



Code Compliance Monitoring Committee

Website: www.bankcodecompliance.org

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Bulletin No 9 - November 2007

Provision of Information to the Code Compliance Monitoring Committee

The Committee's effective monitoring of subscribing bank's compliance with the Code relies upon banks providing accurate and appropriate information to the Committee. The Committee is currently finalising its improvements to the annual compliance statements (see below) to ensure it is provided with accurate breach statistics and information about compliance issues relevant to the Code. Equally, where the Committee is investigating a customer complaint that a bank has breached the Code, accurate provision of information is imperative.

In the light of recent cases before it, the Committee feels it may be useful to clarify some of the key expectations it has of banks when responding to a Committee investigation into an allegation that a bank has breached the Code. The Committee expects subscribing banks, to the extent permitted by law, to provide:

- Detailed, clear, timely and accurate responses to the complaint;
- Answers to any direct or specific questions put to the bank;
- Information as to the facts relevant to the complaint, including, action taken by the bank, evidence of that action where possible and explanations why a bank took that action;
- Copies of relevant bank documents, policies, procedures, training, communications and guidance where requested;
- Advice as to whether the bank has identified any failure or break down in policies or procedures relevant to the case and if so what action has been taken to remedy such failings, and
- Advice as to why any of the above cannot or will not be provided.

The Committee requires this information to:

- Understand and determine the facts of the case;

- Identify whether the facts indicate a breach of the Code;
- Evaluate the severity of any such breach;
- Assess the bank's approach to compliance with the Code as demonstrated in its actions in the case, and
- Where appropriate, recommend remedial action and follow up.

The Committee expects that bank responses to CCMC complaint investigations will be provided within a maximum 1 month timeframe after correspondence is received the bank and any subsequent CCMC requests for additional information are to be promptly addressed.

Whilst is not the role of the Committee to dictate the manner in which a bank responds to the Committee's requests for information, the Committee expects that a bank will make reasonable efforts to identify whether there has been a breakdown in procedures and/or a breach of the Code. If that is not done, it raises the possibility that the Committee will draw adverse inferences about the bank's compliance regime. If a bank considers that internal enquiries are not necessary, advice to that effect should be provided to the Committee. Privacy considerations should not prevent the Bank from doing whatever internal checks it considers necessary to assure itself and the Committee that the Code was not breached.

The Committee requests bank contacts, to take account of these points when responding to Committee investigations of Customer complaints and reminds Banks that failure to respond to a reasonable request for information may itself constitute a breach of Clause 34(f) of the Code.

Compliance statements

As bank staff will be aware, the Committee has recently been following up with all banks regarding the information contained in the 2006/07 Compliance Statements, with particular emphasis on the data contained in the Statistical Return and the reporting of breaches. As part of this work, CCMC staff have visited a number of banks. Discussions have focused on breach reporting processes and potential changes to the content of the next CCMC compliance statement. These changes are intended to enable banks to provide more complete and consistent information which will assist the Committee's compliance monitoring functions. Notification of the proposed changes will be advised to bank contacts shortly for comment.

Sharing Good Practice – Using Internal Audit to Address Compliance Failings

The Committee's February Bulletin pointed out that when the Committee makes a determination that a Bank has breached the Code, it may make recommendations that a Bank take remedial action to address compliance failings.

Earlier this year the Committee made a determination that a bank had breached 3 clauses of the Code, and recommended remedial action. The Committee was pleased to acknowledge that in addition to implementing the Committee's recommendations, the Bank had commissioned a limited scope internal audit to independently review the effectiveness of the bank's corrective actions to issues raised in the case. This looked at key issues such as adequacy of bank records, certain bank practices and staff training. It also validated key management action plans.

The Committee appreciates being notified of the bank's efforts, which it regards as good practice. It commends the bank on taking these steps to identify and rectify compliance failings.

Compliance Inquiries

Clause 29 Inquiry

The Committee's inquiry into Bank Compliance with Clause 29 inquiry is almost completed, with all banks taking part in a desk audit and four selected banks participating in compliance visits.

The following key issues were distilled from the submissions to the inquiry, as well as complaints and general comments received by the Committee over time, and represent the main areas of concern on which the inquiry is focussed:

- The general relationship between banks and financial counsellors and consumer advocates;
- Effective communication between banks and counsellors and advocates;
- Willingness to deal with customer representatives and acceptance of a customer's authority forms ;
- Banks contacting customers directly after an agent has been appointed; and
- Banks ensuring that their agents, such as debt recovery agents, comply with the debt collection guidelines.

An initial review of the desk audit responses has revealed some promising trends across the industry. All banks, for example, indicate a degree of flexibility in accepting the agent authority forms of financial counselling and consumer advocacy agencies.

Individual reports will be issued to the four banks that underwent compliance visits. All other banks, as well as relevant stakeholders, will receive a general

report on the inquiry, which will be publicly available on the Committee's website <http://www.bankcodecompliance.org/inquiries.html>. The reports will be issued before the end of the year.

Inquiries into Clauses 19 and 35

The Committee has agreed to conduct a minor inquiry into Clause 19 and a major inquiry into Clause 35 next year.

Queries or comments regarding Inquiries, should be addressed to Barbara Schade, Manager Compliance Inquiries on 03 8623 2011 or via email at bschade@bankcodecompliance.org.

Stakeholder engagement

In recent months the Committee has responded to a request for general information relating to banks compliance with clauses of the Code relating to Internal Dispute Resolution, Guarantees and Provision of Bank Statements from the Australian Securities and Investments Commission ("ASIC"). The Committee understands that ASIC used this information to assist it to formulating a response to the Parliamentary Joint Commission on Corporations and Financial Services.

On November 22, the Committee's Consumer and Small Business Representative, David Tennant and CEO Kirsten Trott, met with the ABA's small business forum to discuss banking issues relevant to small business and the applicability of the Code to small business retail customers. The Committee is pleased to have renewed engagement with the small business sector and looks forward to furthering its relationship with the forum.

Next Bulletin

The next bulletin is due to be released in February 2008.

Enquiries

If you have any enquiries about this bulletin or the work of the Committee more generally, contact Kirsten Trott on 03 9613 7353 or ktrott@bankcodecompliance.org.

Please note that the CCMC's Office will be closed from 24 December to 2 January 2008.