



## Guidance for MSC Chain of Custody CABs relating to the Covid-19 Third Party Labour Audit Derogation

This document provides guidelines for CABs to implement the derogation published on 6<sup>th</sup> May 2020 in response to the Coronavirus pandemic which allows deviation from the requirements to require compliance with [MSC Third-Party Labour Requirements v1.0](#) before a company’s 2<sup>nd</sup> audit to CoC Default v5 or Group v2 5.7.2 or Consumer-Facing Organisation (CFO) Standard v2 5.8.2.

The derogation can be found on the MSC interpretations site as follows:  
<https://mscportal.force.com/interpret/s/article/Covid-19-pandemic-derogation-6-May-2020>

This derogation is applicable to companies which are classified as Standard risk as per the CoC Certification Requirement (CoC CR) 7.1.8 and tables 5 and 6 with their 2<sup>nd</sup> audit to CoC Default Standard v5, Group v2, or CFO v2 before 28<sup>th</sup> March 2021.

The intention of these additional guidelines for CABs is to assure consistency in interpretation of this derogation.

CABs should continue to send questions in to [supplychain@msc.org](mailto:supplychain@msc.org) and we will respond as quickly as we can. The Supply Chain Standards team will also look to host a more detailed question and answer document on the CAB extranet, and will let you know when this is available.

This document is guidance to the derogation and is not directly auditable. It is, however, expected that the guidance included in this document will be applied by CABs, where applicable, unless there is a justification for not doing so.

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### Version 1: 06/05/20

Version	Effective date	Description of amendment	Affected section/ page
1	06/05/20	N/A – new document	N/A



1. Question – Which company is affected by this derogation?

If it is an *initial audit* against CoC Standard, this derogation does not apply.

If it is a *1<sup>st</sup> audit* against CoC Standard v5.0 (Group/ CFO v2.0), this derogation does not apply.

If it is an audit against CoC Standard v5.0 (Group/ CFO v2.0) for a 'Lower risk' certificate holder this derogation does not apply.

If it is a *2<sup>nd</sup> audit* against CoC Standard v5.0 (Group/ CFO v2.0) between now and 28 March 2021, where your certificate holder or their sites or subcontractors have been required to complete a Labour audit (i.e. Standard Risk), the certificate holder will now **have until 28 March 2021 to complete their labour audit.**

2. Question – When conducting the 2nd audit of a Standard Labour Risk CoC certificate holder against the CoC Default v5 or Group v2 or CFO Standard v2, before 28th March 2021 how do I complete the sections of the CoC Audit Checklist relating to compliance to the MSC Third-Party Labour requirements v1?

Answer – If the company is not yet compliant with the MSC Third Party Labour Requirements v1 the auditor can record NA in the 'Answer' column of questions 45 and 46 (tab '7. Questions' of the MSC Chain of Custody Single and Multi-Site Checklist and Reporting Template v4.1, tab '10. Questions' of the MSC CFO Checklist and Reporting Template v2.1 or tab '8. Questions' of the MSC Chain of Custody Group Checklist and Reporting Template v4.1) and needs to record in the 'Evidence' column the recognised third-party labour program which the company is committed to and, where possible, the forthcoming social audit date, or a justification if the scheme is not yet known.

If the company is already compliant with the MSC Third Party Labour Requirements v1 then the checklist can be completed in the normal way (select 'Pass' and detail evidence reviewed).

3. Question – If a Standard Labour Risk certificate holder that has had their 2<sup>nd</sup> surveillance audit contacts a CAB by the 30<sup>th</sup> March 2021 to confirm they have not yet complied with the MSC Third Party Labour Requirements v1, what action does the CAB take?

Answer – As per clause 5.7.2/ 5.8.2 of the CoC Standards, and the terms of the derogation, the Standard Labour risk certificate holder is expected to comply with the requirements of the MSC Third-Party Labour Audit Requirements. However, if they fail to comply with the requirements but inform you as their CAB within 2 days of the deadline of the derogation (as per 5.7.3/5.8.3) this means a major non-conformity is raised as per 9.2.1.b. of the CoC CR v3.1. The certificate holder then has a further 30 days to comply. If compliance is not reached in this time the CAB shall suspend the company's CoC certificate as per clause 9.2.8.b.i and 9.2.8.c. of the CoC CR v3.1, and 7.4.9.d. of the General Certification Requirements (GCR) v2.4.1, until such a time as they are compliant.



4. Question – What is the CAB expected to do if MSC contacts them with information on the CoC holder’s lack of evidence of compliance after 28<sup>th</sup> March 2021?

Answer – As per the terms of the derogation and to provide greater assurance the MSC may contact Standard Labour Risk certificate holders to request evidence of compliance with the MSC Third Party Labour Requirements v1. If the MSC cannot obtain evidence of compliance to the MSC Third Party Labour Requirements v1 within 5 days of request to the CoC holder, then a request for action (as per 4.8.6.c.i, GCR v2.4.1) shall be sent by MSC to the company’s CAB. The CAB will then need to action this by following the processes of clause 4.8.6.c.i (A-C) of the GCR v2.4.1. First seeking to obtain evidence at the company’s cost, then raising a non-conformity if the certificate holder fails to comply in the specified timeframe, and finally if the non-conformity is not addressed suspending the company’s certification as per 7.4.9.d. of the GCR v2.4.1. The non-conformity can be raised against 5.7.2/ 5.8.2 of the relevant CoC Standard.

5. Question – What is the CAB expected to do if MSC contacts them with information on the CoC holder’s breach of compliance with the MSC Third Party Labour requirements?

If MSC has evidence the company does not comply with the MSC Third Party Labour Requirements v1 they shall send a request for action to the CAB. The CAB shall take either of the following actions:

- a. If the company had already notified the CAB of them not complying with the MSC Third Party Labour Requirements within 2 days, then the processes as per question 3 are followed and the MSC is informed of progress.
- b. If the company had not previously notified the CAB, then the CAB shall suspend the company’s certification as per clause 7.4.9.j of the GCR v2.4.1. The suspension shall only be lifted once compliance is demonstrated and not before 3 months as per 7.4.14 of the GCR v2.4.1.

6. Question – If the failure of a company to comply with the MSC Third Party Labour Requirements v1 by 28<sup>th</sup> March 2021 is first identified at their 3<sup>rd</sup> audit, what action does the CAB take?

Answer – In this case the certificate holder has not met 5.7.3 (Default v5.0 or Group v2.0) or 5.8.3 (CFO v2.0) meaning that 7.4.9.j of the GCR is invoked. Consequently, CAB needs to suspend the company for 3 months as per clause 7.4.14 of the GCR v2.4.1. This is applicable even if the company has obtained compliance with the MSC Third Party Labour Requirements v1 between 30<sup>th</sup> March 2021 and the date of their 3<sup>rd</sup> audit to CoC Default v5, Group/CFO v2. The additional 2 days between 28<sup>th</sup> March and 30<sup>th</sup> March relate to the 2-day notice to CABs as per 5.7.3/ 5.8.3 of the relevant CoC Standard.



7. Question – What evidence should I be reviewing at the third audit to verify compliance to the MSC Third Party Labour Requirements v1?

Answer – The certificate holder will need to provide you with evidence that they met the MSC Third Party Labour Requirements v1 by the 28<sup>th</sup> March 2021 and are still compliant at the date of their third CoC audit. This means verifying compliance with the MSC Third-Party Labour Audit Requirements on the date of the third CoC audit. To verify compliance with the derogation and thus the 28<sup>th</sup> March deadline, companies can demonstrate compliance by showing either the certification date (for SA8000 certificate holders), or (for amfori and SEDEX members) the audit report and/or audit schedule in the platform that confirms the date on which the labour audit was held.