

## Appendix 2 – Broker class AA – Monitoring and assessing compliance

### Broker Class AAs – monitoring activities

The department will monitor biosecurity industry participants (BIPs) compliance with the requirements of approved arrangement (AA) [class 19.1: Non commodity for containerised cargo clearance \(NCCC\)](#) and [19.2: Automatic entry processing for commodities \(AEPCOMM\)](#).

Collectively these arrangements are referred to as the Broker Class AAs.

Ongoing compliance monitoring for the Broker Class AAs will be primarily delivered at the brokerage AA branch level through document assessment verification.

The department will undertake other business assurance activities such as targeted assessments and audits to inform compliance.

Non-compliance may be reported through other means of intervention such as inspection, business assurance activities, or third party referrals. See [Non-compliance found outside document assessment verification](#).

Further departmental assessment and action using powers under the Regulatory Powers (Standard Provisions) Act 2014 may be exercised such as further monitoring, investigation and enforcement should a suspected breach of legislation be detected (see Jurisdiction and enforcement).

Fees for service apply for activities in accordance with the department's [charging guidelines](#).

### Document assessment verification

There are two lodgement categories for import declaration document assessment verifications.

**Category 1:** includes import declarations lodged under the AA class 19.1 NCCC arrangement where the accredited person declares nil non-commodity concerns.

**Category 2:** includes import declarations lodged under AA class 19.1 where the accredited person declares non-commodity concerns (Accredited person answers no to Gen-dec Question 7 or Question 9) and/or lodges an import declaration for goods under the AA class 19.2 AEPCOMM arrangement.

Where an import declaration is selected for random document assessment verification, the department will direct the BIP to provide the documentation used to support the assessment.

The frequency of documentation assessment verification (verification rate) varies, depending on the category of lodgement and corresponding review level.

Verification rates are adjusted according to the results of the verification activities. Higher levels of compliance will result in lower verification rates. The verification rate for AA class 19.1 is applied independently from AA class 19.2. Verification rates are applied separately to each individual commodity group within AA class 19.2. (see [Figure 3: Verification rates for Category 1 lodgements](#) and [Figure 4: Verification rates for Category 2 lodgements](#)). For further details see the [Document assessment verification - compliance action](#).

The department may vary category 2 verification rates for AA class 19.2 commodity groups if required and will advise BIPs of these changes if they are implemented.

### **Document assessment verification - verification results**

Compliant verifications will be determined in accordance with Broker class AA requirements, Minimum documentary and import declaration requirements policy, non-commodity information requirements policy and BICON requirements. Directions will be issued by the verification officer as per BICON onshore outcomes.

Details of non-compliance identified during document assessment verification activities will be reported to the BIP at the time of verification. Non-compliance will be classified in accordance with the non-compliance classifications in [Table 4](#).

### **Document assessment verification – non-compliance corrective actions**

Critical, major and minor non-compliance detected during verification activities will be communicated in writing to the BIP at the time of verification.

If a BIP reaches Census review level a Corrective Action Request (CAR) will be issued.

When the department has assessed and is satisfied with the measures undertaken by the BIP to prevent ongoing non-compliance, the BIP will be placed at the probation review level.

Failure to action a CAR will result in the BIP being issued with a Notice of Intention as to why their AA should not be suspended or revoked.

### **Document assessment verification – compliance action**

Where non-compliance is found for category 1 lodgements, the BIP will be subject to the verification rate in accordance with [Figure 3: Verification rates for Category 1 lodgements](#).

Where non-compliance is found for category 2 lodgements, the BIP's verification rate will be adjusted in accordance with [Figure 4: Verification rates for Category 2 lodgements](#).

### **Other compliance action**

If a BIP's review level increases to 'Census' for any category 1 or category 2 lodgement, the department will manage the non-compliant behaviour in accordance with the seriousness and biosecurity risk posed by the actions undertaken by the BIP or their associates.

The actions include but are not limited to a Broker Class AA audit (See [the Broker Class AA audit](#)) or the issuing of a Notice of Intention as to why the AA should not be suspended or revoked (See Administrative review (show cause) process).

If serious non-compliant behaviour by a BIP and/or associates comes to the attention of the department, further departmental assessment and action may occur, including civil or criminal prosecution (see Jurisdiction and enforcement).

In addition the department may take additional compliance action where there are multiple failures across different arrangements that are assessed by the department as resulting in a change in the biosecurity risk associated with the operation of the arrangement and/or failure of conditions associated with the arrangement. This includes investigating and taking action against individual associates (accredited persons) of the BIP, in accordance with the Non-

compliance – Failure to comply with accredited persons’ responsibilities found in the [Training and accreditation for broker approved arrangements \(class 19.1 and class 19.2\)](#).

**Figure 3: Verification rates for Category 1 lodgements**

NCCC Verification review levels					
REVIEW LEVEL	Verification Rate	Consequence of non-compliance by category			
		Compliant	Minor	Major	Critical
<b>CENSUS</b>	100% lodgements until corrective action addressed	Moved down to probation	Remain on census	Remain on census	Remain on census
<b>PROBATION</b>	100% for 20 consecutive lodgements	Moved down to standard	Restart count of compliant random verifications	Moved up to census level	Moved up to census level
<b>HEIGHTENED</b>	100% for 10 consecutive lodgements	Moved down to standard	Restart count of compliant random verifications	Restart count of compliant random verifications	Moved up to Probation level
<b>INCREASED</b>	100% for 5 consecutive lodgements	Moved down to standard	Restart count of compliant random verifications	Moved up to heightened level	Moved up to Probation level
<b>STANDARD</b>	0.2%		Moved up to Increased level	Moved up to heightened level	Moved up to Probation level

Newly approved broker class AA 19.1 arrangements will commence at the standard review level of 0.2% referral rate.

The first detection of a critical non-compliance will result in the BIP being placed on ‘Probation’ rate. Further Major or Critical non-compliance found while on the ‘Probation’ rate will result in being placed at the ‘Census’ rate.

Where, a BIP is placed on ‘Census’ rate the department will issue a CAR (see [Other Compliance Action](#)). The department must be satisfied with the proposed measures to rectify the CAR before the BIP will be placed on ‘Probation’ rate.

Figure 4: Verification rates for Category 2 lodgements

Broker assessment verification review levels					
REVIEW LEVEL	Verification Rate	Criteria to progress to next level	Consequence of non-compliance by category		
		Compliant	Minor	Major	Critical
<b>CENSUS</b>	100%	All compliant verifications until corrective action addressed	Remain on census	Remain on census	Remain on census
<b>PROBATION</b> <small>Starting level for all new 19.2 commodities</small>	100%	10 consecutive compliant verifications per commodity or NCCC	Restart count of compliant random verifications	Moved up to census level	Moved up to census level
<b>HEIGHTENED</b>	25%	15 consecutive compliant verifications per commodity or NCCC	Restart count of compliant random verifications	Moved up to probation level	Moved up to Probation level
<b>STANDARD</b>	5%	5 consecutive compliant verifications per commodity or NCCC	Restart count of compliant random verifications	Moved up to heightened level	Moved up to Probation level
<b>REDUCED</b>	1%	Ongoing	Moved up to standard level	Moved up to heightened level	Moved up to Probation level

Newly approved broker class AA 19.2 arrangements will start on the ‘Probation’ review level for all category 2 groups.

The first detection of a critical non-compliance will result in the BIP being placed on ‘Probation’ rate. Further Major or Critical non-compliance found while on the ‘Probation’ rate will result in being placed at the ‘Census’ rate.

Where, a BIP is placed on ‘Census’ rate the department will issue a CAR (see [Other Compliance Action](#)). The department must be satisfied with the proposed measures to rectify the CAR before the BIP will be placed on ‘Probation’ rate.

**Non-compliance found outside document assessment verification.**

Where non-compliance in relation to AA class 19.1 or AA class 19.2 is found outside of document assessment verification, the non-compliance will be managed in accordance with the [document assessment verification – compliance action](#).

The BIP will be notified of any non-compliance action as per the [document assessment verification – non-compliance corrective actions](#) section of this document.

**Broker Class AA - audits**

Broker Class AA audits are conducted on broker class 19.1 and 19.2 approved arrangements

Broker Class audits are used to ensure that:

- The BIP is compliant with the requirements under their AA
- The BIP has accredited persons, that the accredited persons have undergone the relevant training and are up to date with their continued biosecurity competency

Where a Broker Class AA Audit is required, the BIP will be notified by the department.

### **Broker Class AA audits - audit results**

Audit results will be determined through the use of the compliance matrix that can be found in [Table 3: Compliance table – Broker Class AA audits](#). For information on non-compliance classification, please see [Table 4: Classification of non-compliance for the Broker Class AA 19.1 and 19.2](#).

The BIP will be provided with an audit report following completion of the audit activity. The audit report will include a pass or fail audit result and evidence of compliance and/or non-compliance.

The severity of non-compliance will be determined in accordance with the non-compliance classifications.

The BIP is responsible for taking action on any matter that requires corrective actions in accordance with the [Broker Class AA audits – non-compliance and corrective action requests](#) section of this appendix.

### **Broker Class AA audits - non-compliance and corrective action requests**

Major and minor non-compliance will be recorded in the audit report. The department may issue a CAR for individual instances of major and/or minor non-compliance if specific corrective action is required by the BIP.

Critical non-compliance will be documented on a CAR.

### **Broker Class AA audits - non-compliance and compliance action**

Where a BIP fails a Broker Class AA audit they will be issued with a Notice of Intention as to why their AA should not be suspended or revoked. The BIP will be placed on 'Census' review levels for category 1 ([Figure 3: Verification rates for Category 1 lodgements](#)) and category 2 ([Figure 4: Verification rate for Category 2 lodgements](#)) lodgements and be required to submit documents to the department for 100% of consignments until the matter has been rectified.

If the delegate decides to allow the BIP to continue under their approved arrangement, the AA will be placed on the 'Probation' review level for category 1 ([Figure 3: Verification rates for Category 1 lodgements](#)) and category 2 lodgements ([Figure 4: Verification rate for Category 2 lodgements](#)).

Where, a BIP fails a Broker AA Class audit, the department may take [Other Compliance Action](#) as appropriate.

**Table 3: Compliance table – Broker Class AA audits**

This table shows the non-compliance matrix the Department determines will result in a failed Broker Class AA audit.

		Number of major non-compliance				Number of critical non compliance
		0	1	2	3 or more	1 or more
Number of minor non-compliance	0	Pass	Pass	Pass	Fail	Fail
	1	Pass	Pass	Pass	Fail	Fail
	2	Pass	Pass	Fail	Fail	Fail
	3	Pass	Pass	Fail	Fail	Fail
	4	Pass	Fail	Fail	Fail	Fail
	5 or more	Fail	Fail	Fail	Fail	Fail

Three or more major non-compliance will result in a:

- failed audit (if detected at audit),

Five or more minor non-compliance will result in a:

- failed audit (if detected at audit),

Combinations of minor and major non-compliance will result in a failed audit (if detected at audit) in accordance with the matrix above.

### Broker Class AA – Non-compliance classification

**Table 4: Classification of non-compliance for the Broker Class AA 19.1 and 19.2**

Type of non-compliance	Any...
<b>Critical</b>	Action, inaction or contravention of requirements which has led to goods being assessed for release or released from biosecurity control without the required biosecurity intervention. Deliberate failure to comply with a departmental direction  Example: Accredited person assesses documents and releases a consignment under AEPCOMM without the mandatory documents required as per the BICON requirements.
<b>Major</b>	Action, inaction or contravention of requirements which has led to the requirements not being met for a consignment but the goods are being sent for further biosecurity intervention (i.e inspection of commodity/non-commodity)
<b>Minor</b>	Administrative errors that do not impact Biosecurity integrity.  Example 1: Broker using an old packing declaration that still contains the “Prohibited Packing” statement.  Example 2: Broker fails to enter an AEI number in ICS however the treatment provider is approved.

For a full list of compliance classifications against each Broker class AA requirement refer to the Compliance classifications for Broker class approved arrangements.

### Broker Class AA – Appealing non-compliance action reviews

Where a BIP believes the result of a document assessment verification was incorrect and has supporting evidence that the documents initially presented met all relevant BICON import

conditions, requirements and policies, the BIP may request a reassessment (see [COLS Support](#) for how to request a reassessment).

**Note:** The Department relies on the documents initially presented in the Cargo Online Lodgement System (COLS) for document assessment verification. It is the responsibility of the BIP to ensure all documents required to assess the consignment are present and correct at time of lodgement.

If a BIP chooses to appeal non-compliance action, they will remain under the increased review level until a finding has been reached or the review level has been passed; whichever happens first.

Where the reassessment upholds the original assessment, fees for service will be applied as per the departments [charging guidelines](#).

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