

THE CODE COMPLIANCE  
MONITORING COMMITTEE

2004–05 ANNUAL REPORT  
2005–06 ANNUAL REPORT

2 Our key commitments to you 2.1 We will: (a) continuously work towards improving the standards of practice and service in the banking industry; (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 from the banker and customer relationship in relation to banking services; (d) provide information to you in plain language; and (e) monitor external developments relating to banking codes of practice, legislative changes and related issues. 2.2 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. 2.3 In meeting our key commitments to you, we will have regard to our prudential obligations. 3 Compliance with laws 3.1 We will comply with all relevant laws relating to banking services, including those concerning: (a) consumer credit products; (b) other financial products and services; (c) privacy; and (d) discrimination. 3.2 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). 4 Retention of your rights In addition to your rights under this Code, you retain any rights you may have under Federal laws, especially the Trade Practices Act 1974, the Australian Securities and Investments Commission Act 2001 and Chapter 7 of the Corporations Act 2001, and under State and Territory laws, especially the Uniform Consumer Credit Code and Fair Trading Acts. 5 Review of this Code 5.1 We will require the ABA to commission an independent and transparent review of this Code every 3 years or sooner if appropriate, with the review to be conducted in consultation with: (a) banks which adopt this Code; (b) consumer organisations; (c) other interested industry associations; (d) relevant regulatory bodies. We will participate in any such review of this Code of Banking Practice 5 Part B Key commitments 5.2 We will require the ABA to establish, and we will monitor, the effectiveness of: (a) the Code of Banking Practice 5 Part B Key commitments on: banking issues; and (b) the effectiveness of the Code of Banking Practice 5 Part B Key commitments to ensure that these views are taken into account. We will require the ABA to promptly publish and report arising from a review of this Code of Banking Practice 5 Part B Key commitments to the public in hard copy on request; (b) recommendations which have not been accepted; and (c) quarterly progress reports on recommendations which have been accepted. 6 Elderly customers and customers with disabilities We will ensure that our staff are trained and competent to provide the banking services they need. We will ensure that our staff are trained so that they: (a) can communicate with elderly customers and customers with disabilities; and (b) can provide the banking services they need. 7 Adequate knowledge of the provisions of this Code. 8 Promotion of this Code We will require the ABA to: (a) promote this Code; and (b) clearly make public: (i) which banks

The Code of Banking Practice sets standards of good banking practice and requires banks to continuously work towards improving the standards of practice and service in the banking industry



# 2004–05 ANNUAL REPORT

1 APRIL 2004 TO 31 MARCH 2005

2 Our key commitments to you 2.1 We will: (a) continuously work towards improving the standards of practice and service in the banking industry; (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 from the banker and customer relationship in relation to banking services; (d) provide information to you in plain language; and (e) monitor external developments relating to banking codes of practice, legislative changes and related issues. 2.2 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. 2.3 In meeting our key commitments to you, we will have regard to our prudential obligations. 3 Compliance with laws 3.1 We will comply with all relevant laws relating to banking services, including those concerning: (a) consumer credit products; (b) other financial products and services; (c) privacy; and (d) discrimination. 3.2 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). 4 Retention of your rights In addition to your rights under this Code, you retain any rights you may have under Federal laws, especially the Trade Practices Act 1974, the Australian Securities and Investments Commission Act 2001 and Chapter 7 of the Corporations Act 2001, and under State and Territory laws, especially the Uniform Consumer Credit Code and Fair Trading Acts. 5 Review of this Code 5.1 We will require the ABA to commission an independent and transparent review of this Code every 3 years or sooner if appropriate, with the review to be conducted in consultation with: (a) banks which adopt this Code; (b) consumer organisations; (c) other interested industry associations; (d) relevant regulatory bodies. We will participate in any such review of this Code of Banking Practice 5 Part B Key commitments 5.3 We will require the ABA to establish, and we will ensure that the views of small business and banking industry representatives on banking issues; and (b) the effectiveness of the Code to ensure that these views are taken into account. 5.4 We will require the ABA to promptly publish a report arising from a review of this Code in hard copy on request; (b) reasons why the Code has been accepted; and (c) quarterly progress reports and recommendations which have been accepted. 6 Elderly customers and customers with disabilities so we will take reasonable measures to ensure that our staff have the training and competency We will ensure that our staff will be trained so that they: (a) can comply with the Code and provide the banking services they are authorised to provide; and (b) have adequate knowledge of the provisions of this Code. 8 Promotion of this Code We will require the ABA to: (a) promote this Code; and (b) clearly make public: (i) which banks

The Code of Banking Practice sets standards of good banking practice and requires banks to continuously work towards improving the standards of practice and service in the banking industry



## **The Code Compliance Monitoring Committee**

The Committee's role is to:

- » Monitor subscribing banks' compliance with the Code of Practice; and
- » Investigate complaints that the Code has been breached.

The Committee fulfils its role by:

- » Accepting, investigating and making Determinations on any allegation by any person that the Code has been breached;
- » Requiring banks to complete, on an annual basis, a comprehensive statement addressing all aspects of Code compliance;
- » Undertaking compliance monitoring exercises such as shadow shopping and compliance visits;
- » Liaising with other schemes that have regard to the Code, such as the Banking and Financial Services Ombudsman;
- » Engaging in dialogue with subscribing banks on their obligations under the Code;
- » Encouraging other stakeholders, such as consumer advocates and financial counselling services, to keep the Committee informed of systemic Code issues as they arise; and
- » Working with banks, consumer and business groups to further commitment to and understanding of the Code and to address areas of misunderstanding and uncertainty.

## **The Code**

The Code of Banking Practice is a voluntary code of conduct which sets standards of good banking practice for banks to follow. Once a bank adopts the Code it becomes a binding agreement between the bank and its customers.

Banks' key commitments under the Code include:

- » To continuously work towards improving the standards of practice and service in the banking industry.
- » To promote better informed decisions about banking services.
- » To provide general information about the rights and obligations that arise out of the banker and customer relationship.
- » To act fairly and reasonably and in a consistent and ethical manner.

In addition to key commitments and general obligations, the Code also contains principles of conduct covering:

- » Account terms and conditions;
- » Privacy;
- » Direct debits;
- » Guarantees; and
- » The provision of credit.

# The First Year

The Code Compliance Monitoring Committee commenced operation on 1 April 2004.

In its first year, the Committee received nineteen written complaints, covering a range of different issues such as financial hardship, provision of terms and conditions and debt collection.

The most frequent complaint was about how banks dealt with customers in financial hardship.

Subscribing banks submitted their first annual compliance statements to the Committee.

The Committee issued the first of its electronic bulletins to subscribing banks, addressing the issue of financial hardship.

Planning began for a compliance exercise on financial hardship in the next financial year, as a result of complaints and general feedback under clause 25.2 of the Code.

## The Committee Members



The current Committee.

Standing left to right

David Tennant,  
Barbara Schade, and  
Anthony Blunn.

Russell Rechner, seated.

The inaugural members of the Committee were:

1. Anthony Blunn AO  
*Independent chairman*
2. David Tennant  
*Consumer and small business representative*
3. Ian Gilbert  
*Member with relevant experience  
at a senior level in retail banking.*

Russell Rechner replaced Ian Gilbert on 14 September 2004. Ian Gilbert had acted as a temporary member pending Mr Rechner's appointment.

### About the Members

**A S (Tony) Blunn LL.B AO** is the Chairman of the CCMC. Prior to his retirement in 2000 Mr Blunn held many senior appointments in the Commonwealth Public Service across a range of departments including Finance and Business and Consumer Affairs and was the Secretary (CEO) of some six departments retiring as Secretary of the Attorney – General's Department. Since retiring Mr Blunn has undertaken a number of consultancies for Commonwealth Ministers, Departments and Agencies and is chair of a number of boards.

**David Tennant BA/LL.B** of Care Financial Counselling is the consumer and small business representative on the Committee. As well as being Director of Care, Mr Tennant is a past chair of the Consumers' Federation of Australia and has a number of consumer representative roles, including the ACT Government's Fair Trading Advisory Committee.

**Russell Rechner B.Ec. (Hons) FCPA, FCIS** is the member of the Committee with relevant experience at a senior level in retail banking. He retired in 2002 as Director of Major Projects, ANZ Bank and was previously a Senior General Manager of the bank. Mr Rechner has also held senior management positions in retailing. His areas of expertise include information technology, risk and compliance and most aspects of retail banking.

### Staff

The activities of the Committee are supported by the Executive Officer, Barbara Schade.

## The Year in Overview

During the year the Committee has concentrated on reviewing individual complaints, achieving an understanding of the environment and operation of the Code and on establishing appropriate procedures and systems.

The establishment of the Code Compliance Monitoring Committee on 1 April 2004 represents a significant addition to the banking landscape. The Committee was established under a unique section of the new Code of Banking Practice, which requires the creation of a body specifically charged with monitoring compliance with the Code.

While individual complaints about compliance with the Code may also be considered by the Banking and Financial Services Ombudsman, the Committee is able to also look at broader issues of compliance. The Committee has established a process for subscribing banks to report on their compliance with all aspects of the Code, and is able to initiate compliance monitoring reviews as it sees fit.

Whilst the Code does not explicitly use the word “independent” in describing the role of the Committee, the independence of the Committee is implicit in the Code’s description of the establishment, role and operations of the Committee. The Committee acts independently in discharging its role. That independence is essential if the Code is to be taken seriously and therefore be effective in achieving its purpose.

As a result of investigating individual complaints the Committee has formed the view that the hardship provisions of the Code are an area of some concern and confusion, and the Committee will be undertaking a review of bank compliance with clause 25.2 of the Code in the next financial year.

The Committee is conscious of the need to process complaints as quickly as possible. That said, and partly because there are no individual compensation issues which flow from a finding, the Committee has adopted the view that getting it right is more important than getting it early, particularly as the “jurisprudence” surrounding the Code is developing.

The responses to our first annual compliance statements demonstrated that the subscribing banks take their Code responsibilities seriously, and compliance across the Code was gratifyingly high. Banks have shown a willingness to self report on areas in which they had not achieved total compliance. The Committee will continue to monitor and work with these banks to ensure that Code obligations are met.

Thus far, the Committee’s primary contact with banks has been in the course of investigating individual complaints. The Committee recognises the need to establish a program of contact meetings with all interested parties to regularise contact and enhance accessibility to the Committee. The Committee sees its role as not only dealing with breaches, but also in giving guidance to subscribing banks on how best to meet their obligations under the Code.

The Code of Banking Practice includes a general undertaking by subscribing banks to continuously work towards improving the standards of practice and service in the banking industry. To assist banks in meeting this obligation, the Committee plans to use the general information obtained from compliance activities to give subscribing banks regular feedback on industry best practice.

The activities of the past twelve months have provided a strong foundation on which the Committee will expand its compliance monitoring activities in the next year.

# Complaints

From 1 April 2004 to 31 March 2005 the Committee received 19 written complaints alleging a breach or breaches of the Code of Banking Practice. Seven of those complaints were referred to the Committee by a financial counsellor or consumer lawyer on behalf of a client.

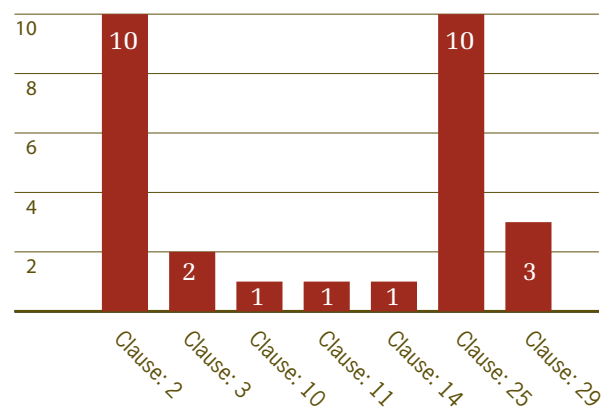
Of the ten complaints that were closed during this period:

- » Five complaints predated the bank's adoption of the Code.
- » Two complaints were simple queries that did not require a Determination.
- » In one complaint the customer was not identified and the Committee had insufficient information to make a Determination on the case.
- » One complaint was about a financial service provider that is not a bank.
- » The Committee issued a Determination in one case, finding that a breach of the Code had not occurred.

The remaining nine complaints remained open at the end of March 2005.

## Areas of complaint

The complaints that were received during the period and did not predate the Code, related or directly referred to the following clauses of the Code. Note that a complaint may relate or refer to more than one clause of the Code:



The most common complaint was an allegation that a bank had acted in breach of clauses 2.2 and 25.2 of the Code.

The Committee plans to establish an Inquiry in the 2005/2006 financial year to examine bank compliance with clause 25.2 of the Code.

## Remedies and Sanctions

Where there is a breach of the Code, the Committee can require a bank to take remedial action or give an undertaking as to future conduct. A bank can be publicly named if it fails to take the action prescribed by the Committee, or where the breach is of a serious or systemic nature.

## Complaint flow chart

A complaint to the CCMC is received and assessed by the Executive Officer



If the Committee cannot look at the matter raised, for example where the complaint predates the Code, the customer is advised and the case is closed



If the Committee can look at the matter, the complaint is referred to the bank



The bank is asked to respond to the complaint



The complaint and the bank response are reviewed by the Executive Officer



The complaint is referred to the Members of the Committee for review



The Committee meets to consider the complaint



A Notice of Proposed Determination is issued to the complainant and the bank



Any submissions in response to the Notice are reviewed by the Committee



A Determination is issued to the complainant and the bank



The Committee liaises with the bank in respect of any remedial action that may be required



The case is closed





## Annual compliance statements

The Committee decided to continue the practice, established by the Australian Securities and Investments Commission under the 1993 Code of Banking Practice, of requiring banks to complete a written, annual compliance statement.

Subscribing banks were given the opportunity to comment on the proposed compliance statement during the drafting stage.

In July 2004, the first annual compliance statement was sent to subscribing banks for completion.

The compliance statement requires banks to answer questions and provide information about compliance across all sections of the Code. For example, each bank is required to:

- » Explain its policy for enhancing access to transaction services by elderly customers and customers with a disability, as required by clause 6 of the Code,
- » Describe the bank's process for dealing with a customer in financial difficulties under clause 25.2; and
- » Provide a copy of the bank's guidelines regarding family law proceedings as required by clause 30 of the Code.

Banks are also asked to provide the Committee with data on the number of Code complaints received and the number of complaints which resulted in a finding of a breach or breaches of the Code, including any alleged Code breaches which are referred to the Banking and Financial Services Ombudsman.

The annual compliance statement gives the Committee a useful snapshot of compliance across all banks and shows the different ways in which subscribing banks meet their Code obligations. The compliance statement also gives banks the opportunity to self report on areas in which they may not yet be fully Code compliant.

Information provided in the compliance statements is used by the Committee to inform its other compliance monitoring activities.

### **Website**

The Committee has established a website to provide information about the operations of the Committee and to allow complainants to lodge complaints electronically. Complainants can complete and submit the online complaint form, or contact the Executive Officer by email.

The Committee website is at:  
[bankcodecompliance.org](http://bankcodecompliance.org)

### **Electronic bulletin to banks**

In November 2004 the Committee sent out its first electronic bulletin to subscribing banks. The bulletin dealt primarily with compliance with clause 25.2 of the Code, which was identified in complaints to the Committee as an area of concern.

In the interests of ensuring that banks are provided with consistent information and advice about the Code from the Committee and the BFSO, the Committee referred the electronic bulletin to the BFSO for comment before its publication.

The Committee plans to issue bulletins on a regular basis.

### **Amendments to the Code**

In May 2004, the Code was modified by the Australian Bankers' Association. Minor amendments were made to clause 28 (Guarantees) and the Definitions section.

The modified Code was adopted separately by subscribing banks, and the list of subscribing banks on page 8 identifies separately the banks' adoption dates for the original 2003 Code and the amendments of 14 May 2004.

## Subscribing banks

### Banks that have subscribed to Code of Banking Practice 2003 as at 31 March 2005

Bank	Commencement Date	Date of Adoption of 14/5/04 amendments re guarantees
Adelaide Bank	12 August 2003	
ANZ	15 August 2003	16 August 2004
Bank of QLD	7 October 2003	6 December 2004
BankSA	12 August 2003	1 June 2004
Citibank	5 April 2004	14 October 2004
CBA	12 August 2003	22 July 2004
HSBC	10 May 2004	5 July 2004
ING	3 November 2003	15 June 2004
NAB	29 August 2003	31 May 2004
St George	12 August 2003	1 June 2004
Suncorp		30 June 2004
Westpac		1 June 2004

## ACCOUNTS

### Code Compliance Monitoring Committee Expenditure for year to 31 March 2005

The accounts of the Code Compliance Monitoring Committee are managed on its behalf by the Banking and Financial Services Ombudsman Limited. These are the Committee's outgoings for the financial year

	<b>2005</b>
	<b>\$</b>
Audit / Accounting	481
Books - Publications	889
Committee member fees	36,749
Entertainment	242
General Expenses	248
Insurance	1,122
Occupancy	7,399
Office Furniture	3,039
Office Supplies	2,845
Photocopier & Facsimile	53
Postage	883
Promotion & Information Expenses	7,113
Salaries & oncosts	88,606
Staff Amenities	409
Staff Training	4,868
Technology Equipment & Development	13,114
Telephone	2,072
Travel	9,026
<b>TOTAL EXPENDITURE</b>	<b>179,158</b>



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## 2006 Highlights

In its second year of operation, the Committee received 38 written complaints about alleged breaches of the Code and issued 9 Determinations.

The Committee held an inquiry into bank compliance with clause 25.2 of the Code, which deals with customers in financial hardship.

Banks completed their second annual compliance statement, as required.

As required by the Code, the Committee was the subject of an independent review of its activities for the first twelve months.

The Committee participated in an information forum for subscribing banks and took part in a number of information fora for financial counsellors and consumer advocates.



# The Role of the Code Compliance Monitoring Committee

The Code Compliance Monitoring Committee was established on 1 April 2004 to monitor and ensure compliance with the Code of Banking Practice.

Under the Code, the Committee is required to:

- Monitor bank compliance with the Code,
- Investigate, and make a determination on, any allegation from any person that a bank has breached the Code; and
- Monitor any other aspects of the Code that are referred to the Committee by the Australian Bankers' Association.

## **Where there is a breach**

If the Committee determines that a bank has breached the Code, the Committee may, for example:

1. Recommend that the bank take action to remedy the breach; and
2. Require the bank to give an undertaking as to future conduct.

If the breach is of a serious or systemic nature, or the bank does not follow the Committee's recommendation to remedy a breach, the Committee may publicly name the bank.

## **Subscribing banks**

Fourteen banks have adopted the Code of Banking Practice. Once adopted, the Code becomes part of the contract between the banks and their customers. See page 13 for a list of the banks that have adopted the Code and their adoption dates.

## The Members



There has been no change to the membership of the Committee.

The members of the Committee are:

1. **Anthony Blunn** AO (*above far left*)  
*Independent chairman*
2. **David Tennant** (*above second from left*)  
*Consumer and small business representative*
3. **Russell Rechner** (*above second from right*)  
*Member with relevant experience at a senior level in retail banking.*

**Barbara Schade** (*above far right*) is the Chief Executive Officer of the CCMC. Ms Schade worked at the Banking and Financial Services Ombudsman for a number of years prior to commencing work for the CCMC.

### About the Members

**A S (Tony) Blunn** LL.B AO is the Chairman of the CCMC. Prior to his retirement in 2000 Mr Blunn held many senior appointments in the Commonwealth Public Service across a range of departments including Finance and Business and Consumer Affairs and was the Secretary (CEO) of some six departments retiring as Secretary of the Attorney – General’s Department. Since retiring Mr Blunn has undertaken a number of consultancies for Commonwealth Ministers, Departments and Agencies and is chair of a number of boards.

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**Russell Rechner** B.Ec. (Hons) FCPA, FCIS is the member of the Committee with relevant experience at a senior level in retail banking. He retired in 2002 as Director of Major Projects, ANZ Bank and was previously a Senior General Manager of the bank. Mr Rechner has also held senior management positions in retailing. His areas of expertise include information technology, risk and compliance and most aspects of retail banking.

## The Year in Overview

The past year has been an eventful one. The Committee established an inquiry into banks' dealings with customers in financial hardship, an issue that dominated complaints to the Committee last year.

An independent review of the Committee's first year of operation was conducted, as required by the Code. The review focussed largely on how well the processes of the Committee had been established, and how well they had operated over the period. As an operational review the exercise was, in the view of the Committee, premature.

The review nevertheless provided an opportunity to ensure that the work that had been done was appropriate, and likely to be effective in terms of achieving the objectives of the Code. It is gratifying that the report of the review provided that assessment and that in the opinion of the reviewer the Committee had operated effectively, and is discharging its obligations under the Code.

The review has given the Committee a good sense of where it should be heading over the next few years. Where the report recommended improvements the Committee took prompt action following its publication, with many of the review's recommendations being implemented immediately.

Some recommendations involved regularising activities that were already established, such as information fora and electronic bulletins for stakeholders. The review identified a need for additional staff, and the Committee is in the process of engaging an additional Case Manager.

The review also identified the Committee's relationship with the Banking and Financial Services Ombudsman (BFSO) as an area requiring elaboration and clarification. The Committee and the BFSO had already begun to address this issue by working together to reach an understanding of how the two schemes can best interact with and complement each other.

In response to a recommendation from our reviewers, the BFSO has appointed an internal CCMC liaison officer, to manage communications between their office and the Committee.

A good example of the complementary nature of the two schemes arose during the Committee's inquiry into how banks deal with customers in financial hardship. Both the Committee and the BFSO had previously issued bulletins on the subject, and prior to publication each scheme consulted the other on its views. As a result, the Committee found that banks had easily assimilated the advice from both schemes as it was consistent and complementary in nature.

The results of the inquiry into clause 25.2 demonstrate that subscribing banks have put considerable effort and resources into ensuring compliance with the Code. The Committee learnt a lot, not only about the subject matter of the review, but also about the structure and operations of the five banks that were reviewed. Questionnaires were sent to the participating banks to allow them to provide feedback on how the inquiry was conducted. We now have a firm understanding of the process on which to build our next compliance inquiry.

Complaints about alleged Code breaches continue to provide the Committee with useful information about current Code issues. This is supplemented by the information provided by consumer advocates through information fora, Code related dispute data provided by BFSO, and the bank's annual compliance statements.

The Committee relies on information from a wide range of sources to identify areas of uncertainty or confusion, and to determine its compliance monitoring activities for the next year.

# Complaints

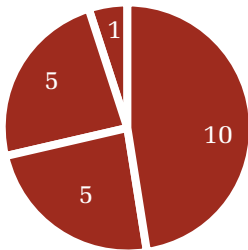
The Committee received 38 new complaints during the year. An additional 9 complaints remained open from the previous year.

## Total Complaints

During the course of the year, 26 cases were closed. 21 cases remained open at the end of the period.

## Open Complaints

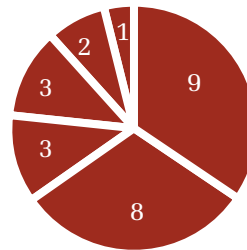
At year's end there were 21 open complaints distributed as follows:



Cases under review by the Committee:	10
Cases referred to the bank and awaiting response:	5
Cases waiting for further information from the customer (or their advocate):	5
Cases provisionally closed:	1

## Closed Complaints

The 26 complaints closed during the year fall into the following categories:



Determinations by the Committee:	9
No response from the Customer:	8
Simple queries:	3
Customer chooses BFSO:	3
Complaint not pursued:	2
Potential inquiry:	1

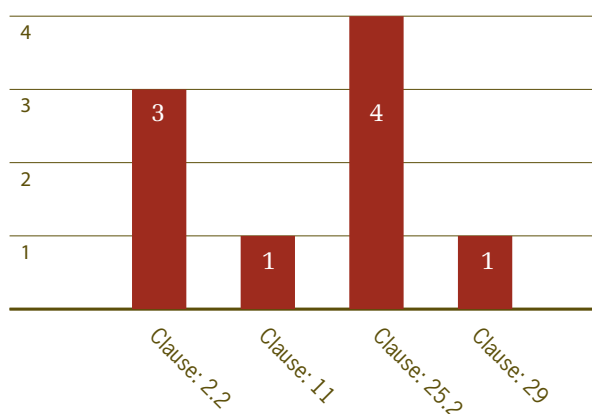
### Determinations

The Committee issued nine Determinations and in three of those Determinations concluded that there had been no breach of the Code by the bank.

Six Determinations were issued where a breach or breaches of the Code were established. The Committee found breaches in respect of the following clauses of the Code:

- Clause 2.2 acting fairly and reasonably and in a consistent and ethical manner
- Clause 11 provision of copies of documents
- Clause 25.2 Dealing with customers in financial hardship
- Clause 29 Compliance with debt collection guidelines

Some complaints involved the breach of more than one clause of the Code. However the number of breaches identified by reference to the clause breached were as follows:



The Committee was of the view that none of the breaches identified this year required the exercise of the naming sanction. Nevertheless, suggestions for rectification were made where appropriate. In future Annual Reports and as the information base expands, the Committee will explore ways to expand on the description of breaches and the action taken.

### Failure to respond to the CCMC and complaints not pursued

#### *Choosing the BFSO*

Failure to respond to the Committee or pursue a complaint can result when a complainant decides instead to refer the matter to the BFSO for consideration of a claim for financial loss. Customers are advised of this option and the contact details of the BFSO when their complaint to the Committee indicates that they may have such a claim, as those claims are not within the remit of this Committee.

A complaint cannot be investigated simultaneously by the BFSO and the CCMC. The customer needs to choose the forum most appropriate to them, and withdraw their complaint from the other forum. Often the Committee is not formally notified when the customer chooses to refer their complaint to the BFSO and the matter lapses for lack of response.

### *Failure to complete the privacy authority*

In order to investigate a complaint, the CEO asks the customer to sign a privacy authority, permitting the Committee to write to the bank and ask it about the circumstances of the alleged breach or breaches. Without a privacy authority, the Committee cannot provide the bank with the customer's details.

If the customer fails to return the signed authority or reply to the Committee, the Committee cannot investigate the individual circumstances and the case is closed.

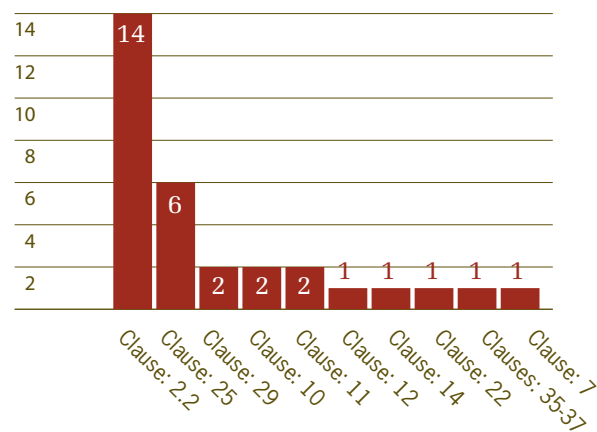
It remains open to the Committee to investigate a generic issue, as opposed to an individual's complaint, where the Committee identifies such an issue as indicating a potential breach of the Code.

### *Simultaneous complaints to the CCMC and BFSO*

In three cases this year, customers lodged claims with the Committee and the BFSO simultaneously. There is no exchange of customer information between the CCMC and BFSO, and the Committee generally only becomes aware of the duplication from the relevant bank. In those three cases the customers decided that the BFSO was the more appropriate forum as their complaint involved a claim for financial loss. The CCMC complaints were withdrawn.

### **Categories of closed complaints**

In two closed cases that were not pursued, there was insufficient information to determine a relevant clause of the Code. Of the remainder, the complaints closed during the year raised potential breaches of the following Code clauses. A number of closed complaints relate or refer to more than one clause of the Code:



# Compliance Monitoring

The Committee monitors bank compliance with the Code in a number of ways including:

1. Inquiries into Code compliance, including bank compliance visits and shadow shopping exercises;
2. Annual compliance statements for subscribing banks;
3. Analysis of breach allegations raised in complaints to the Committee;
4. Consideration of Code issues raised with the Committee in information fora;
5. Collection of general information regarding Code breaches from the Banking and Financial Services Ombudsman;
6. Encouraging banks to self report systemic Code breaches as they arise; and
7. Consideration of issues raised publicly (e.g. in the media) which appear to involve compliance with the Code.

## **Inquiry into compliance with clause 25.2 of the Code**

### *Background*

In July 2005, the Committee established an inquiry into bank compliance with clause 25.2 of the Code.

Clause 25.2 sets out a bank's obligation to a customer in financial difficulties as follows:

*“With your agreement, 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. If, at the time, the hardship variation provisions of the Uniform Consumer Credit Code could apply to your circumstances, we will inform you about them”.*

Clause 25.2 was the subject of the Committee's first electronic bulletin to banks in November 2004. The Committee was also consulted when the Banking and Financial Services Ombudsman issued a bulletin on customers in financial difficulty in June 2005.

### *Methodology*

The inquiry involved detailed compliance visits to five banks, representing large, medium and smaller members of the banking industry.

While the focus of the inquiry was on clause 25.2, regard was also had to the following related clauses of the Code:

- Clause 2.2 – acting fairly and reasonably
- Clause 7 – Staff training and competency
- Clause 10 - Terms and Conditions
- Clause 29 – Debt Collection

The Committee engaged Mr Roger Knight to assist with the inquiry. Mr Knight was formerly Head of Compliance at the Banking Code Standards Board in the UK. The Banking Code Standards Board monitors compliance with the UK Code of Banking Practice.

The compliance visits were undertaken by Mr Knight and Ms Barbara Schade, CEO of the CCMC. Participating banks also provided extensive documentation for review by the inquiry. Participating banks were advised at the conclusion of the compliance visit of any areas of concern or of apparent non-compliance.

### *Findings*

The Committee was pleased to find that generally the banks that took part in the inquiry were committed to meeting their obligations under clause 25.2 and have specific processes for dealing with customers in financial difficulty. Concerns raised during the course of the enquiry were addressed with the banks involved.

The Committee issued reports to each of the participating banks on their level of compliance with the relevant clauses of the Code. A general report of the inquiry was issued to all banks and released to the media.

In its general report, the Committee reported on practices observed by some of the banks that reflect the spirit of the Code, and meet the banks' key Code commitment of working towards improving standards of practice in the industry.

The report of the Committee's findings is available on the CCMC website: [www.bankcodecompliance.org](http://www.bankcodecompliance.org).



## Review of the CCMC

Under clause 34(g) of the Code, Banks require the Committee to arrange an independent review of its activities and lodge a report of the review with the Australian Securities and Investments Commission (ASIC).

The Committee commissioned the Foundation for Effective Markets and Governance (FEMAG) to undertake the review in mid 2005. FEMAG is affiliated with the Australian National University in Canberra.

FEMAG consulted widely with stakeholders such as consumer groups, Government and banks. During the review, a public invitation to make submissions was displayed on the CCMC website together with the terms of reference for the review. FEMAG issued the final report of its review in October 2005.

### **Recommendations**

The review makes 21 recommendations regarding the activities, processes and structure of the Committee. The recommendations relate to such matters as:

- The Committee's communications with stakeholders;
- Review of the Committee's website;
- Publication of the Committee's procedures;
- Resourcing of the Committee's activities;
- Development of a business plan; and
- The Committee's relationship with the Banking and Financial Services Ombudsman.

Many of the review's recommendations have already been implemented by the Committee.

In an appendix to the report, FEMAG made a number of suggestions about matters which were raised by stakeholders but were outside the scope of the review.

The full FEMAG report is available on the CCMC website: [www.bankcodecompliance.org](http://www.bankcodecompliance.org).

## Relationship with the Banking and Financial Services Ombudsman

The Committee's relationship with the BFSO is important to the successful conduct of the Committee's duties and activities under the Code.

Most of the support services needed by the Committee are provided by the BFSO. For example, a number of the Committee's operational requirements such as Information Technology and Finance are contracted out to the BFSO.

General principles of understanding between the two schemes have been discussed, and protocols are being developed to govern the overlap of functions and jurisdictions of the Committee and the BFSO.

The Committee looks forward to continuing what it regards as a mutually beneficial relationship with the BFSO in years to come.

## Communication with Stakeholders

The Committee plans to participate in a number of consumer fora and meetings across Australia in the coming year.

### Bank forum

On 30 August 2005 the Committee held an information forum in Sydney, organised by the Australian Bankers Association. The forum was attended by compliance and legal staff from all subscribing banks.

The forum gave the Committee Members an opportunity to introduce themselves to the banking industry and to talk about how the Committee sees its role in monitoring compliance with the Code. It also provided valuable feedback on operational issues.

The reaction to the forum was universally positive, and the Committee will hold a similar forum in May 2006.

### Consumer group fora

Mr Tennant and the CEO attended two fora for consumer advocates during the year, one in Melbourne and one in Sydney.

These present an excellent opportunity not only for the Committee to provide information about its activities, but for consumer advocates to inform the Committee about current issues regarding Code compliance.

The Committee sees these fora as a valuable source of information about issues which may not otherwise come to its attention.

On a more informal basis, the CEO attended a network meeting of rural financial counsellors in Victoria to discuss general issues arising out of the Code. In respect of more specific issues, the financial counsellors were advised of the process for making formal complaints.

### Electronic bulletins

The Committee issued its second electronic bulletin in February 2006 to banks, consumer groups and other stakeholders such as the BFSO and ASIC. The bulletin is available on the CCMC website: [www.bankcodecompliance.org](http://www.bankcodecompliance.org).

Electronic bulletins are intended to provide information to interested parties on matters such as the compliance activities of the Committee, information fora and interpretations of the Code.

In response to recommendations arising out of the review of the CCMC, bulletins will be issued on a quarterly basis to a wide range of stakeholders. They will also be available on the CCMC website.

### Website

The CCMC website provides the public with information about the Code, the Committee and subscribing banks. The website also provides contact details to enable the public to make email, written or telephone enquiries to the CEO. Complaints can be lodged via the electronic complaints form on the website.

The reports of the CCMC review and the inquiry into dealing with customers in financial hardship are accessible on the publications page of the website. In response to a review recommendation, the procedures of the CCMC are also now available to download from the website.

The CCMC review recommends that the Committee seek advice on improvements to the operation and effectiveness of its website. The Committee is in the process of obtaining such advice.

## Subscribing banks

### Banks that have subscribed to Code of Banking Practice 2003 as at 31 March 2006

Bank	Commencement Date	Date of Adoption of 14/5/04 amendments re guarantees
Adelaide Bank	12 August 2003	4 April 2005
ANZ	15 August 2003	16 August 2004
Bank of QLD	7 October 2003	6 December 2004
BankSA	12 August 2003	1 June 2004
BankWest		1 April 2005
Bendigo Bank		1 July 2005
Citibank	5 April 2004	14 October 2004
CBA	12 August 2003	22 July 2004
HSBC	10 May 2004	5 July 2004
ING	3 November 2003	15 June 2004
NAB	29 August 2003	31 May 2004
St George	12 August 2003	1 June 2004
Suncorp		30 June 2004
Westpac		1 June 2004

## ACCOUNTS

### Code Compliance Monitoring Committee Expenditure for year to 31 March 2006

The accounts of the Code Compliance Monitoring Committee are managed on its behalf by the Banking and Financial Services Ombudsman Limited. These are the Committee's outgoings for the financial year

	<b>2006</b>
	<b>\$</b>
Audit & Accounting	500
Books - Publications	585
Committee member fees	75,147
Conferences, Meetings & Seminars	889
Consultants	69,360
Entertainment	881
General Expenses	75
Insurance	4,374
Occupancy	9,146
Office Furniture	475
Office Supplies	1,108
Photocopier & Facsimile	64
Postage	790
Promotion & Information Expenses	3,418
Salaries & oncosts	97,764
Staff Amenities	670
Staff Recruitment	1,379
Staff Training	5,050
Technology Equipment & Development	8,825
Telephone	1,607
Travel	28,555
<b>TOTAL EXPENDITURE</b>	<b>310,662</b>

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