

## Monash University Procedure

<b>Procedure Title</b>	Sanctions Compliance: Research Collaboration and Research Services Procedures
<b>Parent Policy</b>	<a href="#">Sanctions Compliance Policy</a>
<b>Date Effective</b>	08-May-2013
<b>Review Date</b>	08-May-2016
<b>Procedure Owner</b>	Pro Vice-Chancellor (Research)
<b>Category</b>	Operational
<b>Version Number</b>	1.4
<b>Content Enquiries</b>	soloffice@monash.edu
<b>Scope</b>	<p>Sanctions Compliance Policy</p> <ul style="list-style-type: none"> <li>• All campuses and research schools</li> <li>• Monash College</li> <li>• All staff</li> <li>• All affected students</li> </ul> <p>Sanctions Compliance: Admission and Enrolment of Students and Provision of Education and Research Training Procedures</p> <ul style="list-style-type: none"> <li>• All campuses and research schools</li> <li>• Monash College</li> <li>• All staff</li> <li>• All affected students</li> </ul> <p>Sanctions Compliance: Research Collaboration and Research Services Procedures</p> <ul style="list-style-type: none"> <li>• All Australian campuses and MSA</li> <li>• All Australian campus based staff and MSA</li> </ul>
<b>Purpose</b>	<p>The Policy identifies the provision of research collaboration and research services (including access to and use of Sanctioned Goods) as a Key Risk Activity. Research training undertaken as research collaboration is covered by these Procedures. These Procedures assist staff to assess and respond to identified situations to facilitate the University's compliance with the Sanctions Laws. These Procedures are supported by a risk assessment tool known as the <a href="#">Australian Sanctions Compliance Form</a>.</p>
<b>PROCEDURE STATEMENT</b>	

### 1. Review of Research Collaboration and Research Services Arrangements

#### 1.1. Overview

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The University and MSA engage in research collaborations with and provide research services to a range of persons including researchers and entities based outside Australia. The University and MSA have adopted these Procedures as the exercise of reasonable precautions and due diligence to identify and respond to possible international research collaborations/research arrangements:

- a) where a person/entity with whom the University proposes to work may be a Prohibited Person or Entity; or
- b) that may:
  - o provide technical assistance or training related to military activities or arms or related materiel to a sanctioned country or a Prohibited Person; or
  - o provide technical assistance or training (or funds for such training) if it assists with the manufacture, maintenance or use of Sanctioned Goods by an Iranian national, or for Iran, North Korea or Syria; or
  - o assist a WMD program

(collectively referred to as **Prohibited Purposes**).

This process is administered by the OPVCI and MRO. Any compliance concern identified and not able to be resolved is referred to the University Solicitor to provide advice to the PVC(R) or PVC(IE&C), for decision.

### 1.2. Process

#### **Responsibilities**

International activities at the University are undertaken pursuant to a memorandum of understanding or a legally binding agreement.

International research collaboration and research services are coordinated and monitored by Business Development Managers (BDMs) and faculties, the OPVCI and MRO. BDMs are responsible to advise on and facilitate research initiatives involving industry partners. The OPVCI is responsible for reviewing international research proposals. The MRO is responsible for administering research grant and funding proposals. Precautions are taken by the University throughout the process for the negotiation and approval of arrangements for research collaboration, to facilitate compliance with the Sanctions Laws.

#### **Risk Assessment**

Where OPVCI reviews an international research proposal, it will undertake a risk assessment appropriate to the country, persons and organisations referred to in the proposal. This will include checking whether the international party (and where this is an entity, any known directors of the entity) and any person known to be providing funds in conjunction with the activity, are Prohibited Persons or Entities.

When administering a grant proposal, MRO will check whether an international party to a grant or funding proposal (and where this is an entity, any known directors of the entity) is a Prohibited Person or Entity.

#### **When a potential match is identified**

Where a potential match is identified, further investigations will be undertaken by OPVCI or MRO to determine whether the potential match is accurate. This process may involve comparing the information obtained on the DFAT List with:

- a) other known information about the person/entity;
- b) other publicly available information;

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- c) further information requested from the University's researchers involved in the proposal and/or the relevant person or entity (if appropriate).

Where further enquiries identify reasonable grounds for concern that there is a potential match, OPVCI or MRO may seek advice from the University Solicitor, who may make enquiries of DFAT or the AFP when providing that advice.

### **Further enquiries**

The OPVCI or MRO will also consider, in conjunction with relevant subject matter experts, whether the research proposal could be related to a Prohibited Purpose. This assessment may involve enquiries including:

- a) requesting further information from the University's researchers involved in the proposal/proposed project;
- b) requesting advice from the OHS Unit about the techniques and tasks involved in the research and any transfer of goods that is/may be involved in the research proposal.

Where these further enquiries have not addressed the OPVCI or MRO concerns, further advice may be sought from the University Solicitor, who may make further enquiries of DFAT or the AFP to obtain their advice.

### **Decision by PVC(R)**

After making its enquiries, where the OPVCI or MRO is concerned that a party may be a Prohibited Person or Entity, funds related to the activity may be received from a Prohibited Person or Entity, or the activity may involve a Prohibited Purpose, the OPVCI or MRO will refer the matter to the University Solicitor to provide advice to the PVC(R).

The PVC(R) will determine what action the University shall take. Where, after reviewing the available information, the PVC(R) reasonably believes that a Sanctions Law applies to the research activity, the University will take appropriate action. The action may include to:

- a) consult with DFAT and seek a permit;
- b) decline to enter the arrangement;
- c) develop a risk management plan that may include entering into the arrangement on specified conditions;
- d) seek to vary existing conditions of an arrangement;
- e) terminate the arrangement;
- f) inform the Risk and Compliance Unit of the risk management plan and request it monitor compliance with the plan and escalate any new concerns to the University Solicitor for advice to the relevant decision maker.

### **1.3. Ongoing Monitoring of Research Collaboration and Research Services Arrangements**

The University recognises that the changing nature of the Sanctions Laws makes it necessary to review existing international research activity (research collaborations and research services), when changes are made to the Sanctions Laws with the potential to impact the activity. The OPVCI and MRO will administer this process utilising the OPVCI's database of arrangements entered into with parties based outside Australia and MRO's database of research funding arrangements.

The process followed by OPVCI and MRO reviewing international research activity in place is to reflect the process set out in 1.2 of these Procedures.

### **1.4. Commercialisation of research outputs**

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The IE&C Unit leads commercialisation of research outputs by the University. Business Development Managers and key decision makers within the IE&C Unit for each commercialisation activity will review the Prohibited Person/Entity List and the Prohibited Purposes when considering the licencing, assignment or other transfer of technology or material. Where a potential match is identified, the IE&C Unit will undertake further investigations to determine whether the potential match is accurate.

Where these further enquiries have not addressed the IE&C concerns, further advice may be sought from the University Solicitor, who may make further enquiries of DFAT or the AFP to obtain their advice.

After making its enquiries, where the IE&C Unit is concerned that a party may be a Prohibited Person or Entity, that funds related to the activity may be received from a Prohibited Person or Entity, or that the activity may involve a Prohibited Purpose, the IE&C Unit will refer the matter to the University Solicitor to provide advice to the PVC(IE&C) and to inform the PVC(R).

The PVC(IE&C) will determine what action the University shall take. Where, after reviewing the available information, the PVC(IE&C) reasonably believes that a Sanctions Law applies to the commercialisation activity, the University will take appropriate action. The action may include to:

- a) consult with DFAT and seek a permit;
- b) decline to enter the arrangement;
- c) put in place a risk management plan that may include entering into the arrangement on specified conditions;
- d) seek to vary existing conditions of an arrangement;
- e) terminate the arrangement;
- f) inform the Risk and Compliance Unit of the risk management plan and request it monitor compliance with the plan and escalate any new concerns to the University Solicitor for advice to the relevant decision maker.

### Responsibility

see Section 8 - Responsibility

## 2. Training and Currency of Knowledge

The staff in the OPVCI, MRO, IE&C Unit and faculties are responsible for maintaining awareness of the Sanctions Laws impacting their area of work activity and for keeping up to date with changes to those Sanctions Laws to ensure the currency of their knowledge. To achieve this, the staff may:

- a) seek updates on changes to the Sanctions Laws from the Risk and Compliance Unit;
- b) discuss changes to the Sanctions Laws in team meetings;
- c) subscribe to alerts or updates to the Sanctions Laws;
- d) monitor the DFAT webpages related to the Sanctions Laws; and
- e) attend or obtain reports about briefing sessions related to the Sanctions Laws.

### Responsibility

see Section 8 - Responsibility

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### 3. Review of Research Areas

#### 3.1. Overview

In addition to formal international research collaborations and research services, individual researchers collaborate with researchers and entities based outside Australia. Where a field of research has been identified as a potential risk area for compliance with the Sanctions Laws, the University will monitor the progress of the research in that field.

The University has adopted these Procedures as its exercise of reasonable precautions and due diligence to identify and respond to research activity that may involve Prohibited Purposes.

This process is administered by the Faculties with the cooperation and assistance of the OHS Unit. Any compliance concern identified and not able to be resolved is referred to the University Solicitor to provide advice to the Dean, for decision.

#### 3.2. Process

The Faculties will seek to identify fields of research and researchers where there may be an increased potential for breach of the Sanctions Laws with the assistance of the OHS Unit. Areas of attention will include persons/equipment/materials/substances and knowledge targeted by the Sanction Laws. Most commonly, this will occur in the following cases:

- a) when a student or student research project is identified for monitoring or conditions under the Sanctions Compliance: Admission and Enrolment of Students, and Provision of Education and Research Training Procedures;
- b) when research collaborations or research services are identified for monitoring or conditions under these Procedures;
- c) when a research area or a researcher deals with goods, property or assets that are Sanctioned Goods.

The identified fields of research and researchers will be accessible to the OHS Unit. Where the OHS Unit independently identifies a field of research or researcher that may require monitoring, the OHS Unit will notify the relevant Dean.

The Risk and Compliance Unit will ask the Deans with fields of research and researchers identified, to provide a report on their monitoring of the potential risk area for compliance with the Sanctions Laws, through the annual Heads of Department Legal Compliance certification or through the Legal Compliance Officer process. The Risk and Compliance Unit will provide training necessary to enable the Deans to undertake this monitoring activity and to complete the report.

If during monitoring a Dean identifies particular concerns about a researcher's research activity, the Dean should refer the matter for further enquiry. The Faculty will assess whether the research activity could involve a Prohibited Purpose. The assessment process should involve consideration of:

- a) other information known about the researcher and the research (including information that may be held by the researcher's supervisor);
- b) further information requested from the researcher or supervisor (where appropriate);
- c) advice of an expert in the relevant field, to improve the understanding of the subject matter of the research; and
- d) other publicly available information.

Where the Faculty is seeking further guidance for its assessment in any particular case, it may seek advice of the University Solicitor, who may make enquiries of DFAT or the AFP when providing that advice.

Where the Faculty identifies reasonable grounds for concern that research involves a Prohibited Purpose, consideration should be given to putting on hold the research activity or placing interim conditions or limits on access to any affected laboratory or area of the University while the Faculty's further enquiries take place.

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Where after making its enquiries the Faculty is concerned a research activity may involve a Prohibited Purpose, the Faculty will consider whether any measures (including changes to the research activity, research collaborators or research methodology) could be put in place to facilitate compliance with the Sanctions Laws. Where grounds for concern are identified, the Faculty will work with the OHS Unit to ensure these measures are put in place.

Where the Faculty considers measures are not available to facilitate compliance, the matter should be referred to the University Solicitor to advise the Dean on options to facilitate compliance with the Sanctions Laws. The University Solicitor will notify the PVC(R). The Dean is responsible to make a decision upon receipt of this advice.

Where after reviewing the available information the Dean reasonably believes the research activity involves a Prohibited Purpose, the University will take appropriate action. The action may be:

- a) to consult with DFAT and seek a permit;
- b) to put in place a risk management plan including to direct a change in a research activity, no further work on the research activity, or limits on access to a laboratory to resolve the concerns;
- c) to report the concerns to DFAT or the AFP for advice;
- d) to inform the Risk and Compliance Unit of the risk management plan and request it monitor compliance with the plan and to escalate any new concerns to the University Solicitor for advice to the relevant decision maker.

### **Responsibility**

see Section 8 - Responsibility

## **4. Monitoring**

The Risk and Compliance Unit monitors changes to Sanctions Laws which may be relevant to the University and receives DFAT notifications of changes to the DFAT List.

Where changes to Sanctions Laws are identified (for example new sanctions against a state are imposed or the scope of an existing sanction changes or another state becomes the subject of sanctions), the Risk and Compliance Unit is responsible to communicate this to the relevant areas such as PVC(R), OPVC(I), the IE&C Unit, MRO, the Deans and the OHS Unit, and consider the need for revision of these Procedures. When considering changes in Sanctions Laws and changes to these Procedures, advice may be sought from the University Solicitor.

### **Responsibility**

see Section 8 - Responsibility

## **5. Reporting and Continual Improvements**

Through the annual Heads of Department Legal Compliance certification or through the Legal Compliance Officer process, the Risk and Compliance Unit will ask the OHS Unit, the Deans, MRO and the IE&C Unit to provide to the PVC(R) a biannual report of enquiries and their outcomes, incidents of non-compliance/breach made under these Procedures. The PVC(R) will provide a consolidated bi-annual report of these matters to the ERM Committee. The report may include learnings from enquiries and recommendations for improvements and changes to these Procedures.

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The ERM Committee will consider and discuss matters related to Sanctions Laws on a six monthly basis (or more frequently if required). On receipt of a report from the PVC(R), the ERM Committee will discuss the report and adopt the recommendations (if any) as it considers appropriate.

All reports generated under these Procedures will be retained for auditing purposes.

### **Responsibility**

see Section 8 - Responsibility

## **6. Breach of these Procedures**

Where a person or University body considers that the Policy and these Procedures have not been complied with, that person or University body must report the relevant non-compliance to the PVC(R). The PVC(R) will investigate the alleged non-compliance and may seek the advice of the University Solicitor and other relevant stakeholders, such as the Dean, MRO, OPVC(I) and IE&C Unit.

If the PVC(R) reasonably believes that the Policy and these Procedures have not been complied with, the University will take appropriate action. The action may be to:

- a) take appropriate steps to resolve or address any consequences of the non-compliance;
- b) require that the persons involved in the non-compliance undergo appropriate training to increase their awareness of the Policy and these Procedures;
- c) report the concerns to DFAT or the AFP for advice; and
- d) make recommendations to the ERM Committee regarding learnings and proposed improvements and changes to these Procedures.

Deliberate or reckless non-compliance may be dealt with by the University as a staff or student disciplinary issue and, in serious cases, may lead to termination of employment or candidature.

### **Responsibility**

see Section 8 - Responsibility

## **7. Business Rules**

Business rules may be developed to assist staff to implement these Procedures.

### **Responsibility**

see Section 8 - Responsibility

## **8. Responsibility**

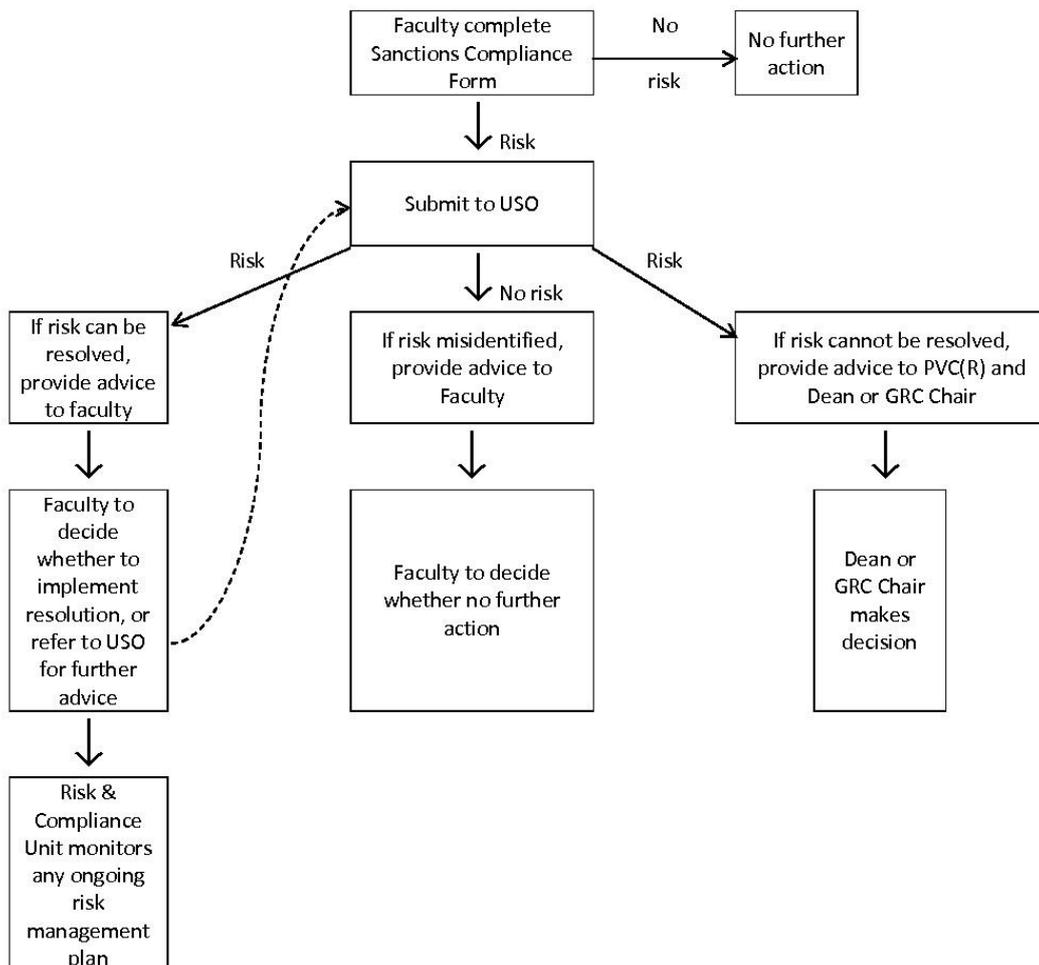
ERM Committee  
Pro Vice-Chancellor (Research)  
Office of the Pro Vice-Chancellor (Research)

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Deans  
 Associate Deans (Research)  
 Associate Deans (Research Training)  
 Monash Research Office  
 Global Engagement, Office of the President and Vice-Chancellor  
 Occupational Health and Safety Unit  
 Risk and Compliance Unit  
 Education Business Services  
 University Solicitor's Office  
 University Staff

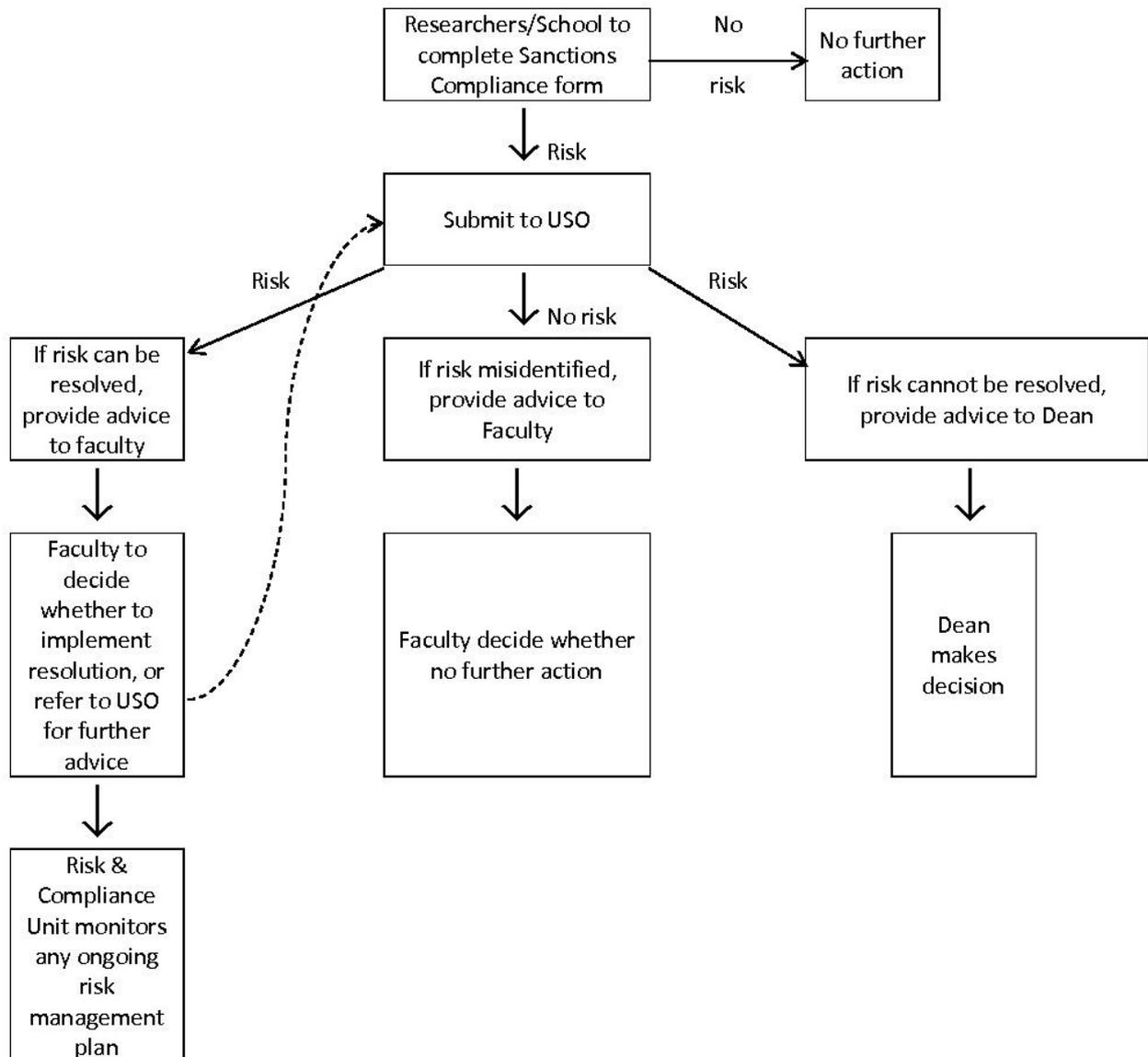
### 9. Sanction Compliance Activity and Flowcharts

1. Faculties (with OHS Unit) identify places (e.g. labs) with Sanctioned Goods and implement precautionary measures.
2. Faculties (with OHS Unit) identify courses with potential for prohibited purposes and implement precautionary measures.
3. Faculties (with OHS Unit) identify research areas with potential for prohibited purposes and implement precautionary measures.
4. For each student admitting to a course identified in 2:



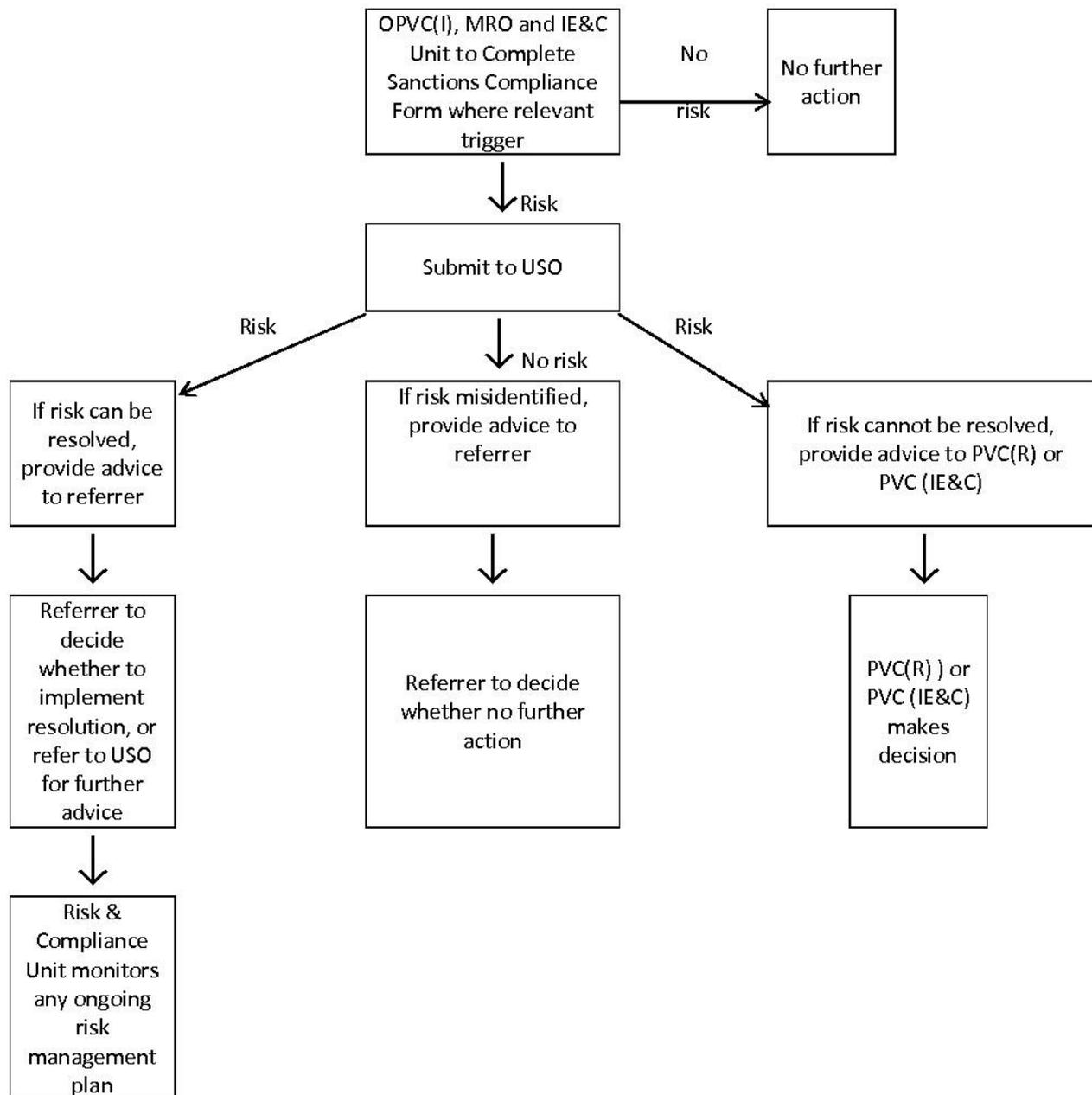
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5. For research activity identified in 3:



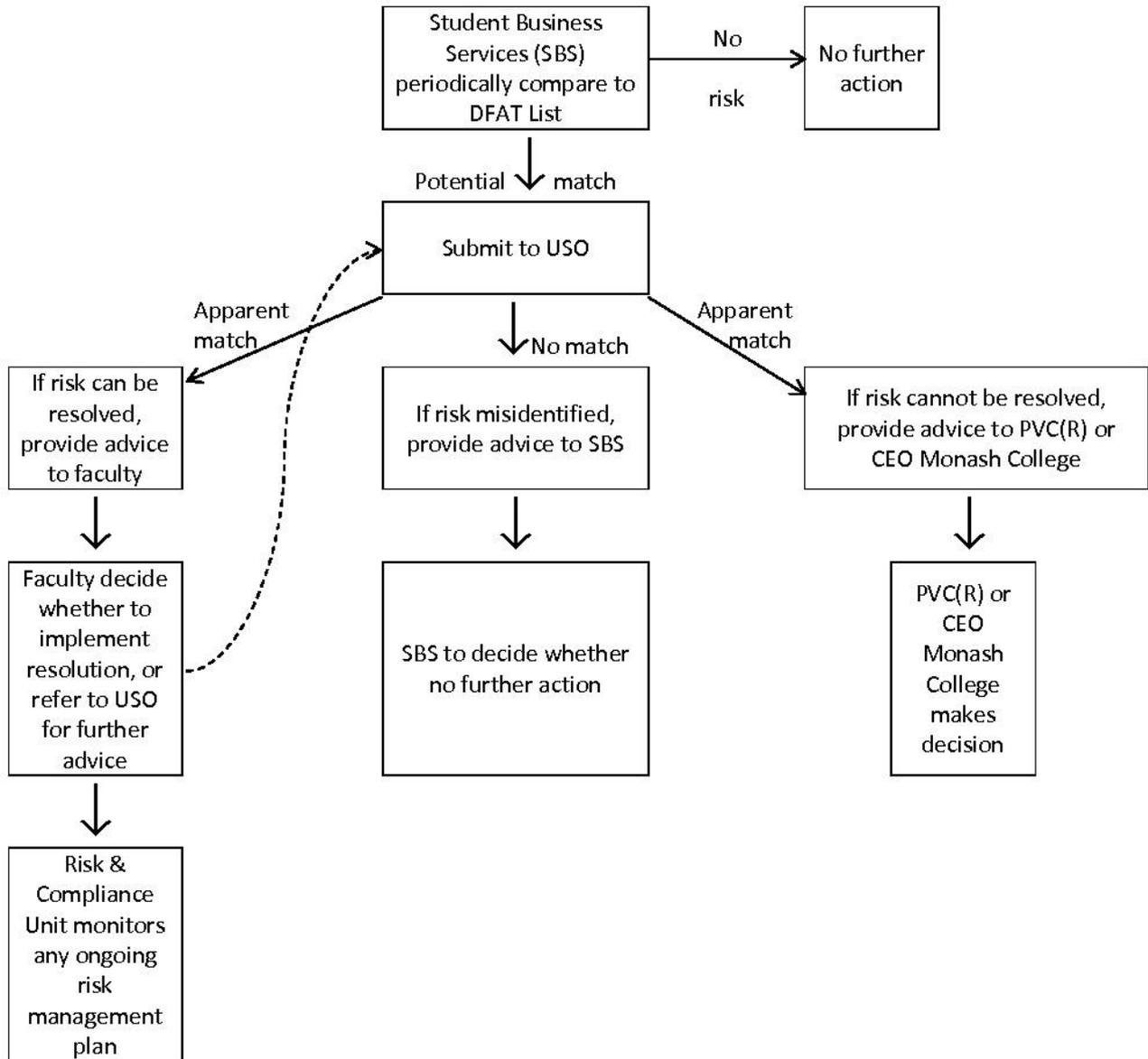
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7. For all Monash University research collaborations and research services:



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6. For all Monash University enrolled students and sponsors:



<b>Responsibility for implementation</b>	ERM Committee Pro Vice-Chancellor (Research) Office of the Pro Vice-Chancellor (Research) Deans Associate Deans (Research) Associate Deans (Research Training) Monash Research Office
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	<p>Global Engagement, Office of the President and Vice-Chancellor</p> <p>Occupational Health and Safety Unit</p> <p>Risk and Compliance Unit</p> <p>Education Business Services</p> <p>University Solicitor's Office</p> <p>University Staff</p>
<b>Status</b>	Revised
<b>Approval Body</b>	<p><b>Name:</b> Council</p> <p><b>Meeting:</b> 3/2013</p> <p><b>Date:</b> 08-May-2013</p> <p><b>Agenda item:</b> 9.4</p>
<b>Definitions</b>	<p><b>AFP:</b> the Australian Federal Police;</p> <p><b>DFAT:</b> the Australian Department of Foreign Affairs and Trade;</p> <p><b>DFAT List:</b> the consolidated list of prohibited persons and entities published on the DFAT website;</p> <p><b>ERM Committee:</b> the Enterprise Risk Management Committee;</p> <p><b>IE&amp;C Unit:</b> the Industry Engagement and Commercialisation Unit;</p> <p><b>MRO:</b> the Monash Research Unit;</p> <p><b>PVC(R):</b> the Pro Vice-Chancellor (Research), who is the legal compliance officer for the Policy and these Procedures;</p> <p><b>PVC(IE&amp;C):</b> the Pro Vice-Chancellor (Industry Engagement and Commercialisation);</p> <p><b>Prohibited Persons and/or Entities:</b> individuals and/or entities whose names appear on the DFAT List;</p> <p><b>Prohibited Purpose:</b> has the meaning set out in these Procedures;</p> <p><b>Program:</b> the sanctions compliance program set out in the Policy and its supporting procedures;</p> <p><b>OPVCI:</b> Office of the Pro Vice-Chancellor (International);</p> <p><b>OHS Unit:</b> the Occupational Health and Safety Unit;</p>
<b>Legislation Mandating Compliance</b>	<p><a href="#">Charter of United Nations Act 1945 (Cth)</a>, and Regulations</p> <p><a href="#">Autonomous Sanctions Act 2011 (Cth)</a>, and <a href="#">Regulations</a></p> <p><a href="#">Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 (Cth)</a></p>
<b>Related Policies</b>	
<b>Related Documents</b>	<p><a href="#">Australian Sanctions Compliance Form</a></p> <p><a href="#">Sanctioned Good Risk Management Plan</a></p>