Applications Panel's Rules

Renewable Energy Consumer Code Applications Panel's Rules

Purpose:
The purpose of these Rules (**Rules**) is to set out the process according to which the Applications Panel exercises its powers and obligations in accordance with the Code and Bye-Laws of the Renewable Energy Consumer Code (**Code** and **Bye-Laws**) and the articles of Renewable Energy Assurance Ltd (**Articles**). Any conflict between these Rules and the Bye-Laws shall be resolved by reference to the Bye-Laws.

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1. Introduction

1. The Applications Panel is an independent Panel convened under the Bye-Laws for the purposes of:
    1. considering any referral from the Executive in accordance with clause 3.14 of the Bye-Laws in order to decide whether an Applicant should be admitted or rejected as a Code Member;
    2. determining if an Applicant admitted as a Code Member should be admitted unconditionally in accordance with clause 3.17.1 of the Bye-Laws or admitted for a defined period of Temporary Code Membership and subject to Conditions in accordance with clause 3.17.2 of the Bye-Laws;

3. determining the appropriate Conditions to impose during a period of Temporary Code Membership, and the defined period which is to apply; and
4. determining if an Applicant rejected as a Code Member under clause 3.17.3 of the Bye-Laws should be subject to the provisions of clause 3.21 of the Bye-Laws.

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2. Definitions

1. The definitions used in these Rules are the same as those in the Bye-Laws. In addition, the following definition is used:
   Meeting(s) A meeting of the Applications Panel.

2. In these Rules, references to Panel Members attending Meetings are references to those Panel Members appointed to the Applications Panel and who, in each case, have been invited to and confirmed their availability to attend the Meeting in question. The requirements for the constitution of Meetings are set out in clause 15.8 of the Bye-Laws. There is no requirement for all Panel Members to attend all Meetings.

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3. Duties of Applications Panel Members

1. Applications Panel Members shall attend Meetings for the purposes in the Bye-Laws and these Rules.
2. Panel Members shall at all times in the discharge of their duties:
    1. have regard to the best interests of the Renewable Energy Consumer Code, and the effective implementation of the Code and Bye-Laws;
    2. act in accordance with the principles of natural justice in reaching decisions; and
    3. have regard to proportionality in determining any period of Temporary Code Membership and Conditions to be imposed during a period of Temporary Code Membership.

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4. Independence and conflicts of interest

1. Applications Panel Members shall be independent of, and may not be representatives of, Code Members, Applicants, the Executive or the Board.
2. Where an Applicant who has been referred to the Applications Panel in accordance with clause 3.14 of the Bye-Laws is, or is to be, the subject of discussion at a Meeting:
    1. if any Panel Member (including the Chairman) is aware of any conflict of interest in his or her personal or professional position with the Applicant, then as soon as the Panel Member becomes aware of the conflict of interest he or she must declare it and ask to be replaced by another Panel Member in relation to that matter; or
    2. if the Applicant raises a concern in relation to a conflict of interest with a Panel Member or Panel Members (including the Chairman), the Panel Members shall as soon as reasonably practicable thereafter convene a Meeting to consider in all the circumstances whether a conflict arises and whether the Panel Member(s) in question should be required to stand aside in relation to that matter. The Panel Member(s) concerned may provide information to assist the Applications Panel in the consideration of their position but is not entitled to vote on the matter or to be counted as part of the quorum for the Meeting. Following this consideration, the Panel Members will determine in their absolute discretion whether the Panel Member(s) in question should be required to stand aside; and
    3. where a Panel Member asks to be replaced or is required to stand aside in relation to that matter, the Executive shall appoint a replacement as soon as reasonably practicable. The Chairman (or, where the Chairman is the Panel Member replaced or standing aside, the remaining Panel Members) shall decide whether an adjournment of the Meeting is necessary taking into account the requirements for constitution of Meetings in clause 15.8 of the Bye-Laws; and
    4. where a conflict of interest is raised, a decision in accordance with this clause 4 as to whether the Panel Member in question is to be replaced or required to stand aside in relation to that matter must be made before discussions about the Applicant at the Meeting can continue or be commenced.

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5. Meetings of the Applications Panel

1. The Executive or the Chairman of the Applications Panel may convene a Meeting in order for the Applications Panel to consider or decide upon any matters that may be required in accordance with the Bye-Laws.
2. The Chairman of the Applications Panel may adjourn a Meeting, or instruct the Executive to take such steps as are necessary to adjourn a Meeting.
3. Meetings may be in person, or by conference call or may make use of other communications technology.
4. Neither the Executive nor any Applicant or Code Member (including any Code Member subject to Conditions or during a period of Temporary Code Membership) may attend a Meeting (or the relevant part of a Meeting) at which matters relating to any specific Applicant(s) or Code Member(s) (including any Code Member(s) subject to Conditions or during a period of Temporary Code Membership) is being discussed. The Executive (or any other person or entity) may attend any Meeting or part thereof only if invited to do so by the Applications Panel, for example, in order to discuss proposed alterations to the Bye-Laws or other applicable procedures.
5. In making any decision in relation to an application referred to the Applications Panel in accordance with clause 3.14 of the Bye-Laws, the Applications Panel will consider any documentation submitted to the Meeting by the Executive and by the Applicant in accordance with clause 7.3 below.
6. The Panel Secretary will attend Meetings to provide such assistance to the Applications Panel as is required.

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6. Referral to an Applications Panel Meeting

1. This clause 6 applies where the Applications Panel has been asked to decide upon an application in accordance with clause 3.14 of the Bye-Laws.
2. Once the date of the Meeting has been fixed, the Executive will write to the Applicant to:
    1. confirm the date of the Meeting at which the Applicant's application will be considered;
    2. provide the Applicant with a summary of the Executive's concerns as to why any of the Circumstances for Refusing Code Membership may apply, or why the Applicant is not compliant with the Code, or is not in a position to be compliant with the Code;
    3. provide the Applicant with any supporting documentation;

4. invite the Applicant to provide its written response to the concerns raised, and to provide any further documentation in accordance with a reasonable deadline to be specified by the Executive but which shall be not less than 7 Days before the Meeting.

3. At least 7 Days before the Meeting, the Executive will send to the Applications Panel Members:
    1. A summary of the Executive's concerns as to why any of the Circumstances for Refusing Code Membership may apply, or why the Applicant is not compliant with the Code, or is not in a position to be compliant with the Code, and any supporting documentation;
    2. A copy of the written response (if any) and any supporting documentation submitted by the Applicant with the response; and
    3. Evidence that the Executive has informed the Applicant of the date of the Meeting, has provided the Applicant with copies of the documentation being submitted to the Meeting; and has invited the Applicant to provide its response to the Executive's concerns as to why any of the Circumstances for Refusing Code Membership may apply, or that the Applicant is not, or is not in a position to be compliant with the Code.
4. Once the Applications Panel has received the documentation in clause 6.3 above, should the Panel then request clarification or further information from the Executive, the Executive will notify the Applicant of the request and provide the Applicant with a copy of the Executive's response to the Panel.
5. The Applications Panel shall only receive information or documentation that has also been provided to or by the Applicant.

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7. Decisions of the Applications Panel

1. Before making a decision on any application that has been referred to it in accordance with clause 3.14 of the Bye-Laws, the Applications Panel will satisfy itself that the Executive has complied with its obligations in clause 6 above.
2. Decisions of the Applications Panel will be made in writing and will set out the reasons for the decision being made. Decisions should be logical and concise.
3. In making a decision, the Applications Panel will consider any documentation submitted to the Meeting by the Executive and by the Applicant (if any). The Panel will satisfy itself that the Executive has informed the Applicant of the date of the Meeting, has provided the Applicant with the documentation it has submitted with an explanation of

its concerns and has invited the Applicant to submit a response to this documentation within a reasonable deadline.

4. Decisions should clearly set out whether the Applicant has been admitted or rejected as a Code Member, or admitted as a Code Member for a period of Temporary Code Membership. Decisions should consider and comment upon each of the concerns and/or Circumstances for Refusing Code Membership referred to the Panel and any comments or documentation provided by the Executive or the Applicant which have been taken into account in making the decision. Decisions should record any findings of fact which are essential to the decision and, in the case of admission as a Code Member for a defined period of Temporary Code Membership, the Conditions and defined period which is to apply.
5. A suggested format for the Decision is as follows:
    1. Summary of concerns and/or Circumstances for Refusing Code Membership raised by the Executive.
    2. Summary of the response from the Applicant including reference to documentation.
    3. Essential findings of fact relevant to the decision with careful reference to each concern or reason for non-admission raised and the Applicant's response (if any).
    4. Decision with reference to each concern and/or Circumstance for Refusing Code Membership raised.
    5. The defined period of Temporary Code Membership if this is to be imposed, and the Conditions which are being imposed including any time-frame in which they must be met by the Code Member.
    6. Any direction as to a period in which further applications from the Applicant will not be considered by the Executive in order to allow the Applicant time to address the issues which have resulted in its application for Code Membership being rejected, in accordance with clause 3.21 of the Bye-Laws.
6. The decision of the Applications Panel shall be final. Applicants are not (subject to any direction made by the Applications Panel in accordance with7.5.6 above and clause 3.21 of the Bye-Laws) barred from re-applying for Code Membership as appropriate in the future though the same criteria will be applied in reviewing any renewed application.
7. The Panels Secretariat may assist in drawing up any decision made by the Applications Panel, and will issue any decision to Applicants or Code Members and the Executive as soon as practicable following the Meeting and within 14 Days. Decisions will come into immediate effect once issued.

8. Matters the Applications Panel shall decide and take into account

1. The Applications Panel will decide whether the Applicant should be:
    1. admitted as a Code Member; or
    2. admitted as a Code Member for a defined period of Temporary Code Membership and subject to Conditions; or
    3. rejected as a Code Member.
2. The Applications Panel will also decide upon the appropriate defined period for Temporary Code Membership and the appropriate Conditions to be imposed.
3. In reaching a decision at or following a Meeting, the Applications Panel shall take into account:
    1. The documentation provided to it by the Executive;
    2. The documentation provided to the Executive by the Applicant (if any).
    3. Any further discussions at the Meeting.
4. Each matter raised by the Executive and the Applicant shall be considered by the Applications Panel and addressed in its decision.

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9. Conditions and Temporary Code Membership

1. Where the Applications Panel considers it appropriate that an Applicant should be admitted as a Code Member for a defined period of Temporary Code Membership, it will set out in its decision the defined period which is to apply to the Code Member. In addition, the Applications Panel will impose Conditions on the Code Member.
2. Such Conditions may include matters such as the following, which are set out by way of example only:
    1. Enhanced Monitoring during Temporary Code Membership, including:
        1. Undergoing an Audit at the Code Member's expense; and/or
        2. Successfully responding to a Mystery Shopping exercise by the Executive's Auditors within a set time-frame.
    2. Implementing amendments to advertising material, websites, training programmes or contractual documentation.
    3. Implementing amendments to business practices.
    4. Giving an undertaking to remove a director, partner, shareholder or senior staff member (regardless of job title) of the Code Member from his/her office within a certain period of time, with (as appropriate) a further undertaking that the individual director, partner, shareholder or senior staff member (regardless of job title)

in question will have no involvement in the business of the Code Member in future or for a defined period, or until certain Conditions are met.

3. The Applications Panel should set out a reasonable time-frame within which compliance with each Condition must be achieved. This time-frame may be shorter than or the same length as the period of Temporary Code Membership.

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10. Transitional Provisions

1. These Rules come into effect on the date on which they are published on the Website.
2. The version of the Code or the Bye-Laws or these Rules which applies to any matter being considered by the Applications Panel shall be the version in force at the date on which the Executive refers the matter to the Applications Panel pursuant to clause 3.14 of the Bye-Laws.