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Date: February 1, 2019

TO: MEMBERS, GOVERNANCE COMMITTEE

I. AGENDA ITEM # AND TITLE :	Open Agenda Item 4 – Governance, Compliance and Privacy Update
II. NAME AND PROGRAM:	Governance, Compliance & Privacy
III. ACTIVITY:	<input type="checkbox"/> Informational <input type="checkbox"/> Request for Direction <input checked="" type="checkbox"/> Action Proposed <input type="checkbox"/> Exploratory
IV. JUSTIFICATION:	<input checked="" type="checkbox"/> Standard/Required Item <input type="checkbox"/> Board Request – New Item <input type="checkbox"/> New Topic from Staff

V. EXECUTIVE SUMMARY:

Compliance reporting includes:

- EC&F 2.2 Incompatible Activities Statement & Policy
- Compliance Training
- Hotline reporting

VI. ANALYSIS:

The following summarizes compliance related activity for the period and is in alignment with State Fund’s Compliance Framework¹:

A. Oversight, Accountability, and Resources

State Fund’s *Compliance Framework (Framework)* reflects State Fund’s commitment to be an honest, legally compliant, and responsible organization. The *Framework* aligns with the United States Sentencing Guidelines’ (USSG) seven essential elements of an effective compliance and ethics program²:

- Oversight, Accountability & Resources
- Standards of Conduct, Policies, & Procedures
- Effective Training, Communications, & Awareness
- Consistent Monitoring, Evaluation & Reporting
- Due Care in Delegating Authority
- Consistent Promotion & Enforcement

¹ All Governance reports are grounded in State Fund’s Compliance Framework – resource USSG Ch. 8 Part B2.1(b)

² USSG Ch. 8 Part B2.1(b)

- Risk Assessment, Response, Continuous Improvement, & Auditing

To assist the Board in overseeing the execution of the Framework, a series of questions to ask, arranged by the Guidelines' seven elements, has been compiled and is available upon request.

B. Clear Written Standards of Conduct, Policies & Procedures

Request for Approval – Revision to Corporate Policy EC&F 2.2 Incompatible Activities Statement. This policy supports the Code of Conduct. A policy statement related to nepotism was added and the notification process was changed from notifying Program Managers to supervisors. (Appendix II)

C. Effective Training, Communication, and Awareness

2018 Compliance Training – Security Awareness, Privacy, Code of Conduct, & Anti-Fraud

Goal: *Achieve 98% Workforce compliance rate (100 percent consultant and 98 percent employee) for the organization’s mandatory training.*

Goal met: Compliance rates for all mandatory training for 2018:

Training Title	Compliance Rate	Compliance Rate
	Employees	Consultant
Security Awareness	100%	100%
Privacy	99.97%	100%
Ethics, Code of Conduct and Acknowledgement	99.95%	100%
Anti-Fraud	100%	100%

D. Consistent monitoring, evaluation & reporting

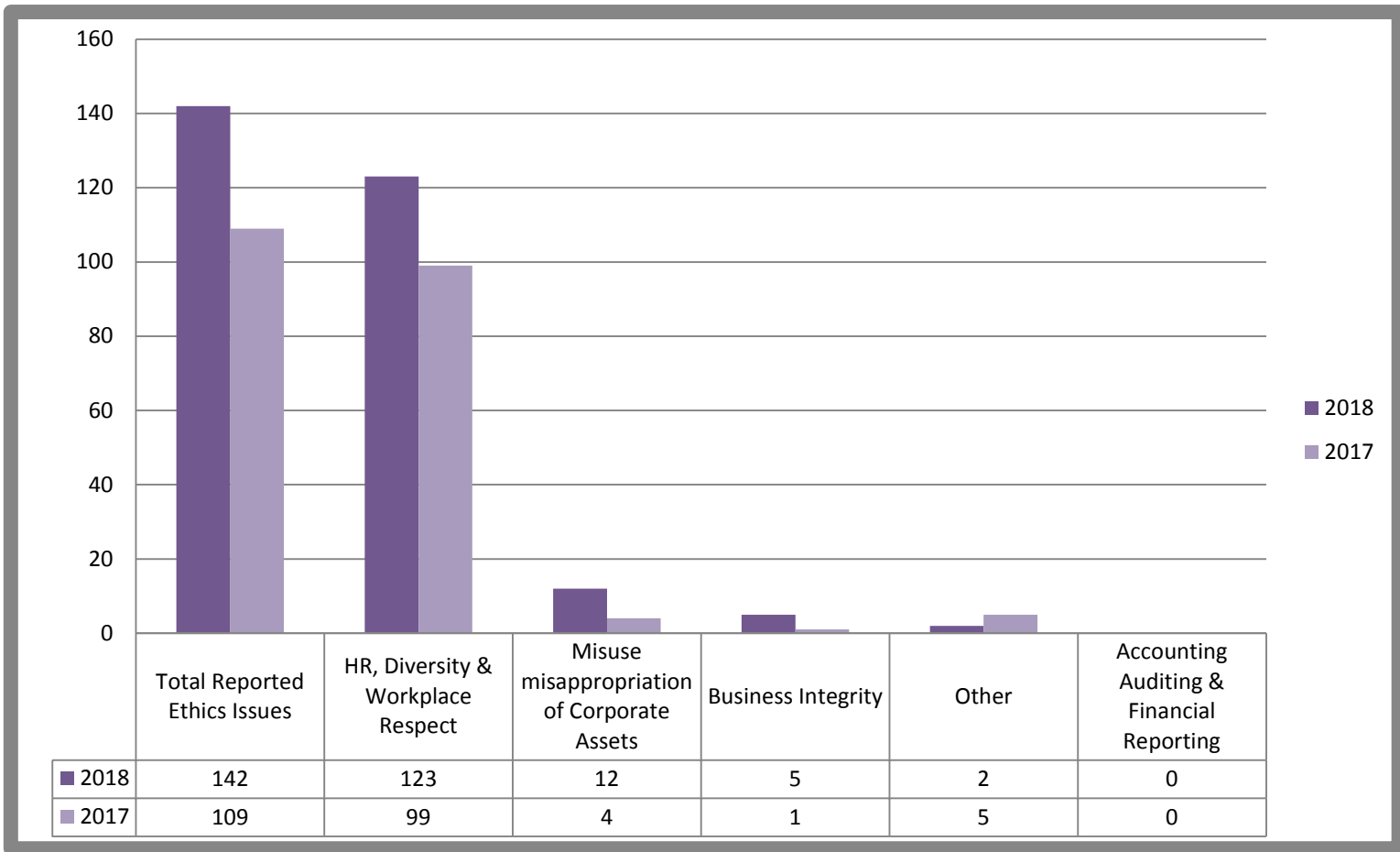
Ethics Reported Issues

The total number of reports increased by 23% (109 in 2017 to 142 in 2018) while total number of hotline reports declined from 17 in 2017 to 10 in 2018. The decline in hotline reporting may be a result of the change in vendor effective March 1, 2018.

Similar to 2017 (99 of 109 cases), Human Resources (HR) related issues remain the most reported category in 2018:

- HR related issues (123 of 142) – 87% of total incidents reported.
- Of the 123 HR related issues, Equal Employment Opportunity complaints/issues is the highest reported category, 45% (55 of 123).

Chart 1: Allegations by Category



APPENDIX I: Report Allegation Categories and Definitions

Accounting, Auditing, and Financial Reporting: Forgery, Accounting and Financial Control

Business Integrity: Falsifying Records, Privacy and Data Security Incidents, Theft, Compliance and Regulatory Matters, Information Security, Vendor Relations, Claims, Policy, Legal, and Other Business Practices

HR, Diversity and Work Place Respect: Attendance, Code of Conduct Violation, Conflict of Interest, Equal Employment Opportunity-Discrimination, Retaliation and Sexual Harassment, Favoritism, Inappropriate/ Offensive Behavior, Hiring Practices, Performance

Misuse, Misappropriation of Corporate Assets: Fraud, Misuse/ Abuse of Time or Resources

Other: Types of misconduct that fails to fall into the above categories such as Safety, Assault or Environmental Protection Compliance.

APPENDIX II:



DISCUSSION DOCUMENT FOR GOVERNANCE COMMITTEE
To be approved during Governance Open session under agenda item

**Summary of Material Changes to
State Compensation Insurance Fund
Revised EC&F 2.2 Incompatible Activities Statement & Policy**

**[Proposed] Revisions To Be Approved:
Governance Committee: February 14, 2019
Board of Directors: February 14, 2019**

The following summarizes the proposed material³ revisions to Policy EC&F 2.2 to be adopted by State Fund's Board of Directors.

Section and paragraph references are mapped to the numbered sections in the EC&F 2.2 Incompatible Activities Corporate Policy.

Paragraph Number

Summary of Proposed Changes

**Section 2.2.3
Nepotism/Employment
Action Influence**

1. Added policy statement: Nepotism is expressly prohibited by the State of California.
2. Revised policy statement:

From: State Fund Workforce members must notify their *program manager* regarding close personal relationships with other State Fund employees and/or contractors working in the same program area, activity, or location

To: State Fund Workforce members must notify their *supervisors* regarding close personal relationships with other State Fund employees and/or contractors working in the same program area, activity, or location

³ A material policy change is one affecting either or both of (i) an aspect of the policy impacting State Fund's authority, or (ii) the responsibilities or the duties, rights, or responsibilities of Workforce members.

		<h1>CORPORATE POLICY</h1>	Number: EC&F 2.2
Title INCOMPATIBLE ACTIVITIES STATEMENT & POLICY		Owner: Corporate Human Resources	Type: Ethics, Compliance & Fraud
		Effective Date: TBD	Last Revision Date: 07/2016

SECTION 1 – PURPOSE

California Government Code § 19990 prohibits state employees from engaging in activities that are incompatible with their civil service positions. The purpose of this policy is to guide members of the [State Fund Workforce](#) in the identification of situations that are, or could be, activities which are incompatible with employment at State Fund.

SECTION 2 – POLICY STATEMENTS

2.1 Incompatible Activities by California Law for All State Fund Officers or Employees

A state officer or employee shall not engage in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a State Fund officer or employee.

Pursuant to California Government Code §19990, the following activities are incompatible with State Fund employment:

- a. Using the prestige or influence of the State or State Fund for the officer’s or employee’s private gain or advantage or the private gain of another.
- b. Using State Fund time, facilities, equipment, or supplies for private gain or advantage.
- c. Using, or having access to, [confidential information](#) available by virtue of State Fund employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized. (Releasing [proprietary/trade secret](#) information or [intellectual property](#) is also a violation of State Fund Corporate Policy. In addition to violating the terms of this Policy, failure to comply with this restriction may subject a person to disciplinary, civil, and/or criminal action.)
- d. Receiving or accepting money or any other consideration from anyone other than the State for the performance of his or her duties as a State Fund officer or employee.
- e. Performance of an act in other than his or her capacity as a State Fund officer or employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee.
- f. Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with State Fund or whose activities are regulated or controlled by State Fund under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her

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official duties or was intended as a reward for any official actions performed by the officer or employee.

g. Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her State Fund office or employment during his or her hours of duty as a State Fund officer or employee.

2.2 Incompatible Activities Specific to State Fund Employment

State Fund has determined that in addition to the Incompatible Activities established by law, the following activities are specifically incompatible with employment at State Fund:

2.2.1 Unauthorized Use of State Fund Resources & Equipment

Unauthorized use of State Fund resources and equipment, including but not limited to time, intellectual property, office equipment, e-mail, internet access, computer applications, and other communication devices to perform activities other than State Fund business.

Minimal or incidental use is permitted to the extent allowed by policy or collective bargaining agreement (see [State Fund Systems User Information Notice](#)), or law.

2.2.2 Provision of Goods & Services to State Fund for Personal Gain

State Fund employees are prohibited from acting as a seller or marketer of services to State Fund, either directly or indirectly.

2.2.3 Nepotism/Employment Action Influence

It is State Fund’s policy to recruit, hire, and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited by the State of California because it is antithetical to a merit-based personnel system.

State Fund Workforce members:

- Shall not be assigned to, or act in, a position where they can directly or indirectly influence the terms and conditions of employment for any individual with whom they have a close personal relationship.
- Must notify their supervisors regarding close personal relationships with other State Fund employees and/or contractors working in the same program area, activity, or location.

Employment will not be precluded solely due to a [close personal relationship](#), provided the State Fund Workforce member meets and fulfills the appropriate appointment standards. Exceptions may be reviewed and granted on a case by case basis.

2.3 Activities Which Are Incompatible Without Review and Written Approval

The activities described in sections 2.3.1 through 2.3.5 are incompatible for members of the State Fund Workforce unless an individual’s participation or involvement in such activities has been reviewed and authorized in writing in advance by Corporate Human Resources (HR). Any approval by Corporate HR to engage in such activities is limited to the specific activity identified in the approval.

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2.3.1 Engaging in Workers’ Compensation Insurance Work for Other Entities

Performing work related to workers’ compensation insurance for any entity other than State Fund. Work may include accounting, auditing, bookkeeping, claims adjusting, systems analysis, legal, sales, marketing, or occupational safety and health consulting activities.

2.3.2 Engaging in Inappropriate Work Activities for Another Entity

Engaging in activities in any capacity for entities other than State Fund where the State Fund officer or employee could influence State Fund’s receipt of policyholder premium or other services.

2.3.3 Engaging in Litigation Activity for or With Another Entity

Counseling, advising, or assisting any party in the preparation, presentation, or defense of litigation adverse to the business interests of State Fund.

2.3.4 Engaging in Activities Adverse to State Fund’s Business Interests

Engaging in activities which are contrary to the business interests of State Fund. This paragraph does not affect employees’ rights under collective bargaining agreements.

2.3.5 Engaging in Business Transactions Involving Financial Interest in another Entity

State Fund Workforce members must notify their Program Manager or equivalent if their State Fund position involves transactions with, or referrals to, entities and persons with whom they have a personal and/or [financial interest](#), including:

1. An employee of an [interested party](#).
2. Any individual acting on behalf of an interested party, including the [family members](#) of the interested party or an employee of the interested party.

2.4 Appeals

Employees may appeal the application of the Incompatible Activities Statement to them by written appeal directed to the Corporate HR Program Manager. If the employee is dissatisfied with the decision, a final written appeal may be made to the Executive Vice President & Chief Administrative Officer.

In the event that a collective bargaining agreement specifies a different appeals process regarding applicability or waiver of the Incompatible Activities Statement with respect to outside employment, the collective bargaining agreement will control. The Bill of Rights for State Excluded Employees and their grievance procedure applies for excluded employees.

SECTION 3 – APPLICABILITY, SCOPE, & BASIS

This policy applies to all members of the State Fund Workforce. All State Fund Workforce members must maintain the highest standards of professional and personal integrity. Suspected violations of this policy shall be reported promptly to the Corporate HR Program Manager.

If provisions of this section are in conflict with provisions of a memorandum of understanding, the memorandum controls.

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NOTICE

All members of the State Fund Workforce are required to electronically certify that they have read and understand this Policy as part of State Fund's [Code of Conduct](#) acknowledgement process. Failure to complete your obligation will result in referral for disciplinary action up to and including termination

3.1 Related Laws and Regulations

***Complete text of the California statutes and the Business and Professions Code listed below can be accessed through: <https://leginfo.legislature.ca.gov/faces/home.xhtml>

***Complete text of the California regulations listed below can be accessed through: <http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>

- Cal. Code of Regulations Title 2, § 599.870, Incompatible Activities Statements
- Cal. Code of Regulations Title 2, § 547.59, Definition of a Personal Services Contract
- Cal. Government Code § 19990, Incompatible Activity
- Cal. Government Code § 19572, Disciplinary Proceedings
- Cal. Government Code § 8314, Unauthorized Use of Public Resources
- Cal. Insurance Code § 750, Unlawful Referrals
- Cal. Labor Code § 3219, Workers' Compensation and Insurance General Provisions
- Cal. Labor Code § 3820, Workers' Compensation Misrepresentation
- Cal. Civil Code § 3426.1, Uniform Trade Secrets Act
- Title VII of the Civil Rights Act of 1964
- Civil Rights Act of 1991
- Cal. Government Code:
 - § 12900, California Fair Employment and Housing Act
 - §§ 12925-12928, Definitions
 - §§ 12940-12951, Unlawful Practices
 - §§ 19230-19237, Hiring of Disabled Persons
 - §§ 19400-19406, Upward Mobility
 - §§ 19790-19799, State Civil Service Equal Employment Opportunity Program
- Cal. Labor Code, § 139.32, Division of Workers' Compensation
- Cal. Code of Regulations, Title 2,
 - § 7287.6, Particular Employment Practices. Terms, Conditions and Privileges of Employment
 - § 7291.1, Sex Discrimination. Terms, Conditions and Privileges of Employment

U.S. Code Title 17 ("Copyright Act")

SECTION 4 – AUTHORITY

The Executive Vice President & Chief Administrative Officer is responsible for policy assurance and oversight. The Corporate HR Program Manager as policy owner is responsible for compliance with, updates to, and enterprise monitoring of this Corporate Policy.

SECTION 5 – RELATED CORPORATE POLICIES

- EC&F 2.0 Privacy & Confidentiality
- EC&F 2.1 Complaint Reporting and Anti-Retaliation
- EC&F 2.3 Business Ethics
- EC&F 2.4 Statement of Economic Interests (Form 700) & Financial Disclosures
- EC&F 2.7 Non-Business Use of State Fund Facilities

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HR 4.1 Equal Employment Opportunity
 HR 4.3 Sexual Harassment

Related Corporate Policies can be found: [Corporate Policy Library](#)

SECTION 6 – DEFINITIONS

Close Personal Relationship - includes, but are not limited to associations with individuals by blood, marriage, adoption and/or cohabitation (same or different sex), e.g. wife, husband, mother, father, daughter, son, sister, brother, grandparent, grandchild, aunt, uncle, first cousin, niece, nephew, in-laws, stepmother, stepfather, stepson, stepsister, stepbrother, stepdaughter, half-sister, half-brother, domestic partner, or two people living together outside marriage.

Code of Conduct – The *Code of Conduct* communicates State Fund's values of honesty and integrity, standards for doing business, and ground rules for ethical behavior.

Confidential – Information restricted to use by defined groups of State Fund employees and safeguarded from unauthorized access and improper use.

Family Member – Spouse; domestic partner; co-habitant; parent; sibling; biological, adopted, or foster child or stepchild; legal ward; grandparent; grandchild; blood or adopted **relative** such as cousin, aunt, uncle, niece, or nephew; in-laws such as parents, siblings, grandparents, grandchild, blood or adopted relatives; or corresponding relatives of the employee's partner; other persons for whom the employee is legally responsible; and anyone who stood in loco parentis (acting in place of a parent and assuming the parent's rights, duties, and responsibilities) to the employee as a child.

Financial Interest – Any type of ownership, interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between the interested party or a close personal relation of the interested party and an entity in which State Fund receives, has contracted for, or is pursuing a contract for services.

Intellectual Property – Ownership of original work and the manner in which the work is presented or expressed such that it could be protected by copyright, patent, or trademark.

Interested Party – A participant to a financial transaction including, but not limited to, a State Fund Workforce member, a claimant, a policy holder, a provider of medical services or products, a claimant's attorney-at-law or law firm, a representative or agent of an interested party, copy and document reproduction services, interpreter services, and transportation services.

Merit Principle – Employment decisions will be made solely on a person's ability to perform.

Nepotism - The California Department of Human Resources (CalHR) PML 2015-014 defines nepotism as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation.

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Personal Relationship– The term “personal relationship” as used in this policy includes any relationship with individuals that extend beyond the work place where job-related decisions or actions can be influenced or perceived to be influenced by loyalty to the other party in the relationship.

Proprietary/Trade Secret – Information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

1. Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
2. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Relative – A relationship between individuals associated by blood, adoption, marriage, domestic partnership, membership in the same household or persons with whom employees have an intimate relationship.

State Fund Workforce – The term 'State Fund Workforce' is used herein solely for purposes of describing a collective group of people who work at State Fund, including Board members, officers, employees, and non-employees. No employer-employee or agency relationship is intended or created by the use of the term. The use of the term has no impact on State Fund's relationships with consultants or independent contractors.

SECTION 7 – HELP & ADVICE

For help and advice regarding this Corporate Policy, contact the Corporate Human Resources Program via [AskAdmin](#).

SECTION 8 – REVIEW HISTORY

Review Date	Action Date	Action	Section(s) Revised	Effective Date
5/13/2011		Revised based on changes in functional assignments; added Code of Conduct definition; form changes	2.3; 2.4; 3; 4; 6.1; 6.3; 7	05/2011
4/5/2012	4/5/2012	Annual Review	No content changes.	
02/28/2013	02/28/2013	Annual Review; Workforce and compliance notice	2.3, 3, 6	03/2013
09/2015	11/2015	Biennial and compliance review	Add 2.2.3 and 2.3.5 Revised 3.1, 4, 5, 6	11/2015
11/2015	12/2015	Board Review & Approval	Incorporated EC&F 2.8 into policy as noted above	11/2015
01/2016	03/2016	CalHR, Employee & Union Commentary	2.4; 6	07/2016
04/2016	06/2016	CalHR Approval	2.4; 6	07/2016
07/2017	07/2017	Updated Links	5	07/2016
08/03/2017	08/03/2017	Link Refresh	2.2.3, 3.1, & 5	07/2016
06/21/2018	07/16/2018	Nepotism policy statement	2.2.3 & 6	TBD
07/16/2018	08/01/2018	PAG Review and Vote	2.2.3 & 6	TBD
08/24/2018	11/30/2018	CalHR, Employee & Union Commentary	2.2.3 & 6	TBD
11/30/2018	12/24/2018	CalHR Approval	2.2.3 & 6	TBD
01/11/2019	01/11/2019	Executive Approval	2.2.3 & 6	TBD
		Board Review & Approval	2.2.3 & 6	TBD

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Governance Committee – February 14, 2019

Open Agenda Item 4 – Governance, Compliance and Privacy Update (Copy of Corporate Policy: Incompatible Activities Statement and Policy – Request for Approval)