

Breach Reporting Policy

4XHub Ltd

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VERSION CONTROL

Version Number	Date Updated	Notes
1	August 2021	Original document prepared and finalised in consultation with Sophie Grace Pty Ltd.
2	September 2021	Changes prepared and finalised in consultation with Sophie Grace Pty Ltd to reflect the new breach reporting regime set out in RG78 issued on 7 September 2021.
3	November 2021	Modified for 4XHUB Ltd. (Labuan)
4	November 2022	Revised by Marcus Tan & Co for Labuan

SECTION A – INTRODUCTION

1. PURPOSE

- 1.1 The purpose of 4XHub Ltd's ("**4XHub**") Breach Reporting Policy ("**Policy**") is to ensure all relevant Reportable Situations concerning 4XHub's are reported to the Labuan Financial Services Authority ("**LFSA**") in accordance with requirements under all relevant laws. It is important that incidents, whether they are Reportable Situations, errors or irregularities, be resolved on a timely basis in accordance with applicable laws.

2. APPLICATION

- 2.1 The Breach reporting obligations described in this Policy apply to Reportable Situations that arise on or after 1 October 2021.
- 2.2 Investigations into an incident that happened entirely before 1 October 2021 are not reportable to LFSA, even if 4XHub commences an investigation into the incident on or after 1 October 2021.
- 2.3 An investigation that commences before 1 October 2021 may become a Reportable Situation if:
- (a) the investigation is still in progress on or after 1 October 2021 and continues for more than thirty calendar (30) days;
 - (b) the investigation concerns an incident that started before 1 October 2021 and the conduct that is the subject of the incident is continuing on or after 1 October 2021.

3. AIMS

3.1 This Policy aims to provide Representatives with guidance in relation to:

- (a) identifying Reportable Situations, Breaches and incidents, or likely Reportable Situations, Breaches and incidents, of 4XHub's LFSA obligations;
- (b) ensuring that the relevant people responsible for compliance are aware of those Reportable Situations, Breaches and incidents;
- (c) determining whether identified Breaches, or likely Breaches, are significant;
- (d) when to report to LFSA;
- (e) procedures for investigation of the Breach;
- (f) procedures for notifying and remediating affected clients;
- (g) rectifying the Breach, or likely Breach; and
- (h) ensuring that arrangements are in place to prevent the recurrence of the Breach.

4. DEFINITIONS

4.1 **4XHub** means 4XHub Ltd.

4.2 **Breach** means an event as defined in section 6.1.

4.3 **Core Obligations** are defined in section 6.1.

4.4 **Knowledge** (or **Knows**) has the definition as follows:

"A person has knowledge of a circumstance or a result if he or she is aware that it exists or will exist in the ordinary course of events."

4.5 **Recklessness** (or **Reckless**) has the definition as follows:

"(1) A person is reckless with respect to a circumstance if:

(a) he or she is aware of a substantial risk that the circumstance exists or will exist; and

(b) having regard to the circumstances known to him or her, it is unjustifiable to take the risk.

(2) A person is reckless with respect to a result if:

(a) he or she is aware of a substantial risk that the result will occur; and

(b) having regard to the circumstances known to him or her, it is unjustifiable to take the risk.

(3) The question whether taking a risk is unjustifiable is one of fact.

(4) If recklessness is a fault element for a physical element of an offence, proof of intention, knowledge or recklessness will satisfy that fault element.”

4.6 **Relevant Financial Product** means any financial product except basic banking products, general insurance products, consumer credit insurance or any combination of these products.

4.7 **Reportable Situation** means an event defined in section 5.1.

4.8 **Representatives** means any employees, officers, authorised representatives of 4XHub or its related bodies corporate, independent contractors, sub-contractors, joint venturers and other third-party service providers of 4XHub’s.

SECTION B – BREACH REPORTING PROCESS

Obligation	Action	Section Reference
Assessment: Assess the details of the incident	Has a Breach occurred?	Sections 5 and 6
	Is the incident a Deemed Breach?	Section 8.1
	Is the Breach otherwise significant, based on 4XHub’s assessment?	Section 9.1
Report to LFSA: Reporting significant Breaches	Within thirty calendar (30) days of 4XHub having reasonable grounds to believe that a Reportable Situation has arisen, where the Breach: <ul style="list-style-type: none"> • Is a Deemed Breach; • Is a significant Breach based on 4XHub’s assessment; or • Relates to gross negligence or serious fraud. 	Section 13
Conducting an Investigation: Commence the investigation	Within thirty calendar (30) days of 4XHub first having Knowledge or being Reckless to circumstances of the Breach, where the Breach: <ul style="list-style-type: none"> • involves financial advice to retail clients; and • is a significant Breach of a Core Obligation or involves gross negligence or serious fraud; and • there are reasonable grounds to suspect clients have or will suffer loss that can be legally enforced. 	Section 15 and 16

<p>Conducting an Investigation: Matters to be considered</p>	<ul style="list-style-type: none"> Identify the conduct; and Quantify the loss or damage. 	Section 15 and 16
<p>Conducting an Investigation: Resolve the investigation</p>	As soon as reasonably practicable.	Section 15 and 16
<p>Client Notification and Remediation: Notify clients of the Reportable Situation</p>	Within thirty calendar (30) days of 4XHub first having Knowledge or being Reckless to circumstances of the Breach.	Section 17 and 18
<p>Client Notification and Remediation: Notify clients of the outcome</p>	Within 10 days of completing the investigation.	Section 17 and 18
<p>Client Notification and Remediation: Compensate affected clients</p>	Take reasonable steps to compensate within thirty calendar (30) days of completing the investigation.	Section 17 and 18

SECTION C – WHAT MUST BE REPORTED TO ASIC?

5. REPORTABLE SITUATIONS

5.1 4XHub must report all Reportable Situations to ASIC. These include:

<p>Breach (or likely Breach) of a Core Obligation:</p>	<p>4XHub or its Representative has breached, or is likely to breach, a Core Obligation and the Breach is significant.</p> <p>Likely Breaches: 4XHub is likely to breach a Core Obligation where it is no longer able to comply with the obligation. For example, becoming aware that 4XHub is unable to renew a Professional Indemnity Insurance Policy and is unable to find a new policy prior to the existing policy lapsing.</p>
<p>Investigations:</p>	<p>4XHub has commenced an investigation into whether there is a Breach or likely Breach of a Core Obligation and the Breach is significant and:</p> <ul style="list-style-type: none"> the investigation lasts for longer than thirty calendar (30) days; or the outcome of the investigation where it lasts for longer than thirty calendar (30) days and 4XHub discloses that there is no Breach or likely Breach of a Core Obligation.

Gross Negligence:	While providing a financial service, 4XHub or its Representative has engaged in conduct constituting gross negligence.
Serious Fraud:	4XHub or its Representative has committed serious fraud.
Reportable situations about other licensees:	These situations relate to conduct in certain prescribed circumstances of financial advisers of other licensees.

6. CORE OBLIGATIONS

6.1 4XHub's Core Obligations can be summarised as follows:

- (a) do all things necessary to ensure that the financial services covered by 4XHub are provided efficiently, honestly and fairly;
- (b) comply with the obligations imposed by LFSA on 4XHub;
- (c) have adequate resources to provide the financial services covered by 4XHub and to carry out supervisory arrangements;
- (d) be competent to provide the financial services covered by the 4XHub;
- (e) have trained and competent Representatives;
- (f) take reasonable steps to ensure that 4XHub's Representatives comply with the financial services laws;
- (g) have a dispute resolution system for retail clients;
- (h) have adequate risk management systems; and
- (i) have compensation arrangements for retail clients.

7. WHEN IS A BREACH SIGNIFICANT?

7.1 There are two ways for 4XHub to determine whether a Breach is significant:

- (a) **Deemed Breaches** – where a Breach of a Core Obligation is taken to be significant (refer section 8);
- (b) **Other Breaches that may be significant** – in other situations, a Breach or likely Breach of a Core Obligation will need to be considered against the factors stated in section 9.

8. DEEMED SIGNIFICANT BREACHES

8.1 A Breach, or likely Breach of a Core Obligation, is deemed to be significant ("**Deemed Breach**") if:

- (a) the Breach is the commission of an offence which is punishable by imprisonment for 12 months or more (or 3 months where the offence involves dishonesty);

- (b) the Breach is the contravention of a civil penalty provision which is not exempted (see sections 8.2 and 8.3 for further detail);
- (c) the Breach is the contravention of provisions of the Labuan Financial Services and Securities Act 2010 relating to misleading or deceptive conduct;
- (d) the Breach results, or is likely to result in, material loss or damage to:
 - (i) in all cases – a person or persons to whom 4XHub or its Representatives provide a financial product or a financial service as a wholesale or retail client; or
 - (ii) in the case of a managed investment scheme – members of a managed investment schemes operated by 4XHub.

8.2 Breaches which are excluded from being Deemed Breaches still require 4XHub to consider whether:

- (a) the Breach is a Deemed Breach under any other criteria as outlined in section 8.1;
- (b) it should assess the Breach as significant per section 9.

Considering Material Loss or Damage

8.3 In determining “material loss or damage” 4XHub considers the following:

- (a) the loss or damage may include financial and non-financial loss or damage;
- (b) whether the Breach results or is likely to result in material loss or damage to a person will depend on that person’s circumstances, including the individual’s financial circumstances;
- (c) if a Breach affects a number of people:
 - (i) it is sufficient for significance to be established if the Breach results, or is likely to result, in material loss or damage to one person;
 - (ii) 4XHub should consider the total loss or damage resulting from the Breach;
- (d) where there is a small number of people, the circumstances of those people are relevant, particularly where the loss may be substantial to one or more of them; and
- (e) the phrase “*likely to result in material loss or damage*” is intended to mean that there is a real and not remote possibility that loss or damage will occur.

9. OTHER BREACHES THAT MAY BE SIGNIFICANT

9.1 Where a Breach, or likely Breach of a Core Obligation, is not deemed to be significant in accordance with section 8.1, 4XHub must make an assessment as to the significance of the Breach, having regard to the following factors:

- (a) the number or frequency of similar Breaches;
- (b) the impact of the Breach on 4XHub’s ability to provide its services; and

- (c) the extent to which the Breach indicates that 4XHub's arrangements to ensure compliance are inadequate;
- (d) any other matters prescribed by regulations.

9.2 4XHub's Representatives must not make a determination themselves as to what is a 'significant' Breach. The determination of significance is to be made by the Compliance Officer.

10. WHEN ARE INVESTIGATIONS REPORTABLE?

10.1 4XHub must report to LFSA where:

- (a) 4XHub has commenced an investigation into whether there is a Breach or likely Breach of a Core Obligation and the Breach is significant and the investigation lasts for longer than thirty calendar (30) days; or
- (b) 4XHub's investigation into the Breach lasts for longer than thirty calendar (30) days and the outcome of the investigation discloses that there is no Breach or likely Breach of a Core Obligation.

10.2 During the course of an investigation, where 4XHub is satisfied, or has reasonable grounds to believe, based on the information gathered by the investigation, that the Breach was significant (deemed or otherwise), 4XHub must report the matter to LFSA prior to the completion of the investigation.

10.3 Where 4XHub commences an investigation, the investigation is taken to commence on the date that 4XHub:

- (a) commences gathering information in relation to the potential Breach;
- (b) applies human effort to determine whether a Breach has occurred;
- (c) communicates with any Representatives who may have been involved in the potential Breach;
- (d) communicates with any potentially affected clients;
- (e) seeks out specialist or technical advice; or
- (f) provides an external party instructions to commence an investigation into the potential Breach.

10.4 4XHub conducts investigations in an efficient manner to ensure they are finalised in a timely manner. 4XHub seeks to resolve all investigations within thirty calendar (30) calendar days, except in exceptional circumstances.

10.5 Where an investigation into a potential Breach lasts for longer than 10 calendar days, the Compliance Officer must notify the Board of Directors and ensure the investigation is progressing and being appropriately prioritised.

11. ADDITIONAL REPORTABLE SITUATIONS

11.1 Additional Reportable Situations include where 4XHub or its Representatives:

- (a) engage in conduct constituting gross negligence in the course of providing a financial service; or
- (b) commit serious fraud.

11.2 Where an additional Reportable Situation arises, 4XHub must report it to LFSA irrespective of whether or not it is significant.

12. REPORTABLE SITUATIONS ABOUT OTHER LICENSEES

12.1 Where there are reasonable grounds to believe that the following type of Reportable Situation has arisen in relation to another LFSA licensee, 4XHub is required to lodge a report with LFSA. This includes where:

- (a) another LFSA licensee, its employees, Board of Directors or Representatives:
 - (i) have Breached, or are likely to Breach, a Core Obligation and the Breach is significant;
 - (ii) in the course of providing a financial service, have engaged in conduct constituting gross negligence; or
 - (iii) have committed serious fraud.

12.2 4XHub's obligation to report to LFSA in these circumstances only applies to individuals who provide personal advice to retail clients about Relevant Financial Products and:

- (a) are an LFSA licensee;
- (b) are an employee, Board of Directors or Representative and are acting within the scope of their employment, Board of Directors' duties or Representative's authority.

12.3 Breach reports must be lodged with ASIC, and a copy provided to the other LFSA licensee, within thirty calendar (30) days after:

- (a) 4XHub first Knows that there are reasonable grounds to believe the Reportable Situation has arisen in relation to another LFSA licensee; or
- (b) 4XHub is Reckless with respect to whether there are reasonable grounds to believe the Reportable Situation has arisen in relation to another LFSA licensee.

12.4 Reasonable grounds to believe that a Reportable Situation has arisen is an objective standard. It exists where there are facts or evidence to induce, in a reasonable person, a belief that a Reportable Situation has arisen. Such evidence may arise as a result of

- (a) 4XHub's relationship with another licensee;
- (b) business dealings between 4XHub and another licensee;
- (c) through mutual clients;
- (d) through usual business practices or processes.

- 12.5 Importantly, 4XHub does not need to collect evidence amounting to certain proof that there is a Breach by another licensee and a Reportable Situation has arisen.
- 12.6 4XHub's Compliance Officer is responsible for determining whether there are reasonable grounds to believe that LFSA is aware of the Reportable Situation and all of the information required in a report to LFSA, and if not:
- (a) submitting the Breach report in relation to the other LFSA licensee via the LFSA Regulatory Portal; and
 - (b) providing a copy to the other LFSA licensee within thirty (30) calendar days after 4XHub Knows that, or is Reckless with respect to whether, there are reasonable grounds to believe a Reportable Situation has arisen.

SECTION D – REPORTING TO LFSA

13. REPORTING TO LFSA

In relation to Reportable Situations relating to 4XHub

- 13.1 4XHub must lodge a report with LFSA where there are reasonable grounds to believe that a Reportable Situation has arisen. Reasonable grounds to believe that a Reportable Situation has arisen exist where there are facts or evidence to induce, in a reasonable person, a belief that a Reportable Situation has arisen.
- 13.2 Breach reports must be lodged within thirty calendar (30) days after:
- (a) 4XHub first Knows that there are reasonable grounds to believe the Reportable Situation has arisen; or
 - (b) 4XHub is Reckless with respect to whether there are reasonable grounds to believe the Reportable Situation has arisen.
- 13.3 4XHub's Compliance Officer is responsible for submitting Breach reports via the LFSA Regulatory Portal and has the authority to decide as to whether a Reportable Situation exists.
- 13.4 To ensure compliance with its reporting obligations, 4XHub and the Compliance Officer do not wait until after the following events to lodge a report with LFSA:
- (a) the Reportable Situation has been considered by the Board of Board of Directors;
 - (b) the Reportable Situation has been considered 4XHub's external legal or compliance advisers;
 - (c) 4XHub has received legal advice on reportability;
 - (d) 4XHub has rectified, or has taken steps to rectify, the Reportable Situation; or
 - (e) in the case of a likely Breach, the Breach has in fact occurred.

In relation to multiple Reportable Situations arising from a single and specific underlying cause

- 13.5 Where there are multiple Reportable Situations 4XHub considers whether the Reportable Situations can be grouped together, having regard to whether there is a single, specific underlying cause.
- 13.6 The report to LFSA allows 4XHub to report multiple instances of a Reportable Situation, however the Compliance Officer must ensure that the thirty calendar (30) day reporting requirement is met for each Reportable Situation.
- 13.7 Reportable Situations which relate to one or more related entities can also be reported via one report to LFSA, provided the conduct arises from a single, specific underlying cause.

In relation to Investigations

13.8 Where an investigation:

- (a) has continued beyond thirty calendar (30) days; and/or
- (b) discloses that a Reportable Situation has arisen,

4XHub's Compliance Officer is responsible for submitting a report via the LFSA Regulatory Portal.

13.9 Where 4XHub's investigation has continued for more than thirty calendar (30) days and the outcome of the investigation is that there are no reasonable grounds to believe a Reportable Situation has arisen, the Compliance Officer is responsible for submitting a report via the LFSA Regulatory Portal.

13.10 The Compliance Officer is also responsible for notifying LFSA where there has been a material change to the information about the scope, nature or cause of a Breach.

14. FAILURE TO REPORT

14.1 A failure to report a Reportable Situation, is in itself, a significant Breach of a Core Obligation.

14.2 Non-compliance with this Policy may result in disciplinary action being taken against the Representative involved and may also result in prosecution under the law where that act is illegal. This may include reassessment of bonus qualification, prohibition from trading, termination of employment and/or fines and imprisonment (in cases that contravene the Corporations Act).

SECTION E – INVESTIGATION AND CLIENT REMEDIATION

15. INVESTIGATIONS

15.1 Except in circumstances as described in section 16, there is no express requirement to conduct an investigation into a Breach.

15.2 4XHub assesses all potential Breaches and where it is determined that a Breach has occurred, 4XHub may commence an investigation to determine whether the Breach is a Reportable Situation.

15.3 In circumstances where it is clear that the Breach is a Reportable Situation required to be reported to LFSA, 4XHub will not commence an investigation, however it will retain all records in relation to the Breach in accordance with section 21.

16. MANDATORY INVESTIGATIONS

16.1 4XHub must conduct an investigation into a Reportable Situation where the following four criteria are met:

- (a) **Provision of personal advice** - 4XHub or its Representatives have provided personal financial product advice to retail clients in relation to Relevant Financial Products; and
- (b) **Relevant Reportable Situation** - there are reasonable grounds to believe that one of the following has occurred:
 - (i) a significant Breach of a Core Obligation;
 - (ii) gross negligence; or
 - (iii) serious fraud; and
- (c) **Loss or damage** - there are reasonable grounds to suspect that the affected client has, or will suffer loss or damage as a result of the Reportable Situation; and
- (d) **Legally enforceable right to recover loss or damage** - there are reasonable grounds to suspect that the affected client has a legally enforceable right to recover the loss or damage from 4XHub.

16.2 When determining whether these four criteria are met, 4XHub has regard to the following guidance from LFSA:

- (a) the loss or damage suffered does not need to be the result of the personal advice, but the result of the Reportable Situation;
- (b) the loss or damage suffered does not need to be material;
- (c) a legally enforceable right may exist where there has been negligence or dishonest conduct on behalf of 4XHub or its Representatives, where there has been a Breach of contract or a Breach of a fiduciary duty owed by 4XHub;
- (d) where the retail client does not have a legally enforceable right, 4XHub still considers the requirements to remediate clients in deciding whether it is efficient, honest and fair to remediate.

16.3 The Compliance Officer is responsible for ensuring the investigation referred to in section 16 is commenced within thirty calendar (30) days of 4XHub first having Knowledge of the matters (or is Reckless to circumstances mentioned) in section 16.1.

16.4 The investigation will include:

- (a) identification of the conduct which gave rise to the Reportable Situation;

- (b) quantification of the loss or damage that there are reasonable grounds to believe a client has suffered or will suffer and has a legally enforceable right to recover;
- (c) any other items required by regulations.

16.5 The Compliance Officer must ensure the investigation conducted in accordance with this section 16 is concluded as soon as practicable.

16.6 The Compliance Officer provides the following documents to the Board of Directors within three (3) days of concluding the investigation:

- (a) a report detailing the outcome of the investigation;
- (b) a draft notification to affected clients (in a form approved by LFSA where required);
- (c) the proposed compensation amount to be paid to affected clients.

17. RECTIFYING THE BREACH OR INCIDENT

- 17.1 All Breaches, or likely Breaches, must be addressed whether or not they are 'significant'.
- 17.2 Once a Breach, or likely Breach, is identified, 4XHub will ensure that procedures are put in place to prevent any recurrence, including altering internal policies. Where applicable, 4XHub's Representatives, or an external compliance consultant may be consulted in order to create and implement these procedures. It is important that all Representatives co-operate with this rectification process.
- 17.3 Rectification and prevention action may also involve:
- (a) targeted training of the Representative involved or all Representatives of 4XHub;
 - (b) amendments to procedures or controls; and/or
 - (c) enhancements to monitoring or reviewing processes.
- 17.4 Details of action taken must be recorded on the Breaches Register as appropriate.

SECTION D – INTERNAL COMPLIANCE ARRANGEMENTS

18. INTERNAL REPORTING

- 18.1 Any Reportable Situation or Breach as outlined this Policy must immediately be reported to the Compliance Officer. This is done in writing to the Compliance Officer as soon as a 4XHub Representative becomes aware of the Reportable Situation or Breach.
- 18.2 The Compliance Officer must complete the Breaches Register and commence an investigation into the Breach in accordance with section 15 or 16.
- 18.3 Representatives are required to provide further information or documentation to the Compliance Officer upon request. The further information must be provided within two (2) business days.
- 18.4 The Compliance Officer must record all Breaches in the Breaches Register and make a determination on how to further deal with the Breach with reference to any relevant legislation and guidelines.
- 18.5 Where the Compliance Officer determines that a significant Breach has occurred, the Compliance Officer prepares the report to LFSA, in accordance with section 13, and provides a draft for the Board of Directors to review, prior to submission to LFSA.
- 18.6 Where the Breach involves rectification or remediation, the Board of Directors is responsible for approving any rectification or remedial action taken by 4XHub.
- 18.7 The Breaches Register is reviewed by the Board of Directors on a monthly basis and tabled at 4XHub's quarterly compliance committee meetings.

19. BREACHES REGISTER

- 19.1 4XHub maintains a Breaches Register in order identify and report all Reportable Situations.
- 19.2 The Breaches Register will be monitored, reviewed and, if necessary, updated on at least a monthly basis by the Compliance Officer, or when a Breach occurs.

SECTION F – CONCLUSION

20. TRAINING

- 20.1 All Representatives of 4XHub are required to have an understanding of this Policy and reporting procedures included in it. Consequently, all Representatives of 4XHub will receive a copy of this Policy at the commencement of their employment. Training and information sessions on the processes outlined in this Policy will be scheduled and conducted at the discretion of the Compliance Officer.
- 20.2 4XHub's Representatives are trained to ensure that investigations are initiated, data recorded, and the potential Breach is escalated appropriately.

21. RESOURCES

- 21.1 The Board of Directors at all times ensures there are adequate resources for Breach reporting processes to operate effectively and efficiently. The Board of Directors conducts an annual review of the resources allocated to 4XHub's Breach reporting processes to ensure they are adequate.
- 21.2 To ensure adequate systems are in place to handle Breaches promptly, fairly and consistently, the Board of Directors:
- (a) reviews Breach reporting processes on a regular basis and provides additional resources without delay where required;
 - (b) ensures personnel involved in handling Breaches and Reportable Situations are adequately trained and competent to deal with Breaches and Reportable Situations, including the authority to rectify and remediate Breaches and Reportable Situations or have ready access to someone with the necessary authority; and
 - (c) ensures there is appropriate documentation, specialist support, materials and equipment, computer hardware and software, and finances to assist with the Breach reporting processes.

22. DOCUMENT RETENTION AND AUDIT

- 22.1 Representatives of 4XHub are required to retain copies of all reporting documents in accordance with 4XHub's Document Retention Policy. These files are to be maintained at the premises of 4XHub. A copy must also be provided to the Compliance Officer for storage and inspection by LFSA as required.
- 22.2 The Breaches Register is maintained by the Compliance Officer and a soft copy is kept on file.

23. POLICY REVIEW

23.1 This Policy will be reviewed on at least an annual basis by the Compliance Officer having regard to the changing circumstances of 4XHub. The Compliance Officer will then report to the Board of Directors on compliance with this Policy. The report includes a review of:

- (a) the number of incidents assessed and their outcome;
- (b) any trends; and
- (c) timeliness, including for ongoing investigations, remediation and incident identification.

Issued by 4XHub Ltd

November 2022