CLIMATE CHANGE OPERATIONS: COMPLIANCE STRATEGY 2017-22

COMPLIANCE STRATEGY OVERVIEW

PURPOSE

Maintain the integrity of the forestry aspects of the ETS by promoting and enforcing adherence to the law

BACKGROUND

This document outlines the MPI ETS Operations Team's compliance strategy for the forestry aspects of the Emissions Trading Scheme (ETS). It identifies the objectives that the team is working to achieve and the measures that will help to track progress.

OBJECTIVES

Provide participants with the right information to enable them to comply

Treat participants fairly

Target our resources to areas and participants of greatest non-compliance risk and where we will make the greatest difference

DIRECTORATE VISION

Be a Trusted Advisor

- Know our customers' needs and provide trustworthy advice
- Maintain effective regulatory and operating systems
- Understand our stakeholders operating environments and reflect this in our service delivery

Be a Smart regulator

- Maintain fit-for-purpose & easy to understand regulations
- Act with integrity and fairness when operating & enforcing regulations
- Provide operational and compliance feedback to help ensure that the ETS is fit for purpose

Grow our Carbon Stocks

- Enable & Support an increase in afforestation / carbon stocks by maintaining the integrity of the forestry aspects of the ETS

Achieve Engagement

- Our Participants are actively engaged with us

DELIVERING ON OUR OBJECTIVES AND VISION

After nine years of operation, the ETS compliance and enforcement regime has had many notable successes, however a number of systemic issues remain, including (as of Sept 2017);

- The default penalty of $30 per unit and associated penalty reduction considerations are administratively burdensome and lack certainty of outcome for participants
- Compliance with transfers of participation is poor, mostly due to poor awareness
- Timely notification rates for deforestation of pre-1990 forest land is poor, mostly due to poor awareness
- Participants often submit incorrect emissions returns especially when accounting for carbon stock decreases associated with harvesting

The work following-on from the Review of the NZ ETS is investigating potential improvements to the ETS compliance regime and the operation of the scheme.

THEREFORE

As a response to these issues we intend to:

- Focus on enabling participants knowledge, capability and motivation to comply, than on enforcement
- Apply tolerance and lenience to unintentional offences and errors
- Increase our level of support for participant activities, such as regular reminders for participants and provision of tools (e.g. CCIS functionality and carbon calculator) and to help them comply
- Increase our outreach and participant education efforts externally
- Clarify requirements and communicate these to participants and their representatives
- Reduce delays in MPI investigation and response
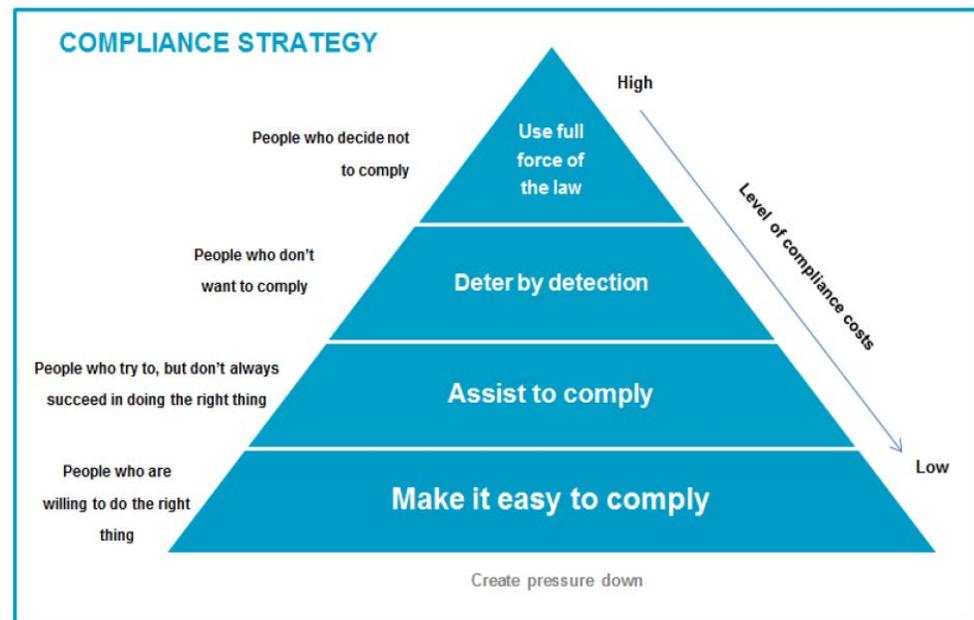- Ensure that our own systems, policies and processes are fit for purpose

PRINCIPLES

Our compliance framework is based on seven core principles, so that our approach is:

- **Consistent and fair:** all participants must have confidence and trust in the compliance regime and how it is applied.

- **Risk based:** we target our efforts and resources according to the perceived risk to the ETS system.

- **Proportionate:** compliance activity is proportionate to the risk presented.

- **Evidence based:** responses to non-compliance are based on accurate and reliable information.

- **Credible:** compliance activity demonstrates that real action will be taken in response to non-compliance.

- **Responsive:** potential risks are anticipated and mitigated, and change is accommodated over time as the scheme matures.

- **Cost effective:** compliance activity should be cost effective for both MPI and customers.

VADE

As a technique to applying these core principles, we will apply the VADE principles to ETS compliance.

COMPLIANCE STRATEGY

High — Level of compliance costs — Low

- People who decide not to comply → **Use full force of the law**
- People who don't want to comply → **Deter by detection**
- People who try to, but don't always succeed in doing the right thing → **Assist to comply**
- People who are willing to do the right thing → **Make it easy to comply**
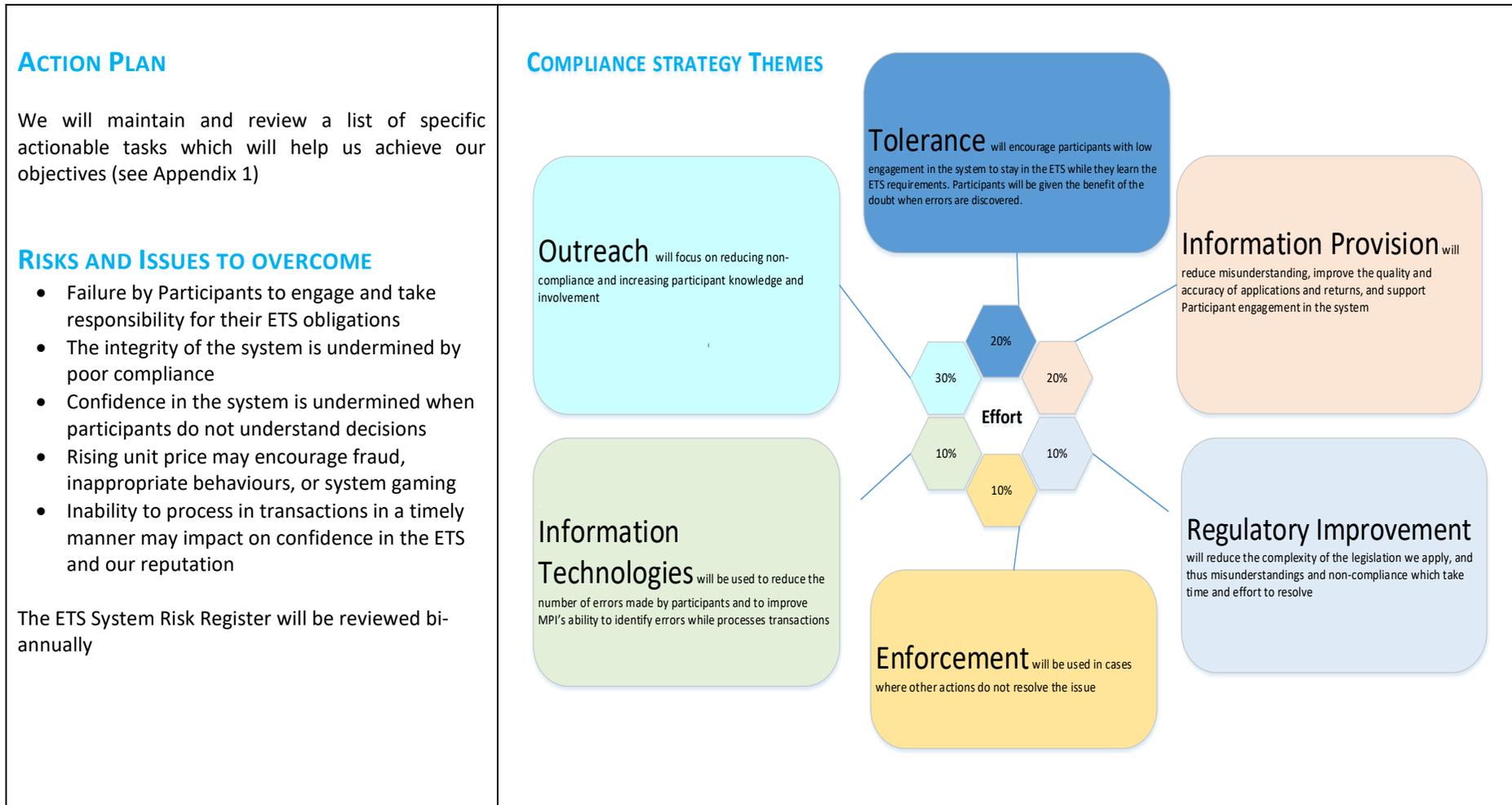
Create pressure down

i.e staff will be trained and required to offer Assistance in preference to issuing Direction, and will Escalate only when other efforts have failed.

WHAT WILL WE DO

There are five themes to our compliance approach:

ACTION PLAN

We will maintain and review a list of specific actionable tasks which will help us achieve our objectives (see Appendix 1)

RISKS AND ISSUES TO OVERCOME

- Failure by Participants to engage and take responsibility for their ETS obligations
- The integrity of the system is undermined by poor compliance
- Confidence in the system is undermined when participants do not understand decisions
- Rising unit price may encourage fraud, inappropriate behaviours, or system gaming
- Inability to process in transactions in a timely manner may impact on confidence in the ETS and our reputation

The ETS System Risk Register will be reviewed bi-annually

COMPLIANCE STRATEGY THEMES

Tolerance will encourage participants with low engagement in the system to stay in the ETS while they learn the ETS requirements. Participants will be given the benefit of the doubt when errors are discovered.

Outreach will focus on reducing non-compliance and increasing participant knowledge and involvement

Information Provision will reduce misunderstanding, improve the quality and accuracy of applications and returns, and support Participant engagement in the system

Information Technologies will be used to reduce the number of errors made by participants and to improve MPI's ability to identify errors while processes transactions

Regulatory Improvement will reduce the complexity of the legislation we apply, and thus misunderstandings and non-compliance which take time and effort to resolve

Enforcement will be used in cases where other actions do not resolve the issue

Effort:
- 20%
- 30%
- 20%
- 10%
- 10%
- 10%

APPENDIX 1: ACTION PLAN

V	Category	Task
Voluntary	Education & information provision	Meet with participants and professional advisors to gain a better understanding of the issues each user group has
		Develop initiatives targeted at addressing the needs of each user group (e.g. workshops, publications, carbon calculators etc.)
		Educate participants and provide them with the tools and training to reduce the instances of unintended error in emissions returns
		Contact all participants in the lead up to the MER period ending to remind them of their obligations, to provide them with the information that they need in order to comply and to provide them access to the carbon calculator to help them complete their emissions return
		Hold at least 2 educational workshops for participants, consultants and professional advisors in 2017/18
		Review information provision on the MPI website to ensure that it is clear and accurate (particularly areas of low compliance or where there are common misunderstandings)
		Participants considered a high compliance risk to be contacted by phone to remind them of their MER obligations
		Provide all registered post-1989 forestry participants with MER Carbon Calculator tool
		Contact those with forests advertised for sale to identify potential upcoming transfers of participation and harvested land with the potential to be deforested by new owners
	Regulatory review	Support review of the NZ ETS by providing an operational input, including consideration of infringement schemes
		Hold a workshop to identify possible scenarios for gaming the system and feed results into the NZ ETS review process
Assisted	Directly assist	Screen all emissions returns during processing and correct them (this requires the development of MER risk assessment criteria)
		Train staff in the use of the internal carbon calculator tool
		Verify registered forest ages against Scion age class dataset
		Resolve transmission of interest cases
		Identify deforestation of pre-1990 forest land that hasn't been notified
		Use data sources to identify potential non-compliance (e.g. LINZ landownership data, LUCAS deforestation data)

		Audit high risk MERs
		Implement faster and more consistent penalty reduction assessment process by clearly documenting internal policies and procedures
		Collect harvesting information to more accurately screen emissions returns for errors
Enforced	Target fraud	Increase the ability to detect deliberate fraud or misleading returns by: • Building better systems to detect fraud • Reducing the number of mistakes that are currently obscuring deliberate acts and using up the compliance and detection resource
	Target non-compliance	Increase participant awareness of ETS compliance/enforcement actions
		Identify those that do not have a reasonable excuse for not filing a MER for MERP2 and refer to Compliance Investigations for prosecution consideration
		Audit all consultants that haven't previously been audited

HOW WILL WE KNOW WHEN WE SUCCEED

WE WILL MEASURE OUR PROGRESS BY:

Task outcome	Measure	With Data from	Which tells us
Increased participant training & awareness is demonstrated:	1. Reduction in the number of errors in emissions returns, measured by # of rejections by Dave's emissions return screening tool	CCIS	Reduction of the number of errors should reflect better understanding of the process
	2. Count the total number of transfers which are notified to us.	CCIS	Any better understanding of the process will increase the incidence of transfers notification
	3. Count the total number of participants contacting Datacom for standard information	Datacom	Increasing calls and emails should reflect greater engagement, or greater awareness of the need to participate – either is an improvement
	4. Annual check that the information on the MPI website remains accurate	n/a	
Compliance with the MER Processing period;	5. Over 95% of MER returns are received by 20 July 2018	CCIS	Some owners will benefit from the MER, others will not but will be discouraged by the penalties – either way compliance & ETS understanding are demonstrated.
	6. Over 80% of MER returns received do not require an s120 amendment	CCIS	Accuracy is a measure of the care & attention paid to the process.
	7. Of those instances referred to ETS compliance 90% of investigations are completed within 6 months. (est. 104 MER cases)	Kevin to calc	MPI is utilising best efforts to address errors promptly.
Increasing MPI Detection activity:	Per #2. Declining numbers of transfers which are not notified to us.	CCIS	Any better understanding of the process by participants will increase the incidence of transfers notification
	8. Every 2nd year compare MfE deforestation data against DREs looking for declining numbers of non-notified deforestation	Calc	Shows awareness of the process
CC Ops efficacy is demonstrated by:	9. 100% of post-1989 forestry emissions returns are screened by the emissions return screening tool before processing	CCIS	MPI is utilising best efforts to identify errors at the earliest practical time.
CC Ops is progressing improvements to Tools and systems;	10. Implement 3 distinct new tool/methods for detecting non-compliance thru the wider system.	Discussion	MPI is utilising best efforts to identify errors at the earliest practical time by continual improvement methodologies.
Streamline the future system.	11. Operational input provided into ETS review work stream	n/a	
	12. Hold an internal workshop to identify possible scenarios for gaming the system	n/a	
Internal efficiency	13. 80% of decision memos are written within 4 weeks, from notification of an error to signature	Manual calc	Degree of delay demonstrates either inadequate resourcing, or process failures.
	14. Improved potential for proactive work, measured by declining resource allocated to this task.		

- END OF CORE STRATEGY -

NEXT IS A
1 PAGE SUMMARY INTENDED FOR DISPLAY ON A WALL

Ministry for Primary Industries
Manatū Ahu Matua

Climate Change Operations: Compliance Strategy 2017-22

Maintain the integrity of the ETS

Promote and enforce adherence to the law

To Met Our Objectives

Take enforcement action where required

Treat participants fairly and with certainty

Provide participants with the right information and ability to comply

Target our resources to areas where we will make the greatest difference

Give participants confidence In the Emissions Trading Scheme

We Will Deliver

Information Provision
will reduce misunderstanding, improve the quality and accuracy of applications and returns, and support Participant engagement in the system

Outreach
will focus on reducing non-compliance and increasing participant knowledge and involvement

Policy Improvement
will reduce the complexity of the legislation we apply, and thus misunderstandings and non-compliance which take time and effort to resolve

Enforcement
will be used in cases where other actions do not resolve the issue

Tolerance
will encourage participants with low engagement in the system to stay in the ETS while they learn the ETS requirements. Participants will be given the benefit of the doubt when errors are discovered.

Information Technologies
will be used to reduce the number of errors made by participants and to improve MPI's ability to identify errors while processes transactions

How Will we Know ?

<20% of participants submit an Emissions return that is Classified as Red (high risk) in the emissions return screening tool by 30/6/18 (and every year thereafter) ✓

Waiting time for Processing remains below 2017 levels ✓

An increase in voluntary disclosures. ✓

70% of newly established forest land is registered in the ETS each year ✓

Compliance will increase by 10% each year until it reaches 80% ✓

✓