

CODE OF BANKING PRACTICE

The Code of Banking Practice (the Code) is a voluntary code of conduct which sets standards of good banking practice for subscribing banks to follow when dealing with persons who are, or who may become, an individual or small business customer of the bank or their guarantor. The Code is published by the Australian Bankers' Association (the ABA). A copy can be downloaded from the ABA's website at this address: www.bankers.asn.au/Industry-Standards/ABAs-Code-of-Banking-Practice.

Those banks that have subscribed to the Code (the banks) have made a commitment to work continuously to improve the standards of practice and service in the banking industry, promote better informed decisions about their banking services and act fairly and reasonably in delivering those services.

Given the market share held by the banks, the principles and obligations set out in the Code apply to the majority of banking services delivered to individuals and small businesses across Australia. The Code forms an important part of the broader national consumer protection framework and the financial services regulatory system.

CODE SUBSCRIBING BANKS

AMP Bank Limited

Australia and New Zealand Banking Group Limited

Bank of Queensland Limited

Bank of Sydney Limited (previously Beirut Hellenic Bank Ltd)

Bendigo and Adelaide Bank Limited

Bank of Western Australia Ltd (became a subsidiary of Commonwealth Bank of Australia on 1 October 2012)

Citigroup Pty Limited

Commonwealth Bank of Australia

ING Bank (Australia) Limited

HSBC Bank Australia Limited

National Australia Bank Limited

Rabobank Australia Limited

Suncorp-Metway Limited

Westpac Banking Corporation (including its subsidiaries St George Bank, Bank of Melbourne and Bank SA)

ABOUT THE COMMITTEE

The Code Compliance Monitoring Committee (the CCMC) is an independent compliance monitoring body established under clause 34 of the 2004 Code of Banking Practice.

CCMC VISION

The CCMC's vision is to promote compliance with the Code and thereby contribute to the improvement of standards of practice and service by banks.

PRINCIPLES

To achieve its vision, the CCMC's work is based on five key principles:

1. Independence in its operations, governance and decision making.
2. Responsibility in undertaking its functions, for the benefit of both the self regulatory scheme of the banking industry and the broader regulatory environment in which the banks operate.
3. Accountability and Transparency in its processes, reporting, communications and engagement with stakeholders.
4. Interdependence including the establishment of strategic working partnerships and a strong and reputable brand.
5. Accessibility to its code monitoring and investigations services.

The CCMC adopts a collaborative approach to working with all stakeholders to achieve compliant outcomes and continuously improve industry standards.

KEY FUNCTIONS

The key functions of the CCMC are set out in the Code and include:

- investigating and determining allegations from any person that a bank has breached the Code;
- monitoring banks' compliance with the Code, including initiating its own Inquiries into banks' compliance with the Code; and
- monitoring aspects of the Code referred to the CCMC by the ABA.

In addition, the CCMC engages with stakeholders with a view to ensuring transparency about its compliance activities and influencing positive changes in industry behaviour.

The CCMC's role does not include:

- mediating and resolving individual disputes;
- making declarations on the rights and entitlements of parties; or
- monitoring or investigating alleged breaches by banks that have not subscribed to the Code.

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2012-13 YEAR AT A GLANCE

ABOUT THIS REPORT

A reference in this Report to a bank means a bank listed on the inside front cover which subscribes to the 2004 Code of Banking Practice.

INTRODUCTION OF 2013 CODE OF BANKING PRACTICE

Unless otherwise noted in this Report, references to 'the Code' mean the 2004 Code of Banking Practice.

On 31 January 2013 the ABA published the 2013 version of the Code of Banking Practice which will become effective on 1 February 2014. In this Report this version of the Code will be referred to as 'the revised 2013 Code'.

REPORTING DATA - 15 MONTH REPORTING PERIOD FOR 2012-13

To better align its budgetary and compliance reporting periods with those of its major stakeholders, the CCMC has changed its annual reporting period from a 31 March year end to a 30 June year end. The transition to this revised reporting year cycle took place in 2012-13. This Report, therefore, covers a 15 month period from 1 April 2012 to 30 June 2013.

The 2012-13 data referred to in this Report covers this 15 month period. Unless otherwise stated, where comparisons to prior 12 month periods are made in tables and charts, the 2012-13 figures are based on annualised figures using a 12 month average. For example, banks self reported 9,403 breaches of the Code for the 15 month period. On an annualised basis, this equates to a 12 months average of 7,522 breaches and represents a 30.4% increase from the 5,768 breaches reported in 2011-12.

New Code of Banking Practice and CCMC Mandate

A revised 2013 Code was published by the ABA on 31 January 2013.

The practice standards within that Code become operational from 1 February 2014 (page 7)

A new CCMC Mandate commenced on 1 February 2013, replacing the Constitution (page 7)

Six CCMC Guidance Notes were published by the CCMC to assist the banks and other stakeholders in understanding the CCMC's powers, functions and operations under its new Mandate (page 7)

Compliance monitoring and breach reporting

9,403 self reported breaches, up 30.4% since 2011-12 (page 18)

12 significant code breaches self reported by the banks (page 15)

2,573 breaches reported against Key Commitments and General Obligations, up 2.5% on last year (page 22)

898,000 consumer complaints dealt with by the banks in 2012-13, up 11% (page 25)

88% of all complaints resolved internally by the banks within 5 days (page 25)

270,000 requests for financial difficulty assistance received by the banks in 2012-13, up 5.3% (page 20)

2.3% reduction in granting of financial difficulty assistance (page 20)

Own Motion Inquiries

Two Own Motion Inquiries undertaken, on Guarantees and Chargebacks (page 12)

Investigating

46 new Investigations, which reviewed an aggregate of 84 code breach allegations (page 29)

29 Investigations were closed, including five by Determination or Recommendation (page 29)

12 code breaches were identified (page 29)

Engaging

75 general enquiries about the Code (page 10)

4,019 individual visitors to the CCMC's website (page 11)

14 publications released through the year (page 11)

36 stakeholder engagements (page 10)

29 training sessions conducted for consumers, external dispute resolution staff and banks on the CCMC's operations and the Code obligations (page 11).



CHAIRPERSON'S MESSAGE



Brian Given, PSM
Chairperson

The period under review has seen important milestones in the evolution of the banks' self regulatory scheme established under the Code of Banking Practice.

- Subscribers to the current Code of Banking Practice (2004) have all confirmed their commitment to adoption of the revised 2013 Code by 1 February 2014, which includes substantial new code obligations in relation to Financial Difficulties and Remote Indigenous Communities.
- The banks also endorsed the CCMC's new Mandate which reaffirms the Committee's independent compliance monitoring role and gives greater transparency to its governance arrangements, as well as facilitating the administrative support provided through the Financial Ombudsman Service (FOS).
- One bank which is not currently a subscriber to the 2004 Code is preparing to adopt the revised 2013 Code, while two other banks have indicated they are seriously considering doing likewise.

These developments reflect positively on the effectiveness of the Code as

a self regulatory scheme intended to ensure that principles of fairness and good banking practice are inherent in the dealings between banks and their customers.

The CCMC's role as the independent monitor of the banks' compliance with their code obligations remains of central importance:

- to ensure there is a positive culture of compliance embedded in the banks themselves; and
- to give reassurance to consumers, government, regulatory agencies and other stakeholders that the self regulatory scheme is credible and effective.

The CCMC's compliance monitoring and investigation activities are complementary to the important role FOS plays in providing an external dispute resolution mechanism to deal with customer complaints that are not resolved through the banks' internal dispute resolution systems. Those CCMC activities involve a considerable degree of interaction with the banks' internal audit and compliance functions to elicit information and encourage self reporting, as well as shining a light on individual, systemic or sector wide issues indicating non compliance with code requirements.

As in previous years, the operational details provided in this Annual Report indicate that generally the banks are continuing to improve their self monitoring and reporting of code breaches and customer complaints. On this occasion there has also been an increase in matters reported to the CCMC for investigation.

- There was an understandable focus on the banks' obligations in relation to Financial Difficulty assistance and changes the banks are making in response to regulatory and self

regulatory initiatives.

- The CCMC's Own Motion Inquiry in relation to Guarantees coincided with its investigation of several matters involving Guarantee related issues.

We will be closely assessing however, the impact on our investigative powers of the new limitation on our role in the revised 2013 Code concerning the Key Commitments provisions and the 12 month time limit to lodge a concern with us that a bank has not complied with the Code. We want to ensure that any issues with code compliance can be identified and appropriately considered and that consumers in particular feel they have appropriate access to our services.

It is appropriate that I again acknowledge the continuing support the CCMC has received in the past year from the ABA and FOS, as well as the cooperation of the subscribing banks. Financial counselling organisations and other consumer/small business advocates continue to provide the CCMC with referrals and helpful insights into market place issues from the customer perspective. This has been invaluable to the effectiveness of our code compliance monitoring activities.

By the time this Annual Report is published I will have relinquished my position as Chairperson of the CCMC on 31 October 2013. For a period of over four years it has been a privilege to have played a part in the CCMC's not insignificant contribution to ensuring the objectives of the Code of Banking Practice are realised. I thank all who I have been associated with at the CCMC for their support and in particular, my current Committee colleagues, Sharon Projekt and Gordon Renouf, and our hard working Secretariat led by Dr June Smith.



THE COMMITTEE MEMBERS

Chairperson

Brian Given (PSM)

August 2009 – 31 October 2013

Brian is a lawyer with an extensive career in the NSW Public Service, including more than 20 years in senior executive roles in the Office of Fair Trading where his responsibilities included a strong focus on law enforcement and industry compliance with fair trading principles. Prior to that he worked with the Commonwealth Trade Practices Commission (predecessor to the Australian Competition and Consumer Commission), including two years as NSW Regional Director. During his public sector career Brian held many ministerial appointments including roles as a trustee on the Board of the national Travel Compensation Fund, a trustee of the Financial Counselling Trust Fund and Chair of the Co-operatives Council of NSW.

Brian ended his term of appointment on 31 October 2013.

Consumer and Small Business Representative

Gordon Renouf

Current term July 2012 – July 2014

Gordon is a lawyer and consumer advocate and works as a consultant specialising in consumer policy, legal services, stakeholder engagement and campaign communications.

Industry Representative

Sharon Projekt

Current term

August 2012 – August 2015

Sharon is a lawyer with an extensive background across the Australian retail banking sector in the area of legal advice, compliance and both internal and external dispute resolution.

THE SECRETARIAT

Chief Executive Officer

Dr June Smith

July 2011 – current

Dr June Smith has significant expertise in Corporations law, professional standards, ethics, compliance and regulatory frameworks in the financial services sector. June has a PhD in Law from Victoria University specialising in professional and business ethics and organisational decision making within financial services organisations. She also holds a Bachelor of Arts (Hons) and a Bachelor of Laws degree from the University of Melbourne.

June is assisted by Robert McGregor (Compliance Manager), Ralph Haller-Trost (Investigations Manager), Liam Cronin and Justine Percey (Compliance Analysts).

Committee Meetings

Committee meetings are scheduled each month to consider the work of the Secretariat, to make formal decisions relating to code breach allegations and to plan and direct future activities. In 2012-13 the Committee met on 11 occasions (six meetings in person and five by teleconference).

CHIEF EXECUTIVE OFFICER'S MESSAGE



Dr June Smith
*Chief Executive Officer
Code Compliance Monitoring
Committee*

We have had a busy yet successful year working towards the achievement of the eight key goals set by the Committee in its 2012-13 Annual Work Program. These goals primary related to transition, engagement, governance and continuous improvement of our systems and procedures.

Transition has been a primary theme for us throughout the year. This has included the successful transition of the Committee's financial and reporting year from an April-March cycle, to the more traditional financial year of July to June. We have also transitioned our governance, investigations and monitoring systems and procedures to ensure consistency with the revised powers and functions of the Committee under its new Mandate and have been working with all stakeholders towards successful transition to the revised 2013 Code, which commences full operation on 1 February 2014.

To ensure that the CCMC's operations and procedures under its new Mandate are transparent, accessible and well understood by all stakeholders, we published a series of Guidance Notes and information bulletins on our website to describe the role and responsibilities of the CCMC in plain English and how it investigates allegations made by any person that a bank may not have complied with its code obligations. This work was supported by the development and delivery of a training program for financial counsellors and other consumer advocates, in conjunction with utilities and telecommunications ombudsmen, to unlock the benefits, rights and responsibilities of a Code of Practice as it might apply to service delivery in these

areas. We have received very positive feedback about this program, which we intend to expand in consultation with our partner organisations in 2013-14.

We continued our development and delivery of the Annual Compliance Statement program during the year. This program is our key code monitoring tool. Our program objective is to ensure that this program provides the banks with an effective mechanism for self-assessing their code compliance, monitoring and reporting frameworks, whilst providing the CCMC with robust, accurate data about the levels of code compliance amongst subscribers. Our work in refining this program will continue into 2013-14 as we seek to further understand the regulatory overlap between code obligations and new legislative requirements in credit and privacy law in particular.

As we have undertaken our work program this year, I have been very pleased with the collaboration and consultation we have had with all stakeholders. This engagement has allowed the CCMC to build consensus on issues related to transition and areas where we can work together to improve industry practice, to share our experience of code compliance overall and to also highlight areas of good industry practice and service delivery. Thank you to everyone who has engaged with my team over the reporting period and I look forward to working with all of you in the next year, as we continue transition to the commencement of the revised 2013 Code.



THE 2013 CODE OF BANKING PRACTICE AND CCMC MANDATE

The revised 2013 Code

On 31 January 2013, the ABA published the revised 2013 Code, following an independent review of the 2004 Code. The revised 2013 Code replaces the 2004 Code and introduces a number of new and enhanced obligations for subscribing banks in their dealings with their customers. Significant changes include:

- strengthened financial hardship assistance clauses;
- new clauses covering services provided to customers in remote indigenous communities;
- a commitment that banks will only sell debts to third parties that agree to comply with the ASIC/ACCC Debt Collection Guidelines; and
- a commitment to provide information about 'no-fee' or 'low-fee' accounts to customers where a bank becomes aware the customer has a Commonwealth concession card.

The obligations under the 2004 Code remain in force until a subscribing Bank adopts the revised 2013 Code or 1 February 2014, whichever comes first. Individual and small business customers can continue to report concerns to the CCMC, if they feel that their bank has not met its obligations under the 2004 Code.

A copy of the revised 2013 Code, along with a comparison to the obligations under the 2004 Code, can be found on the ABA website at: www.bankers.asn.au.

The CCMC Mandate

Concurrent with the development of the revised 2013 Code, the CCMC's Mandate was developed by the ABA and endorsed by the banks. It outlines the CCMC's operations, powers and functions and replaces the Constitution of the Code Compliance Monitoring Committee Association.

The Mandate became effective on 1 February 2013 and the CCMC has operated under its governance framework since that date.

The Mandate, together with the revised 2013 Code reconfirms and reinforces the independence of the CCMC in discharging its compliance monitoring role, as well as giving its governance arrangements greater transparency and clarity. It does not expand the powers of the CCMC in relation to its investigation of alleged breaches of the Code, but it does give the CCMC more discretion in deciding what matters to pursue or discontinue and greater flexibility to publicly name a bank for serious or continuing breaches of code obligations.

With the introduction of the Mandate, the CCMC developed a 'Mandate Transition' work program which identified a number of procedures requiring development or modification. In the development of these procedures the CCMC has consulted with the ABA, FOS and subscribing banks.

The CCMC has developed a fact sheet to provide information about its role and the Mandate. A copy of the CCMC Fact Sheet can be found on the CCMC's website.

CCMC Guidance Notes

Clause 1.4 of the Mandate requires the CCMC to advise code subscribers of new or amended operating procedures prior to these procedures taking effect.

In consultation with the ABA and FOS, the CCMC developed six Guidance Notes in the reporting period. These Guidance Notes ensure stakeholders are aware of the processes and procedures of the CCMC and how they may be applied when monitoring compliance with the code and investigating allegations of code breaches. Importantly, the six Guidance Notes developed to date cover the following areas:

- 1 Monitoring** - the CCMC's monitoring programs such as the ACS and Own Motion Inquiries;
- 2 Discretion** - when the CCMC may or may not conduct or continue to conduct a compliance investigation;
- 3 The '12 month rule'** - where the events giving rise to the allegation were, or could have reasonably been known within 12 months of the allegation being made;
- 4 Rules of evidence** - describing the CCMC's likely approach to evidence and previous CCMC Determinations;
- 5 Concurrent forums** - where a matter is being considered by another forum, for example FOS or a Court; and
- 6 Failure to respond** - describing the CCMC's likely approach where the person making an allegation does not respond to the CCMC, withdraws their allegation or requests that the CCMC re-opens a closed investigation.

The Guidance Notes are available on the CCMC's website.

Transition to the revised 2013 Code

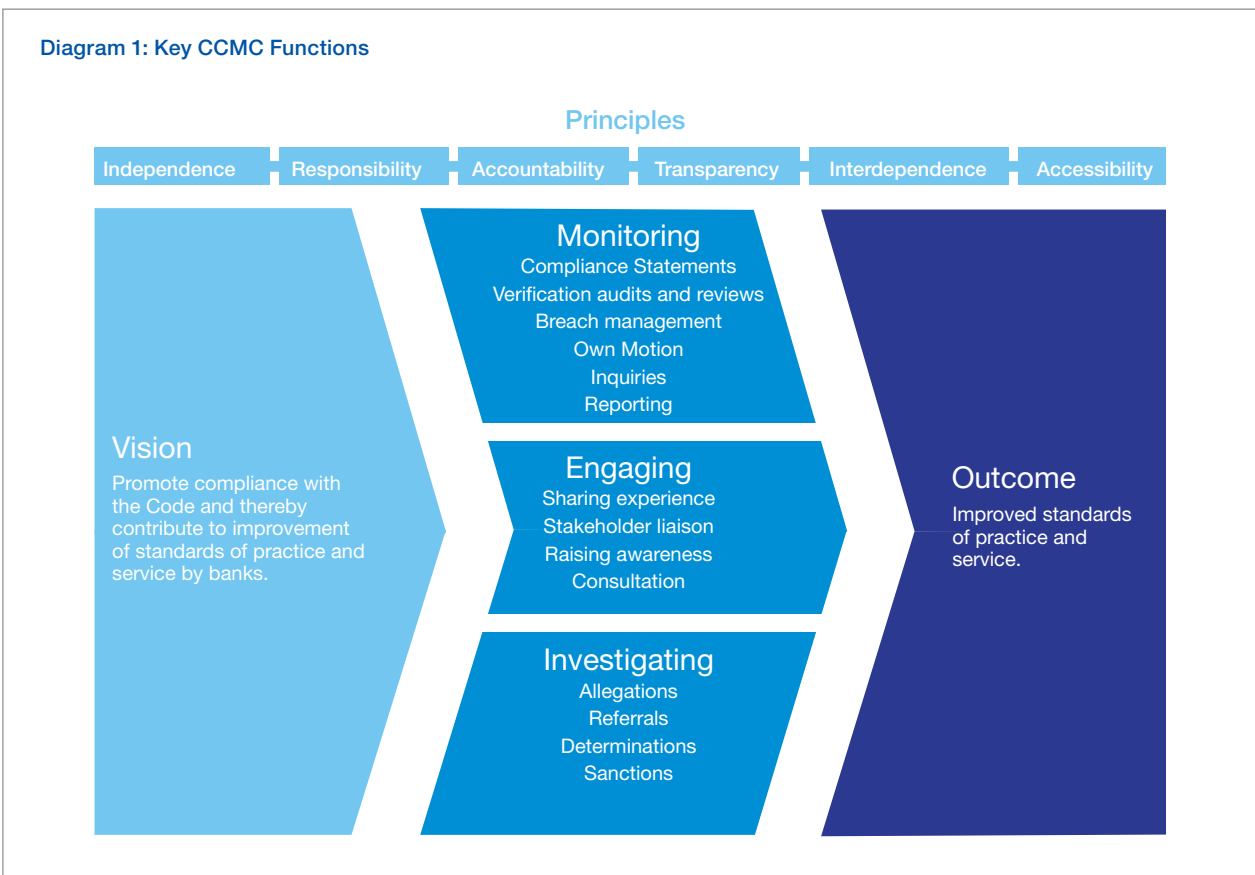
The CCMC has identified a number of code compliance issues that it believes banks should consider when transitioning to the revised 2013 Code. These are summarised in Table 1 below, together with suggested action steps:

Table 1: Checklist to Transition

No.	Issue	Comment
1	Guarantees	Banks should assess the prominence and effectiveness of their disclosure of information and warnings under clause 31.4 when transitioning to the revised 2013 Code.
2	Chargebacks	Banks must ensure that call centre staff provide information to customers which is both compliant with the Code and the bank's own Terms and Conditions.
3	Terms and Conditions	Banks must ensure that Terms and Conditions documents issued to customers accurately reflect the Code and regulatory obligations applicable at the time of issue. The CCMC recognises that this is a challenge in the current environment of regulatory change.
4	Privacy and Confidentiality	The majority of self reported Privacy and Confidentiality breaches are caused by human error. With changes to the Australian Privacy Principles, banks must ensure they have systems, procedures and training in place to minimise both the occurrence and impact of these errors.
5	Financial Difficulty: appointed representatives	Appointed representatives and financial counsellors play an important role in helping consumers in financial difficulty. Banks should have procedures in place to effectively work with these representatives once appointed.
6	Financial Difficulty: decisions in writing	The revised 2013 Code requires written confirmation of decisions to alter repayment terms. Banks should have regard to guidance issued by the CCMC, the ABA and regulators when defining the circumstances where this confirmation is required.
7	Training	General awareness of the changes to the Code and how the obligations apply to specific functions should be incorporated into staff training and induction programs. We encourage code content to also be included in specific training modules about financial products policies and procedures.
8	Joint Debtors	An emerging issue concerns credit being provided to joint debtors when the second debtor derives no benefit from the credit. The Code's Guarantee provisions may be more applicable. Banks must be satisfied that all joint borrowers have a beneficial interest before providing a credit facility.
9	IT Systems	A number of the significant breaches self reported to the CCMC in 2012-13 arose from IT failures. Banks should take steps to ensure changes to systems are adequately tested and do not have an unintentional impact on consumers or compliance with the Code.
10	Breach Reporting	The transition to the revised 2013 Code will require banks to record and report breaches under both Codes during 2013-14. Banks should ensure their reporting systems are effective.
11	Significant Breach Reporting	Banks should ensure that an assessment of a significant breach of the law includes consideration of whether a significant breach of the Code has also occurred.

CCMC operations

The CCMC's key functions are detailed in the inside front cover of this Report and can be grouped into three main categories of Monitoring, Investigating and Engaging. Diagram 1 below illustrates the inter-relationship of these functions and the key activities that underpin them.



The 2012-13 results and outcomes achieved in undertaking these key functions are outlined in the following pages.

ENGAGING WITH STAKEHOLDERS

The CCMC's stakeholder engagement program promotes the transparency of the CCMC's operations and code compliance activities. The program also assists the CCMC to share its experiences of code compliance and to influence positive changes in industry behaviour.

During the reporting period, the CCMC maintained and enhanced the program it had developed in 2011-12, to improve and broaden its dialogue with its key stakeholders, including representatives of consumers and small business, the banks, and other bodies such as ASIC, the ABA and FOS.

Representatives of consumers and small businesses

Consumer advocates

During the reporting period, the CCMC met with eight financial counselling and consumer advocate organisations to discuss their experiences of dealing with banks. In addition we provided code training to the Consumer Action Law Centre and to financial counsellors enrolled in the Financial Consumer Rights Council's professional development program and its Diploma program run through Victoria University. Together with the Telecommunications Industry Ombudsman and the Energy and Water Ombudsman of Victoria we also developed and launched a 'Code Tool Kit' which we presented to Victorian consumer representatives as well as participants at the Financial Counsellors Australia's 2013 annual national conference in Sydney. We further supplemented these modules with regular training and presentations to FOS staff on code obligations and the CCMC's functions.

The experience of financial counsellors and consumer advocates in dealing with banks allows the CCMC to identify potential areas of risk in code compliance and incorporate these potential risks into our monitoring activity. In conducting our monitoring, we seek the views of consumer advocates regarding the scope of our Own Motion Inquiries to ensure that it encompasses appropriate areas of concern.

When conducting our two Inquiries in 2012-13, we sought information from financial counsellors and consumer advocates regarding the specific topics being reviewed. This included both the number and nature of cases they had dealt with. The information we received

allowed us to compare the banks' responses with consumer experiences and to make recommendations which would have a positive outcome on overall compliance with the Code.

Enquiries from Consumers

The CCMC received 75 enquiries from consumers during the reporting period. These enquiries generally related to the standards that a consumer could expect from their bank under the Code. While in some cases it was appropriate to refer the consumer to FOS, other enquiries resulted in the CCMC undertaking Investigations.

FCA Conference 2013

Dr June Smith and Ralph Haller-Trost attended the External Dispute Resolution Day at the Financial Counselling Australia Conference in Sydney in May 2013. The conference provided an important opportunity to discuss code compliance issues with financial counsellors, to understand recent consumer experience of banking practice and to co-present our 'Code Tool Kit' with the Telecommunications Industry Ombudsman.

Small Business

The CCMC has been developing its engagement strategy with representatives of small businesses. During the reporting period, letters of introduction were sent to the Federal and State Small Business Commissioners, outlining the role and function of the CCMC. As a result of these letters, we have held discussions with a number of State Commissioners. Robert McGregor also attended the National Small Business Forum in Brisbane, arranged by the Council of Small Businesses of Australia (COSBOA).

The ABA, FOS and ASIC

Clause 1.4 of the CCMC's Mandate requires that we consult with both the ABA and FOS when setting or amending operating procedures. We have met with both organisations to discuss the Guidance Notes we have published and matters arising from our code compliance activities (see Page 7).

Clause 1.7 of the Mandate allows the CCMC to enter into a Memorandum of Understanding (MOU) with FOS. The purpose of this MOU is to facilitate referrals of an allegation that a bank has breached the Code and the exchange of information between FOS and the CCMC relevant to the CCMC's functions. During the reporting period, we commenced discussions with FOS about the appropriate exchange of information and referrals.

In addition, the CCMC Secretariat has provided 23 training sessions over the reporting period to FOS staff to raise their awareness of code obligations.

The CCMC has a very important relationship with the ABA given its responsibility for the Code. Prior to the introduction of the revised 2013 Code and Mandate, for example, the CCMC met regularly with the ABA to discuss the development and implementation of these documents and the development of the CCMC's Guidance Notes.

The CCMC also maintains a good working relationship with ASIC and during the reporting period met seven times to discuss issues related to the work programs of the CCMC and the Regulator.

Publications

Quarterly Bulletin

The CCMC published five information bulletins in the reporting period, providing an update on the activities of the CCMC and highlighting case studies arising from our Monitoring and Investigation work.

Website

The CCMC's website (www.ccmc.org.au) provides details of the role and functions of the CCMC, information and reports on the CCMC's work program and an online form to raise a concern about a bank's compliance with the Code.

There were 4,019 unique visitors to the website during the reporting period, who viewed a total of 14,780 pages. In addition, 80% of all allegations of code breaches were received via the website during the reporting period.

We have also completed a review of the website and are currently in the process of updating its content, layout and functionality.

Code Subscribers

Bank Forums

Each year, the CCMC host a Forum with banks to discuss code related matters. The 2012 Forum was held in Sydney in September 2012 and focussed primarily with the transition to the revised 2013 Code and the interpretation of the CCMC's powers and functions under the Mandate.

Following the ABA's publication of the 2013 revised Code and the CCMC Mandate, the CCMC held an additional Forum, again in Sydney, in June 2013. This gave the CCMC and banks a further opportunity to discuss transition to the revised 2013 Code, areas of potential guidance from the CCMC about its operations and to better understand the challenges faced by the banks in their transition programs.

Quarterly stakeholder liaison group

The CCMC held five quarterly liaison teleconferences with bank representatives throughout the reporting period. These teleconferences build on the annual Forum and allow the CCMC to share information about the progress of the CCMC's work program. It also facilitates cross bank discussion of code related issues.

Bank Training

At the request of a bank, the CCMC provided code training to a wide selection of staff from the bank's Risk Division. The CCMC welcomes any further invitations from stakeholders to provide this service.

MONITORING CODE COMPLIANCE

The CCMC conducts a compliance monitoring program that reflects the objectives of the Code. This program includes conducting Own Motion Inquiries and the Annual Compliance Statement (ACS) program.

Own Motion Inquiries

Clause 34 (e) of the Code empowers the CCMC to conduct Own Motion Inquiries into banks' compliance with the Code, for the purpose of monitoring compliance with a particular requirement or requirements of the Code. In conducting such Inquiries, the CCMC seeks to understand:

- the effectiveness of internal code compliance programs within a bank or banks;
- the levels of compliance with the Code's obligations; and
- areas of good industry practice that can be shared with other stakeholders.

The CCMC identifies areas of inquiry using a number of mechanisms. The CCMC uses a risk based analysis, including a review of its ACS and other data to identify areas of emerging risk. The CCMC also discusses possible industry based inquiries with external stakeholders. The CCMC may also consider allegations received from consumers that a subscribing bank or banks may have breached the Code, issues identified by ASIC or FOS or media reports when making this assessment.

Under clause 5 of its Mandate, the CCMC is able to use a range of investigative and monitoring techniques when conducting Inquiries. These are:

- making requests for information from subscribing banks;
- undertaking compliance visits to the premises of subscribing banks;
- seeking consultation and feedback from consumer advocates about their clients' experiences of code compliance;

- market research activities such as mystery or shadow shopping, surveys and forums; and
- engaging external experts.

Before publishing its final report on the outcomes of an Inquiry, the CCMC discusses its proposed findings with the bank or banks. It also tests the findings of a general inquiry across the industry with a select group of consumer advocates. In the case of an inquiry into one bank's compliance, the CCMC will monitor a banks' progress in rectifying any identified issues with the aim of ensuring improved compliance with the Code and improved customer outcomes.

The purpose of these reports is to share our experience, encourage and influence enhanced industry practice where areas for improvement are identified and to highlight good industry practice where found. All reports are published on a de-identified basis.

Inquiry into pre contractual obligations in relation to guarantees (clause 28)

Clause 28 of the Code sets out a range of prescriptive pre-contractual obligations that banks must provide to prospective guarantors prior to the execution of a guarantee. The obligations aim is to ensure there is informed decision making by the prospective guarantor prior to entering into a guarantee.

The obligations cover four areas under clauses 28.3 to 28.6 of the Code associated with pre-contractual disclosure by banks to the prospective guarantor of a credit facility, including:

- the provision of information, notices and warnings about the rights and responsibilities of potential guarantors and the risks associated with guarantees;

- the provision of information and relevant documentation regarding the financial position of the borrower;
- the consideration of this information by the prospective guarantor; and
- the execution or signing of the guarantee.

The CCMC's Inquiry assessed how well banks comply with these four pre-contractual disclosure obligations. The scope of the Inquiry included the gathering of survey data from banks and consumer advocates, the review of CCMC and FOS case investigation outcomes, research of relevant case law and consultation with stakeholders on key issues and findings.

The survey data received from banks indicated that guarantees play a significant role in the provision of credit, both for personal and business purposes. The banks that participated in the Inquiry identified over 16,000 loans that were supported by a guarantee in the sample month of June 2012, with approximately 75% of these in respect of business loans. Two subscribing banks informed us that approximately 7% of their home loans were supported by guarantees. Most subscribing banks advised that they did not accept personal guarantees for personal loans.

The CCMC is generally satisfied that banks have appropriate systems and procedures in place to comply with their code obligations and that these processes are applied and monitored consistently and appropriately in the majority of cases.

The CCMC report also noted that bank practices have evolved under the influence of various developments including the common law, the Code and important changes introduced by the National Consumer Credit Protection Act 2009.

The CCMC identified a number of areas of good industry practice, including conducting interviews with potential guarantors to explain the commitments and risks associated with entering a guarantee and providing additional information about guarantees, such as separate brochures, which explain risk and re-enforce the need for independent legal and financial advice.

The CCMC recognised in its Report, however, that issues have arisen when procedures are not followed and that the consequences for an individual can be considerable.

The Report contains a series of recommendations, including that:

- 1 each bank should assess its code compliance framework when transitioning to the revised 2013 Code and mitigate risk of non compliance with code obligations; and in the Terms and Conditions;
- 2 in doing so, banks should assess the prominence and effectiveness of their disclosure of information and warnings under clause 28.4;
- 3 banks should also ensure that information and notices are provided to prospective guarantors in a timely manner to allow sufficient time for proper consideration of their position and the risks associated with the guarantee;
- 4 prospective guarantors should be given at least 24 hours to consider guarantee documents prior to signing; and
- 5 banks should consider the vulnerability or special needs of a prospective guarantor to ensure they act fairly and reasonably towards each individual customer.

The full Report is available on the CCMC website. (www.ccmc.org.au)

The CCMC will undertake a follow up review of actions by banks in response to the Inquiry recommendations in the 2013-14 ACS, including seeking details of changes to systems and procedures, and the effectiveness of bank transition to the revised 2013 Code.

Chargebacks - follow-up Inquiry

In its 2011 Chargebacks Inquiry Report the CCMC indicated that it would conduct a follow-up mystery shopping exercise, to determine whether the recommendations made in the 2011 Report had been adopted by banks and whether there had been a corresponding improvement in bank practices.

The CCMC published its Report on its overall findings in October 2013. The CCMC found little improvement when compared to the findings of the 2011 Inquiry. Accordingly, the CCMC has provided feedback to the banks on areas of concern and our recommendations.

The CCMC has recommended that the banks:

- 1 ensure contact centre staff are sufficiently trained and monitored on an ongoing basis to provide customers with the information they need to successfully dispute a transaction with the bank and to raise awareness of the availability of information about chargebacks on the bank's website and in the Terms and Conditions;
- 2 provide warnings that chargeback rights may be lost if transaction disputes are not reported within certain time frames when customers contact their bank;
- 3 introduce a prompt sheet to ensure consistent and accurate information is provided to consumers;
- 4 review how transaction dispute forms can be lodged online;
- 5 disclose information about code obligations related to chargebacks. The CCMC notes that no call response acknowledged the code;
- 6 consider reviewing the wording of their monthly credit card statements to add a message associated with chargebacks;
- 7 conduct their own mystery shopping exercises as part of their self monitoring of chargeback obligations; and
- 8 reduce the number of instances where bank staff provide information inconsistent with the banks own Terms and Conditions.

THE ANNUAL COMPLIANCE STATEMENT PROGRAM 2012-13

Each year, the CCMC conducts an Annual Compliance Statement (ACS) program under clause 5 of its Mandate. The banks are required to complete this ACS under clause 34(d) of the Code.

Through its ACS program, the CCMC seeks to understand and assess each bank's:

- compliance with the Code;
- code compliance monitoring frameworks, including code breach identification;
- compliance performance compared to the peer group;
- processes for the remediation of significant breaches and systemic issues related to code compliance; and
- areas of emerging code compliance risk.

The ACS program comprises of a questionnaire to be completed by banks on their code compliance performance and an onsite visit by the CCMC Secretariat.

The questionnaire themes and content are determined annually on a risk based approach by the CCMC in consultation with key stakeholders.

The onsite visit to each bank allows the Secretariat to:

- discuss individual bank's code compliance results arising from their statement response;
- verify information provided within their response; and
- share the CCMC's findings on overall industry compliance rates.

For banks, the ACS program provides the opportunity to self report areas of non compliance with code obligations, share information with the CCMC about areas of good industry practice and to highlight areas that banks have identified for priority attention or follow up.

The 2012-13 ACS provided the CCMC with information from the banks on compliance with code obligations for the 15 month period 1 April 2012 to 30 June 2013.

The key areas of CCMC focus in the 2012-13 ACS were:

- strategies underlying continuous improvement of standards of service, promotion of better disclosure and acting fairly and reasonably towards customers (clause 2);
- Terms and Conditions (clause 10);
- Privacy and Confidentiality (clause 22);
- Financial Difficulty (clause 25); and
- Debt Collection (clause 29).

The CCMC conducted onsite visits with each bank in October 2013 and it is pleasing to again report that banks continue to work co-operatively with the CCMC in providing the ACS information within agreed timeframes.

Results of the ACS program

The ability to identify, report and rectify code breaches is an important part of any code compliance framework. The CCMC has regard to the Australian Standard™ AS-3806 – 2006 Compliance Programs when considering how banks should effectively manage their code compliance obligations, including the maintenance of effective internal breach reporting arrangements. The CCMC expects the banks to also demonstrate that they are effectively identifying the root causes of non compliance with the Code's obligations and are taking the necessary action to prevent recurrences.

In 2012-13, the banks have demonstrated to the CCMC's satisfaction that their compliance frameworks remain robust. These frameworks incorporate quality assurance systems and procedures that are embedded in the business unit, with Compliance or Risk functions providing an oversight of this function. An additional line of assurance is provided by Internal and External Audit who independently verify the effectiveness of the overall framework.

SIGNIFICANT BREACHES

A significant breach of the Code is defined as non compliance that is deemed by either the CCMC or a bank to be significant having regard to a number of factors. Generally speaking, the CCMC expects banks to consider the factors identified in section 912D of the Corporations Act (2001) when determining whether a significant breach of the Code has occurred. These factors, which are also used by the CCMC when considering if a significant breach of the Code has occurred, include:

- the number or frequency of similar previous events that have occurred;
- the impact of the breach on the ability to supply the service;

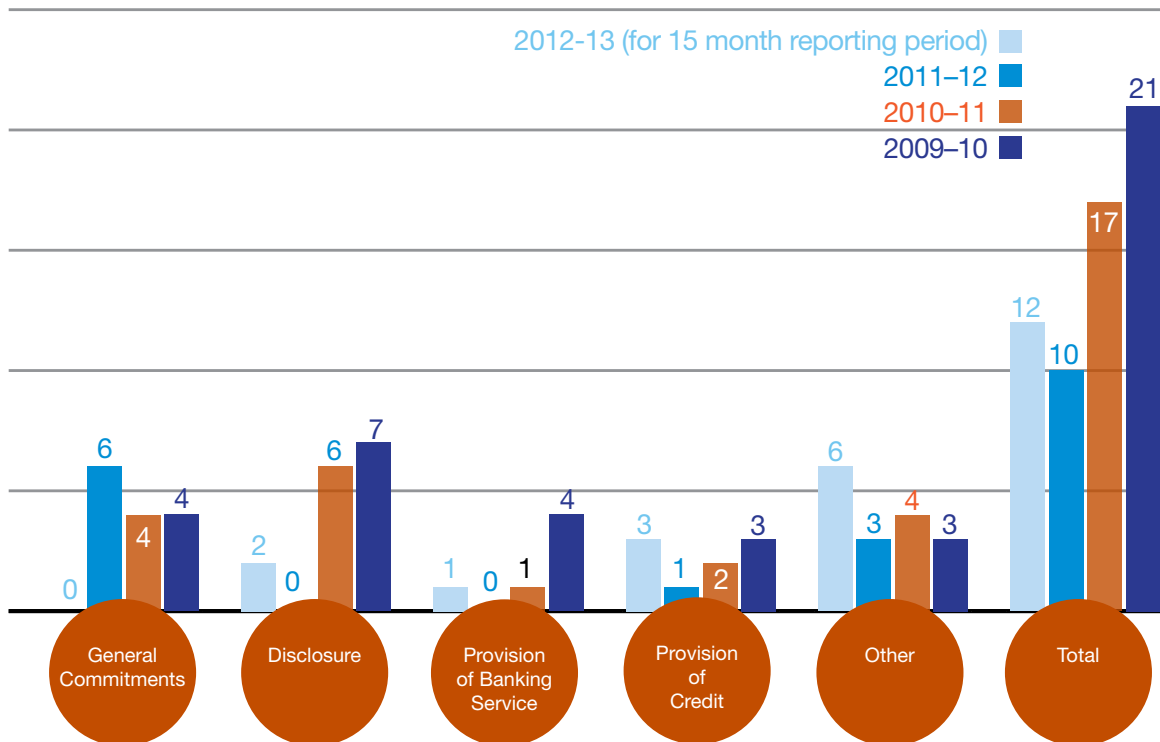
- whether the event indicates that code compliance arrangements may be inadequate;
- the number of consumers affected by the breach; and
- the actual or potential loss experienced by consumers arising from the breach.

There were 12 significant breaches of the Code reported by banks for the reporting period. This was broadly consistent with the number reported in 2011-12 (see Chart 1 below). As in previous years, issues related to IT systems caused a number of these breaches. The CCMC expects the banks to understand that diligence

and governance frameworks, template transition and testing environments need to be monitored strictly to reduce the risks associated with system failures. There are instances where the decisions and actions of the banks have resulted in a significant breach, particularly in respect of Advertising.

Please note that the figures for 2012-13 are for the full 15 month reporting period.

Chart 1: Significant breaches 2009-10 to 2012-13



Specific details about the significant breaches reported to the CCMC and their outcomes are given in Table 2 below.

Table 2: Significant breaches

Code Clause	Issue	No. of Breaches	Background	Outcome
Terms and Conditions (clause 10)	Disclosures	1	Systems error at an outsourced provider resulted in customers entering into general insurance contracts not being provided with the required disclosure documents at or immediately after the time of purchase.	The 5,361 customers impacted were provided with the required disclosure documents and also offered a refund of the premiums paid where the insurances did not meet their needs. Systems and review processes at the bank and the outsourced provider were enhanced to prevent any reoccurrence. The bank received no complaints in respect of this breach.
Interest Rates, fees and Charges (clause 12)	Comparison rate	1	Systems error resulted in the failure to link mortgage offset accounts to some eligible home loan accounts. The failure resulted in overcharging of mortgage interest to impacted customers.	The systems error has been corrected and \$12 million in mortgage interest compensation has been provided to the approximately 6,000 customers impacted by the error. The bank is currently undertaking a review of all systems related to the calculation of fees and interest.
Privacy and Confidentiality (clause 22)	Confidentiality of customer data	2	A relationship manager inadvertently emailed sensitive customer information to 38 of his clients. A second similar occurrence occurred at the same bank when sensitive private banking client data was inadvertently distributed to 17 clients.	The Office of the Australian Information Commissioner (OAIC) was notified of the confidentiality breaches. Security risk investigations were undertaken and corrective actions implemented in consultation with the OAIC.
	Confidentiality of customer mortgage statements	1	Following a systems error update at a third party provider, a small number of home mortgage statements were sent to incorrect customer addresses resulting in a breach of customer confidentiality.	Impacted customers and the OAIC were notified of the breach. Corrective actions to prevent a reoccurrence have been implemented.
Statements of Account (clause 24)	Email notification	1	Following a systems update error, the monthly emailed notifications of the availability of customer on-line statements of account were delayed. The delays impacted 194,000 accounts and contributed to some customers incurring fees and interest for missed periodical payments.	Monthly email notifications advising customers that their online statements were available for viewing in Internet Banking was delayed for 194,000 customers. Statements were available for viewing, however there were instances of notifications failing to arrive either before or within an appropriate amount of time before monthly payments became due. 15,000 customers who incurred a late payment fee had this fee refunded. In addition, 2,200 credit card customers had interest capitalisation refunded. A post incident review was conducted by the bank which has resulted in process changes and further controls being developed to prevent a reoccurrence.

Code Clause	Issue	No. of Breaches	Background	Outcome
Provision of Credit (clause 25.2)	Financial Difficulty	1	In the investigation of a customer complaint, FOS determined that the financial difficulty and the related collection procedures of a bank subsidiary were in systemic breach of the Code.	The incident has been closed following completion of the required changes. These include: <ul style="list-style-type: none"> • amended hardship and collections procedures including seeking information by telephone; • clearer explanation of hardship decisions; and • revised procedures for dealing with appointed representatives.
Provision of Credit (clause 28)	Guarantees	1	The provision to guarantors of merchant facility personal guarantee documentation which was non compliant with the requirements of the Code resulted in multiple breaches of the guarantee provisions. The breaches were identified during a CCMC Own Motion Inquiry after a referral from FOS.	The bank identified over 5,000 instances where the non compliant guarantee was issued. The bank confirmed that it had not called upon the guarantee in any recovery of monies owed. It agreed to cease issuing the Guarantee documentation immediately and took steps to ensure that it will not seek to enforce guarantee in any future actions. No complaints were received regarding this breach.
	Guarantees	1	The requisite disclosure information on borrower financial position and performance required under the Code was not provided to guarantors prior to the entering into of loan guarantees.	The bank has advised the 178 impacted guarantors of the Code breach. A range of commitments has been agreed with ASIC including provision of the borrower information to guarantors and agreement not to enforce guarantees in the event of borrower default.
Advertising (clause 30)	Superannuation calculators	1	Website superannuation calculators marketing superannuation products were based on incorrect assumptions on projected interest rates and failed to include the necessary disclosures and disclaimers.	In consultation with ASIC the website information was either removed or suitably revised. The extent and consequences of the breach are subject to further investigation. The bank is currently reviewing all online calculators for accuracy and disclosure requirements.
	Interest rates	1	Television and online advertising of a discounted home interest rate failed to adequately disclose the eligibility restrictions applicable to the rate.	In consultation with ASIC additional checks have been introduced into the Marketing sign off process to mitigate risk exposure for future campaigns. All marketing material now requires both Compliance and Legal sign off.
	Interest rates	1	Advertising of loan interest rates in 193 bank branches did not include a reference to a comparison rate as required by the National Credit Code. The national campaign was rolled out prematurely in these branches and failed to adhere to the established legal and compliance approvals.	Corrective actions were introduced in consultation with ASIC. Actions included removal of the unauthorised material and communications to the branch network of the required approval protocols. The bank has also improved internal procedures to allow branch access to approved marketing material. One customer complaint was received in respect of this breach.

SELF REPORTED CODE BREACHES NOT CONSIDERED TO BE SIGNIFICANT

The self reporting of code breaches and information about banks' compliance systems is a key tool in the CCMC's monitoring of compliance with the Code and with the ability of banks to understand emerging areas of code compliance risk.

The CCMC has worked with banks to encourage a positive culture of reporting and this is evident from this year's statistics. The key findings from this year's ACS were:

- 9,403 breaches of the Code were self reported by banks, which represents an increase of 30.4% on 2011-12;
- two banks accounted for 72% of all breaches reported;

- 2,573 self reported breaches related to the Key Commitments and General Obligations provisions of the Code, including fair and reasonable conduct and compliance with laws. This is a 2.5% increase since 2011-12;
- the most significant increase in breach numbers was in the Credit Assessment category which increased by 260%;
- banks also reported material increases in Privacy and Confidentiality, Financial Difficulty and Chargebacks;
- breaches in respect of Debt Collection were unchanged from 2011-12; and

- several categories reflected a decrease in the number of reported breaches, including Joint Debtors, Direct Debits and Statements of Account.

Please note that in relation to the data above, the year on year 2012-13 (15 months) and 2011-12 (12 months) percentage movements have been annualised.

Charts 2 and 3 below illustrate the number of total breaches reported by banks during the ACS program in 2012-13 and the breakdown of those breaches according to categories.

The figures shown in Charts 2 and 3 for 2012-13 represent an average 12 months figure for comparisons purposes. See also Appendix 1 for full details of self reported breaches.

Chart 2: Main Categories of Breaches Reported to the CCMC in 2012-13 by Category

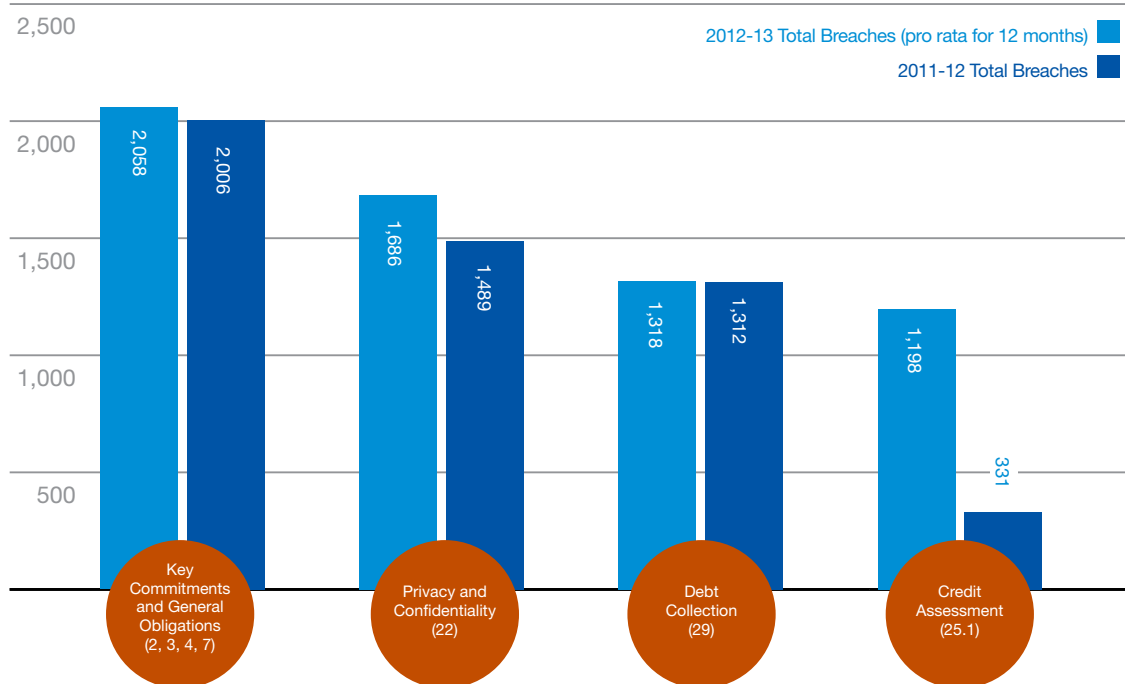
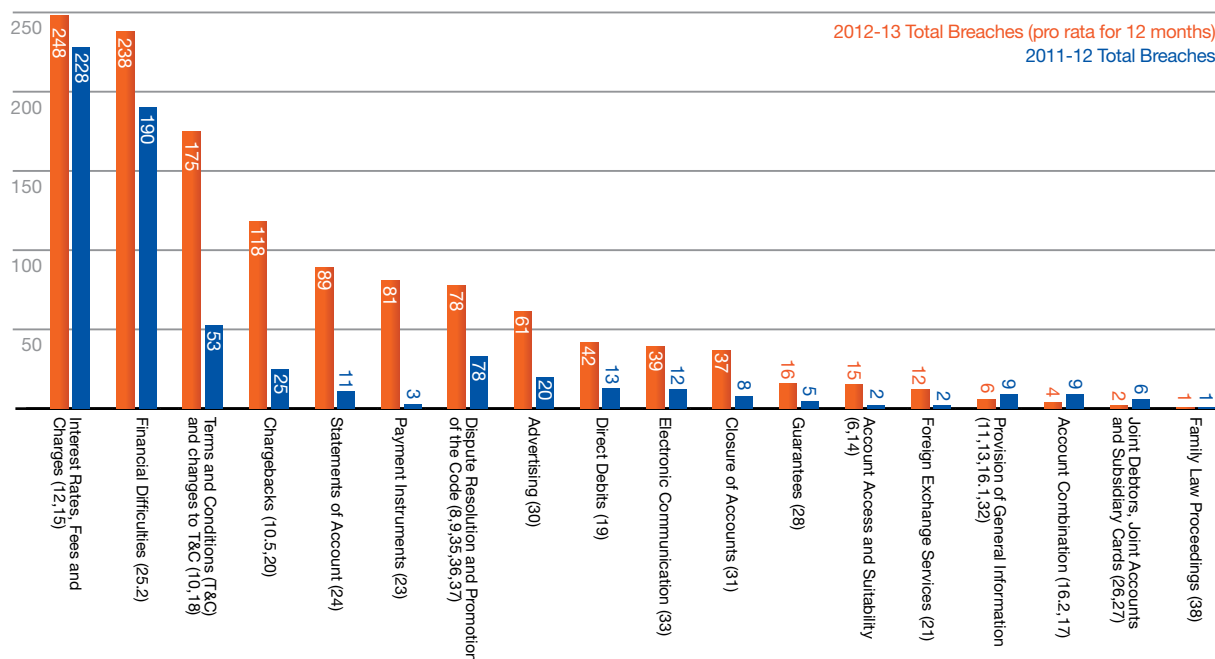


Chart 3: Total Number of Breaches reported to the CCMC in 2012-13 by Category (All Other categories)



The increase in the number of breaches self reported during the reporting period was discussed with each bank during the onsite visits. The CCMC was encouraged to learn that banks have, in general, raised the awareness of the Code and its obligations through comprehensive training programs during the reporting period. These code obligations have also been embedded into the monitoring frameworks which banks continue to improve and refine. The responses to the ACS and the discussions held have indicated that several banks are moving towards a 'principles based' approach to monitoring and reporting breaches, encompassing all regulatory requirements, including the Code.

These initiatives are very encouraging and together with the CCMC's efforts to engender a positive culture of breach

reporting with the banks, seem to have contributed to the increased number of code breaches reported.

While two banks accounted for 72% of all breaches reported, the approach taken by each bank to identify breaches differed. The first bank advised the CCMC that it had substantially increased the amount of monitoring activities and, in many areas, had begun treating a breach of an internal procedure which relates to a code commitment as a breach of the Code to reinforce key messages across all staff of the importance of complying with systems and procedures and demonstrating clear links to code obligations. The second bank indicated that the primary source of breach identification was through root cause analysis of complaints resolved in favour of customers. It also reported breaches

of the Code where internal procedures were breached.

The CCMC will continue to work with banks over the next reporting period to review and develop guidance to further enhance consistency in relation to the self reporting of code breach activity across the banks.

Areas of Improved Code Compliance

While the number of reported breaches overall has increased, as outlined in Charts 2 and 3, there are several categories of code obligation where reported breaches have decreased. These include 'Joint Debtors,' 'Account Combination' and 'General Provision of Information'.

repayment arrangement of over 90 days, whereas other banks refer to a 6 months period. Several banks commented that they did not have a separate long term process, and that all requests for assistance would be dealt with on a similar basis.

The key criteria identified by banks to identify customers as being in longer term financial difficulty are:

- repayment history pattern;
- income versus liabilities shortfall for an extended period;
- long term unemployment;
- customers are suffering long term medical conditions or terminal illnesses that don't allow them to work;
- customer's primary source of income is derived from Centrelink benefits; and
- non-suitability of other hardship programs to improve customer's financial situation.

Typical actions taken to assist the customer in long term hardship are:

- reduced balance settlements, paid over an agreed period;
- full or partial debt waivers at the bank's discretion; and
- debt moratoriums of
 - » nil or reduced repayments with or without a cessation of interest/fees for an extended period (6 to 12 months); or
 - » nil or reduced repayments with or without a cessation of interest/fees, particularly for those customers whose sole income is a social security benefit.

Recent changes to the NCCP Act (2011), the update of the ABA Hardship guidelines and the introduction of revised obligations under the Code have prompted banks to introduce a number of additional changes including:

- new processes and systems in debt collection to better identify hardship, including:
 - » exclusion of hardship customers from collection activity; and
 - » accepting hardship requests by telephone;
- statement of financial position form available online, with one bank introducing online submission;
- dedicated officers or teams to deal with financial counsellors and the introduction of the ABA's third party representative appointment form;
- specific training to specialist collections and hardship staff on topics dealing with customers in financial difficulty in addition to regular refresher training to maintain competency. These topics include:
 - » recognising customers in difficulty;
 - » revised code and regulatory obligations;
 - » dealing with mental illness; and
 - » customers threatening self harm.

The CCMC was encouraged by its discussions with the banks during its onsite visits about the number of changes in the approach taken by the banks in dealing with financial difficulty.

More banks are now using a relationship management approach where the assistance given is tailored to the specific needs of the customer, rather than a standard solution applied to all. Those banks have commented that the number of complaints regarding financial difficulty referred to FOS has also decreased. This is supported by the FOS Annual Review¹, which indicated that it dealt with 22% fewer complaints in this area in 2012-13, than in 2011-12.

All banks report a Quality Assurance framework in place for financial hardship with feedback provided to staff on issues. Several banks have also reported that their Financial Difficulty process was independently reviewed by Compliance and/or Internal Audit during the reporting period.

There were 297 breaches of the Code's financial difficulty provisions self reported in 2012-13 compared to 191 in 2011-12. One bank self reported 78% of these breaches. This was predominantly due to a staff shortage that meant that hardship requests from customers were not being addressed within the required 21 day period. The bank has since advised that it has increased the number of staff in its financial difficulty team and introduced revised systems to better track timeframes to prevent a re-occurrence.

The one significant breach recorded in this category in 2012-13 was identified as a result of a complaint referred to FOS, who determined that the bank's financial difficulty and related collections processes were in systemic breach of the Code. The bank has amended its hardship policies and improved its literature related to financial difficulties. (See Table 2 on page 16 for further details).

Proposed Inquiry

As a result of the regulatory and code changes affecting financial difficulty obligations, the CCMC decided to defer its planned Inquiry until after the implementation of new financial hardship provisions in the NCCP Act (2011) and the transition to the revised 2013 Code. The CCMC will commence the Inquiry in mid 2014.

The CCMC has been involved in ongoing discussions with key stakeholders on matters related to interpretation of the enhanced obligations contained in the revised 2013 Code relating to subscribing banks' obligations to customers in financial difficulty. It has also participated in wider discussions on this topic with a number of regulatory bodies, financial service providers and consumer advocate organisations.

1 See FOS Annual Review 2012-13 available at www.fos.org.au

2. Privacy and Confidentiality

Clause 22 of the Code acknowledges that, in addition to requirements under the Privacy Act 1998, banks have a general duty of confidentiality towards customers. The number of breaches self reported against this clause increased by 13.5% in this reporting year, to 2,108. One bank accounted for 63% of total breaches.

The CCMC recognises that changes in the Privacy Act have increased the focus and awareness of Privacy and Confidentiality obligations. Banks have commented that this increased awareness has led to better recognition of issues by staff and resulted in the increase in reported breaches.

Banks have also commented that the majority of breaches are isolated incidents resulting from human error. The most common cause of breaches was a failure to advise that a contact centre phone conversation was recorded or the unauthorised disclosure of information to a third party. Identification of breaches related to Privacy was generally made from quality assurance programs, call monitoring and complaints data. Those breaches which were the result of human error were remediated with further training and monitoring of staff.

There were, however, three significant breaches reported in 2012-13 relating to Privacy and Confidentiality. Two related to disclosure of confidential customer information and were caused by incidents of human error. The other breach was systems related where customer information was forwarded to incorrect email addresses (further details of these Significant Breaches can be found in Table 2 on Page 16).

All banks have stated that they have appropriate policies and procedures in place regarding Privacy and Confidentiality. These significant breaches highlight the impact that human errors can have on individual consumers. The CCMC therefore encourages banks to consider diligence, governance frameworks and monitoring to reduce the risks associated with these errors.

The CCMC is satisfied that banks have training systems in place for all staff, with modules covering Privacy and Confidentiality. Tracking ensures that staff complete modules (either specific to Privacy or including Privacy obligations) when commencing employment and then periodically on a refresher basis.

3. Debt Collection

Under clause 29 of the Code, banks are required to comply with the Debt Collection Guidelines issued jointly by ASIC and ACCC. These guidelines set the parameters, amongst other things, in respect of the frequency of calls that can be made by banks to customers when collecting debt and the times during which these calls can be made by debt collection staff.

There were 1,647 breaches of the Code's debt collection provisions self reported in the reporting period, compared to 1,315 in 2011-12. On an annualised basis the number of breaches has remained constant. In 2011-12 one bank reported the majority of breaches in this category. The CCMC is happy to report this bank has reported significantly fewer breaches this year. However, self reported code breaches in this area have increased in other banks.

The CCMC acknowledges that Debt Collection continues to be an area of focus for the banks. The responses to the ACS indicated that the banks have engaged in comprehensive consultation to understand areas of consumer frustration, delivered enhanced training to staff to reduce the risk that code breaches will occur, improved monitoring frameworks and invested in improving systems and process.

The CCMC continues to monitor banks' performance in this area and recognises the work completed by banks so far. We expect, however, that this continued focus by banks will result in fewer breaches reported in future.

CASE STUDY

S asked his bank for a refund as he was unhappy with a holiday booking he had paid for using his credit card. The bank provided S with a temporary refund while it considered the chargeback request and asked S to provide additional information to support his complaint. S did not provide the information and the bank reversed the temporary refund. Unfortunately, S had spent the refund and so his account went into debit. When the bank began collections activity on the debt, S contacted a financial counsellor (B) who informed the bank she was acting for S.

Under clause 29 of the Code (debt collection), the bank was obliged to comply with the ACCC/ASIC Debt Collection Guidelines which include a commitment to not contact represented debtors.

B alleged the bank had breached its obligations under code clause 29 by contacting S instead of B, who was particularly concerned by this as she had made several contacts with the banks to explain both her role and S's personal circumstances.

The CCMC found that, in the circumstances of the case, the bank had breached its obligations under clause 29 by engaging in inappropriate debt collection activity. In addition, it found that the bank had also breached its obligations to act fairly and reasonably (code clause 2.2) as it had been specifically informed of S's personal circumstances but had nevertheless inappropriately contacted him causing undue stress, when it should have dealt with his representative instead.

The CCMC noted both the resolution reached in the dispute and the bank's assistance to B in referring the dispute to its IDR team. In addition, the CCMC took into account staff training initiatives implemented by the bank and the program developed by the ABA and Australia's national financial counselling body to develop a uniform approach to the appointment of customer representatives.

4. Key Commitments and General Obligations

As in previous years, this category of reported breaches is the most prevalent group of code breaches reported by banks. The category relates to the obligations within clause 2 (Key Commitments), clause 3 (Compliance with Laws), clause 4 (Retention of Rights) and clause 7 (Staff Training and Competency).

The number of breaches reported by banks against these provisions has increased by 2.5%, with 2,503 breaches reported in 2012-13. Banks have informed the CCMC that the majority of these breaches were caused by human error and were recorded against clause 2.2 which requires a bank to act fairly and reasonably towards customers.

It was pleasing to note that banks have implemented a number of initiatives improving standards of practice and service as envisaged by clause 2 of the Code. These include:

- targeted assistance to customers experiencing financial difficulty;
- complaints handling processes;
- financial literacy programs;
- mental health awareness programs for debt collection teams;
- awareness of financial abuse susceptibility, particularly caused by dementia;
- service quality programs; and
- pre-emptive contact with customers on revised regulatory requirements concerning unclaimed monies.

The CCMC notes that under the revised 2013 Code, the banks will not be required to report a breach of the Key Commitments clauses unless it is linked to a breach of the practice standards. This may affect the number of self reported breaches in the next reporting year. The CCMC, however, expects the banks to diligently review all code breaches against their Key Commitment obligations to ensure that in particular the fairness and reasonableness of the banks actions have been duly considered.

5. Terms and Conditions

There were 219 self reported breaches of the Code's Terms and Conditions provisions under clauses 10 and 18 in the current reporting year, an increase of 225% from 2011-12. Approximately 50% of these code breaches were recorded by one bank, which has advised that these breaches were identified from root cause analysis of customer complaints.

The CCMC accepts the advice given to it by the banks that changes to product Terms and Conditions provided to customers are governed by a rigorous due diligence and approval process. However, one bank reported a significant breach caused by a breakdown in its processes, which resulted in a failure to provide new customers with Terms and Conditions (see Table 2 on page 16).

6. Provision of Credit

The requirement under clause 25.1 of the Code to *apply the care and skill of a diligent and prudent banker in the provision of credit to customers* is consistent with the requirements of the NCCP Act (2011).

There were 1,499 breaches of the Code's credit assessment provisions self reported in 2012-13, compared to 331 breaches in 2011-12. This increase is primarily due to one bank's activities in implementing stricter monitoring and more detailed reporting of non compliance with internal credit provision policies and procedures which related to this provision. This bank considers that a breach of an internal policy in its credit assessment process would result in a breach of the Code.

The CCMC has noted a link between possible breaches of clause 25.1 and concerns lodged with the CCMC about financial difficulty. The CCMC encourages all banks to ensure that their credit assessment policies and procedures are appropriately addressed to the individual circumstances of each customer.



7. Internal Dispute Resolution (IDR)

There were 68 breaches of the Code self reported in 2012-13 regarding banks' obligations under clause 35 of the Code to have effective internal dispute resolution processes in place, which is free of charge, and carried out within relevant timeframes. The majority of breaches were identified by one bank, which, during the reporting period, introduced a comprehensive complaints handling system. This allowed for better identification of breaches of clause 35 of the Code.

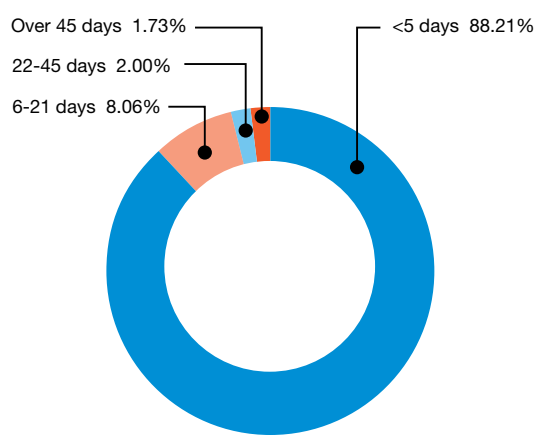
The CCMC requested statistical information from the banks about the number of consumer complaints and complaint resolution times recorded by them during the reporting year, so as to assess the effectiveness of the banks' process and procedures in meeting the obligations of clause 35 of the Code.

Banks reported 897,987 complaints in 2012-13, an annualised increase of 15.7% from 2011-12. One bank accounted for 56% of the total number of complaints recorded. This bank has advised that this increase is due to its significant effort to record all expressions of dissatisfaction made to the bank, including those that are resolved at the first point of contact.

The CCMC accepts the banks' advice that they have quality assurance frameworks in place that allow complaints to be handled appropriately. Most banks also have in place structures to identify and address root causes and provide feedback to relevant divisions and staff members. Where banks have provided a breakdown of complaints by root cause, fees and charges are a common theme. Where the information was broken down by product type, complaints tended to be concentrated on high volume areas such as cards and mortgages.

During the reporting year the data indicates that there has been a marked improvement in complaint resolution times. The proportion of complaints resolved in less than 5 days improved from 83% to 88% and the proportion of complaints taking over 45 days to resolve decreased from 3% to 2%. It should be noted however that the results of the current year were favourably impacted by systems change at one bank. Resolution times are given in Graph 4.

Chart 4: Complaints Handling Statistics – All Banks 2012-13



The CCMC notes that the number of matters referred to external dispute resolution decreased during the same reporting period². It is the CCMC's view that the improvement in IDR systems and complaint resolution times identified in this data may have contributed to more effective resolution of matters internally.

As commented in last year's Report, the CCMC has identified that there continues to be significant differences in the way banks define and record complaints data. For example:

- some banks have recorded increases in complaint numbers in this reporting period due to a change in recording processes which capture a wider range of issues as "complaints" based on *an expression of dissatisfaction made by a customer*. Not all of these matters may have been recorded as a complaint by these banks in previous reporting periods; and
- other banks appear to be recording only those complaints which are an expression of dissatisfaction which have not been resolved to the customer's satisfaction within a two day period.

The CCMC continues to work with banks to understand the differences between banks' processes and reporting, and to evolve a more consistent definition of complaints to be reported to the CCMC.

² See FOS 2012-13 Annual Review available at www.fos.org.au

CASE STUDY

R contacted the CCMC after her bank had been unable to resolve her complaint about a de-activated on-line account. In summary, due to an IT issue affecting a number of customers, funds from her current account had been transferred into the de-activated account and her bank was unable to reverse the transaction in a timely fashion or adequately explain how it had happened. R also raised privacy concerns about the way bank staff had handled her dispute.

Following an investigation, the CCMC considered that there was sufficient evidence to support a finding that the bank had failed to comply with its obligations under clause 35 of the Code (internal dispute resolution) as it had failed to record the resolution it had reached with R in its file notes and had not provided R with confirmation of the resolution or FOS's details, as the relevant external dispute resolution scheme.

The bank agreed with the CCMC's assessment. The investigation was therefore finalised as a Recommendation. The CCMC was satisfied with the bank's proposed remedial actions which included identifying, contacting and apologising to all customers affected by this IT issue. It also provided refresher training to all relevant staff about the importance of following bank policy to keep comprehensive file notes and to apply the bank's dispute resolution processes.

8. Advertising

Clause 30 of the Code requires banks to ensure that all advertising and promotional literature is not deceptive or misleading. There were 77 self reported breaches of the Code's Advertising obligations in 2012-13 compared to 20 in 2011-12.

There were also three significant breaches of the Code. In all three cases, the breaches were identified following concerns raised by ASIC with banks that advertisements may be considered as misleading (see Table 2 on page 16 for further details).

The revised 2013 Code does not include Advertising obligations and the CCMC will no longer monitor this area from 1 February 2014.

INVESTIGATIONS

The Code empowers the CCMC to investigate and determine any allegation from any person that a bank has breached the Code. The CCMC can also conduct its own self-initiated investigations.

When investigating a matter the CCMC considers:

- whether a breach has occurred and its extent;
- the broader and potential impacts of a breach;
- the effect of non compliance on the bank and its customers;
- the root cause of the breach and whether it may be systemic or significant; and
- any remedial action proposed or taken by the bank.

Unlike an External Dispute Resolution scheme or a court, the CCMC cannot provide compensation or make declarations on the rights and entitlements of parties. Similarly, the CCMC cannot issue fines or penalties. Instead, its focus is on compliance outcomes that result in overall improvements to banks' practices and improved levels of internal compliance monitoring.

The ability to deal with specific allegations allows the CCMC to investigate instances where compliance is alleged to be below the required standard. It also enables the identification of potential issues that may be emerging across the industry and should be included in its monitoring program.

The CCMC aims to ensure that any person wanting to make an allegation against a bank about a breach of the Code can do so within a well understood and structured investigation process. To this end, the CCMC engages in a continuous assessment process to improve its procedures for handling code breach allegations and to streamline its decision making framework.

Case investigation process

The CCMC's case investigation process is outlined in Diagram 2 below. Further information regarding the Investigation process can be found on the CCMC website.

The CCMC's investigative processes are contained in

Diagram 2: CCMC Compliance Investigations Process



the Mandate and in summary, case outcomes fall into the following categories:

- matters that fall outside the CCMC's jurisdiction such as where a breach allegation does not relate to a banking service;
- decisions by the CCMC that a compliance investigation is not appropriate. The Mandate provides the CCMC with guidance on the types of matters the CCMC may take into account in exercising this discretion, such as the significance of the issues raised; and
- Determinations. These are formal code compliance decisions by the CCMC in response to a breach allegation. The process for making a Determination is prescribed by the Mandate and both the person making the allegation and the relevant bank are given an opportunity to provide comments to the CCMC before a final decision is issued.

Although each CCMC Investigation is unique and varies according to the events giving rise to the allegation, the following list provides a general guide to the types of matters the CCMC may take into account when making a determination about a compliance investigation:

The CCMC will also take into account any initiatives and

- 1 the evidence provided by both parties, in particular any corroborative written material;
- 2 any previous CCMC decisions or guidance, legal or FOS publications, that may apply to the subject matter;
- 3 what is fair in all the circumstances;
- 4 whether there has been a breach of the Code and if so, whether that breach was significant, serious or systemic, having regard to its nature, significance and duration;
- 5 whether the bank had an effective code monitoring framework in place to reduce the risk of a code breach occurring;
- 6 the impact (or potential impact) of the code breach on the consumer or consumers generally and the steps that could or were taken to reduce the risk of the breach occurring or remedying the breach;
- 7 the nature of any corrective action identified by the bank, timeframes for completion and how these actions will be monitored; and
- 8 the nature of any additional sanction that might apply.

undertakings that a bank may have put in place when considering what remedial actions are required to address the identified breaches.

With the commencement of the Mandate, the CCMC was provided with an additional decision making power when conducting its Investigations. Under clause 6.3 of the Mandate the CCMC can now make decisions on whether to start, or continue with, a compliance investigation. That clause also provides the CCMC with guidance on what factors it might consider relevant to such decisions, such as the nature of the allegations, the significance of the issues raised or whether a court or other forum represents a more appropriate venue.

This means that, where the CCMC is satisfied that an investigation, or further investigation, is not warranted it may now decide to exercise its discretion and take no further action. For example, a breach allegation may relate to an issue the CCMC has already considered with the same bank in a previous Determination or the law may have changed and now addresses the concerns raised with the CCMC.

Before the Mandate came into effect the CCMC responded to such situations by engaging with the relevant bank to consider if appropriate compliance outcomes could be achieved without the need for a Determination. Where these engagements resulted in agreed outcomes, the CCMC finalised its investigations as Recommendations. For example, the relevant bank might agree it had breached its code obligations and proposed remedial actions the CCMC considered appropriate. For matters where outcomes could not be agreed, the CCMC finalised such matters by issuing a Determination.

The new discretionary powers mean Recommendations are no longer necessary as the same outcome can now be achieved under clause 6.3 and this has helped the CCMC streamline its decision making process. Importantly, however, the CCMC's approach to assessing concerns and engaging with banks remains unchanged and the CCMC will continue to issue Determinations where appropriate compliance outcomes cannot be achieved by agreement. In addition, it will continue to record and report on all breaches identified in the course of its investigations.

CASE STUDY

Mr and Mrs Z were both reliant on government pensions. They had a home loan with their bank and had been making repayments. One of them suffered an injury at work and after a worker's compensation claim was finalised, the couple's financial circumstances deteriorated. The bank obtained court orders entitling it to possession of the couple's home on default on the loan and the parties were discussing hardship assistance options.

Mr and Mrs Z contacted the CCMC and raised concerns about the circumstances in which their loan with the bank had been established. In particular they alleged the bank had provided them with more credit than they could afford (maladministration) and they wanted the repossession order overturned on that basis.

Before the CCMC could investigate the matter, it had to consider if the matter fell within its jurisdiction. The Mandate states the CCMC may not investigate a matter where the events giving rise to the allegation were, or could have reasonably been, known more than 12 months before the allegation was made (the 12 month rule). In addition, the CCMC must consider whether it is an appropriate forum to consider a matter.

The CCMC found that the allegation fell outside its jurisdiction both under the 12 month rule and because a court had made orders that had upheld the bank's rights under the mortgage. The CCMC also noted that even if it had been able to investigate the matter, its findings about whether or not a breach of the bank's code obligations had occurred would not affect the court's possession order.

Investigations - case work 2012-13

Table 3 below provides an overview of the CCMC's Investigations case work in 2011-12 and 2012-13. Additional detail about the State of origin of the breach allegations, the source of the allegations and how they were registered by the CCMC is outlined in Appendix 2 of this Report.

Table 3: Overview of Case Work

Cases	2011-12	2012-13*
Number of cases open at beginning of year - 1 April	22	13
Total number of new cases	25	46
Total number of cases closed	34	29
Number of cases open at end of year	13 <i>including 9 on hold**</i>	30 <i>including 7 on hold**</i>
Breaches	2011-12	2012-13*
Total number of alleged breaches	67	84
Total number of code breaches confirmed	28	12***
Closed Cases	2011-12	2012-13*
Number of cases closed by Determination	3	2
Number of cases closed by Recommendation	5	3

* The 2012-13 figures in this table represent the investigation statistics over the 15 month period 1 April 2012 to 30 June 2013.

** Where an allegation is being considered by another forum, such as FOS or a Court, the CCMC's investigation is placed on hold until that other forum has finished its review.

*** Includes breach finding by FOS adopted by the CCMC in 2012-13. No FOS findings adopted in 2011-12.

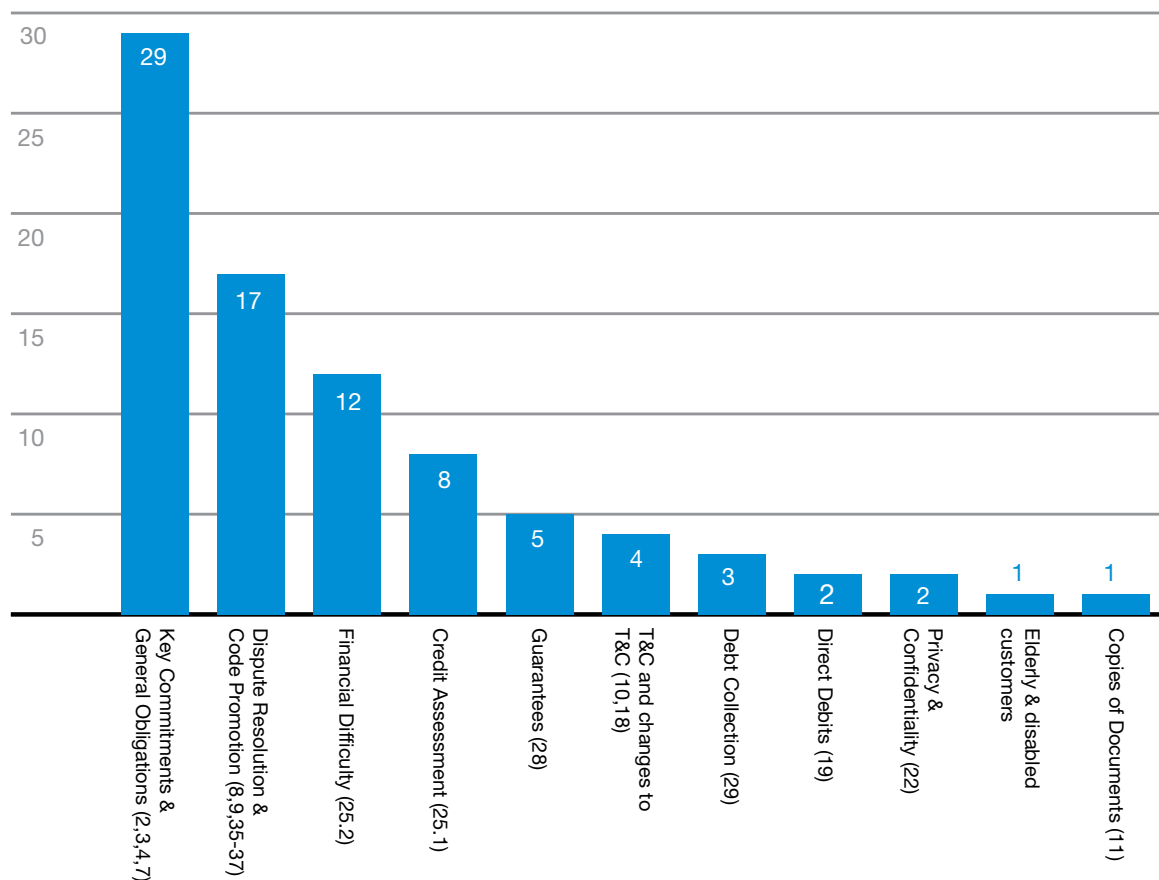
Unlike compliance data obtained through the ACS program, the number of breach allegations and investigation outcomes depends on the number and types of allegations made to the CCMC, the extent to which these matters are within the CCMC's jurisdiction and the complexity of the concerns or evidence involved. It may not always be appropriate therefore to compare investigations data from one year to another or to extrapolate case or compliance trends based on this data alone.

Overview of Alleged Code Breaches

Chart 5 below summarises the code breach allegations raised with the CCMC in 2012-13. In the 46 cases registered in 2012-13 there were 84 breaches alleged with the major code breach category being clause 2.2 General Commitments (29 alleged breaches).

Of these 29 allegations, more than 70% (21 allegations) related to banks' obligations to act in a fair and reasonable manner under clause 2.2. The remaining allegations related to obligations under clause 3 (compliance with laws – seven allegations), and one allegation under clause 2.1 (better informed decisions).

Chart 5: Alleged Breaches by Code Category - New Cases received in 2012-13



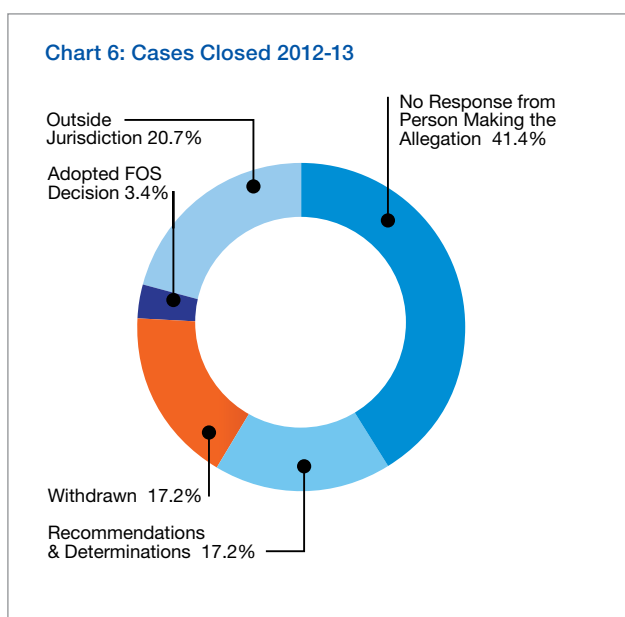
Cases Closed

29 cases were closed during 2012-13 of which five were closed through either the CCMC Recommendation or Determination processes. However, not all matters that are raised with the CCMC result in investigations. Some of the more common reasons why allegations of a code breach might not be investigated include:

- the concern fell outside the CCMC's jurisdiction (e.g. it has been known about for more than 12 months);
- it does not relate to a code subscribing bank or a banking service as defined in the Code;
- a court has made orders regarding the matter; and
- the person raising the matter chooses not to pursue it (e.g. because the concerns were addressed in the course of a concurrent FOS dispute investigation and/or the person did not return a Privacy Authority for the CCMC to pursue the matter with the bank).

Where an investigation is not undertaken, the CCMC is unable to make a Determination about whether or not the relevant bank has complied with its obligations under the Code. The CCMC may however consider whether the issue raises broader compliance concerns that should be the subject of a separate Own Motion Inquiry.

Chart 6 below illustrates the outcomes of the 29 cases closed in the 2012-13 reporting year.



In the 2012–13 reporting period, six matters were found to be outside the CCMC's jurisdiction, of which half were found to be out of jurisdiction under the 12 month rule.

Where the CCMC receives a breach allegation but either does not receive the additional information it requires to assess a matter or the necessary consents to allow an information exchange with the relevant bank, the CCMC may not be able to investigate the matter and the case is closed. In the 2012-13 reporting period 12 allegations fell into this category.

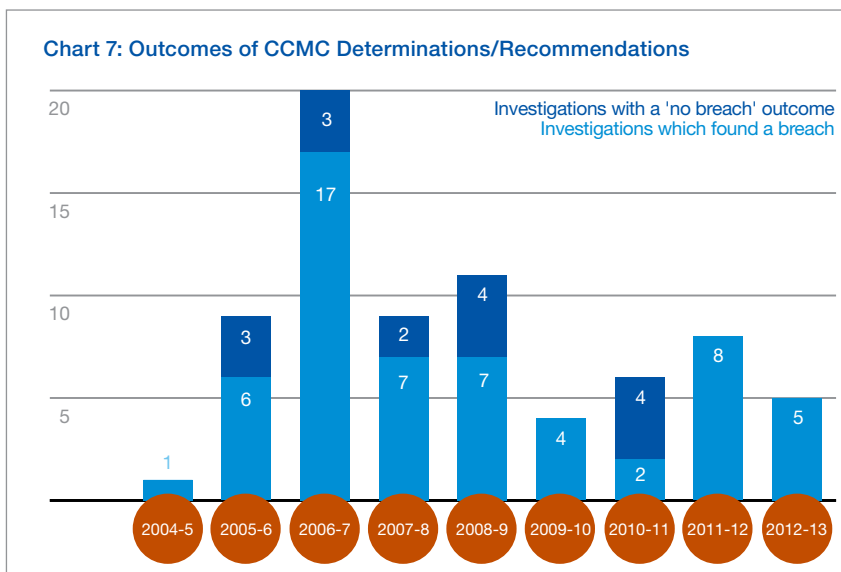
CASE STUDY

Mr and Mrs K ran a small business. They entered into a business loan with their bank and were required to act as personal guarantors for the loan. They lodged a dispute with FOS and raised concerns with the CCMC in which they alleged the bank had provided them with incorrect information about the cost of the loan as well as the way in which the guarantees had been secured.

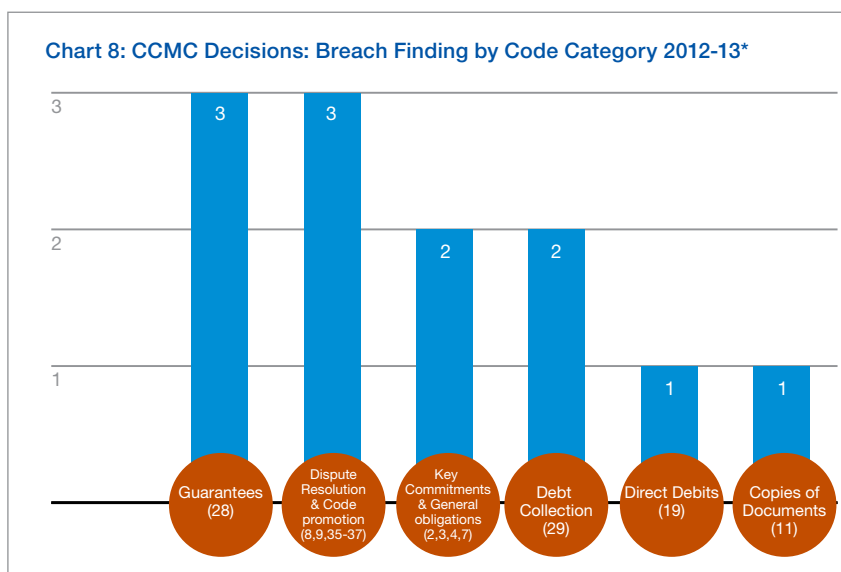
In its Determination of the matter, FOS found in favour of the bank but identified several instances where the bank had not complied with its obligations under clause 28 of the Code. In accordance with its obligations under the Mandate, the CCMC adopted FOS's findings of code non compliance. The CCMC then independently reviewed the bank's actions to remedy that non compliance. As the CCMC considered the bank had taken appropriate remedial steps and having regard to legislative changes in the NCCP Act (2011) no further steps were considered necessary.

Breach Outcomes

The CCMC determined that code breaches had occurred in all five matters that went to decision in 2012-13. Comparisons with previous years are given in Chart 7 below. Please note that the figures for 2012-13 are for the full 15 month reporting period.



These five cases resulted in 12 breaches of the Code being identified by the CCMC. Chart 8 provides a breakdown of those findings.



*Please note that these figures are for the full 15 month reporting period.

Examples of these breaches are highlighted in the case studies which occur throughout this Report.

CCMC FINANCIAL STATEMENTS

15 months ended 30 June 2013

	30 June 2013*	31 March 2012
	\$	\$
SALARIES		
Salaries – Gross including Committee remuneration	526,967	387,518
Salaries - Annual & Long Service Leave	33,310	33,124
Salaries - Superannuation	49,056	32,855
Salaries - Payroll Tax	32,325	21,421
TOTAL SALARIES	641,658	473,918
EXPENSES		
Occupancy and Outgoings	51,520	66,211
Travel	38,256	30,938
Technology Support	30,230	21,541
Annual Report and Publications	9,380	18,418
Recruitment and Consultants	9,785	10,760
Insurances	2,735	8,992
Conferences and Training	7,575	5,859
Other	13,382	10,178
TOTAL EXPENSES	162,863	172,897
TOTAL SALARIES AND EXPENSES	804,521	646,815
TOTAL FUNDING	863,463	607,450
SURPLUS/(DEFICIT)		
Current Year	58,942	(39,365)
Accumulated Surplus/(Deficit)	118,269**	59,327

Notes

* The 2012-13 reporting period covers the 15 month period 1 April 2012 to 30 June 2013. The 2011-12 period covers a 12 month period from 1 April 2011 to 31 March 2012.

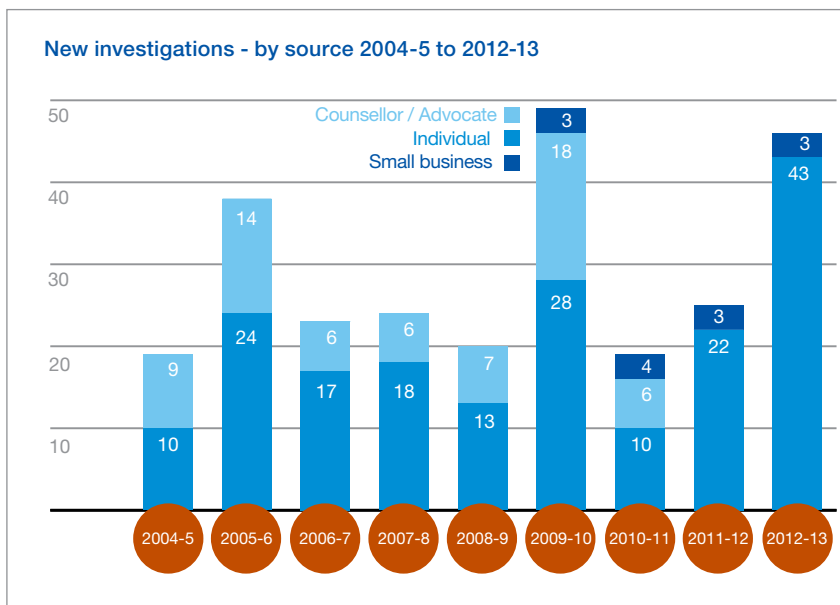
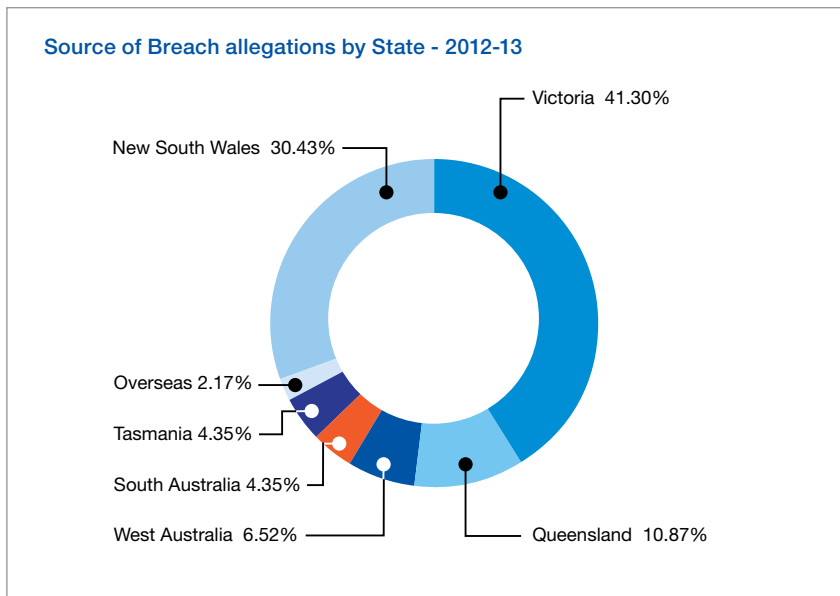
** \$57,967 of the accumulated surplus has been allocated to the 2013-14 budget. \$60,302 has been retained as an operating surplus.

APPENDIX 1: 2012-13 COMPLIANCE BREACH SUMMARY (15 MONTHS)

Code category (Specific code clauses in brackets)	Number of code breaches by source		Code breaches Total	Significant breaches included in total
	CCMC Investigations 2012-13 15 months	Bank ACS program 2012-13 15 months	2012-13 15 months	2012-13 15 months
General				
Key Commitments and General Obligations (2,3,4,7)	2	2,573	2,575	0
Provision of General Information (11,13,16.1,32)	1	8	9	0
	3	2,581	2,584	0
Disclosure				
Interest rates, Fees and Charges (12,15)	0	310	310	1
Terms and Conditions (T&C) and changes (10,18)	0	219	219	1
	0	529	529	2
Provision of Banking service				
Account Access and Suitability (6,14)	0	19	19	0
Account Combination (16.2,17)	0	5	5	0
Direct Debits (19)	1	52	53	0
Chargebacks (10.5,20)	0	147	147	0
Foreign Exchange Services (21)	0	15	15	0
Payment Instruments (23)	0	101	101	0
Statements of Account (24)	0	111	111	1
	1	450	451	1
Provision of credit				
Credit Assessment (25.1)	0	1,498	1,498	0
Financial Difficulties (25.2)	0	297	297	1
Joint Debtors, Joint Accounts and Subsidiary Cards (26,27)	0	2	2	0
Guarantees (28)	3	20	23	2
Debt Collection (29)	2	1,647	1,649	0
	5	3,464	3,469	3
Other				
Privacy and Confidentiality (22)	0	2,108	2,108	3
Advertising (30)	0	77	77	3
Closure of Accounts (31)	0	46	46	0
Electronic Communication (33)	0	49	49	0
Family Law Proceedings (38)	0	1	1	0
Dispute Resolution and Promotion of the Code (8,9,35,36,37)	3	98	101	0
	3	2,379	2,382	6
Total breaches	12	9,403	9,415	12

APPENDIX 2: INVESTIGATIONS STATISTICS

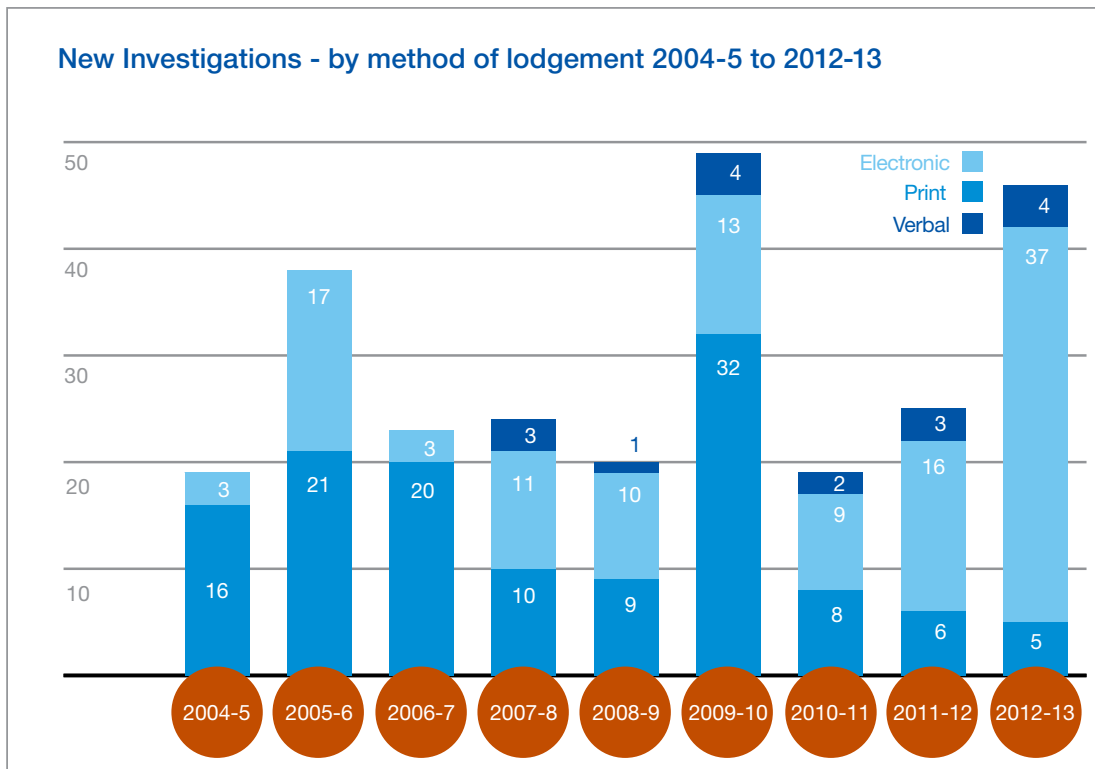
1 April 2012 - 30 June 2013



In 2012-13, out of the 43 matters relating to individuals, 12 (28%) involved financial counsellors acting for their clients. As of 2011-12, these types have been consolidated with those where individuals were not represented to more accurately reflect the two groups to which the Code applies (i.e. individuals and small businesses). The percentage for 2012-13 is consistent with the 2011-12 figure of 27%.

APPENDIX 2: INVESTIGATIONS STATISTICS

1 April 2012 - 30 June 2013 continued



Do you want to know more about the Code or the CCMC?

If you would like to know more about the Code of Banking Practice or the CCMC, you can refer to the CCMC website: www.ccmc.org.au

Alternatively you can visit the ABA's webpage about the Code at: www.bankers.asn.au

Contacting the CCMC

Do you want to:

- report a concern that a bank has breached the Code?
- make a general enquiry?
- provide feedback?
- make a media enquiry?

You can contact the CCMC using the contact details below.



CODE COMPLIANCE MONITORING COMMITTEE

P.O. BOX 14240

MELBOURNE VIC 8001

PH: 1300 78 08 08

www.ccmc.org.au

info@codecompliance.org.au