following conduct likely to be a Disclosable Matter:

- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
- fraud, money laundering or misappropriation of funds;

- offering or accepting a bribe;
- conduct that represents a danger to the public or the financial system;
- financial irregularities;
- failure to comply with, or breach of, legal or regulatory requirements and in particular, relevant to Pemba, the Corporations Act, the ASIC Act or any other law such as Taxation laws; and
- engaging in, or threatening to engage in, detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure.

5. Who can receive a disclosure

An “Eligible Recipient” is a person who may receive disclosures from an Eligible Whistleblower (or other person wishing to make a disclosure) that qualify for protection and includes Senior Managers within Pemba. The Compliance Officer is an Eligible Recipient and they may be the first person a discloser may wish to talk to in confidence about this Policy or to make a disclosure.

A discloser can also make a disclosure directly to regulatory bodies (such as ASIC or ATO), or other external parties (e.g. Pemba’s external auditor), about a Disclosable Matter and qualify for protection under the Corporations Act without making a prior disclosure to Pemba.

Pemba encourages its employees to make a disclosure internally in the first instance to enable it to identify and address wrongdoing as early as possible. Pemba’s approach is intended to help build confidence and trust in its Whistleblower Policy and the related processes and procedures. Also, to re-iterate, Pemba encourages representatives to make a disclosure if they have any issue or concern even if that issue or concern is not technically a Disclosable Matter.

6. How to make a disclosure

Disclosures can be made anonymously or confidentially and during or outside of business hours. Disclosures can be made in person, by email, by phone or by regular mail (particularly if they wish to remain anonymous).

7. Legal protections for disclosers

As noted above, protections under the Corporations Act are available to ‘disclosers’ who qualify for protection as an Eligible Whistleblower such as:

- Identity protection i.e. confidentiality
- Pemba has a legal obligation to protect the confidentiality of the identity of a discloser who is Eligible Whistleblowers (noting that Pemba will also seek to maintain confidentiality of any discloser even if they do not qualify as an Eligible Whistleblowers). There are exceptions such as disclosing the identity of a discloser to ASIC, the Australian Federal Police, a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act) or with the consent of the discloser.
- protection from detrimental acts or omissions (noting again that Pemba will also seek to protect any discloser even if they do not qualify as an Eligible Whistleblower) such as:

- dismissal of an employee;
- injury of an employee in his or her employment;
- alteration of an employee's position or duties to his or her disadvantage;
- discrimination between an employee and other employees of the same employer;
- harassment or intimidation of a person;
- harm or injury to a person, including psychological harm;
- damage to a person's property;
- damage to a person's reputation;
- (damage to a person's business or financial position; or
- any other damage to a person.

Should it be necessary to manage a disclosures unsatisfactory work performance which is unrelated to the disclosure this is not considered a detrimental act.

- **Compensation and other remedies**
A discloser can seek compensation and other remedies through the courts if they suffer loss, damage or injury because of a disclosure and Pemba fails to take reasonable precautions and exercise due diligence to prevent detrimental conduct.
- **Civil, criminal and administrative liability protection**
A discloser is protected from the following in relation to their disclosure:
 - civil liability e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation;
 - criminal liability e.g. attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure); and
 - administrative liability e.g. disciplinary action for making the disclosure.

8. Support and practical protection for disclosers

As noted in Section 7 above, protections under the Corporations Act are available to 'disclosers' who qualify for protection as an Eligible Whistleblower. This Section 8 of the Policy sets out information about how Pemba will support and protect disclosers (including those that do not qualify as an Eligible Whistleblower) from detriment.

8.1 Identity protection (confidentiality)

Pemba will attempt to reduce the risk that a discloser will be identified from the information contained in a disclosure by the following processes:

- all personal information or reference to the discloser as a witness to an event will be redacted; the discloser will be referred to in a gender-neutral context;
- where possible, the discloser will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them; and

- disclosures will be handled and investigated by qualified staff.

In addition, Pemba has implemented secure record keeping and information sharing processes as follows:

- all hard copy and electronic documents and other materials relating to disclosures will be stored securely;
- access to all information relating to a disclosure will be restricted to those directly involved in managing and investigating the matter which is the subject of the disclosure;
- only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser;
- communications and documents relating to the investigation of a disclosure will not to be sent to an email address or to a printer that can be accessed by other staff; and
- each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements, including that an unauthorised disclosure of a discloser's identity may be a criminal offence.

8.2 Protection from detrimental acts or omissions

The following measures and mechanisms for protecting disclosers from detrimental acts or omissions will apply (noting not all will be relevant in all circumstances and will be assessed on a case-by-case basis):

- following receipt of a disclosure, the Eligible Recipient will assess the risk of detriment against the discloser and others e.g. by other staff;
- support services (including counselling or other professional or legal services) will be made available to disclosers if they wish;
- strategies to help a discloser minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation will be discussed;
- steps may be implemented to protect the discloser such as allowing the discloser to perform their duties from another location, reassign the discloser to another role, make other modifications to the discloser's workplace or the way they perform their work duties, or reassign or relocate other staff involved in the disclosable matter;
- management will be reminded of their responsibilities to maintain the confidentiality of a disclosure, address the risks of isolation or harassment, manage conflicts, and ensure fairness when managing the performance of, or taking other management action relating to, a discloser; and
- a discloser may lodge a complaint if they believe they have suffered detriment, The complaint will be investigated as a separate matter by a senior manager who is not involved in dealing with the disclosure matter and the findings will be provided to one of the Directors.
- In the event detriment has already occurred to the discloser, and Pemba can identify the person who caused the detriment then it may take disciplinary action against that person. Other options may include offering the disclosure extended leave or offer some form of compensation. Due to the size of Pemba

and the nature of the business, it is unlikely it would be able to offer a discloser an alternative career opportunity.

- Pemba will conduct ongoing monitoring following a disclosure to ensure that no direct or indirect retaliation, victimisation or adverse treatment occurs against the discloser or any person involved in the disclosure or its investigation. Any identified instance of retaliation will be treated as serious misconduct and may result in disciplinary action, up to and including termination of employment. Pemba may also refer such conduct to law enforcement or regulatory authorities where appropriate.

If a discloser believes they have suffered detriment and are not satisfied with the actions by Pemba, they will be offered the opportunity to seek independent legal advice or contact ASIC (or ATO).

9. Handling and investigating a disclosure

Upon receipt of a disclosure, the Eligible Recipient will assess it to determine whether it qualifies for protection under the Corporations Act and whether a formal, in-depth investigation is required.

The Eligible Recipient will notify the Directors and the Compliance Officer of the receipt of the disclosure and provide them with a copy (unless one of those individuals is the subject of the disclosure).

The steps to be taken in investigating the allegations in a disclosure will depend on the nature of the disclosure. Furthermore, if a disclosure is made anonymously, there will be inherent limitations on what investigation Pemba can do if it is unable to talk to the discloser. The objective of any investigation will be to determine whether there is enough evidence to substantiate or refute the matters reported by the discloser.

Unless the discloser provides their consent, Pemba cannot disclose information that is likely to lead to the identification of the discloser as part of its investigation process unless:

- the information does not include the discloser's identity;
- Pemba removes information relating to the discloser's identity or other information that is likely to lead to the identification of the discloser (such as the discloser's name, position title and other identifying details); and
- it is reasonably necessary for investigating the issues raised in the disclosure.

Pemba will initially determine the nature and scope of the investigation, who within Pemba should lead the investigation (or whether it should be conducted by its lawyers), whether any technical, financial or legal advice is required to support the investigation and the anticipated timeframe to conduct the investigation.

Any investigation will be objective, fair and independent, while preserving the confidentiality of the investigation. To ensure fairness and independence, investigations need to be independent of the discloser, the individuals who are the subject of the disclosure and the department or business unit involved.

Pemba will provide the discloser (whistleblower) with an acknowledgment of receipt of their disclosure and, where practical, provide the discloser with regular and timely progress updates including the outcome (if appropriate to do so) noting that the frequency and timeframe will vary depending on the nature of the disclosure.

All investigations will be formally documented and reported to the Board (subject to maintaining confidentiality where required).

If the discloser is not satisfied with the outcome of Pemba's investigation, then they can request Pemba to consider appointing a person not involved in the investigation to review how the investigation was conducted. Any findings by a review will be provided to the Board.

However, if Pemba is satisfied that the investigation was conducted properly, and no new information is available or if available, would not change the findings of the investigation, then Pemba may determine a review of the initial investigation is not warranted. The discloser will be advised of Pemba's decision and the discloser will be advised that they have the right to lodge a complaint with a regulator (e.g. ASIC or the ATO), if they are not satisfied with the outcome of Pemba's investigation.

10. Ensuring fair treatment of individuals mentioned in a disclosure

Pemba will use its best endeavours to ensure the fair treatment of its employees who are mentioned in a disclosure (whether it qualifies for legal protection, or not) including those individuals who are the subject of a disclosure by adhering to the following processes:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
- each disclosure will be assessed and may be the subject of an investigation whereby the objective will be to establish whether the allegation can be substantiated;
- when an investigation needs to be undertaken, the process will be objective, fair and independent;
- an employee who is the subject of a disclosure will be advised about the subject matter of the disclosure as and when required and the principles of natural justice and procedural fairness will be followed at all times and prior to any actions being taken; and
- an employee who is the subject of a disclosure will be offered support services, if the person wishes to avail themselves of support (e.g. counselling).

11. Monitoring and reporting on the effectiveness of this Policy

The Compliance Officer will monitor the effectiveness of this Policy and ensure compliance with Pemba's legal obligations and will report to the Board on disclosures received and the status of the investigation.

12. Availability of this Policy

All representatives are provided access to this Policy (and all internal Policies) via Pemba's intranet. Any representative wishing to discuss the contents of this Policy should contact the Compliance Officer.