



Code Compliance Monitoring Committee

Website: www.bankcodecompliance.org

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Bulletin No 10 – February 2008

Review of the Code of Banking Practice

The Committee is pleased to welcome Ms Jan McClelland as the independent reviewer for the Code of Banking Practice. In accordance with Clause 5 of the Code, the Code must be reviewed every 3 years.

The Australian Bankers Association (“ABA”) provided information about the review process in a media release dated 21 December 2007. That media release announced that a website www.reviewbankcode2.com.au will publish all the documents related to the review. A link to this website, which is currently under construction, can be found on the homepage of the Committee’s website www.bankcodecompliance.org.

In accordance with Clause 34(g) of the Code, an independent review of the Committee’s work is required to coincide with the Code review. This requirement has been raised with Ms McClelland to ensure that the review processes are complementary. At this stage, it is likely that the review of the Committee’s activities will take place after the Code review has been completed.

Compliance statements

Banks will be aware that the Committee has recently made changes to subscribing banks’ annual reporting requirements.

All subscribing banks have received notification of changes to the 2007/08 Annual Compliance statements for the year ending 31 March 2008. These changes, which have been made following consultation with banks and the ABA, require banks to provide more relevant and consistent information to the Committee about Code breaches. This will enable the Committee to better understand and monitor banks' internal compliance systems.

Compliance statements are due to be returned to the Committee's Chief Executive Officer by 15 May 2008.

Compliance Inquiries

Clause 29

The Committee's general report of its Inquiry into bank compliance with Clause 29 is now available on the Committee's website <http://www.bankcodecompliance.org/inquiries.html>.

Whilst the Inquiry found that most banks meet their obligations under Clause 29 to comply with the 1999 debt collection guidelines, the Committee identified some areas of concern, such as staff training, monitoring of response times and banks continuing to contact customers after representatives had been appointed.

The Committee continues to liaise with those banks where compliance failings were identified during the Inquiry.

Clause 19

The Committee is conducting a minor inquiry into bank compliance with Clause 19 regarding the cancellation of direct debits. A desk audit questionnaire has been issued to all subscribing banks and responses are due back by 6 March 2008. Following return of the desk audit questionnaires, the Committee will assess the need for detailed compliance visits are required before issuing the general report on Clause 19.

Clause 35

A major inquiry into Clause 35 of the Code will commence shortly. Prior to commencement of the inquiry, the Manager Compliance Reviews will be in contact with all subscribing banks, to obtain background information on banks' IDR processes.

Queries or comments regarding Inquiries should be addressed to Barbara Schade, Manager Compliance Reviews on 03 9613 7386 or via email at bschade@bankcodecompliance.org.

Provision of Information to the Code Compliance Monitoring Committee

The Committee reminded banks in its last bulletin of their obligation to provide the Committee with accurate, appropriate and timely information. Recent experience has shown that the Committee's expectation that banks would thoroughly investigate complaints may have been misplaced.

In some cases, it has only been after the Committee has issued a Proposed Determination of breach that the Committee has been provided with a detailed analysis of the situation and, unsurprisingly, an argument that the bank has not breached the Code. This approach causes significant delay in the Committee's processes and results in considerable further work by the Committee, its staff and the Bank.

Similarly, consumer advocates should ensure that all information relevant to a complaint that a bank has breached the Code is provided as early as is practical. In the Committee's view there is an obligation on both parties to provide detailed and accurate information to the Committee at first instance and within the time prescribed.

The Committee's November 2007 Bulletin sets out the some of the key expectations it has of banks when they respond to a Committee investigation. The Committee's bank contacts are asked to ensure that any and all staff dealing with a Committee investigation are made aware of these expectations. The Committee reminds banks that a failure to respond to a reasonable request for information may itself constitute a breach of Clause 34(f) of the Code.

Some banks provide a contact in internal dispute resolution ("IDR")/customer relations to deal with the Committee's investigation of customer complaints that the bank has breached the Code. The Committee appreciates that dispute resolution staff have experience in investigating complaints and often are better able to access facts relevant to the investigation. It is crucial however that IDR based contacts fully understand that, unlike the role of the BFSO, the Committee's role is not to resolve the dispute but to determine whether the Code has been breached. Hence, from the Committee's point of view, it would expect that oversight of all complaint investigations would be maintained by the compliance contact nominated by the bank. This assists the Committee in ensuring the information provided by the Bank is relevant to its compliance monitoring role. It also ensures that the compliance area is aware of any compliance failings identified through the Committee's investigation and highlighted in its Determination.

If banks are unclear about the level of detail to provide in response to customer complaints to the Committee, they should seek guidance from the Committee's Case Manager, Michael Kane, on 03 9613 7377 or via email at mkane@bankcodecompliance.org.

Change to Committee Membership

It is with regret that the Committee acknowledges the resignation of Mr Russell Rechner from the Committee. Mr Rechner has been the Committee member with *"relevant experience at a senior level in retail banking in Australia"* as required under Clause 34 of the Code, since September 2004. Mr Rechner previously served as a Senior General Manager and Director of Major Projects at ANZ Bank. He now moves onwards and upwards to become the Independent Chair of the Australian Payments and Clearing Association. The Committee congratulates him on this appointment and sincerely thanks him for his excellent service to the Committee. Mr Rechner's contribution to the Committee cannot be overstated. His experience, skill and personal style will be missed. Mr Rechner's last meeting will be on 4 March 2008.

The ABA is currently seeking a replacement for Mr Rechner.

Next Bulletin

The next bulletin is due to be released in May 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