



Policy: **Errors Rectification Policy**

Date of Approval: **20 August 2009**

| Version No. | Date | New Policy | Existing Policy | Prepared By | Approved By | Policy Owner | Next Review Due |
|-------------|----------------|------------|-----------------|--------------------|-------------|-----------------------------------|-----------------|
| 1.0 | 20 August 2009 | Yes | No | Legal & Compliance | Board | General Counsel/Company Secretary | August 2010 |

ERRORS RECTIFICATION POLICY

Scope and Purpose

This policy outlines the process for managing pricing errors and addressing compensation issues. The policy applies to UniSuper Limited as trustee of the regulated superannuation fund (Fund) and UniSuper Management Pty Ltd (USM) in connection with its financial planning and advisory activities. UniSuper Limited will from this point forward be referred to as UniSuper. This policy applies to all directors and employees of USM when acting for UniSuper and operates in conjunction with the UniSuper Compliance Incident and Breaches Policy and Procedures. All staff are required to read, understand and comply with their obligations under these policies.

Why have an Errors Rectification Policy?

UniSuper works hard to minimise pricing errors and other types of errors occurring. Due to the nature of determining crediting rates or benefit calculations which, at any given time, are only a best estimate of the value of each account or benefit using information available at that time, errors may occur despite our best endeavours.

When an issue is identified which could affect members of the Fund, UniSuper will respond and investigate the issue in accordance with its duties as Trustee.

UniSuper will compensate those members who are adversely affected by an error caused by UniSuper or its agents (including USM when acting in that capacity) in line with this policy.

What is an error?

The first question to be asked in any analysis of an error is whether there is, in fact, an error. Compensation may be payable as a result of an error.

Adjustments to benefits may be required for a variety of reasons and should not automatically be regarded as an error that requires compensation.

Errors most usually occur as a result of:

- incorrect valuations of assets;
- misallocation of monies to member accounts;
- incorrect allocation of interest to member accounts;
- inaccurate recording of member details;
- tax not being deducted properly;
- computer programs and data becoming corrupted;
- errors in calculation of income or expenses;
- incorrect calculation or levying of fees;
- incorrectly processing an investment switch;
- previous errors not being corrected properly.

This is to be distinguished from an adjustment of a crediting rate or adjustment of a benefit where the rate or benefit was calculated on a reasonable basis. As long as an assumption or the estimate is based on sound policy, a change in the crediting rate due to an update of that estimate or a change in an assumption based on new information, does not constitute an error. Adjustments to reasonable estimates are not errors - the crediting rate before the adjustment is deemed to be correct and the crediting rate after the adjustment is deemed to be correct.

If you have any doubt as to whether a matter constitutes an error, please refer the matter to the Compliance Team. The Compliance Team will make the final assessment as to whether the matter constitutes an incident, breach or potential breach.

How are errors identified?

UniSuper welcomes the early identification of errors because this gives UniSuper an opportunity to quickly rectify matters and to mitigate any loss.

The existence of errors may come to our attention from a variety of sources including notifications from staff, employers and service providers, member complaints and Regulator queries.

When the existence of a potential error is brought to our attention, a full investigation of the incident needs to be made to assess whether an error exists.

If the conclusion is that there is no error, that fact will be communicated to the party that raised the issue.

If it is determined that there is an error, it will need to be reported to a member of the Compliance Team responsible for your area. Please refer to the UniSuper Compliance Incident and Breaches Policy and Procedures for further information.

The Assessment and Mitigation process for errors is attached at Appendix 1 (the Remediation Roadmap).

During the course of the Assessment and Mitigation process, the incident is fully documented including how it occurred, which controls failed and any corrective action taken. Where appropriate, new contributions and withdrawals will be monitored while the extent of the error is identified. Rectification may include amendment of policies and procedures, change in administrative practices and business process, and rectification of computer systems.

Application of a Materiality Threshold

Where it is determined that an error has occurred, UniSuper may choose to use a materiality threshold to assess whether the error requires compensation to be paid to members or to the Fund. For the purposes of this policy, the materiality threshold is 0.3% however the level of materiality needs to be considered in the circumstances of each case as there may be situations where a lower materiality threshold may be appropriate.

When applying the materiality threshold, the impact on each individual member of the one or more unresolved errors needs to be considered. It is not appropriate to apply the materiality threshold to the impact on the Fund. Further, the threshold needs to be applied in the context of the cumulative impact on a members benefit – it is not appropriate to break the error down into components so that each error is considered immaterial in isolation.

To apply the materiality threshold you need to compare the value that would have accumulated to the member if the error(s) had not arisen with the value that accumulated in the presence of the error(s), from the date the error(s) started to the date the effect of the error(s) ceased.

If the difference between those values is equal to or greater than 0.3% of the value that would have accumulated to the member without the error, compensation should be paid to the member.

If the difference is less than 0.3%, UniSuper may determine whether compensation should be paid. In exercising this discretion, UniSuper should take into account the type of asset and the amounts involved. For example, the error may be lower than the materiality threshold but a large single transaction may have occurred which may make the impact on a member large in absolute dollar terms. Alternatively, there must be a threshold below which the restitution process (of calculating, implementing and making payments to members) would not be in the interest of those members. Where the costs of rectification will be met from the Fund (and ultimately continuing members) it may be appropriate to factor in the costs of rectification when considering materiality of an error. If an error has a small impact on price and affects a large proportion of members, the concept of restoring members may be illusory as the costs of rectification may outweigh the benefits.

If an error was or leads to an overcharging of fees, the fees must be repaid to the member in full without regard to the materiality threshold.

Compensation Policy

Ex Gratia Payments

UniSuper can choose to compromise or otherwise settle claims if the view is taken that the payment is a reasonable solution to a fair complaint and elimination of the claim is in the best interests of the Fund. This will commonly arise where the claim is of nuisance value ie where the costs or administrative effort in resolving the claim exceed the amount of the claim. The Trustee should exercise its powers fairly and reasonably and within the authority limits set out in Appendix 2. The power to settle claims pursuant to this power cannot generally be used to pay a benefit in excess of that provided to the member under the trust deed.

Where a member has suffered a loss

Generally, if an error is identified as being material, and the member has been disadvantaged by the error, the member will be compensated for the error.

The aim of compensation is to return the member to the financial position that would have existed had the error not occurred. This means that when calculating the amount of compensation payable to a member, it may still be appropriate to debit the member's account of fees, charges and premiums that would have otherwise have been properly incurred.

Compensation must include an amount for investment performance (depending on whether it has been positive or negative) or interest.

For members who have exited the Fund, UniSuper may apply a fixed dollar minimum to compensation payments. As a general guide, payments to a former member of less than **\$20** will not typically be made. This threshold is consistent with Regulatory practice guidelines and with industry standards and is disclosed on our website and in the annual financial report for the Fund.

Former members who have suffered a loss in excess of the fixed dollar minimum will be compensated by way of cheque or by electronic funds transfer to their rollover account or bank account.

The application of the fixed dollar minimum will **not** be applied to existing members of the fund. Current members will be compensated for the error by crediting the member's account. Where it is not appropriate to credit a member account, the payment may be made to the member by way of EFT or cheque (bearing in mind the rules relating to preserved benefits).

If error has led to an overcharging of fees, the fees must be repaid to both current and exited members without regard to the fixed dollar minimum.

Where a member has gained a financial advantage

There is often a question of whether a trustee should seek to recover from clients who have benefited from an error or who have been overpaid benefits.

Where a member has gained a financial advantage as a result of the error, it is open to UniSuper to seek to recoup the loss from that member either from their remaining interest in the Fund or from any future payments due to the member.

For current members, the loss may be recouped by way of reduction of the members account.

For exited members, UniSuper will consider whether it is in the interests of the Fund to seek to recover any overpaid amount from a former member who has unfairly benefited from the error. The decision to seek to recover will be made by the General Counsel on the facts of each individual case taking into account both the prospects of success and recovery.

In relation to exited members who have been overpaid benefits, UniSuper has a duty to 'get in' trust assets which would, at first blush, oblige the Trustee to take action against former members to recover the loss. The Trustee will not be required to institute futile proceedings or to proceed where the prospects of recovery of damages from the exited member is remote given that the costs of litigation are generally charged across the Fund. Should the view be formed that instituting proceedings against a member would result in little prospect of recovery, UniSuper should still make efforts to recover the overpaid amounts (short of taking proceedings).

Authorisations will be determined in accordance with the authority limits set out in Appendix 2.

Funding for rectification

If a third party is responsible for the error, steps should be taken to seek to recover the amount of damage or loss from that third party. This will include USM should USM be the party responsible for the error.

Investigation should also be made of the potential to claim under any insurance policy that covers the activities of UniSuper and/or USM.

Steps for recovery of the amount from third parties or from the insurer will be considered on advice from Legal and Compliance.

Where all steps of recovery have been exhausted, any shortfall will be borne by Fund.

Delegated Authorities and Approvals for compensation payments.

Approval for compensation payments will depend on the total amount payable. Authorisation and communication of payments will be in accordance with the authority limits set out in Appendix 2.

Communication to Members

Where an error has occurred which requires remediation, we need to clearly tell members what went wrong and why, as well as how the problem will be fixed and by when. Members must be notified in a way that will come to their attention (for example by way of personally addressed letter) otherwise the Regulators will not consider that UniSuper has 'notified' the member as required by law. You must give members the information that is reasonably necessary for them to understand the nature and effect of the error.

The communication will include:

- an explanation of the error;
- steps and timing to fix the error;
- an explanation as to how compensation will be paid;
- measures taken to prevent recurrence.

The communication should be made as quickly as possible after the error has been discovered, although it is necessary to strike a balance with providing information that is complete and meaningful to members.

Reasonable efforts must also be made to contact former members affected by the error.

Please also consider the UniSuper communications plan, "Communications strategy – Managing difficult messages 2009/10", when drafting a communication to members.

Communication to Regulators

Communication with Regulators will be made in accordance with the process set out in the UniSuper Compliance Incident and Breaches Policy and Procedures.

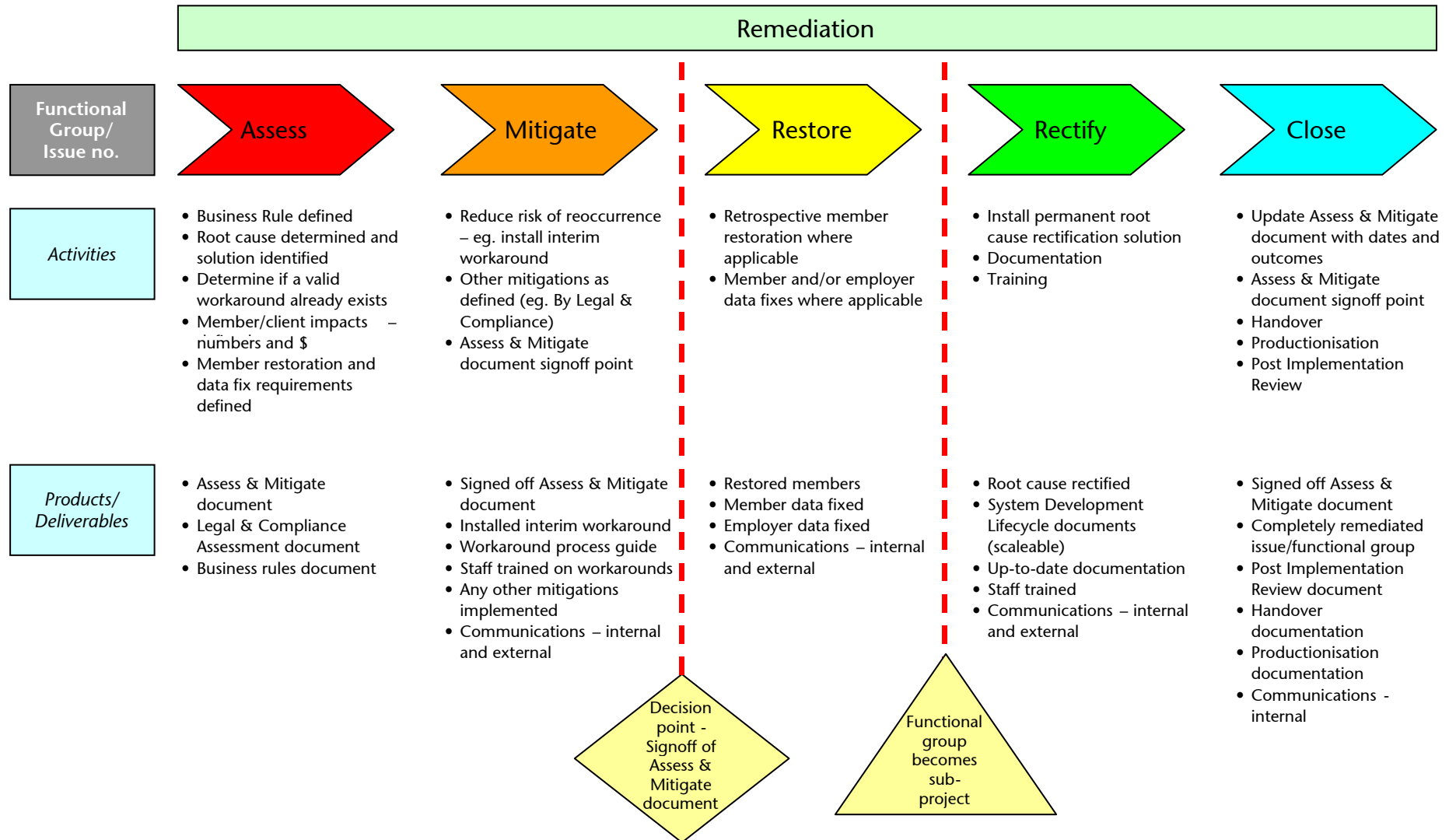
Tax advice

If there is a potential for tax consequences to arise as a result of the error, UniSuper may consult the ATO regarding appropriate resolution or providing advice to investors. Where there is an adverse consequence for members on tax side, this will be factored into the resolution of the error and compensation payable.

Independent advice may also be sought from taxation and legal professionals where appropriate.

The policy is summarised in the flow chart at Appendix 3.

Remediation Roadmap



Authority levels up to the following limits.

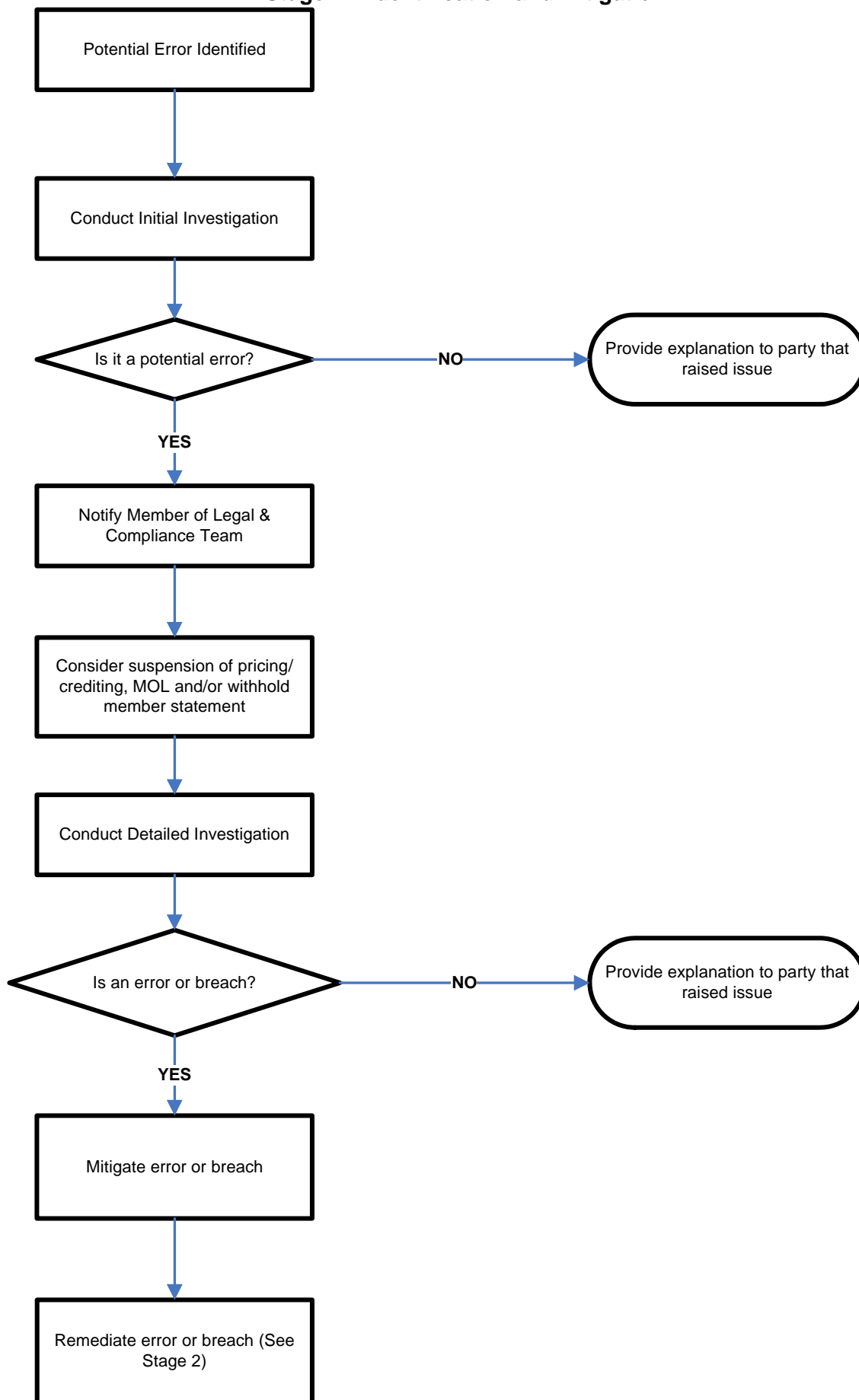
| Payments to members/former members | CEO | General Counsel | Exec Manager M&ES, and Exec Manager Financial Planning | EMT | Direct Report to Executive Manager – Member and Employer Services |
|---|------------------|------------------------|---|--------------|--|
| Compensation | \$300,000 | \$100,000 | \$750 | \$250 | Nil |
| Ex Gratia payments | \$300,000 | \$100,000 | \$750 | \$250 | \$100 |

| Recovery of overpaid amounts to former members | General Counsel with CEO approval | General Counsel | | |
|---|--|------------------------|--|--|
| | \$300,000 | \$100,000 | | |

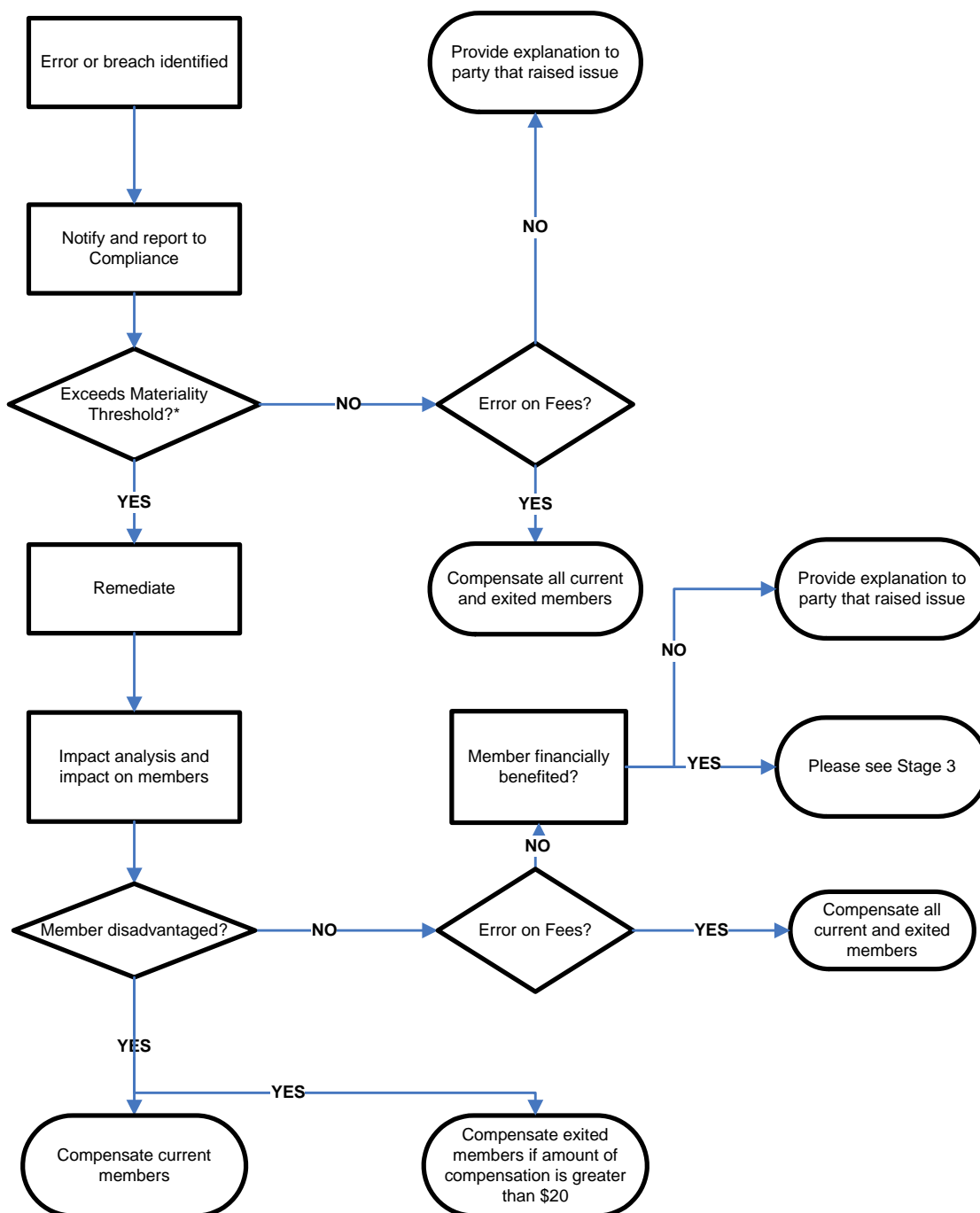
Note

1. Where there is more than one claim or claims are similar in nature, amounts should be aggregated to assess whether they fall within these authority levels.
2. For EMT, a maximum aggregate authority limit of \$5,000 applies in any one month period.
3. Where payments made by members of the EMT or Direct Reports to the Executive Manager – Member and Employer Services, a report must be generated and forwarded to compliance each month.

**Error Identification and Remediation Process –
Stage 1 – Identification and Mitigation**



**Error Identification and Remediation Process –
Stage 2 – Remediation**



* - Materiality threshold is 30 basis points / 0.3% of the value that would have been accumulated without the error. The materiality threshold needs to be assessed for appropriateness in each individual case (see policy).

**Error Identification and Remediation Process –
Stage 3 – Financial Benefit**

