



**energy savings**  
Industry Association

# ESIA Code of Conduct For Members

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code signatory  
**energy savings**  
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## Introduction

### Rationale

The Energy Savings Industry Association (ESIA) Code of Conduct (“The Code”) aims to ensure high standards are met in the marketing and delivery of energy efficiency (“white”) certificate creation and related services by ESIA Members (“Members”) to energy customers (“Customers”).

Customers include, but are not limited to: residential and business (commercial and industrial), institutional, educational, healthcare and government.

Customers may be referred to in various ways such as “clients”, “energy users” or “end use customers”. They are the party that is saving the energy or for which the savings are being made and are the recipient of the financial benefit made possible by certificate creation.

The Code:

- aligns with the ESIA Rules of Association;
- reinforces the key provisions of Australian Consumer Law, state based Fair Trading acts, other industry acts and codes, privacy legislation, consumer protection legislation and other regulatory requirements and guidelines provided by each energy efficiency scheme and other market-based energy efficiency programs (“programs”) (See ESIA Code – Reference Documents); and
- provides additional guidance to Code Signatories on issues unique to the energy efficiency industry.

### Signatory Profiles

Code Signatories vary in the nature of their engagement and provision of services within energy efficiency schemes and programs, some members:

- solely create and trade certificates, others also supply and install solutions, others solely supply products or may be other industry participants; and
- may operate in one, some or all schemes or programs.

Although not all sections of the Code are directly relevant to how all Signatories conduct their services, all Signatories benefit from Code requirements being met by relevant parties.

### Scope

The ESIA Code only relates to ESIA member activities conducted in the pursuit of white certificates. Compliance with relevant parts of the Code is a mandatory obligation on ESIA Members, who are all Code Signatories (see ESIA Code – Signatory Declaration) and agree to abide by the Code Dispute Process (see ESIA Code – Dispute Process).

Signatories are also bound to ensure that all of their agents and contractors engaging in white certificate activity abide by the objectives of the Code when delivering energy efficiency solutions on behalf of the Signatory. (This may be included in a relationship agreement.)

Non-ESIA members that participate in energy efficiency schemes and programs are encouraged to voluntarily comply with the Code.

Where there is a discrepancy between the Code and any energy efficiency scheme compliance regulations, then the regulations will be referenced not the superseded section of the Code, for example in the case of a dispute.

## Objectives

The objectives of the Code (which align with ESIA's purpose and objectives) are to:

- Support Code Signatories to conduct their business professionally and ethically: to act in good faith, honestly and reasonably in a consistent manner. This includes members honouring their contracts to other members and other parties.
- Promote the objectives of the relevant energy efficiency schemes and programs, promote competition and further development of these initiatives.
- Promote transparency, collaboration where appropriate, and fostering of strong working relationships between Code Signatories, other members, customers, scheme administrators and policy makers, other regulatory authorities and relevant stakeholders involved in energy efficiency schemes and programs.
- Promote, comply with, maintain professional competence in, and monitor all relevant legislation, regulations, guidelines, standards and similar obligations, and alert ESIA and relevant regulators of any serious breach.
- Protect customers, and for the benefit of the energy efficiency industry in general, promote confidence in the industry and schemes by setting minimum, and working towards higher, standards for the delivery of energy efficiency services to customers.
- Ensure services are provided in a way that maximises the benefits to customers and the environment.
- Provide clear and accurate information relating to energy efficiency certificates in product and service marketing materials and with any products that are provided to customers.
- Regarding issues that arise through the sales, marketing and delivery of energy efficiency services to customers, work collaboratively with stakeholders and energy efficiency scheme administrators to investigate and remedy, including providing a clear and effective framework for complaints and dispute resolution and handling complaints expeditiously and fairly.

## Code Signatory use of Code, Certificate, Logo & Statement

To promote the accountability of the Signatory to abide by the Code, in relation to the following items, Code Signatories are required to:

- **Code:** display the full document in all offices for easy reference by staff and customers;
- **Certificate of Membership** – (issued annually by ESIA to mark payment of fees): display in all offices for easy reference by staff and customers;
- **Signatory Logo** – include on home page of website (and elsewhere as possible) and link to either the **Logo Supporting Statement** on the Signatory website and/or link it to the ESIA website Code of Conduct page (See ESIA Code – Signatory Logo & Statement).

## General Conduct with customers

*The majority of information in this section of the Code is relevant to Code Signatories delivering installations for residential customers. However, the spirit of engagement is relevant to dealings with any customer.*

### Sales and Marketing

#### Clear Communication including for certificate creation

Code Signatories will communicate relevant regulatory standards and specifications to suppliers, agents or customers in clear, meaningful and accurate terms.

Quotes, invoices, data sheets or other documentation will include all information necessary or appropriate to enable the customer to make an informed decision:

- general information about customer rights and obligations surrounding the creation of energy efficiency certificates;
- terms and conditions with full particulars of the creator's standard fees and charges, payment terms, and recourse for failure to pay, without reasonable cause, on those terms (eg deposits);
- where indicative values are provided or are based on as yet unproven assumptions, this will be made readily apparent so the customer clearly understands that this is not a final quote to be compared to others;
- relevant and accurate information about the product performance and suitability for replacing other products; and
- where certificates are created based on products which will be replaced (ie lighting), the specifics of those products including decommissioning procedures for replaced products will be noted.

### Training

Code Signatories have a responsibility to ensure that, where appropriate when engaging with customers, their staff, contractors, sub-contractors and representatives are adequately trained and demonstrate the necessary competencies to market and/or deliver energy efficiency services.

Code Signatories must ensure installers are aware of their obligations under existing codes and guidelines, industry acts, privacy legislation and consumer protection legislation.

Code Signatories are responsible for ensuring their representatives are trained to:

- understand and clearly explain the purpose and nature of the respective energy efficiency scheme;
- understand and clearly explain the process and rights of a customer in assigning/nominating their rights to create energy efficiency certificates;
- understand and provide information on the product(s) and service(s) that is provided;
- demonstrate customer service skills, including dealing with customers with special needs, or those with no or limited English language skills;
- be familiar with and understand all relevant regulatory requirements;
- understand the principles of consumer protection and privacy laws and relevant trade practices and fair trading legislation as applicable to the jurisdiction in which the Code Signatory is operating;
- provide customers with information about the company's dispute resolution process;

- understand what is misleading, deceptive and/or unconscionable conduct, and false representation (including coercion and harassment) and the consequences of such conduct; and
- understand and abide by the principles, terms and requirements of the Code including complying with mandatory approved safety and technical requirements and with other specific competencies.

Code Signatories must maintain records, where appropriate, as specified by the regulators showing the training that each representative has completed and that they have demonstrated acceptable competence and understanding.

### Direct Marketing

Direct marketing to customers for the purpose of this Code is defined as either contact or non-contact sales as described in the consumer protection legislation. It can be summarised as “the unsolicited approach of a Code Signatory to a consumer with the view to selling products and/or services at the time the contact is made (ie with no prior booking)”.

Code Signatories that undertake direct marketing programs must ensure their representatives:

- have completed all relevant training in line with this Code;
- clearly identify themselves and the Code Signatory they represent and wear an identification card that clearly displays:
  - the representative’s photo and full name;
  - the full name and contact details (including ABN and telephone number) of the Code Signatory they represent; or if a sub-contractor, clearly identify themselves and provide information regarding the Code Signatory for whom they are undertaking the work;
- take every reasonable step to ensure the customer understands that the work is not being done on behalf of the government or scheme administrator and the certificate value is not provided by the government directly;
- are able to clearly explain the scheme to the customer and can provide an explanatory document if requested;
- advise the customer as to the purpose of the marketing contact;
- leave the premises immediately when asked; and
- respect ‘no canvassing’ signs and Do Not Call registers.

To assist in the timely and easy identification of installers and marketers and to assist in the resolution of enquiries and complaints, Code Signatories will ensure they maintain sufficient records of all installers acting on their behalf including the following details:

- full name and company name if they are a sub-contractor;
- date of birth;
- qualifications;
- training content, completion dates and results;
- date of commencement and termination (where applicable); and
- details of every installation undertaken by the installer on behalf of the Code Signatory.

### Telemarketing/Call Centres

Code Signatories and telemarketers must abide by all relevant rule and regulations. Code Signatories must *not*:

- engage in misleading, aggressive or coercive tactics;
- ask overly intrusive questions – all questions must be reasonable and relevant;

- engage the services of overseas based telemarketing service providers for direct marketing activities where this is banned by scheme administrators; nor
- contact customers listed on Do Not Call registers.

Similarly to direct sales, the telemarketers must clearly identify themselves and avoid any misunderstanding that they represent the government, regulator, scheme administrator, or any government department.

### Installation Service

Code Signatories who install or engage others to install must ensure their representatives:

- clearly identify themselves and the Code Signatory they represent and wear an identification card that clearly displays:
  - the representative's photo and full name;
  - the full name and contact details (including ABN and telephone number) of the Code Signatory they represent; or if a sub-contractor, clearly identify themselves and provide information regarding the Code Signatory for whom they are undertaking the work;
- leave the premises immediately when asked;
- take all reasonable steps to attend the installation at the time agreed and advise the customer at the earliest opportunity if this is impossible;
- take all reasonable steps to ensure the customer is an adult and authorised to allow the work to be undertaken;
- prior to undertaking any work, clearly explain to the customer their rights in relation to creating energy efficiency certificates;
- are in possession of the necessary equipment to complete the service compliantly in accordance with requirements and competencies;
- leave a document which must include contact details for the Code Signatory, a record of the representative who undertook the installation and a record of the work undertaken; and
- leave a copy of, or direct the consumer to, an on-line version of the Code Signatory's dispute resolution process.

### Customer Service

- Code Signatories must provide an easily accessible customer service or contact telephone number so customers can easily contact the Code Signatory if and when required during normal business hours and the hours in which installers and marketers are conducting in-person contact with customers. At a minimum, the telephone contact number should be located prominently on:
  - the home page of the Code Signatory's website;
  - on any promotional material provided to the customer; and
  - installation documentation, certificate assignment or nomination forms.
- A clear, documented set of customer service procedures and standards for the Code Signatory's representatives must be maintained and made available to customers upon request.
- All efforts must be made to attend installations when agreed and notification be made to the customer if this is not possible.
- Cooling off periods must be followed by law and may vary by jurisdiction.

## Customer Dispute Resolution Process

Code Signatories shall have an internal dispute resolution process for handling customer complaints and disputes which is consistent with the Australian Standard guidelines for complaints handling. This process will be available and provided at no cost to customers upon request.

Code Signatories will:

- aim to make contact with customers within three business days of a complaint being received by the Code Signatory; and
- follow up on resolutions including those relating to faulty products within a reasonable timeframe.

## Product Sourcing and Disposal

Code Signatories must take all reasonable steps to ensure that:

- the products being purchased are produced ethically and at least to relevant scheme standards;
- relevant stakeholders are aware that replaced products need to be handled, removed and disposed of effectively to safeguard health and safety, and to minimise environmental impact;
- where possible replaced products are recycled and proof retained and made available upon request;
- recycling recommendations are implemented for products removed due to schemes activity;
- all documentation submitted to an energy efficiency scheme administrator should be independently verified and only submitted to the scheme administrator if believed to be true and correct;
- independent verification of the components of a product should be undertaken to ensure that the product applied for is identical to the product being supplied;
- issues identified with a product or product documentation are notified to the scheme administrator as soon as possible; and
- interactions with scheme administrators are undertaken in a professional and respectful manner.

Code Signatories dealing with lighting are requested by the ESIA to comply with product disposal recommendations by FluoroCycle, an Australian Government accredited national voluntary product disposal scheme administered by the Lighting Council Australia. Fluorocycle targets waste lamps containing mercury. ESIA is a Peak Body Facilitator Signatory and encourages its Members to become Facilitator Signatories where relevant. <http://www.fluorocycle.org.au>

## Insurance, Warranties and Guarantees

Code Signatories must have all relevant and required insurances for any work they undertake on the site of a customer and provide as a minimum statutory warranties and guarantees for any products or services they provide to customers.

## ESIA Code - Reference Documents

These reference documents relevant to the Code are published by other organisations and may be changed at any time. They include trading and other industry acts and codes, privacy legislation, consumer protection legislation, other regulatory requirements and guidelines provided by each energy efficiency scheme and other initiatives including energy efficiency programs, and related organisations.

- Australian Consumer Law, <http://consumerlaw.gov.au/> (Replaces the Commonwealth Trade Practices Act 1974, [http://www.austlii.edu.au/au/legis/cth/num\\_act/tpa1974149/](http://www.austlii.edu.au/au/legis/cth/num_act/tpa1974149/))
- State-based Fair Trading acts
- Regulatory Guidelines provided by each energy efficiency scheme:
  - VIC, VEET <https://www.veet.vic.gov.au/Public/Public.aspx?id=Home>
  - NSW, ESS <http://www.ess.nsw.gov.au/Home>
  - SA, REES <http://www.escosa.sa.gov.au/industry/rees/overview/rees-overview>
  - ACT, EEIS [http://www.environment.act.gov.au/energy/smarter-use-of-energy/energy\\_efficiency\\_improvement\\_scheme\\_eeis](http://www.environment.act.gov.au/energy/smarter-use-of-energy/energy_efficiency_improvement_scheme_eeis)
- Privacy Legislation, The 13 Australian Privacy Principles (APPs) found in the Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth). <https://www.oaic.gov.au/agencies-and-organisations/guides/australian-privacy-principles-and-national-privacy-principles-comparison-guide>
- Consumer Protection Legislation, <http://www.australia.gov.au/information-and-services/public-safety-and-law/consumer-protection>
- Australian Standard Customer Satisfaction – Guidelines for complaints handling in organisations (ISO10002:2004,MOD) <https://www.saiglobal.com/PDFTemp/Previews/OSH/AS/AS10000/10000/10002-2006.pdf>
- ACCC Advertising and Selling Guide, [http://www.accc.gov.au/system/files/722\\_Advertising%20and%20selling\\_FA\\_2015.pdf](http://www.accc.gov.au/system/files/722_Advertising%20and%20selling_FA_2015.pdf)
- ACCC Door-to-door sales and telemarketing, <https://www.accc.gov.au/consumers/sales-delivery/telemarketing-door-to-door-sales>
- ACCC Avoid misleading or deceptive claims or conduct, <https://www.accc.gov.au/publications/advertising-selling/advertising-and-selling-guide/avoid-misleading-or-deceptive-claims-or-conduct>

## ESIA Code - Dispute Process

### Overview

Compliance with the Code is a mandatory obligation on ESIA members. Should non-compliance occur, the Signatory agrees to abide by this Dispute Process if a complaint is lodged with the ESIA against the Code Signatory and if they are accredited under one of the currently operating energy efficiency schemes. Schemes include but are not limited to:

- VIC – Victorian Energy Efficiency Target (VEET)
- NSW – Energy Saving Scheme (EES)
- SA – Retailer Energy Efficiency Scheme (REES)
- ACT – Energy Efficiency Improvement Scheme (EEIS).

Also included are national programs that include energy efficiency initiatives, such as the Emissions Reduction Fund where scheme participants create Australian Carbon Credits. ESIA will only deal with complaints that involve members of ESIA and where a potential breach of the EECCA Code of Conduct has occurred. ESIA will process a complaint as bound by the ESIA Rules of Association and according to the following process.

### Process

1. In the first instance, complainants will generally need to lodge their complaint in writing directly to the member organisation. (If this is not possible, go to Step 2, as in the case of competitor complaints). You will need to quote the part of the ESIA Code which you believe has been breached. Then include a description of the complaint and supporting documentation. The member is then responsible for handling your complaint within their complaints procedure. The desired outcome is that both parties reach a satisfactory outcome.
2. If you are not satisfied with Step 1, you can lodge a complaint with the ESIA at [secretary@eecca.org.au](mailto:secretary@eecca.org.au). As in Step 1, you will need to quote the part of the Code which you believe has been breached. Then include a description a) of the complaint along with supporting documentation, and b) a description of your communication with the EECCA member, if undertaken, and the status reached.
3. An ESIA complaints representative determined by the Board, excluding any parties involved in the dispute, will then communicate with you, in an expeditious manner, to determine if a potential breach has occurred provided that it is not frivolous, vexatious or motivated by professional rivalry. The ESIA representative will also keep the Board fully informed of the complaint lodgment and progress.
4. The ESIA will advise the member that is subject to the complaint of the nature of the complaint in writing and the matter that ESIA will investigate using the information provided in Point 2 by the complainant.
5. The ESIA member will be required to provide a written statement to the ESIA Board in response to the allegations to the ESIA within a reasonable timeframe.
6. Where the ESIA member's response to the ESIA Board leads to a prompt resolution of the dispute no further action will be taken.

(cont'd)

7. Where the dispute involves a serious breach of the Code and the complaint cannot be immediately resolved, a tribunal of Board Members, excluding any parties involved in the dispute, will be established by the ESIA to determine the appropriate response and actions required to deal with the issues.
8. The ESIA may suspend the Member's membership while it further investigates the complaint and until the issues relating to the complaint are resolved.
9. The ESIA may suspend the Member's membership if the member has not responded to the ESIA's written advice within the required timeframe.
10. The ESIA may suspend or withdraw the Member's membership if ESIA determines that a serious breach of the Code of Conduct has occurred.
11. Where ESIA receives a formal complaint in writing from a regulator of one of the energy efficiency schemes, or the ESIA is advised that the member has been suspended by a regulator, the ESIA will advise the member in writing that the relevant regulator has lodged a complaint and that ESIA membership may be suspended at such time that the ESIA determines is reasonable while it investigates, or following the outcome of, the complaint.
12. If a regulator suspends an ESIA member which results in a subsequent cancellation by the regulator, then the ESIA will request of the Member, in writing, an explanation as to why the ESIA should not cancel that Member's ESIA membership.
13. Where a Member's Membership has been suspended or cancelled by the ESIA, at a time determined by the Board this will be posted on the ESIA website, ESIA benefits will be withdrawn and the relevant Regulator will be advised in writing.
14. Where a Member's Membership has been suspended or cancelled by a Regulator, at the discretion of and at a time determined by the ESIA Board, this will be posted on the ESIA website, ESIA benefits will be withdrawn and the relevant Regulator will be advised in writing.

## ESIA Code - Signatory Logo & Statement

### Aim

Code Signatories are requested to use the ESIA Code Signatory Logo wherever possible. The aim of the logo is to maximise the value gained from Membership. The logo promotes the high standards in energy efficiency services to customers by ESIA members which set them apart in the market.

### Guidelines and Possible Applications

Ensure the logo is published as supplied without distortion and of a size that is legible. For use in PowerPoint presentation, annual report, website homepage, brochure, email signature, social media etc.

### Logo



### Supporting Statement

It is requested that the Supporting Statement be published on the member's website, linked from the ESIA Signatory logo to a separate page. This page should ideally link to the ESIA website Code of Conduct page where the ESIA Dispute Process is hosted. The Supporting Statement:

“Our organisation is a Signatory to the Energy Savings Industry Association (ESIA) Code of Conduct. The ESIA is the peak national, independent association representing and self-regulating businesses that are accredited to create and trade in energy efficiency certificates in energy efficiency schemes in Australia. As a Code Signatory we are committed to ensure high standards are met in the marketing and delivery of energy efficiency services to customers. In the first instance, to lodge a complaint against our organisation with our organisation, based on the content of the Code, please call our general enquiries telephone number. If you are not satisfied and believe we have breached the Code, you can then lodge a complaint with the ESIA. Details of how to make a complaint using the ESIA Code Dispute Process can be found at [www.esia.asn.au](http://www.esia.asn.au).”

### Cessation of Use

Cessation of Membership will require discontinuation of use of the logo and statement.

