CODE OF BANKING PRACTICE
AND
CODE COMPLIANCE MONITORING COMMITTEE MANDATE
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1. Introduction

This Code is a voluntary code of conduct which sets standards of good banking practice for us to follow when dealing with persons who are, or who may become, our individual and small business customers and their guarantors.
2. **Application of this Code**

2.1. This version of the *Code of Banking Practice* commences on the **2013 transition date**, and we will generally apply this *Code* to:

(a) new *banking services we provide to you* on or after that date;

(b) new *Guarantees we take from you* on or after that date; and

(c) things *we do on or after that date in respect of some pre-existing *banking services* and *Guarantees*.

2.2. There are some exceptions to these general principles. Please see clause 41 for more details of how the *Code* will apply in relation to **your** existing and new *banking services* or *Guarantees*. 
OUR KEY COMMITMENTS AND GENERAL OBLIGATIONS
PART C: OUR KEY COMMITMENTS AND GENERAL OBLIGATIONS

3. Our key commitments to you

3.1. We will:

(a) through the ABA, consult with small business and consumer organisations, to continuously work towards improving the standards of practice and service in the banking industry (see also clause 6.3);

(b) promote better informed decisions about our banking services:
   i. by providing effective disclosure of information;
   ii. by explaining to you, when asked, the contents of brochures and other written information about banking services; and
   iii. if you ask us for advice on banking services:
      A. by providing that advice through our staff authorised to give such advice;
      B. by referring you to appropriate external sources of advice; or
      C. by recommending that you seek advice from someone such as your legal or financial adviser;

(c) provide general information about the rights and obligations that arise out of the banker and customer relationship in relation to banking services;

(d) provide information to you in plain language;

(e) communicate with you and/or your representatives in a timely and responsible manner whether by written or electronic communications (including by telephone); and

(f) monitor external developments relating to banking codes of practice, legislative changes and related issues.

3.2. We will act fairly and reasonably towards you in a consistent and ethical manner. In doing so we will consider your conduct, our conduct and the contract between us.

3.3. In meeting our key commitments to you, we will have regard to our prudential obligations.

4. Compliance with laws

4.1. We will comply with all relevant laws relating to banking services.

4.2. If this Code imposes an obligation on us, in addition to obligations applying under a relevant law, we will also comply with this Code except where doing so would lead to a breach of a law (for example, a privacy law).

5. Retention of your rights

In addition to your rights under this Code, you retain any rights you may have under Federal, State and Territory laws.

6. Review of this Code

6.1. We will require the ABA to commission an independent review of this Code every 5 years after
the commencement date of this Code, or earlier at our request, with the review to be conducted in consultation with:
(a) banks which adopt this Code;
(b) small business and consumer organisations;
(c) other interested industry associations;
(d) relevant regulatory bodies; and
(e) other interested stakeholders.

6.2. We will participate in any such review and co-operate with the person conducting it.

6.3. 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.

6.4. We will require the ABA to promptly publish on its website:
(a) the recommendations and report arising from a review of this Code (and to make them available to the public in hard copy on request);
(b) reasons why any such recommendation has not been accepted; and
(c) progress reports on the implementation of those recommendations which have been accepted, until the implementation process is complete.

7. Customers with special needs
We recognise the needs of older persons and customers with a disability to have access to transaction services, so we will take reasonable measures to enhance their access to those services.

8. Customers in remote Indigenous communities
If you are a member of a remote Indigenous community, we will take reasonable steps to:
(a) make information about banking services that may be relevant to you available in an accessible manner;
(b) at your request, provide you with details of accounts which may be suitable to your needs, including in a remote location. This information may include details of our accounts which attract no or low standard fees and charges;
(c) assist you with meeting identification requirements (having regard to our obligations under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006);
(d) appropriately train staff who are regularly dealing with you in a remote location to be culturally aware; and
(e) consider publicly-announced key Commonwealth, State and Territory government programs, such as income management programs, that may be relevant in providing our banking services to you.
9. **Staff training and competency**

We will ensure our staff (and our authorised representatives) will be trained so that they:

(a) can competently and efficiently discharge their functions and provide the banking services they are authorised to provide in compliance with this Code; and

(b) have an adequate knowledge of the provisions of this Code and its application to banking services.

10. **Promotion of this Code**

We will require the ABA to:

(a) promote this Code; and

(b) clearly make public:

   i. which banks subscribe to this Code; and
   
   ii. how you can get a copy of this Code.

11. **Availability of copies of this Code**

We will:

(a) display, at our branches, a copy of this Code in a readily visible manner;

(b) make this Code available on request;

(c) publish this Code on our website; and

(d) send this Code to you by electronic communication or mail on request.
INFORMATION WE WILL GIVE YOU ABOUT OUR BANKING SERVICES
PART D: INFORMATION WE WILL GIVE YOU ABOUT OUR BANKING SERVICES

12. Terms and conditions

12.1. We will expeditiously provide to you, or any person, on request:

(a) the terms and conditions of any ongoing banking service we currently offer;

(b) full particulars of standard fees and charges that are, or may become, payable for any banking service we currently offer; and

(c) particulars of the interest rates applicable to any banking service we currently offer.

12.2. The terms and conditions of our banking services will:

(a) be distinguishable from marketing or promotional material;

(b) be in English and any other language we consider to be appropriate;

(c) be consistent with this Code;

(d) be provided at the time of, or before the contract for an ongoing banking service is made, except where it is impracticable to do so, in which case they will be provided as soon as practicable afterwards; and

(e) draw attention to the availability of the general descriptive information referred to in clauses 15.1 and 15.2 if it is relevant, and where relevant, will specifically mention the availability of information about:

   i. account opening procedures;

   ii. our obligations regarding the confidentiality of your information;

   iii. complaint handling procedures;

   iv. bank cheques;

   v. the advisability of you informing us promptly when you are in financial difficulty; and

   vi. the advisability of you reading the terms and conditions applicable to the relevant banking service.

12.3. Any written terms and conditions will include a statement to the effect that the relevant provisions of this Code apply to the banking service but need not set out those provisions.

12.4. We will include (where relevant) the following in, or with, our terms and conditions applying to a banking service:

(a) the standard fees and charges that then apply;

(b) the method by which interest, if any, is calculated and the frequency with which it will be credited or debited;

(c) the manner in which you will be notified of changes to:

   i. the terms and conditions;

   ii. fees and charges; and

   iii. interest rates;

(d) if appropriate, the fact that more than one interest rate may apply;
(e) any minimum balance requirement or restriction on depositing money in, or withdrawing money from, an account;

(f) for term deposits:
   i. how we will pay interest and repay the principal;
   ii. how funds may be dealt with at maturity; and
   iii. details of any fee or charge or change in an interest rate resulting from a withdrawal in advance of maturity;

(g) in respect of a loan to you which is not regulated by the National Credit Code, the repayment details;

(h) subject to clause 26, the frequency with which statements of account will be provided;

(i) a statement that information on current interest rates and standard fees and charges is available on request;

(j) how we will process the cancellation of a direct debit request relevant to a banking service, in accordance with clause 21 of this Code; and

(k) how you or we may alter or stop another payment service.

12.5. We will include in, or with, the terms and conditions for our credit cards and, where relevant, debit cards:

(a) general information on chargeback rights;

(b) a prominent statement:
   i. that you should report a disputed transaction to us as soon as possible (so that we may reasonably ask for a chargeback where such a right exists); and
   ii. which refers you to the specific reporting requirements for disputed transactions in your credit card terms and conditions and that time limitations may not apply in circumstances where the ePayments Code applies; and

(c) a warning that the ability to dispute a transaction may be lost if it is not reported within the timeframes we specify or describe.

12.6 If you have a credit facility secured over your primary place of residence or your residential investment property with us, we will remind you annually of your obligations to insure the property under the terms and conditions of your relevant mortgage. Our reminder to you will also include:

(a) a general statement to make inquiries with your insurer about your cover; and

(b) a reference to ASIC’s MoneySmart website (www.moneysmart.gov.au) for information on property insurance.

13. Copies of documents

13.1. If you request a copy of a document, you may have rights in respect of that request under the National Consumer Credit Protection Act 2009 or Chapter 7 of the Corporations Act 2001, which are greater than those which apply under this Code. We will
comply with the relevant law when it applies. Otherwise this clause 13 applies.

13.2. At your request, we will give you a copy of any of the following documents that we have retained in accordance with relevant legislation for the retention of documents, relating to a banking service you have, or had, with us:

(a) a contract (including terms and conditions, standard fees and charges and interest rates);
(b) any mortgage or other security document;
(c) a statement of account; and
(d) a notice previously given to you relevant to us exercising our rights.

13.3. We will, subject to clauses 13.4 and 13.5, provide you with a copy of a document:

(a) within 14 days, if the original came into existence 1 year or less before the request is given;
(b) within 30 days, if the original came into existence more than 1 year but less than 7 years before the request is given; and
(c) otherwise within a reasonable time.

13.4. We do not have to give you a copy of a notice which requires you to take action if we receive the request more than 2 years after discharge or termination of the original contract to which the notice is related.

13.5. We do not have to give you another copy of a statement of account within 3 months after we have given you a copy of the same statement of account.

13.6. A copy of a document provided to you under this Code may be in electronic form containing the same information as the original or in any other form as mutually agreed.

13.7. We may charge you a reasonable fee for providing you with a copy of a document under this Code.

14. Cost of credit

We will make available to you, a prospective customer or an appropriate external agency the interest rates and standard fees and charges applicable to a banking service that is a credit facility offered by us, for use in the preparation of a comparison rate.

15. Operation of accounts

15.1. We will provide to you or a prospective customer, on request, general descriptive information concerning our banking services, including where appropriate:

(a) account opening procedures;
(b) our obligations regarding the confidentiality of your information;
(c) complaint handling procedures;
(d) bank cheques;
(e) the advisability of you informing us promptly when you are in financial difficulty so that we may discuss your situation; and
(f) the advisability of you reading the terms and conditions applying to the relevant banking service.
15.2. When you open an account with cheque access, and on request, we will provide you with general descriptive information on:

(a) the time generally taken for clearing a cheque and how a cheque may be specially cleared;

(b) the effect of crossing a cheque, the meaning of “not negotiable” and “account payee only” and the significance of deleting “or bearer” when any of these expressions appear on a cheque;

(c) how and when a cheque may be stopped;

(d) how a cheque may be made out so as to reduce the risk of unauthorised alteration; and

(e) the dishonour of cheques, including post-dated and stale cheques.

16. **Account suitability**

16.1. Clause 16 does not apply if you are a small business.

16.2. If you tell us that:

(a) you are a low income earner or a disadvantaged person (regardless of whether you are an existing or prospective customer); or

(b) you would like factual information about accounts which attract no or low standard fees and charges,

we will provide you with factual information about any of our accounts which may be suitable to your needs. That information may include details of our accounts which attract no or low standard fees and charges.

16.3. If in the course of speaking with you, in relation to your accounts, we become aware that you may be the holder of a Commonwealth Seniors Health Card, Health Care Card or Pensioner Concession Card (regardless of whether you are an existing or prospective customer), we will provide you with factual information about our accounts which attract no or low standard fees and charges.

16.4. Please note that we will not assess continuously whether you may be a low income earner or a disadvantaged person, but we encourage you to let us know at any time if this is the case.

16.5. We will make information publicly available about accounts which attract low or no standard fees and charges on our website and through other means.

16.6. We will train staff to help them to recognise a customer that may qualify for an account which attracts no or low standard fees and charges.

16.7. Information disclosed under this clause 16 will include:

(a) terms and conditions of relevant accounts; and

(b) fees and charges for relevant accounts.
PART E

BANKING SERVICES
PRACTICES
PART E: BANKING SERVICES PRACTICES

17. Bank cheques and inter-bank transfers
Where we charge you for the provision of a bank cheque, an inter-bank transfer or like service, we will disclose the fee or charge to you when the service is provided, or at any other time on request, except where the relevant banking service is regulated by Chapter 7 of the Corporations Act 2001.

18. Pre-contractual and new account information
18.1. We will disclose to you the existence of any application fee or charge and whether the fee or charge is refundable if your application is rejected or not pursued. This will be done before you are liable to pay any such fee or charge.

18.2. We will provide to you or a prospective customer on request, general descriptive information (which may consist of, or include, material made available by a government) about:
(a) the identification requirements of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006; and
(b) the options available to you or a prospective customer under tax file number legislation.

18.3. When you already have an account with us and we open a new account for you, we will state in writing:
(a) whether the new account may be combined with the existing account; and
(b) what the consequences are if the accounts are combined.

19. Account combination
19.1. We will inform you promptly after exercising our right to combine your accounts. In exercising a right to combine accounts, we will comply with any applicable requirements of the Code of Operation for Department of Human Services and Department of Veterans’ Affairs Direct Credit Payments.

19.2. We will not exercise our right to combine your accounts in connection with amounts you owe in respect of your credit facility with us which is regulated by the National Credit Code:
(a) while we are actively considering your financial situation under clause 28 or under the hardship provisions of the National Credit Code.
We may ask you, as a condition of not exercising our right to combine your accounts, that you agree to retain funds in an account until our decision on your application has been made; or
(b) while you are complying with an agreed arrangement with us resulting from our considerations referred to in clause 19.2(a).
20. Changes to terms and conditions

20.1. When, in relation to a banking service, we intend to:
   (a) introduce a fee or charge (other than a government charge referred to in clause 20.2);
   (b) vary the minimum balance to which an account keeping fee applies;
   (c) vary the method by which interest is calculated;
   (d) vary the balance ranges within which interest rates apply to a deposit account; or
   (e) vary the frequency with which interest is debited or credited, we will provide written notice of the introduction or variation to you at least 30 days before the change takes effect except where this notice is not required, where you cannot reasonably be located or you have engaged in the transaction or procured the service anonymously.

20.2. We will notify you of the introduction or variation of a government charge payable directly, or indirectly, by you by advertisement in the national media or local media or in writing to you, unless the introduction or variation is publicised by a government, government agency or representative body.

20.3. We will notify you of variations to the terms and conditions (other than a variation referred to in clause 20.1 or clause 20.2) in relation to a banking service by advertisement in the national media or local media or in writing to you, no later than the day on which the variation takes effect.

20.4. If:
   (a) you are a small business with a banking service being a credit facility; and
   (b) we make a variation (other than a variation referred to in clause 20.1 or 20.2) to only the terms and conditions of your credit facility (and not to the terms and conditions of the credit facilities of other small business customers), and we reasonably consider the variation will be materially adverse to you, we will give you a reasonable period of notice (not less than 10 business days) in writing of that variation, unless we consider a shorter notice period is necessary for us to avoid or reduce an increase in the credit risk to us.

20.5. In both clauses 20.3 and 20.4, for the avoidance of doubt, a variation to the terms and conditions includes a variation of standard fees and charges or of an interest rate, but does not include changes to an interest rate linked to money market rates or some other external reference rate, changes of which we cannot notify you of in advance.

20.6. Clauses 20.1 to 20.4 do not apply to a banking service regulated by:
   (a) the National Credit Code; or
   (b) Chapter 7 of the Corporations Act 2001.

This is because these laws have their own notice requirements.
21. **Direct debits**

21.1. **We** will take and promptly process your:
   (a) instruction to cancel a direct debit request relevant to a banking service we provide to you; and
   (b) complaint that a direct debit was unauthorised or otherwise irregular.

21.2. **We** will not direct or suggest that you should first raise any such request or complaint directly with the debit user (but we may suggest that you also contact the debit user).

21.3. Clause 21.1 does not apply to a payment service relating to a credit card account (see clause 22).

22. **Chargebacks**

22.1. If you have disputed a card transaction with us within the required timeframe, we will, in relation to a credit card or, where relevant, a debit card transaction (including an unauthorised payment debited to your card account pursuant to a recurring payment arrangement):
   (a) claim a chargeback right, where one exists, for the most appropriate reason; and
   (b) not accept a refusal of a chargeback by a merchant’s financial institution unless it is consistent with the relevant card scheme rules.

22.2. **We** will make available general information about chargebacks on our website or by electronic communication to you and we will notify you of the availability of this information on or with the relevant card statement of account at least once every 12 months.

23. **Information relating to foreign exchange services**

23.1. In providing a foreign exchange service, other than by credit or debit card or travellers’ cheque, we will provide to you:
   (a) details of the exchange rate and commission charges that will apply or, if these are not known at the time, details of the basis on which the transaction will be completed if they are known to us; and
   (b) an indication of when money sent overseas on your instructions would normally arrive at the overseas destination.

23.2. Prior to advancing a foreign currency loan in Australia, we will provide to you in our letter of offer, loan terms and conditions (which may be in the form of a master agreement) or other relevant document, a general warning in writing of the risks arising from exchange rate movements and will inform you generally of the availability of mechanisms, if they exist, for limiting such risks.

24. **Privacy and confidentiality**

We acknowledge that, in addition to our duties under the Privacy Act 1988, we have a general duty of confidentiality towards you, except in the following circumstances:
(a) where disclosure is compelled by law;
(b) where there is a duty to the public to disclose;
(c) where our interests require disclosure; or
(d) where disclosure is made with your express or implied consent.

25. Payment instruments

25.1. We will inform you of the advisability of safeguarding payment instruments such as credit and debit cards, cheques and passbooks.

25.2. We may require you to notify us, as soon as possible, of the loss, theft or misuse of your payment instruments.

25.3. We will inform you of:
(a) the consequences arising from your failure to comply with any requirement referred to in clause 25.2 that we impose on you; and
(b) the means by which you can notify us of the loss, theft or misuse of your payment instruments.

26. Statements of account

26.1. We will give you a statement of all transactions relating to your deposit account since the last statement at least every 6 months unless:
(a) the deposit account is a passbook account; or
(b) it has been agreed that:
   i. some other method will be used to record the transactions; or
   ii. a statement need not be provided; or
(c) no amount has been debited or credited to the account during the statement period (other than debits for government charges, or duties, on receipts or withdrawals); or
(d) we are unable, after taking reasonable steps, to locate you; or
(e) the transaction information has already been provided to you.

26.2. You may ask for more frequent statements of account on a deposit account.

26.3. Even if you are in default, we will:
(a) if it is practicable for us to do so, give you a statement on a loan account; or
(b) if it is not practicable (for example, because automatic statement generation is not available on defaulted accounts) we will inform you about the availability of statements and the method for requesting them and provide you with statements, on request, in a timely manner.

26.4. If you are a small business, or an individual and the National Credit Code statement of account provisions do not apply to your loan or other credit account, we will give you a statement of transactions on your account consistent with the content and timing requirements of the National Credit Code except where the
nature of the banking service is such that it would be impractical to apply the National Credit Code statement of account provisions to the banking service.

27. Provision of credit
Before we offer, give you or increase an existing, credit facility, we will exercise the care and skill of a diligent and prudent banker in selecting and applying our credit assessment methods and in forming our opinion about your ability to repay the credit facility.

28. If you are experiencing financial difficulties with your credit facility
28.1. This clause 28 applies to a credit facility you have with us.
28.2. With your agreement and co-operation, we will try to help you overcome your financial difficulties with any credit facility you have with us. We could, for example, work with you to develop a repayment plan.
28.3. We will deal with you or, at your request, with your authorised financial counsellor or representative where you have given us their correct contact details. If our reasonable attempts to contact or otherwise deal with your financial counsellor or other representative are unsuccessful, we will revert to dealing with you.
28.4. If, in the course of our personal dealings with you, we identify that you may be experiencing difficulties in meeting your repayments under the credit facility, we may decide to contact you and invite you to discuss your situation with us and the options available to assist you in meeting your obligations in these circumstances.
28.5. If, at any time you consider you are, or expect to be, experiencing difficulties in meeting your repayments to us, you should make contact with us as soon as possible to discuss your situation with us and the options available to assist you in meeting your obligations.
28.6. We will respond promptly (for example, within the timeframes prescribed by the National Credit Code, if it applies) to any requests for assistance from you, or your authorised representative, in relation to your financial difficulties with a credit facility you have with us. We will take into account the information available to us, including the information you provide to us, about your financial situation in determining whether or not we are able to provide assistance and the nature and extent of any assistance.
28.7. If, when you contact us in any of the circumstances described in clauses 28.5 and 28.6 or when you discuss your situation with us as a result of an invitation described in clause 28.4, we think that the hardship provisions of the National Credit Code could apply to your circumstances, we will inform you about them.
28.8. We will inform you in writing of our decision whether or not to provide you with any assistance if you are in financial difficulty with
a credit facility you have with us and the reasons for our decision. If we agree to provide you with assistance, we will confirm in writing the main details of the arrangements.

28.9. We will:

(a) not require you to apply for early release of your superannuation benefits to repay the whole or any part of your credit facility with us; and

(b) recommend that you seek independent advice on the option of applying for early release of your superannuation benefits, for example, from a financial counsellor or financial adviser.

Information on having your superannuation benefits released early is available from the Department of Human Services (www.humanservices.gov.au).

28.10. We will make information about our processes for dealing with customers in financial difficulty with a credit facility available on our website (including relevant contact numbers). We will inform you at your request about how to find this information on our website and we will make this information available in another format if you tell us you do not have access to our website.

28.11. We will take reasonable steps to ensure that relevant staff, who are responsible for dealing with you about your financial difficulties with a credit facility you have with us, are trained in relation to the hardship provisions of this Code and the National Credit Code.

29. Joint debtors

29.1. We will not accept you as a co-debtor under a credit facility where it is clear, on the facts known to us, that you will not receive a benefit under the facility.

29.2. We will, before signing you up as a co-debtor, take all reasonable steps to ensure that you understand that you may be liable for the full amount of the debt and what your rights are under clause 29.3.

29.3. If you are jointly and severally liable under a credit facility, we will allow you to terminate your liability in respect of future advances or financial accommodation on giving us written notice. This right only applies where we can terminate any obligation we have to provide further credit to any other debtor under the same credit facility.

30. Joint accounts and subsidiary cards

30.1. If you are opening a joint account, we will provide you with general descriptive information on:

(a) how funds may be withdrawn from the joint account, having regard to the instructions given by you;

(b) the manner in which such instructions can be varied; and

(c) your potential liability for debts incurred on the joint account.

30.2. When accepting your instructions to issue a subsidiary credit or debit card, we will:

(a) provide general descriptive information to you, as the primary cardholder, on your potential liability for debts
incurred by the subsidiary cardholder using the card; and
(b) inform you, as the primary cardholder, of the means by which a subsidiary card may be cancelled or stopped and the fact that this may not be effective until the subsidiary card is surrendered or you have taken all reasonable steps to have the card returned to us.

30.3. If you are a primary cardholder, you will not be liable for the continuing use of a subsidiary card from the later of:
(a) the date you request us (as the issuing bank) to cancel the subsidiary card; and
(b) when you have taken all reasonable steps to have the subsidiary card returned to us.

31. Guarantees

31.1. This clause 31 applies to every guarantee and indemnity obtained from you (where you are an individual at the time the guarantee and indemnity is taken) for the purpose of securing any financial accommodation or facility provided by us to another individual or a small business (called a “Guarantee”), except as provided in clauses 31.15 and 31.16.

31.2. We may only accept a Guarantee if your liability:
(a) is limited to, or is in respect of, a specific amount plus other liabilities (such as interest and recovery costs) that are described in the Guarantee; or
(b) is limited to the value of a specified security at the time of recovery.

31.3. A Guarantee must include a statement to the effect that the relevant provisions of this Code apply to the Guarantee but need not set out those provisions.

31.4. We will do the following things before we take a Guarantee from you:
(a) give you a prominent notice that:
   i. you should seek independent legal and financial advice on the effect of the Guarantee;
   ii. you can refuse to enter into the Guarantee;
   iii. there are financial risks involved;
   iv. you have a right to limit your liability in accordance with this Code and as allowed by law; and
   v. you can request information about the transaction or facility to be guaranteed (“Facility”) (including any facility with us to be refinanced by the Facility);
(b) tell you:
   i. about any notice of demand made by us on the debtor, and any dishonour on any facility the debtor has (or has had) with us, which has occurred within 2 years before we tell you this; and
   ii. if there has been an excess or overdrawing of $100 or more on any facility the debtor has (or has had) with us which has occurred within 6 months before we tell you this, and we will give you
a list showing the extent of each of those excesses or overdrawings;

(c) tell you if any existing facility we have given the debtor will be cancelled, or if the Facility will not be provided, if the Guarantee is not provided;

(d) provide you with a copy of:

i. any related credit contract together with a list of any related security contracts which will include a description of the type of each related security contract and of the property subject to, or proposed to be subject to, the security contract to the extent to which that property is ascertainable and we will also give you a copy of any related security contract that you request;

ii. the final letter of offer provided to the debtor by us together with details of any conditions in an earlier version of that letter of offer that were satisfied before the final letter of offer was issued;

iii. any related credit report from a credit reporting agency;

iv. any current credit-related insurance contract in our possession;

v. any financial accounts or statement of financial position given to us by the debtor for the purposes of the Facility within 2 years prior to the day we provide you with this information;

vi. the latest statement of account relating to the Facility (and any other statement of account) for a period during which a notice of demand was made by us, or a dishonour occurred, in relation to which we are required to give you information under clause 31.4(b)(i); and

vii. any unsatisfied notice of demand made by us on the debtor in relation to the Facility where the notice was given within 2 years prior to the day we provide you with this information; and

(e) give you other information we have about the Facility (including any facility with us to be refinanced by the Facility) that you reasonably request, but we do not have to give you our own internal opinions.

31.5. We will not ask you to sign a Guarantee, or accept it, unless we have:

(a) provided you with the information described in clause 31.4 to the extent that that information is required by this Code to be given to you; and

(b) allowed you until the next day to consider that information.

We do not have to allow you the period referred to in clause 31.5(b) if you have obtained independent legal advice after having received the information required by clause 31.4.
31.6. **We** will:
(a) not give the Guarantee to the debtor, or to someone acting on behalf of the debtor, to arrange the signing (except if they are a legal practitioner or financial adviser); and
(b) ensure that **you** sign the Guarantee in the absence of the debtor where **we** attend the signing of the Guarantee.

31.7. **We** will also provide **you**, on request, with additional copies of any information described in clause 31.4(d) that **we** have given **you** and will do so:
(a) within 14 days, if the original came into existence 1 year or less before the request is given; or
(b) within 30 days, if the original came into existence more than 1 year before the request is given,
except **we** do not need to do so if **we** have given the requested information within 3 months prior to the request.

31.8. **We** will ensure that a warning notice (substantially in the form required by section 55 of the National Credit Code, and detailed in Form 8 of the National Consumer Credit Protection Regulations 2010 and which is consistent with this Code) appears directly above the place where **you** sign.

31.9. **You** may, by written notice to **us**, limit the amount or nature of the liabilities guaranteed under the Guarantee, except that **we** do not have to accept such a limit if:
(a) it is below the debtor’s liability under the relevant credit contract at the time plus any interest or fees and charges which may be subsequently incurred in respect of that liability; or
(b) **we** are obliged to make further advances or would be unable to secure the present value of an asset which is security for the loan (for example, a house under construction).

31.10. **You** may, at any time, extinguish your liability to **us** under a Guarantee by paying **us** the then outstanding liability of the debtor (including any future or contingent liability), or any lesser amount to which your liability is limited by the terms of the Guarantee, or by making other arrangements satisfactory to **us** for the release of the Guarantee.

31.11. **You** can, by written notice to **us**:
(a) withdraw from the Guarantee at any time before the credit is first provided under the relevant credit contract; or
(b) withdraw after credit is first provided, if the credit contract differs in a material respect from the proposed credit contract given to **you** before the Guarantee was signed,
(c) but only to the extent the Guarantee guarantees obligations under the credit contract.
31.12. A third party mortgage will be unenforceable in relation to a future credit contract or future Guarantee unless we have:
(a) given the mortgagor a copy of the future credit contract document or future Guarantee document; and
(b) subsequently obtained the mortgagor's written acceptance of the extension of the third party mortgage.

31.13. A Guarantee given by you will be unenforceable in relation to a future credit contract unless we have:
(a) given you a copy of the future credit contract document; and
(b) subsequently obtained your written acceptance of the extension of the Guarantee.

However, a Guarantee given by you will be enforceable to the extent the future credit contract (together with all other existing credit contracts secured by that Guarantee), is within a limit previously agreed in writing by you and we have included in the notice we give you under clause 31.4(a) a prominent statement that the Guarantee can cover a future credit contract in this way.

31.14. We will not, under a Guarantee, enforce a judgment against you unless:
(a) we have obtained judgment against the principal debtor for payment of the guaranteed liability which has been unsatisfied for 30 days after we have made written demand for payment of the judgment debt;
(b) we have made reasonable attempts to locate the debtor without success;
(c) the debtor is insolvent;
(d) a court, tribunal or other body with relevant jurisdiction has relieved us of the obligation to proceed first against the principal debtor;
(e) you have provided a mortgage or other security for your liability under the Guarantee and the principal debtor has not provided a mortgage or other security for the guaranteed liability; or
(f) the principal debtor has provided a mortgage or other security for the guaranteed liability and we have enforced that mortgage or other security or reasonably expect that the proceeds of its enforcement will not be sufficient to repay the guaranteed liability,

but these rules in clause 31.14 do not apply where the principal debtor is a small business.

31.15. Where you are a commercial asset financing guarantor, sole director guarantor or trustee guarantor clauses 31.4(b) to (e) (inclusive), 31.5, 31.6 and 31.7 do not apply.

31.16. If you are a director guarantor clauses 31.4(d) and 31.5 apply as follows:
(a) we will tell you that:
   i. you have the right to receive the documents described in clause 31.4(d); and
ii. those documents contain important information that may affect your decision to give a Guarantee;

(b) you may choose not to receive some or all of the documents described in clause 31.4(d);

(c) we will tell you how you can make these choices;

(d) we will provide you with a copy of any document described in clause 31.4(d) that you have requested;

(e) you can tell us that you do not wish to have the benefit of the period referred to in clause 31.5(b); and

(f) apart from telling you the things set out in clauses (a) and ii, 31.16(b) and 31.16(c) and as required under other provisions of this Code, we will not attempt to influence your choices under clauses 31.16(b) and 31.16(e).

32. Debt collection

32.1. We and our collection agents will comply with the ACCC’s and ASIC’s “Debt Collection Guideline: for Collectors and Creditors” (the “Debt Collection Guideline”) dated May 2010 (as amended or replaced from time to time) when collecting amounts due to us and we will take all reasonable steps to ensure that our representatives do likewise. If we become aware that our collection agents or representatives are not complying with the Debt Collection Guideline we will direct them to comply.

32.2. If we sell a debt to a third party, we will choose a third party that agrees to comply with the Debt Collection Guideline referred to in clause 32.

32.3. We will not assign your debt, except as part of a funding arrangement such as securitisation or the issue of covered bonds, while we are:

(a) actively considering your financial situation under clause 28 of this Code or under the hardship variation provisions of the National Credit Code; or

(b) while you are complying with an agreed arrangement with us resulting from our considerations referred to in clause 32.3(a).

33. Closure of accounts in credit

33.1. Subject to the terms and conditions of any relevant banking service and any related security, we:

(a) will, at your request, close an account of yours that is in credit;

(b) may close an account of yours by giving you reasonable notice and paying you the amount of the credit balance; and

(c) may charge you an amount that is our reasonable estimate of the costs of closure.

34. Branch closure protocol

We will comply with the ABA’s protocol on branch closures, published by the ABA from time to time. This protocol is available from the ABA’s website: www.bankers.asn.au.
35. **Electronic communications**

35.1. If a legislative electronic communications regime also applies to any information which this Code requires us to provide (by writing or other means) we may provide you with that information by electronic communication in accordance with that regime. Otherwise, provided it is not prohibited by legislation, we may provide this information to you consistently with the requirements for electronic communications specified in the ePayments Code (regardless of whether that code applies to the communication).
RESOLUTION OF DISPUTES, MONITORING AND SANCTIONS
PART F: RESOLUTION OF DISPUTES, MONITORING AND SANCTIONS

36. Monitoring and sanctions

We agree:

(a) that the Code Compliance Monitoring Committee ("CCMC"), that has been established under the Code, comprises:

i. 1 person with relevant experience at a senior level in retail banking in Australia as our representative, to be appointed by the ABA on our behalf;

ii. 1 person with relevant experience and knowledge as your representative, to be appointed by the consumer representatives on the Board of Directors of the FOS; and

iii. 1 person with experience in industry, commerce, public administration or government service as the Independent Chairperson of the CCMC, to be appointed jointly by the Chief Ombudsman of the FOS and the ABA on our behalf;

(b) that, subject to the CCMC Mandate referred to in subclause 36(c), the CCMC’s functions will be:

i. to investigate, and to make a determination on, any allegation from any person, including the FOS, that we have breached this Code but the CCMC will not resolve, or make any determination on, any other matter;

ii. to monitor our compliance under this Code, which includes conducting its own motion inquiries into our compliance with the Code; and

iii. to monitor any other aspects of this Code that are referred to the CCMC by the ABA. The CCMC’s compliance monitoring, investigation and reporting functions and powers do not extend to clauses 3 and 4 of the Code unless a breach of clause 3 or 4 is also a breach of another provision of the Code;

For the avoidance of doubt, the CCMC’s functions only relate to the Code as it has applied since the CCMC was established. In particular the CCMC’s functions do not extend to investigating, monitoring and making determinations in relation to the Code as it applied before this time.

(c) to require the ABA, in consultation with the CCMC, to provide to the CCMC and publish on the ABA’s website a mandate ("CCMC Mandate") setting out in further detail the CCMC’s Code compliance monitoring, investigation and determination processes and other relevant matters. This clause 36 is to be read together with the CCMC Mandate as amended from time to time;

(d) to ensure that the CCMC has sufficient resources and funding to carry out its functions satisfactorily and efficiently;
(e) to include in the CCMC Mandate an indemnity by us to release and indemnify the CCMC, its officers and employees (CCMC’s personnel) in respect of their Code compliance monitoring activities;

(f) to annually lodge with the CCMC (in a form acceptable to the CCMC) an annual compliance statement on our compliance with this Code;

(g) to co-operate and comply with all reasonable requests of the CCMC in pursuance of its functions;

(h) to require the CCMC to arrange a regular independent review of its activities and to ensure a report of that review is lodged with ASIC. This review is to coincide with the periodic reviews of this Code (see clause 6 unless the ABA determines otherwise);

(i) to empower the CCMC to carry out its functions and to set operating procedures dealing with the following matters, first having regard to the operating procedures of the FOS and then consulting with the FOS and the ABA:

   i. receipt of complaints;
   ii. privacy requirements;
   iii. civil and criminal implications;
   iv. timeframes for acknowledging receipt of a complaint, its progress, responses from the parties to the complaint and for recording the outcome;
   v. use of external expertise; and
   vi. fair recommendations, undertakings and reporting.

(j) to empower the CCMC to name us on the CCMC’s website, in the next CCMC annual report, or both, in connection with a breach of this Code, where it can be shown that we have:

   i. been guilty of serious or systemic non-compliance;
   ii. ignored the CCMC’s request to remedy a breach or failed to do so within a reasonable time;
   iii. breached an undertaking given to the CCMC; or
   iv. not taken steps to prevent a breach reoccuring after having been warned that we might be named.

37. Internal dispute resolution

37.1. We will have an internal process for handling disputes with you which is free and accessible.

37.2. If you are:

   (a) an individual, and not a small business; or,
   
   (b) a small business to which any relevant internal complaints handling standard or guideline which ASIC publishes for application to Australian financial services and credit licensees (“Approved Standard”) applies,

our internal process will meet the standards set out in the Approved Standard (for example, as at the date of the publication of this Code, Regulatory Guide 165).
37.3. If clause 37.2 does not apply to you, then, clauses 37.3(a) to 37.3(g) apply to you.

(a) We will notify you of the name and contact number of the person who is investigating your dispute;

(b) Within 21 days of becoming aware of a dispute, we will:

(i) complete the investigation and inform you of the outcome of the investigation; or

(ii) inform you of our need for more time to complete our investigation.

(c) Unless there are exceptional circumstances, we will complete our investigation within 45 days of receipt of the dispute.

(d) If we are unable to resolve a dispute within 45 days, we will:

i. inform you of the reasons for the delay;

ii. provide you with monthly updates on progress with the dispute; and

iii. specify a date when a decision can reasonably be expected,

unless we are waiting for a response from you which we have told you we require.

(e) If the rules of an external dispute resolution scheme of which we are a member, provide that a matter may be referred to it if a decision is not made within a specified time period, then we will inform you, no more than 5 business days after the expiry of that time period,

that a dispute may be lodged with the scheme.

(f) Our dispute resolution process is available for all complaints other than those that are resolved to your satisfaction at the time they are drawn to our attention.

(g) We will provide you with the above information in writing unless it has been mutually agreed that it can be given verbally.

38. External dispute resolution

38.1. We will have available for you an external process for resolving disputes. This process will be:

(a) free of charge; and

(b) consistent with any external dispute resolution standard or guide that ASIC publishes for application to Australian financial services and credit licensees (for example, as at the date of the publication of this Code, Regulatory Guide 139) where this applies to you; and

(c) available to you in accordance with its terms of reference.
39. **Availability of information about dispute resolution processes**

39.1. We will prominently publicise the availability and accessibility of both our internal and external processes for resolving disputes through our points of contact with you where we control that point of contact including:

   (a) branches;
   (b) internet sites; and
   (c) telephone-based banking services.

39.2. We will also provide you with information about:

   (a) our internal process for dealing with a dispute at the time the dispute arises; and
   (b) the external process, at the same time as you are told about the final outcome of the internal process, if your complaint is not wholly satisfied.

40. **Family law proceedings**

Guidelines setting out the manner in which we will:

(a) deal with applications for transfers of mortgage and consents to transfer of title pursuant to a Family Court determination or approval; and

(b) otherwise enforce debts affected by a family law property settlement,

are available on our website.
PART G: TRANSITION

41. Transitional provisions

41.1. On and after the 2013 transition date we will be bound by this Code in respect of:

(a) any banking service that we commence to provide to you; and

(b) any Guarantee (as described in clause 31) we obtain from you, on or after that date.

41.2. On and after the 2013 transition date, we will be bound by this Code in respect of any ongoing banking service we were providing to you at the 2013 transition date and continue to provide afterwards except for:

(a) clauses 12.2 to 12.5 of this Code, by which we shall only be bound when we provide you with a revised and updated version of the terms and conditions;

For the avoidance of doubt, this means that terms and conditions applying to existing banking services do not need to be re-issued because of the commencement of this Code (subject to clause 41.5).

(b) clause 23 (Information relating to foreign exchange services);

(c) in respect of banking services which we commenced to provide to you before the 2003 transition date – clauses 26.2 and 26.4 (Statements of Account) and clause 31.12 (Third Party Mortgages);

(d) in relation to a commercial asset financing facility where the banking service is provided before June 2004, and we were not disclosed as the provider of that banking service; and

(e) as otherwise provided for below, and the equivalent provisions of the 2003 Code [and if relevant, the Code of Banking Practice November 1993], shall cease to apply to such banking services from that date.

41.3. On and after the 2013 transition date, we will be bound by this Code in respect of Guarantees as follows:

(a) in respect of any Guarantee we obtain from you on or after the 2013 transition date we will be bound by all applicable provisions of this Code;

(b) in respect of any Guarantee taken on or after the 2003 transition date and subject to the 2003 Code, we will be bound by all applicable provisions of this Code relating to Guarantees, and the equivalent provisions of the 2003 Code shall cease to apply to such Guarantees;

(c) for the avoidance of doubt, in respect of any Guarantee in relation to a commercial asset financing facility where the banking service or Guarantee is provided or taken before 1 June 2004, and we are not disclosed as the provider of that banking service or as the person taking the Guarantee we will not be bound by this Code; and
(d) we will be bound by clauses 31.9, 31.11(a) and 31.13 of this Code in respect of any Guarantee:

i. subject to the Code of Banking Practice November 1993 and taken prior to the 2003 transition date; and

ii. if we had not adopted the 2003 Code by 1 January 2005, any guarantee taken on or after the 2003 transition date which would have been subject to the 2003 Code had we been subject to the 2003 Code, (except that the reference to the notice we give you under clause 31.4(a) in clause 31.13 shall be deemed not to have been made in respect of any such guarantee).

41.4. For the avoidance of doubt, if:

(a) a thing was done (or not done) in respect of a banking service or a Guarantee prior to the 2013 transition date; and

(b) doing (or not doing) that thing did not breach a provision of the Code of Banking Practice as it applied to the banking service or Guarantee at the time the thing was done (if any) (for example because the obligation did not exist or the equivalent obligation was performed as it applied at the time):

i. having done (or not done) that thing does not result in a breach of this Code on or after the 2013 transition date; and

ii. we are not obliged to do the thing or do it again, on or after the 2013 transition date,
even if this Code would, on or after the 2013 transition date, require the thing to have been done (or not done or done differently) in otherwise similar circumstances, or before doing something else.

Example

If we entered into a Guarantee in 2005 the relevant behaviour in entering into that Guarantee will be assessed by reference to the Code as it applied at that time.

If we commenced to provide a banking service in 2001 the terms and conditions provided at that time and any assessment made in relation to that service shall be assessed by reference to the rules applying in the Code as it applied at that time.

41.5. If you have a credit card account with us on the 2013 transition date, we will give you a statement containing the information described in clause 12.5 no later than 12 months after the 2013 transition date (unless already provided).

41.6. Except as expressly stated in this clause, the application of the Code of Banking Practice November 1993 and the 2003 Code are not altered by the provisions in this clause 41.

41.7. To the extent of any inconsistency, this Code is to be read subject to the ePayments Code.
PART H: DEFINITIONS

42. Definitions

In this Code any words in bold like this have the following meanings:

2003 Code means the Code of Banking Practice August 2003 as it has applied to us from time to time since the day on which we publicly announced that we had adopted it.

2003 transition date means:

i. the date from which we publicly announced that we had adopted the Code of Banking Practice August 2003; or

ii. if (a) does not apply, 1 January 2004.

2013 transition date means:

(a) the day on which the ABA has published on its website our subscription to this Code, which will be no later than 1 February 2014; or

(b) if we are not a signatory to this Code as at 1 February 2014, then commencement date means the date from which we have publicly announced we have adopted this Code.

ABA means the Australian Bankers’ Association.

ACCC means the Australian Competition and Consumer Commission.

Approved Standard has the meaning given in clause 37.2(b).

ASIC means the Australian Securities and Investments Commission.

Australia includes the coastal sea of each jurisdiction but does not include an external territory.

bank means a corporation authorised by law to carry on the general business of banking in Australia and that is authorised under the Banking Act 1959 to use the word “bank” or a similar expression in its name.

banking service means any financial service or product provided by us in Australia to you:

(a) including any financial service or product provided by us whether supplied directly or through an intermediary; and

(b) in the case of a financial service or product provided by another party and distributed by us, extends only to our distribution or supply of the service or product to you and not to the service or product itself.

business day means a day that is not a Saturday, a Sunday or a public holiday in Australia.

CCMC has the meaning given in clause 36(a).

Code of Banking Practice means the Code of Banking Practice as it has applied to us from time to time since the commencement date and including, where relevant, the Code of Banking Practice November 1993, 2003 Code (including as amended in 2004) and this Code.

Code and “this Code” means this Code of Banking Practice as published by the ABA at the 2013 transition date and, for the avoidance of doubt, includes any subsequent amendments from time to time which have been published by the ABA and publicly adopted by us.
commencement date means the date that we first subscribed to the Code of Banking Practice. However, see the definition of 2013 transition date.

commercial asset financing facility means a lease, rental, hire purchase, bill of sale, chattel mortgage facility or a related insurance premium funding facility provided to a company.

commercial asset financing guarantor means a guarantor where the Guarantee is to be taken for a Facility that is a commercial asset financing facility and:
(a) the guarantor is a director, shareholder or manager of the company, and:
   i. the guarantor has not given security to support the Guarantee; or
   ii. where the guarantor has previously given security, the guarantor has been notified in writing that the previous security may extend to liabilities under the Guarantee; and
(b) apart from guarantees and any security referred to in (a)(ii) given by directors, shareholders or managers of the company, only the asset financed secures the commercial asset financing facility.

credit-related insurance contract means a contract for insurance of any of the following kinds in connection with a credit contract:
(a) insurance over mortgaged property; 
(b) consumer credit insurance; 
(c) insurance that is a “credit-related insurance contract” for the purposes of section 142(1)(c) of the National Credit Code.

debit user means a person who, by agreement with the customer, issues debit payment instructions through their financial institution for distribution to the relevant customer’s financial institution.

debt collection guidelines has the meaning given in clause 32.1

direct debit means an amount debited to a specified account of a customer with the customer’s financial institution, as requested and authorised in writing by that customer, to and in favour of a debit user (or to a third party in its capacity as agent for that named debit user) which is processed through the Bulk Electronic Clearing System.

direct debit request means an authority and request to debit amounts to a specified account of a customer with the customer’s financial institution, given in writing by that customer to and in favour of a debit user or their agent.

director guarantor means a guarantor of a Facility who is a director of a company which is to be the debtor for the Facility other than a sole director guarantor or a commercial asset financing guarantor.

dispute means a complaint by you in relation to a banking service, that has not been immediately resolved when you bring the complaint to our attention.

electronic communication means:
(a) a communication of information in the form of data, text or images by means of guided or unguided electromagnetic energy, or both; or
(b) a communication of information in the form of sound by means of guided or unguided electromagnetic energy, or both, where the sound is processed at its destination by an automated voice recognition system.
ePayments Code means the industry code named the e-Payments Code issued by ASIC and available at www.asic.gov.au, and includes, while it continues to apply to us and remains in force, its predecessor the Electronic Funds Transfer Code of Conduct.

Facility has the meaning given in clause 31.4.

FOS means Financial Ombudsman Service Ltd (ABN 67 131 124 448).

Guarantee means a guarantee described in clause 31.1.

manager means a person who is actively involved in the day-to-day running of a business and who makes, or participates in making, decisions that affect the whole, or a substantial part of the business or who has the capacity to affect significantly the business’s financial standing.

National Credit Code means the National Credit Code set out in Schedule 1 of the National Consumer Credit Protection Act 2009.

security includes, without limitation, a security interest within the meaning of the Personal Property Securities Act 2009.

small business means a business having:
(a) less than 100 full time (or equivalent) people if the business is or includes the manufacture of goods; or
(b) in any other case, less than 20 full time (or equivalent) people,
unless the banking service is provided for use in connection with a business that does not meet the elements of (a) or (b) above.

sole director guarantor means a guarantor of a Facility who is a director of a company that has only one director, and that company is to be the debtor for the Facility.

standard fees and charges means fees and charges normally charged by us in respect of a banking service.

terms and conditions means those terms and conditions specifically applied by us to a banking service, but does not include any other terms and conditions that may apply by operation of law.

third party mortgage means a mortgage or charge given for the purpose of securing:
(a) any financial accommodation provided by us to an individual or a small business; or
(b) a Guarantee,
other than such a security which contains a personal undertaking by the mortgagor to pay the secured money.

trustee guarantor means a guarantor of a Facility where:
(a) the guarantor and the debtor are the same person; and
(b) that person is acting as trustee of a trust in one of these roles and is acting in their personal capacity in the other role.

URL means a Universal Resource Locator.

we, us and our means the bank that you deal with that has adopted this Code.
**you** and **your** means a person who, at the time the **banking service** is provided, is an individual or a **small business** that is **our** customer (or, where this **Code** specifically applies to prospective customers, a prospective customer) and includes, in clauses 31, 35 and 2, any individual from whom **we** have obtained, or propose to obtain, a **Guarantee**. However, where this **Code** applies in relation to a **banking service** which is a “financial product” or a “financial service” for the purposes of Chapter 7 of the Corporations Act 2001, then **you** means a person who, as a “retail client” as described in Chapter 7 of the Corporations Act 2001, enquires about or is, or may be, provided with that **banking service**. Therefore this **Code** does not apply to a person who is a “wholesale client” in respect of such products and services.

A reference in this Code to any law or binding code or standard includes a reference to any such law or binding code or standard as amended from time to time.
CODE
COMPLIANCE
MONITORING
COMMITTEE
MANDATE
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1. Introduction

1.1. Scope of this document

This mandate is made in pursuance of the Code of Banking Practice (the Code). Together with the Code, this mandate sets out the terms, to which the Code Subscribers have agreed, that govern the functions and operations of the Code Compliance Monitoring Committee (CCMC) contemplated in the Code.

This mandate must be published on the website of the Australian Bankers’ Association (the ABA).

1.2. Functions of the CCMC

The CCMC is established in pursuance of clause 36 of the Code and in accordance with the terms of this mandate:

(a) to investigate, and make a Determination on, any allegation from any person that a Code Subscriber has breached the Code (however the CCMC will not investigate, or make any Determination on, any other matter);

(b) to monitor Code Subscribers’ compliance with the Code, which includes conducting its own motion inquiries into one or more Code Subscribers’ compliance with the Code; and

(c) to monitor any other aspects of the Code that are referred to the CCMC by the ABA.

For the avoidance of doubt, the CCMC’s functions only relate to the Code as it has applied since the CCMC was established. In particular the CCMC’s functions do not extend to investigating, monitoring and making Determinations in relation to the Code as it applied before this time.

1.3. Principles that underpin the CCMC’s operation

(a) The CCMC must act reasonably in carrying out its responsibilities to (as relevant) monitor, investigate, determine and report on compliance by Code Subscribers with the Code.

(b) When monitoring, investigating, determining and reporting on compliance with the Code, the CCMC must:
i. act with independence and do what in the CCMC’s opinion is appropriate having regard to the nature of its functions and activities;
ii. be fair;
iii. proceed efficiently and with the minimum necessary formality and technicality; and
iv. be as transparent as possible, whilst also acting in accordance with its confidentiality and privacy obligations.

1.4. **CCMC Operating Procedures**

(a) The CCMC must set operating procedures, in accordance with clause 36(i) of the Code and this mandate, first having regard to the operating procedures of the FOS and then by consulting with the FOS and the ABA. The CCMC will advise Code Subscribers of these operating procedures prior to their taking effect or, if any are already in effect at the time this mandate first comes into effect and the CCMC has not already advised Code Subscribers of them, as soon as practicable after that time.

(b) Any proposed changes to those operating procedures which, in the opinion of the CCMC, are material will be developed by first having regard to the operating procedures of the FOS and then by consulting with the FOS and the ABA. The CCMC will advise Code Subscribers of such changes prior to their taking effect.

1.5. **Supplementary procedures**

As is deemed appropriate by the CCMC, the operating procedures may be supplemented with more detailed procedures of a less material nature. Where the CCMC reasonably expects it is necessary to do so, the CCMC will advise Code Subscribers of these supplementary procedures prior to their taking effect.

1.6. **Annual business plan**

The CCMC must develop an annual business plan and provide a copy of the annual business plan to the Chief Ombudsman of the FOS and to the ABA prior to the commencement of the relevant Financial Year for which the plan has been developed.

1.7. **Memorandum of Understanding**

The CCMC may enter into a Memorandum of Understanding with the FOS for the purpose of facilitating:

(a) referrals to the CCMC of an allegation that a Code Subscriber has breached the Code; and

(b) information exchanges between the FOS and the CCMC relevant to the CCMC’s functions, as described in clause 1.2.

1.8. **Funding**

The CCMC will be funded and resourced by Code Subscribers in accordance with clause 36(d) of the Code.
2. **CCMC Members**

2.1. **Composition of the CCMC**

The Code specifies that the CCMC shall be comprised of 3 members (each a **CCMC Member**):

(a) 1 person, as representative of **Code Subscribers** with relevant experience at a senior level in retail banking in Australia, to be appointed by the **Code Subscribers**;

(b) 1 person, as representative of individual and small business customers (as defined in the Code) with relevant experience and knowledge, to be appointed by the consumer representatives on the Board of Directors of the FOS; and

(c) 1 person to be the **Independent Chairperson** of the CCMC with experience in industry, commerce, public administration or government service, to be appointed jointly by the Chief Ombudsman of the FOS and by the ABA on behalf of the **Code Subscribers**.

2.2. **Tenure**

Subject to clause 2.5, a **CCMC Member** (including the **Independent Chairperson**) holds office for a 3 year term.

2.3. **Re-appointment**

A person who was, or is currently, a **CCMC Member** is eligible for re-appointment to the **CCMC**.

2.4. **Resignation**

A **CCMC Member** may resign from the office during their term by notifying the relevant appointor(s) of that **CCMC Member** (see clause 2.1) in writing with at least 7 days’ notice.

2.5. **Termination**

The appointment of a **CCMC Member** may be terminated in writing by the relevant appointor(s) of that **CCMC Member** (see clause 2.1) in writing with at least 7 days’ notice.

2.6. **Casual vacancies**

A person may be appointed by the relevant appointor(s) under clause 2.1 to fill a casual vacancy in the office of a **CCMC Member**, other than the position of the **Independent Chairperson**. A person appointed under this clause:

(a) must fulfil the experience requirements of the relevant paragraph of clause 2.1 as if the appointment were an ordinary appointment for that role under clause 2.1; and

(b) shall hold office until the casual vacancy ceases or the period during which their predecessor **CCMC Member** would have held office expires, whichever occurs first.

2.7. **Automatic vacancies**

The office of a **CCMC Member** (including the **Independent Chairperson**) will be automatically vacated if the person:

(a) becomes bankrupt or makes any arrangement or composition with creditors;

(b) becomes prohibited by law from being a director;

(c) becomes of unsound mind;
(d) resigns from the office during their term; or
(e) has their appointment terminated by their relevant appointors.

3. Organisational structure

3.1. Staffing and administrative support

(a) The CCMC may create the position of a Chief Executive Officer (CEO) and may appoint a person with relevant skills, experience and knowledge to that position.

(b) The CEO will, if appointed, be under the supervision and direction of the CCMC.

(c) The CCMC will be supported by staff led by the CEO (or if a CEO is not appointed, the Independent Chairperson), who shall carry out administration and management, within the funding and resource constraints in the annual budget, of the CCMC office and staff.

(d) The CCMC may proceed on the basis that the FOS will provide administrative and staffing services to the CCMC. The provision of those services may be reviewed by the FOS in consultation with the ABA and the CCMC.

3.2. Independent Chairperson

(a) The Independent Chairperson shall do all such things as are reasonable for the CCMC to perform its functions and activities and shall exercise such powers or perform such duties as the CCMC may from time to time delegate to the Independent Chairperson.

(b) The Independent Chairperson may take action, in accordance with a resolution of the CCMC, including but not limited to:

i. engaging and dismissing staff;

ii. entering into, varying and terminating leases;

iii. operating bank accounts;

iv. negotiating and entering into contracts with the FOS including, without limitation, contracts for staff, equipment and facilities;

v. negotiating and entering into contracts or commitments as are necessary or desirable for the CCMC to enter, having regard to the nature of its functions and activities; and

vi. signing, or otherwise executing, all such documents or instruments as may be required for any of the foregoing.

3.3. Delegation of CCMC powers

(a) The CCMC will exercise the power to make Determinations and may not delegate this power.

(b) The CCMC may delegate any of its other powers to the CEO (either generally or in specific cases and either with or without conditions or restrictions). For example, the CCMC may delegate to the CEO the power:

i. to undertake a compliance investigation (whether as
a result of an allegation by any person that a Code Subscriber has breached the Code, a referral by the ABA or the CCMC’s compliance monitoring process); and

ii. to request a Code Subscriber or any person making an allegation that a Code Subscriber has breached the Code to provide information to, or to procure information for, the CCMC.

4. Meeting of CCMC Members

4.1. Meetings and proceedings of CCMC

The CCMC will meet, discharge its responsibilities and convene, adjourn and otherwise regulate its meetings and proceedings in such manner as it may from time to time determine.

4.2. Quorum

A quorum for a meeting of the CCMC shall be the 3 persons comprising the CCMC at the time of the meeting.

4.3. Voting

At a meeting of the CCMC:

(a) each CCMC Member has one vote; and

(b) decisions are made on the basis of a simple majority of votes:

i. subject to clause 4.3(b)(ii), on a show of hands; or

ii. where a meeting is conducted by teleconference, on the voices of each CCMC Member.

4.4. Conflicts of interest

If a CCMC Member has a material personal interest in relation to a matter that is being considered at a meeting of the CCMC, in relation to the institution, conduct or conclusion of any compliance investigation and any Determination, the CCMC Member must not:

(a) be present while the matter is being considered at the meeting; or

(b) vote on the matter, unless:

i. the CCMC Member has declared the material personal interest in relation to the matter that is being considered by the CCMC to the other CCMC Members;

ii. the other CCMC Members are satisfied the material personal interest should not disqualify the CCMC Member from voting on the matter;

iii. a proper minute is made including details of the material personal interest and the circumstances in which it was disclosed to the other CCMC members; and

iv. any minute, Determination or other report on the matter are made available for inspection on request by any Code Subscriber affected.
For the avoidance of doubt, a material personal interest for the purposes of this clause does not arise solely by reason of a CCMC Member’s current or previous employment with a Code Subscriber, or by reason of the financial institution of which a CCMC Member is a customer.

4.5. Alternate representative

(a) Each of the CCMC Members, other than the Independent Chairperson, may nominate an alternate person for a specified meeting, provided that the CCMC Member has asked the person whom the relevant CCMC Member proposes to nominate as an alternate if that person has any material personal interest in relation to a matter that is being considered at the relevant meeting of the CCMC, and the person has declared to have had no such interest.

(b) A person nominated as an alternate may exercise all the powers of the CCMC Member by whom the person is nominated to be an alternate, other than the power to nominate an alternate, and is subject to all the requirements applying to the office of their nominator at the meeting which they attend at which their nominator is not present.
5. Compliance monitoring process

5.1. Methods

The CCMC may for the purpose of monitoring compliance with the Code:

(a) issue one or more Code Subscribers with a questionnaire to gather information about practices and procedures and undertake onsite testing procedures to verify that information;

(b) request a Code Subscriber or the person that has made a relevant allegation to provide information to, or to procure information for, the CCMC;

(c) conduct market research to assess compliance with the Code by one or more Code Subscribers, including through mystery shopping activities;

(d) conduct own motion inquiries for the purpose of monitoring one or more Code Subscribers’ compliance with the Code, such as by conducting, by prior arrangement with the Code Subscriber, a compliance visit at the premises of a Code Subscriber including interviewing representatives of the Code Subscriber; and

(e) request each Code Subscriber to lodge an Annual Compliance Statement (ACS) with the CCMC.

5.2. Annual Compliance Statement

(a) Each Code Subscriber must lodge an ACS with the CCMC reporting on the Code Subscriber’s compliance with the Code during the previous 12 months (or, if the Code Subscriber has adopted the Code during that 12 month period, the Code Subscriber must report how it plans to achieve compliance with the Code during the next 12 month period).

(b) The ACS must be in the form that has been approved by the CCMC from time to time for use by all Code Subscribers.
6. **Institution of a compliance investigation**

6.1. **Commencement of a compliance investigation**

A CCMC compliance investigation may commence in any of the following ways:

(a) in response to an allegation by any person, including a referral by FOS, that a Code Subscriber has breached the Code (see clause 1.2(a)); or

(b) as an outcome of the CCMC’s monitoring process if the CCMC has reason to suspect that a Code Subscriber may have breached the Code (see clause 1.2(b));

(c) in response to a referral from the ABA (see clause 1.2(c)).

6.2. **Matters outside the scope of CCMC’s investigative powers**

(a) The CCMC must not commence a compliance investigation in the following circumstances:

i. to the extent that the allegation relates to a Code Subscriber’s commercial judgment in decisions about lending or security. However, the CCMC may consider an allegation that a Code Subscriber has breached the Code arising from maladministration by the Code Subscriber in arriving at a commercial judgment. “Maladministration” refers to an act or omission contrary to or not in accordance with a duty owed at law or pursuant to the terms (expressed or implied) of the contract between the Code Subscriber and its customer;

ii. if the CCMC is, or becomes, aware that the allegation is being or will be heard by another forum (whether as a standalone matter or as part of any process or proceeding) and the forum may make a final Determination as to whether a breach of the Code has occurred. In such a case the CCMC must not consider the relevant allegation until the relevant forum has determined, or declined...
to determine (for whatever reason), whether a breach of the Code has occurred. If the forum determines whether a breach of the Code has or has not occurred, the CCMC must adopt the forum’s finding;

iii. if the CCMC is, or becomes, aware that the allegation has been heard (whether as a standalone matter or as part of any process or proceeding) by another forum, and the forum has determined whether a breach of the Code has or has not occurred. In such a case the CCMC must adopt the finding of the relevant forum as to whether a breach of the Code has or has not occurred;

iv. if the allegation to the CCMC is based on the same events and facts as a previous allegation to the CCMC by the person making the new allegation, unless there is new information;

v. if the events to which the allegation relates occurred before the Code Subscriber to which the allegation relates became a Code Subscriber or in relation to an entity which was not a Code Subscriber at the time of the events to which the allegation relates and was subsequently acquired by a Code Subscriber;

vi. if the person making the allegation was aware of the events to which the allegation relates, or would have become aware of them if they had used reasonable diligence, more than 1 year before the person making the allegation first notified the CCMC in writing (unless the person making the allegation had lodged within that 1 year period a dispute with FOS about those events and FOS considered there may have been a breach of the Code);

vii. If the investigation is an outcome of the CCMC’s monitoring process more than 1 year after the CCMC had reason to suspect that the Code Subscriber may have breached the Code.

The CCMC may request, in relation to a particular allegation or outcome of the CCMC’s monitoring process referred to in clauses 6.2(a) (vi) or (vii) above, that a Code Subscriber extend the relevant time limit. The Code Subscriber retains the discretion whether to agree to such a request for an extension of the limit.

(b) Whilst a CCMC compliance investigation may be commenced as a result of an allegation by any person and may comprise determining whether a Code Subscriber has breached the Code, the CCMC’s role does not include determining what redress should be provided to a person affected by non-compliance with the Code. A Code Subscriber has internal complaints handling
arrangements to consider redress and its membership of an external dispute resolution scheme provides an avenue for redress if a Determination concludes that there has been a breach of the Code.

6.3. CCMC’s discretion in relation to compliance investigations

(a) Further to clause 6.2, the CCMC may decide, at any stage prior to the making of a Determination, that it is not appropriate to investigate or to continue to investigate a matter commenced under clause 6.1. In making this decision, the CCMC may take into account anything it considers reasonable and appropriate including:

i. the nature of the allegations made against the relevant Code Subscriber, including the significance of the issues raised;

ii. the period of time that has elapsed since the alleged event occurred;

iii. whether a court or other forum would be a more appropriate forum to consider the matter;

iv. whether the matter is frivolous or vexatious;

v. previous work undertaken by the CCMC to monitor or review practices and procedures of the Code Subscriber that are relevant to the allegations made.

(b) If in the course of conducting a compliance investigation the CCMC considers that 6.3(a)(iii) or 6.3(a)(iv) apply, the CCMC must not continue to investigate the allegation.

7. Compliance investigations approach

7.1. Approach

(a) When conducting a compliance investigation, the CCMC must take into account the relevant provisions of the Code and any applicable laws. If in the course of conducting a compliance investigation, the CCMC decides whether to make a Determination, clause 10.2 provides for what the CCMC must have regard to.

(b) The CCMC will ensure, as far as practicable, that monitoring and investigations do not:

i. disrupt Code Subscribers’ business unduly; nor

ii. inconvenience Code Subscribers’ customers unduly.

7.2. Provision of information by Code Subscribers

(a) The CCMC may make reasonable requests for a Code Subscriber to provide, or provide access to, information, documents or systems, which are in the possession or power of the Code Subscriber, that the CCMC considers necessary in order to discharge its functions.

(b) The CCMC may require the Code Subscriber to comply with the CCMC’s request within 21 business days or such longer timeframe where the Code...
**Subscriber** satisfies the CCMC that additional time is needed, except where the **Code Subscriber** satisfies the CCMC that:

i. to comply with the request would breach a law (including, without limitation, any law relating to confidentiality or privacy) and that, where a third party’s consent to the **Code Subscriber** complying with the request would avoid a breach of that law, the **Code Subscriber** has taken reasonable steps to obtain the appropriate consent and such consent was not provided;

ii. to comply with the request would breach a duty of confidentiality to a third party and the **Code Subscriber** has taken reasonable steps to obtain consent to the **Code Subscriber** complying with the request and such consent was not provided;

iii. to comply with the request would breach a Court order or prejudice a current investigation by the police or other law enforcement agency;

iv. legal professional privilege attaches to the relevant information, documents or systems; or

v. the information, documents or systems do not exist or no longer exist.

(c) Where the information, document or system is claimed by the **Code Subscriber** to be commercially sensitive, the CCMC may agree with the **Code Subscriber** to receive it or have access to it on a conditional basis, including on terms that preserve confidentiality.

### 7.3. Other obligations required of **Code Subscribers**

(a) The CCMC may require a **Code Subscriber** to do anything else that the CCMC reasonably considers may assist a compliance investigation into the **Code Subscriber**'s compliance with the **Code** undertaken by the CCMC. This may include requiring:

i. the **Code Subscriber** to provide an appropriate representative to attend an interview; or

ii. the **Code Subscriber** to investigate and report back to the CCMC on relevant matters (including, where appropriate, with the assistance of external expertise).

(b) Where the CCMC makes a request of a **Code Subscriber**, the CCMC may require its request to be complied with within 21 business days or such longer timeframe where the **Code Subscriber** satisfies the CCMC that additional time is needed.

(c) In concluding a compliance investigation or making a **Determination**, the CCMC will take into account any undertaking by the **Code Subscriber** as to action it will take, or has taken, in relation to the matter.
7.4. Other information
Where a compliance investigation is instituted as a result of an allegation by any person pursuant to clause 6.1(a), the CCMC may request the person making the allegation to provide or procure information that the CCMC reasonably considers may assist the CCMC’s investigation of the matter.

7.5. Consequences of non-compliance with a CCMC request
Where a Code Subscriber, or any person alleging a Code Subscriber has breached the Code without reasonable excuse, fails to comply with a CCMC request within the timeframe specified by the CCMC, the CCMC may take steps it considers reasonable in the circumstances to conclude the compliance investigation, including proceeding with a Determination of the matter.

8. Other matters
8.1. Rules of evidence
The CCMC is not bound by any legal rule of evidence or by its previous Determinations.

8.2. External consultation
(a) In discharging its functions, the CCMC may consult with independent external experts as the CCMC thinks reasonably appropriate and necessary, provided that the CCMC takes reasonable steps to ensure that:
   i. the identities of any parties involved in an alleged breach of the Code are not disclosed to any relevant external expert unless disclosure is material to the matter and each relevant party, in each case, has consented to the disclosure;
   ii. any such external expert maintains confidentiality of the information provided to it, including any information claimed to be commercially sensitive, and that the external expert acts in accordance with the CCMC’s privacy obligations, and other duties of confidentiality, on the basis that it is deemed to be bound in each case; and
   iii. any such external expert otherwise complies with these requirements so far as reasonably relevant.

(b) The reasonable steps to be taken by the CCMC under clause 8.2(a) extend to ensuring those requirements are also observed by the external expert’s employees and contractors.
9. Process for concluding compliance investigations without a Determination

9.1. Process
Subject to clause 6, the process for concluding a compliance investigation without a Determination is as follows:

(a) The CCMC must give the Code Subscriber a reasonable opportunity to respond to an allegation that the Code Subscriber has breached the Code.

(b) If the CCMC considers that:
   i. there is no basis to determine a breach of the Code has occurred; or
   ii. the Code Subscriber has acknowledged that it has, or may have, breached the Code, and the Code Subscriber has taken, or proposes to take, appropriate action to remedy any breach or potential breach or to prevent a reoccurrence,
then the CCMC may decide to conclude the matter without further investigation or proceeding to a formal Determination.

(c) Where the CCMC concludes a compliance investigation without a Determination, the CCMC will inform the Code Subscriber of the outcome, and where a compliance investigation was commenced in response to an allegation that a Code Subscriber has breached the Code, the person who made the allegation will also be informed of the outcome.

10. Process for concluding compliance investigations by way of Determination

10.1. Reasonable opportunity to be heard
The CCMC must give the Code Subscriber a reasonable opportunity to respond to an allegation that the Code Subscriber has breached the Code.

10.2. Criteria for Determination
When deciding whether to make a Determination, the CCMC will do what is reasonable in all the circumstances, having regard to:

(a) legal principles relevant to the decision making process;
(b) applicable Code provisions; and
(c) any CCMC guidance as to Code requirements.

10.3. Notice of Determination
The CCMC may conclude a compliance investigation by way of a Determination only after adhering to the following process:

(a) before the Determination is made, the CCMC must give at least 21 business days written notice to the relevant Code Subscriber and, if applicable, the person that has made a relevant allegation, about the CCMC’s intention to make a Determination. The notice must include:
   i. a brief description of what Determination and findings the CCMC intends to make and its reasons;
ii. if applicable, a brief description of any finding the CCMC intends to make that the Code Subscriber is responsible for serious or systemic non-compliance with the Code, where the CCMC reasonably suspects that this is the case;

iii. in the case of a compliance investigation commenced in response to an allegation, a statement about any conclusions the CCMC has formed regarding the merits of the allegation;

(b) the CCMC must then seek final comments on the matter from the Code Subscriber and, in the case of a compliance investigation commenced in response to an allegation by any person that the Code Subscriber has breached the Code, from the person making the allegation; and

(c) the CCMC must give a reasonable opportunity for the relevant parties to make final comments.

10.4. Determination

(a) After the CCMC has given the relevant parties a reasonable time within which to make final comments, the CCMC may make a Determination if it continues to consider that this is appropriate.

(b) Each Determination must:

i. be in writing;

ii. include a brief description of the issues;

iii. set out the CCMC’s findings and views. In the case of a compliance investigation instituted in response to an allegation, the Determination will include the CCMC’s views as to whether the alleged breach was established in whole or in part, or whether the allegation was unfounded;

iv. if applicable, include any minutes or other reports made relating to a material personal interest of a CCMC Member;

v. if applicable, state any finding by the CCMC that the Code Subscriber is responsible for serious or systemic non-compliance with the Code; and

(vi) include brief reasons for the conclusions and findings of the CCMC including, if applicable, the conclusions and findings that support the CCMC’s intention to name the Code Subscriber (see clause 11.1) in its next Annual Report or on the CCMC website, or both.

(c) After the Determination is made the CCMC must inform the Code Subscriber of the Determination, and, in the case of a compliance investigation commenced in response to an allegation by any person that a Code Subscriber has breached the Code, the CCMC must inform the person making the allegation of the Determination.
11. Public naming of a Code Subscriber

11.1. Grounds for public naming of a Code Subscriber

The CCMC may name a Code Subscriber in accordance with clause 36(j) of the Code in its next Annual Report or on the CCMC website, or both.

12. Collection of information by the CCMC

12.1. Data collection

The CCMC must, for each period for which it must prepare an Annual Report (see clause 12.2), collect and record information in relation to its operations for inclusion (in all cases de-identified except as contemplated in clause 11.1) in the Annual Report for the period including:

(a) information about the CCMC’s monitoring activity and the results of that activity;

(b) the ACS from each of the Code Subscribers on their compliance with the Code;

(c) information about referrals from the ABA to the CCMC and the results of those referrals;

(d) the number of compliance investigations it has commenced, the source of information for those investigations and the status of those investigations, including:

i. where a compliance investigation is open, the age and status of the investigation; and

ii. where a compliance investigation has been concluded, whether or not a Determination was made;

(e) the time taken to conclude compliance investigations;

(f) details of allegations which were determined to be outside the CCMC’s responsibilities and why;

(g) the demographics of persons alleging that a Code Subscriber has breached the Code (where practicable).
(h) the level of compliance with the Code which the CCMC has ascertained as a result of its monitoring activity and compliance investigations; and

(i) a profile of current and completed compliance investigations that identifies, where relevant or necessary:
   i. the relevant provisions of the Code;
   ii. the type of products or services involved;
   iii. any underlying cause of the non-compliance with the Code;
   iv. any compliance measures implemented by relevant Code Subscribers; and
   v. any systemic breaches or other trends.

The CCMC may in its discretion also collect, for inclusion in its Annual Report, information about benefits and disadvantages to customers resulting from Code Subscribers’ compliance with the Code.

12.2. Publication of data

(a) The CCMC must publish an Annual Report within 6 months of the end of each Financial Year and:
   i. provide a copy of the Annual Report to each Code Subscriber, the ABA and to the FOS; and
   ii. make copies of the Annual Report available to the public on its website and on request.

(b) Each Annual Report must be a fair and adequate summary and analysis of the information specified in clause 12.1, the financial affairs of the CCMC and any other matters the CCMC thinks appropriate that are consistent with the functions of the CCMC under the Code and this mandate.
13. Interpretation

13.1. Defined terms

The following words have the following meanings where they appear in this mandate:

ABA means the Australian Bankers’ Association.

ACS means Annual Compliance Statement. See clause 5.2.

Annual Report means the report specified in clause 12.2.

ASIC means the Australian Securities and Investments Commission.

CCMC means the Code Compliance Monitoring Committee established pursuant to clause 36 of the Code and in accordance with this mandate.

CCMC Member means a member of the CCMC. See clause 2.1.

CCMC Personnel means the officers (including the CEO) and employees of the CCMC. See clause 14.2.

CEO means the person appointed to the role in clause 3.1.

Code means the Code of Banking Practice.

Code Subscriber means a bank that has adopted the Code.

Determination means a decision in accordance with clause 10 as to whether there has been a breach of the Code by a Code Subscriber and if so whether the Code Subscriber should be named in accordance with clause 11.

Financial Year means the 12 months ending 30 June in any calendar year.

Forum means any court, tribunal, arbitrator, mediator, independent conciliation body, dispute resolution body, complaint resolution scheme (including, for the avoidance of doubt, the FOS) or statutory Ombudsman, in any jurisdiction.

FOS means Financial Ombudsman Service Limited ACN 131 124 448 or its successor entity.

Independent Chairperson means the Chair of the CCMC specified in clause 2.1(c).
13.2. General

a) A reference to the singular includes the plural and vice versa.

(b) The words “including”, “such as” or “for example”, when introducing an example, does not limit the meaning of the words to which the example relates, that example or examples of a similar kind.

(c) A reference to an employee of the CCMC shall be construed as including a reference to a person who is contracted as an employee of the FOS to act solely for the CCMC as if that person were an employee of the CCMC, and includes each CCMC Member.

(d) Where a term is used in this document that is not defined in clause 13.1, the term is to be interpreted as having, if applicable, the same meaning as in the Code, and otherwise its everyday meaning and usage, unless the context otherwise requires.

(e) References to clauses are to clauses of this document unless stated otherwise.

(f) A reference to a statute, ordinance, Code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.

(g) Headings are inserted for convenience only and do not affect the interpretation of this document.

(h) A reference to a clause or provision of the Code includes the clause or provision of the Code and any amendment to, restatement of, or substitution for that clause or provision in the Code and in any succeeding version or revision of the Code resulting from any review of the Code as in effect in relation to the relevant Code Subscriber from time to time.

i. This mandate will apply to all new CCMC compliance monitoring or compliance investigations commenced after the date this mandate comes into effect, which is the published date agreed to between the CCMC and the ABA, on behalf of Code Subscribers.
14. Confidentiality and other matters

14.1. CCMC’s confidentiality obligations

(a) All information provided by or on behalf of a party (including a Code Subscriber) to the CCMC (including, for the avoidance of doubt, to any employee, consultant, independent contractor or agent of the CCMC acting in that capacity) and designated as confidential, and all information provided by or on behalf of the CCMC to a Code Subscriber being, in either case, information that is not in the public domain (otherwise than by breach of this clause), shall be deemed confidential.

(b) The CCMC must return or, with the consent of the relevant party, permanently delete, any item containing confidential information as soon as practicable after an investigation is resolved, withdrawn or concluded. If an allegation is sent to another forum then the CCMC must, unless the CCMC is compelled by law to provide the information, obtain the consent of the relevant party before forwarding any information to the new forum.

(c) The CCMC and the Code Subscriber (as recipients of any such information) shall take reasonable steps to ensure that the confidentiality of such information is maintained, including taking reasonable steps to ensure that their employees, consultants, independent contractors or agents, abide by the same obligation. This does not, however, restrict the CCMC from using or disclosing information:

i. to the extent reasonably necessary to carry out the CCMC’s responsibilities, including under this mandate or for any incidental purpose; or

ii. as required or permitted by law.

14.2. Immunity from liability

(a) The Code Subscribers agree to release and indemnify (to the extent the assets of the CCMC...
are inadequate), the CCMC and its officers and employees (CCMC Personnel) and to hold them harmless against all losses, damages, costs (including, without limitation, legal costs), actions, claims, demands and liabilities incurred or suffered by the CCMC or CCMC Personnel arising out the CCMC’s performance of its functions and activities in accordance with this mandate, other than with respect to any wilful or reckless acts, omissions or gross negligence on the part of the CCMC or CCMC Personnel.

(b) The CCMC must effect and maintain at all relevant times the following insurance, which must in all circumstances fully cover any claim made at any time in respect of an event occurring:

i. professional indemnity insurance; and

ii. insurance against any liability which may arise under the general law, including, without limitation, any relevant workers’ or accident compensation legislation, with respect to any of CCMC Personnel.

(c) Each CCMC Personnel shall be indemnified out of the assets of the CCMC and (to the extent that they are inadequate) by each Code Subscriber against all liabilities arising out of their responsibilities as CCMC Personnel.

14.3. Review

The CCMC will arrange a periodic review of its activities, coinciding with the periodic review of the Code by the ABA, in consultation with Code Subscribers, and will provide a copy of each review report to the Code Subscribers, the ABA, the FOS and ASIC.

14.4. Amendment of the Mandate

The ABA, after consultation with the CCMC, may amend the Mandate including, but not limited to, the need to take account of external developments, changes affecting or made to the Code, the CCMC’s relationship with the FOS and other matters related to the operations of the CCMC. The Code Subscribers agree to be bound by any such amendment.