



## Code Compliance Monitoring Committee

Website: [www.bankcodecompliance.org](http://www.bankcodecompliance.org)

Email: [info@bankcodecompliance.org](mailto:info@bankcodecompliance.org)

### Bulletin No 6 - February 2007

#### Clause 14 Inquiry

The final stages of the Committee's inquiry into compliance with Clause 14 of the Code of Banking Practice, relating to account suitability, have now been completed.

The Committee first wrote to all banks for information on how the clause was interpreted and applied. As part of an in-depth review of four focus banks' compliance with this clause, the Committee contracted a shadow shopping company to test that customers were being directed to suitable accounts. Mystery shoppers, posing as low income customers, sought information about suitable accounts in approximately 300 metropolitan and rural branches spread across four states.

The results of this exercise were reported back to each bank during compliance visits. In these visits CCMC Chief Executive, Kirsten Trott, and consultant Roger Knight, obtained further information in regards to compliance with clause 14, through discussions with each bank's compliance, products and learning and development teams.

Each of the focus banks will be receiving a report which includes their shadow shopping results, and the Committee's reflections on their approach to clause 14 compliance. A more general report will be published on the CCMC website in March/ April highlighting the best and worst practices across the banks in relation to compliance with this clause.

The Committee would like to thank consultant Roger Knight for his excellent assistance with this inquiry.

## Consumer Representatives

The Committee recently considered the following allegation of breach of the Code; that when considering a hardship variation request, a bank insisted on a Statement of Financial Position from the customer and would not accept the statement from the customer's representative.

In considering this issue, the Committee noted that a standard or formulaic response from banks to reports of financial hardship may often be inappropriate. The Code does not prescribe communications between banks and agents, rather it sets out principles of conduct that will guide the banking relationship whether directly with a customer or through a properly authorised agent. In the Committee's view, both banks and consumer representatives would do well to:

- be mindful of the Code's role in enhancing the relationship between the bank and its customer, and
- understand that often a bank's request for further information is critical to assisting its customer and to acting in accordance with its obligations under the Code.

For example, in order to comply with clause 25.1 where the bank agrees to "*exercise the care and skill of a diligent and prudent banker in selecting and applying [our] credit assessment and in forming [our] opinion about [your] ability to repay it*" before they offer a customer a credit facility, sufficient information from the customer is essential.

When considering all cases of alleged breach of the Code, the Committee looks at the specific and individual circumstances of the customer. If a customer or a customer's representative, believes a bank's request for financial information is inappropriate, or unable to be actioned without causing the customer some or greater hardship, that should be communicated to the bank. The bank should respond appropriately to those individual circumstances.

In the specific case referred to above, whilst agreeing that financial counsellors can be an important conduit of information between a bank and its customer(s), the Committee formed the view that asking customers to verify information about their personal financial circumstances when they are represented by a financial counsellor is not, of itself, inappropriate. Rather, as adverted to above, the Committee felt that asking for verification may support, re-establish or maintain an effective relationship between bank and customer and meet other obligations in relation to appropriate credit provision. The Committee did not find a breach of the Code in this regard.

As was discussed in the November Bulletin, that the CCMC is keen to hear from consumer advocates and financial counsellors about issues arising out of the relationship between the customer's agent and the customer's bank, in particular, any problems in being recognized to act on the customer's behalf. The CCMC proposes to conduct an inquiry into these issues, with relevance to clause 29 of the Code and the Debt Collection Guidelines, later in the year.

## Consumer Fora

In Hobart earlier this month, Committee member and Consumer and Small Business Representative, David Tennant, and Chief Executive, Kirsten Trott, addressed a group of financial counsellors and consumer advocates from across Tasmania. The forum enabled participants to gain a better understanding of the Code and Committee procedures to encourage suspected breaches of the Code being properly referred to the Committee for review.

Another consumer forum is planned for Perth in May.

David Tennant continues to attend the Australian Bankers Association's Community and Consumer Consultative Forum meetings and one such meeting was held this month. Apart from the obvious benefits of such a forum, this forum assists in meeting the requirements of clause 5.3 of the Code, that is:

*"We will require the ABA to establish, and we will support, a forum including consumer, small business and banking industry representatives) for the exchange of views on:*

- a) banking issues; and*
- b) the effectiveness of this Code.*

*We will also require the ABA to ensure that these views are taken into account in the next review of this Code."*

## Committee findings of remedial action

Where the Committee issues a determination in which a breach of the Code is found, the Committee will often, depending on the facts of the case, recommend that the bank take some remedial action. Where the Committee does so, it expects to be informed by the bank within 6 months of the determination being issued as to what action the bank has taken in response to the Committee's recommendation. If the Committee does not hear from the bank, or is not satisfied with the bank's response, it will contact the Bank seeking information and evidence of what action the bank has taken and, if necessary, agree a time line for the recommendations to be implemented.

## New website

Since its last Bulletin, the Committee has been pleased to launch its new website. The website has many improved functions including a new design, increased searchability functions and the ability to manage a database of subscribers. Check out our new look and sign up at [www.bankcodecompliance.org](http://www.bankcodecompliance.org).

## Next Bulletin

The next bulletin is due to be released in May 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](mailto:ktrott@bankcodecompliance.org)