



Code Compliance Monitoring Committee

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Clause 14 Inquiry

This month we commenced the anticipated inquiry into clause 14 of the Code, relating to Account Suitability. The inquiry will involve 3 stages:

Stage 1 – Audit of the different types of accounts offered by banks relevant to low income earners, disadvantaged consumers or benefit recipients; and the criteria applied to identify such customers and ensure they are directed to the correct accounts. Letters requesting such information and detailed statistical data on relevant accounts have been sent to all banks.

Stage 2 – Shadow shopping exercise to test compliance with clause 14, specifically focussing on a sample of banks.

Stage 3 – Compliance visits with the banks included in stage 2, to provide feedback and seek further information.

We are pleased that Roger Knight, a consultant who has previously worked with the CCMC and has a background in compliance testing under the UK Code of Banking Practice, will be assisting the CEO in conducting the inquiry. With Roger's help, we hope to have finalised our inquiry reports in the first quarter of next year.

If you have any queries about the inquiry please contact Kirsten Trott on 0396137353 or ktrott@bankcodecompliance.org

Compliance issues

The Committee is interested in issues arising out of the relationship between the customer's agent, often a financial counsellor, and the customer's bank. Some of the issues that have come to the Committee's attention include:

- Agents reporting difficulties getting access to information, even where an authority form has been provided to the Bank;
- Customer requests to have communication from their bank directed to their agent being ignored; and
- Banks reportedly suggesting agents obtain access to represented customer accounts in order to have information on those accounts.

These issues, often arising in combination with allegations concerning debt collection processes, are potential breaches of clause 29 of the Code, which incorporates the ACCC's Debt Collection guidelines.

The Committee is considering establishing an inquiry to look at these issues in the next 6 months, and would like to hear from Banks and consumer groups about their experiences with the agent relationship.

New staff

The CCMC is pleased to welcome 2 new staff members this month, Kirsten Trott as CEO and Michael Kane as Case Manager. Kirsten, a solicitor who has spent the last 5 years working in the UK in the field of governance and compliance has taken over from Barbara Schade who is taking some extended leave. Michael Kane, who has held a number of senior positions with the ANZ Bank's risk and compliance team, will be the new part time Case Manager following Catriona Lowe's departure.

The power to name banks

Clause 34 of the Code, which sets out the powers and jurisdiction of the CMMC, empowers the CCMC to name a bank if the bank:

- Is guilty of serious or systematic non-compliance;
- Ignores a CCMC request to remedy a breach or fails to do so within a reasonable time;
- Breaches an undertaking given to the CCMC; or
- Does not take steps to prevent a breach re-occurring after having been warned that it might be named.

In determining what will be considered to be serious or systematic non-compliance, the Committee is undertaking further work to ensure its decisions are objective and transparent.

To assist stakeholders understand how the naming power may be utilised, the Committee expects all or some of the following factors to be relevant to the decision to name a bank:

- the impact (financial and non-financial) of the breach on the complainant customer or class of customers;
- the frequency of breaches, and the number of customers affected
- awareness of the breach by the bank's senior management and action taken by them to rectify the position;
- openness and transparency in the bank's investigation and complaints handling process, and
- timeliness of the bank satisfactorily resolving the customer complaint and, where necessary, rectifying processes.

According to clause 34, the CCMC can name a bank either in connection with a breach of the code or in a report of the CCMC. Where the CCMC has decided to name a bank, it will do so in its annual report and on its website, specifying the reasons underlying that decision. Naming would not occur without prior notification to the bank. In addition, prior to naming the bank and in accordance with the CCMC's constitution, ASIC, the ABA and BFSO will be informed of the decision.

Next Bulletin

The next bulletin is due to be released in February 2007.

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