CCMC

Banking Practice in Australia 2016-17

The Annual Report of the Banking Code Compliance Monitoring Committee

Code of Banking Practice

Driving better practice in Australia's banking industry

Contents

A year of achievement and reflection

For the Banking Code Compliance Monitoring Committee (CCMC), 2016–17 was a year of significant achievement. Driving improvement in the banking industry through our comprehensive and meaningful monitoring program occupied much of our time and focus. At the same time, parallel reviews of both the Code and the CCMC saw us evaluating our way of working, and thinking about how to better monitor the banking industry and engage with its customers.

This year, the Annual Compliance Statement (ACS) was once again the centrepiece of our monitoring efforts. Banks self-reported some 10,402 breaches of the Code, 30% more than the previous year. This breach number should be read with some caution. The CCMC considers that the sharp increase is more likely attributed to problematic and inconsistent reporting of breaches rather than evidence of poor practice. The CCMC is reliant on ACS results to highlight particular areas of risk that will become the focus of more in-depth Committee examination, as such it is important that sound data is reported by banks. The CCMC has raised this issue with banks individually and will work with them throughout 2018 to improve reporting practices.

Of all the obligations in the Code, those concerning the provision of credit are among the most important. Where banks fail to meet these standards, the impact for consumers can be far-reaching. With 4,200 breaches in 2016–17, provision of credit has been one of the largest contributors to Code breaches for a number of years.

Keen to examine the issues in more depth, we launched an inquiry into banks' compliance with the Code's provision of credit obligations. Our report on this work, released earlier this year, focused on how banks process requests for credit cards and credit limit increases, as well how they assess a customer's capacity to repay unsecured credit. With the recommendations from this inquiry, we challenged banks to improve their processes, and, in turn, the outcomes for their customers.

Responding to customers in financial difficulty is another key Code obligation. These obligations were the focus of a CCMC report in 2015, and this year, we were pleased to see banks taking them seriously. Banks' ACS figures show that customer requests for financial difficulty assistance increased by 9% to reach 303,635 in 2016–17. Close to three-quarters (73%) of these applications were approved, up 3% on last year's numbers. We also welcomed banks' investment in initiatives to assist customers experiencing family violence. Next year, we will follow up our 2015 inquiry with a further examination into how banks are managing their financial difficulty obligations.

Direct debit cancellation processes continue to be an area of concern for the CCMC. Banks self-reported just 95 breaches of their direct debit obligations in 2016–17, a decrease from 136 the year before. This decrease is of concern to the Committee. Following an influx of breach allegations from customers and advocates, the CCMC this year conducted mystery shopping, in a follow-up to earlier inquiries in 2009 and 2011. We found that banks are still not meeting their obligations to cancel direct debits at a customer's request, with customers given non-compliant advice in more than half of mystery shopper interactions. We will be closely monitoring banks' conduct in this area moving forward with a view to improve compliance rates and to hold banks accountable if they fail to rectify this long running issue.

For the last three years, debt collection has been among the top five areas of self-reported non-compliance. This year, banks' self-reported breaches increased from 796 to 1,119 breaches. At the same time, we received a number of debt collection breach allegations from customers and advocates. Should these trends continue, we may take further action on compliance with the Code's debt collection obligations.

This year, banks reported that they received 1,205,523 complaints, 1% more than in the previous financial year. Notwithstanding this very slight increase, we were pleased to see banks investing in staff to resolve complaints as quickly as possible – 92% of the complaints reported were closed within the first 5 days.

Beyond tackling non-compliance, we also have a role identifying and promoting best practice to drive continuous improvement. The Code requires banks to give special assistance to remote Indigenous customers. In monitoring compliance with this obligation, we were encouraged to see some banks devoting considerable effort and resources to cultural awareness and Indigenous financial inclusion and literacy, thereby meeting – and exceeding – the Code's requirements. To showcase these practices, we commissioned a special report examining Indigenous customers' access to banking services.

Alongside our monitoring work, independent reviews of the Code and the CCMC gave us a valuable opportunity to celebrate our accomplishments and to look ahead, considering how we could maximise the benefits of our work. Responding to the reviewer's feedback on our processes and operations, this year we began work improving our data collection activities, the risk modelling that informs our monitoring and investigations, and the way we report on the outcomes of our work. This work is only the beginning, with more to come in 2017–18 and beyond.

Following this year's Code review, a new iteration of the Code is set to gain approval from the Australian Securities and Investments Commission (ASIC) toward the end of 2017 or early 2018. With this new Code, consumers can have even greater confidence that the Code sets high standards and meets the regulator's benchmarks for monitoring and enforcement. The CCMC will work with Code Subscribers old and new as they transition.

The CCMC's achievements this year would not have been possible without the direction and advice of my fellow Committee members, Sharon Projekt and Gordon Renouf, who have again fulfilled their respective roles as industry and consumer and small business representative with vigor. This year both I and my colleague Gordon Renouf were appointed for further three-year terms. I look forward to working with Sharon and Gordon as we move into this new phase.

We thank our dedicated secretariat staff led by Chief Executive Officer, Sally Davis. The staff continue to improve the efficiency and impact of our work, providing a valuable service to the banking industry and the community.

Christopher Doogan AM
Chair

SNAPSHOT

Our year at a glance

Self-reported breaches

10,402
self-reported Code breaches

↑ 30%
from 7,987 in 2015-16

Top 5 breach areas for 2016-2017:

1. Provision of credit
2. Privacy and confidentiality
3. Debt collection
4. Compliance with laws
5. Key commitments

Provision of credit

4,200
self-reported breaches

↑ 80%
since the previous reporting period

Debt Collection

1,119
self-reported breaches

↑ 40%

Direct Debits

50 million
direct debit transactions processed monthly

56%
non-compliance from CCMC's compliance review

Financial difficulty

303,635
requests for financial difficulty assistance

↑ 9%
from 278,999 in 2015-16

73%
requests for assistance granted

↑ 3%
from 70% in 2015-16

Complaints

1,205,523
complaints received by banks

↑ 1%
from 1,189,832 in 2015-16

92%
of complaints resolved within 5 days

CCMC achievements

Guiding improved lending practices with an inquiry into banks' provision of credit (p.10)

Promoted Indigenous financial inclusion and literacy by showcasing current industry best practice (p.13)

Renewed the focus on banks' direct debit obligations with mystery shopping research (p.20)

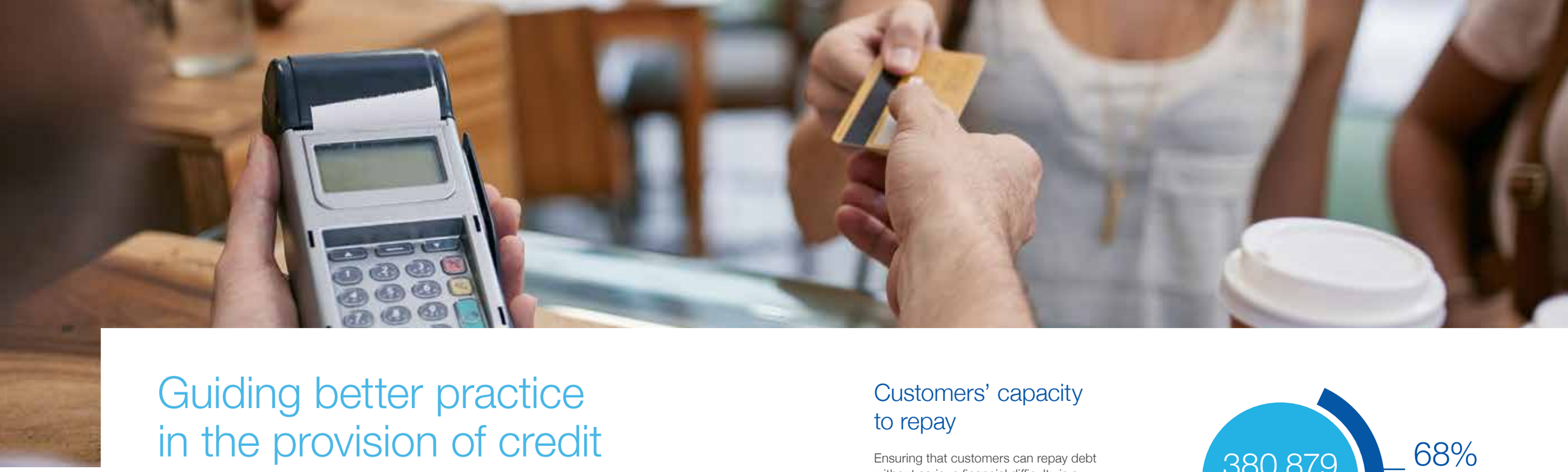
Deepened our stakeholder relationships to inform our monitoring and share its results (p.26)

Helped strengthen the Code by contributing to the independent Code review (p.30)

Revised our monitoring approach through an independent review of our work (p.31)

OUR MONITORING

Promoting best practice in the Australian banking industry



Guiding better practice in the provision of credit

In March 2016 banks processed over 380,000 applications for unsecured credit. It is crucial that banks are prudent and diligent in the way they approach this lending, so the provision of credit is an important focus of the Code.

The CCMC's monitoring revealed that non-compliance with provision of credit obligations was a distinct concern. Provision of credit has consistently placed as one of the top five areas for self-reported Code breaches in the CCMC's annual collection of compliance data. In 2014–15, provision of credit became the second highest source of non-compliance, accounting for 1,324 self-reported breaches. The following year, breaches rose again, increasing 76% to 2,328. At the same time, consumers were approaching the CCMC with individual allegations about banks breaching their credit provision obligations.

To examine the issues and drive improvement, in 2016–17 the CCMC conducted an inquiry. The inquiry assessed whether banks' processes and systems enabled them to achieve the diligent and prudent provision of credit required under the Code.

Under the Code, banks must assess applications for credit using the care and skill of a diligent and prudent banker

Customers' capacity to repay

Ensuring that customers can repay debt without serious financial difficulty is a fundamental part of responsible lending. To assess whether a customer can repay unsecured credit, banks look at a customer's current income and expenditure. Responding to the CCMC's inquiry, banks reported that they generally consider a debt serviceable as long as income is greater than expenditure.

To achieve a higher standard of practice, the CCMC recommended that banks look at introducing or enhancing a 'serviceability buffer'. That is, banks should be assessing whether a customer could afford to make more than minimum repayments and save some money each month. This type of serviceability buffer – already being considered by some banks – would leave room for unforeseen expenses and reduce the risk of financial difficulty.

Suitability of credit products

Without knowledge of why a customer wants a credit card, a bank cannot know if the product is unsuitable for them. Yet the CCMC found that while customers applying for other types of unsecured credit are typically asked about their requirements, banks rarely ask customers how they intend to use a credit card. The CCMC recommended that banks make sure to tell customers – on application forms or in prominent guidance – that while credit cards can be used for general living expenses, in some circumstances another credit product may be more appropriate.

68%
were credit card applications

97%
were processed using automated systems

55%
were approved without further review

Credit limit increases

Banks should also have more robust processes for approving credit card limit increases. When approving these increases, the inquiry found, banks do not always ask customers for up-to-date information.

The CCMC recommended that banks ask for and verify information about the customer's current income, expenses and liabilities before approving credit card limit increases.

Monitoring and reporting

Data reported by banks showed that the vast majority of unsecured credit applications are processed at least in part by automated systems, while close to half are approved without any additional manual assessment.

The CCMC recommended that banks monitor their automated credit assessment systems and outputs using a robust process that incorporates manual file reviews. Banks should also make sure that their systems can capture and report on any inappropriate credit provision, and ensure that serious and systemic non-compliance is promptly rectified.

Next steps

The CCMC released its report on banks' provision of credit in January 2017. A few banks have since begun implementing the Committee's recommendations, reporting on their work in this year's Annual Compliance Statement (ACS). Overwhelmingly, however, banks reported that they have delayed adopting these recommendations while they await the new Code and coming legislative changes. While the CCMC acknowledges that this is a dynamic space, it will continue to monitor and report on banks' provision of credit practices, and expects to see banks taking up the Committee's recommendations.

Improving Indigenous customers' access to banking services

Indigenous Australians are more than twice as likely as non-Indigenous Australians to be severely or fully financially excluded. To support banks' efforts to tackle financial exclusion, this year the CCMC developed a special report showcasing good practice in banks' dealings with Indigenous customers and communities.

Indigenous customers and the Code

Under the Code, banks must give special assistance to remote Indigenous customers. But while Indigenous people are more likely to live in remote areas than their non-Indigenous counterparts, most still live in Australia's cities and towns. The next version of the Code, expected in late 2017 or early 2018, is likely to strengthen banks' obligations and extend their application to all Indigenous customers.

The report drew on the experience of the four major banks – Commonwealth Bank, National Australia Bank, Westpac and ANZ. Each has devoted substantial effort and resources to improving Indigenous financial inclusion, financial literacy and cultural awareness. These initiatives meet – and exceed – the obligations in the Code, which requires banks to take extra steps to help remote Indigenous customers understand and access banking services.

Financial inclusion

Increasing access to appropriate and affordable banking services is a major focus of banks' work with Indigenous customers. Industry and banks have sought to address the unique challenges that can limit Indigenous people's access to transaction accounts – the most basic and essential financial service. So that Indigenous customers without standard identification documents can still open accounts, the ABA worked with the Australian Transaction Reports and Analysis Centre to develop more flexible identification approaches. To enable remote Indigenous customers to use their transaction accounts without ATM fees eroding limited incomes, the ABA also worked with government and ATM companies to develop and extend a fee-free ATM services initiative for remote communities.

At the institution level, Commonwealth Bank introduced a dedicated helpline for Indigenous customers. The Indigenous Customer Assistance Line (ICAL) fields more than 150,000 calls a year. ICAL assists customers who have lost their debit cards by arranging replacement cards and offering alternative ways for them to access their money in the meantime.

Banks have also developed specialist programs that increase Indigenous customers' access to credit and support them to save. National Australia Bank in partnership with Good Shepherd Microfinance has provided microfinance to more than 25,000 Indigenous customers, while Commonwealth Bank has also developed microfinance initiatives. Both National Australia Bank and ANZ have partnered with community organisations to offer dollar-for-dollar matched savings programs.

Financial literacy

Financial literacy is another area of activity for the big four banks, which have each delivered financial literacy initiatives for Indigenous communities. Westpac, ANZ and the Commonwealth Bank have worked closely with Indigenous organisations to develop and deliver tailored Indigenous financial literacy training. To grow the Indigenous financial counselling workforce,

the Commonwealth Bank provides scholarships that support Indigenous people to complete a Diploma. And through National Australia Bank's Indigenous Money Mentor program, locally-employed mentors work face-to-face with Indigenous clients, building their money management skills.

Cultural awareness

Recognising, understanding, respecting and celebrating Indigenous culture builds cultural awareness, which is the foundation for good relationships with Indigenous customers and communities. Going beyond the Code obligation to provide Indigenous cultural awareness training only to specific staff, each big four bank has developed training modules and made cultural awareness training widely available to staff. The big four banks have also given considerable attention to Indigenous employment, setting employment targets and backing these up with a range of Indigenous scholarship, trainee, intern and graduate programs.

Next steps

With the Code's obligations concerning Indigenous customers set to be strengthened and extended soon, the CCMC anticipates that more banks will be creating, reviewing or expanding Indigenous initiatives. Ahead of this change, the CCMC expects that its Special report: *'Access to banking services by Indigenous customers'* will encourage wider adoption of good practice and inspire more thinking about how banks can best serve Indigenous customers and their communities.

The CCMC expects that its report will encourage wider adoption of good practice and inspire more thinking about how banks can best service Indigenous customers

Monitoring big-picture Code compliance

The CCMC's major compliance data collection activity is the ACS. Each year, ACS results provide a big-picture overview of how well banks are complying with their Code obligations. With this information, the CCMC identifies emerging risks as the focus for more in-depth investigation and advises banks on areas for improvement.

Across the industry, banks self-reported 10,402 breaches of the Code, an increase of 30% from 7,987 in 2015–16, and a continuation of an upwards trend over recent years. The main categories for self-reported breaches have remained largely unchanged for the last three years.

In and of itself, these increases are not a major concern for the CCMC, which does not believe that an increase in self-reported breaches necessarily reflects poorer practice.

10,402 breaches of the Code

↑ **30%** from 7,987 in 2015-16.

Not all of these self-reported breaches represent actual breaches of the Code. Moreover, there is variation in the way banks report breaches: some report each breach, while others group breaches together. Banks also categorise breaches against Code clauses in different ways – an area of ongoing work for the CCMC. The CCMC challenges banks to improve their breach identification and reporting, which has a crucial role informing our work to drive improvement in the banking industry.

Top 5 self-reported breach areas

2014 - 2015	2015 - 2016	2016 - 2017
Privacy and confidentiality	Provision of credit	Provision of credit
Provision of credit	Privacy and confidentiality	Privacy and confidentiality
Compliance with laws	Compliance with laws	Debt collection
Debt collection	Debt collection	Compliance with laws
Internal dispute resolution	Key commitments	Key commitments

Provision of credit

Banks reported 4,200 breaches of their provision of credit obligations in 2016–17, making provision of credit the top contributor to Code non-compliance again this year. Provision of credit breaches increased by 80% compared to the previous year. While one outlier bank reported 93% of these breaches, the increase is industry-wide – prompting the Committee's in-depth investigation of provision of credit issues this year (discussed on p.10).

However, provision of credit figures should be interpreted with some caution. The outlier bank that contributed the vast majority of breaches in this category reported breaches whenever there were deviations from internal policy, which may not have resulted in inappropriate lending or an actual Code breach. The CCMC is working with this bank and others to better interpret the data and understand compliance in this area.

Banks receive and handle large numbers of customer complaints each year

1.2 million complaints

in 2016-17

92% of complaints resolved within 5 days

Internal dispute resolution (IDR)

Banks receive and handle large numbers of customer complaints each year – around 1.2 million in 2016–17 – underscoring the importance of good IDR processes. Self-reported breaches of the Code's IDR obligations increased a substantial 85% in 2016–17. This increase can largely be explained by one bank that reported 80% of all breaches in this area after identifying that front line staff we either failing to capture customer complaints or failing to respond to complaints in a timely manner.

Notwithstanding the one bank who reported a significant increase in breach numbers, the remaining banks reported a decrease in breaches from previous years. This downward trend may be a reflection of banks' IDR practices improving, however the Committee is concerned that a number of banks, including major banks, reported very low and in some instances no breaches of IDR obligations. The Committee will be working with banks to better understand their processes for identifying and reporting breaches of IDR obligations.

Through the ACS and in recent meetings with the CCMC, banks have reported several good industry practices, among them reviewing 100% of complaints for Code breaches and holding regular meetings among senior managers and compliance and complaints staff to assess complaints trends and issues.

2016-2017

Percentage of complaints resolved by timeframe

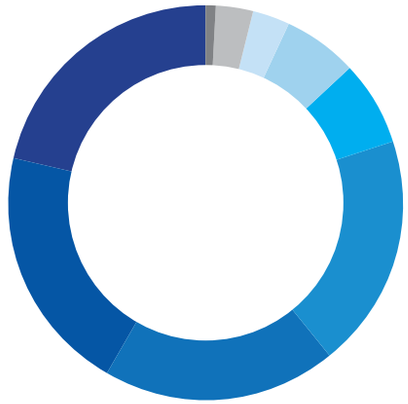
Note - The 'Industry' figure is calculated using the total number of complaints reported to the CCMC by all 13 Code-subscribing banks. This indicates the overall industry performance.

less than 5 days	92%
6-21 days	6%
22-45 days	1%
over 45 days	1%

2016-2017

Number of complaints by issue

Industry average



About the bank (incl. website, internet & mobile banking, bank policies and sponsorships)	21%
Rates, Fees and Charges	20%
Customer service	19%
Processing issues	19%
Automated payments, Direct Debits and Chargebacks	7%
Other	6%
Communication and Marketing	3%
Financial Difficulty and Debt Collection	3%
Privacy and Security	1%

There are also positive trends in the timely closure of complaints. Collectively, banks are focusing on improving the customer experience, which includes addressing customer concerns when they arise. Banks have invested heavily in training and empowering frontline staff to address and resolve customer concerns at the first point of contact.

These efforts are reflected in ACS data showing that in 2016–17, 92% of complaints were resolved within five days. As some banks do not record and report expressions of dissatisfaction that are resolved at first contact or without escalation, the total proportion of complaints resolved within five days is even higher than this. For complaints that take more than five days to resolve, resolution times are shortening: this year under 1% of complaints remained open beyond 45 days.

While applauding efforts to address customer concerns quickly, the CCMC reminds banks that complaints closed within five days and outside of the full IDR process should be resolved to the customer's complete satisfaction. It is not sufficient to rely on customers to escalate the complaint or complain again if they are not satisfied; instead, banks' early resolution processes should identify complaints that should not be closed because the customer remains dissatisfied.

For the second year the CCMC has asked banks to provide additional data to better understand complaints based on customers' issues and the related product. We acknowledge that the 13 subscribing banks provide a varied range of products and the CCMC is not surprised that the complaints reported by banks were proportionate to those product offerings. At an industry level, transaction accounts, credit cards and complaints not related to a product were the top areas of concern, this is unchanged from the data collected in 2015-16.

Despite the varied products offered by banks, the industry reported fairly consistently in the issues experienced by customers. The main issues behind complaints were about the bank, customer service, and rates, fees and charges. This is once again consistent with the data collected in 2015-16.

The CCMC has discussed complaint categories with banks individually, challenging them to look at the causes for customers' concerns and consider initiatives that may lead to better customer experiences.

Acknowledging the importance of banks meeting their obligations to provide an effective and timely internal dispute resolution process for customers, the CCMC will continue to monitor banks compliance with this key Code clause.

Debt collection

After rising steadily for the previous three years, this year breaches of banks' debt collection obligations increased a further 41%. Although one bank reported 91% of these breaches, several other banks are also reporting increased breaches in this category. Adding to the self-reported breaches, community legal groups, customers and the FOS Lead Ombudsman for Banking and Finance have also approached the CCMC with individual breach allegations.

Reports of debt collection breaches feature recurring issues. Some banks are making it unnecessarily difficult for customers to appoint an authorised third party while some are continuing – or threatening to continue – collections action while a financial difficulty arrangement is in place or being assessed. Additionally, there are issues with record-keeping, where bank staff fail to make adequate notes of collections conversations and agreements.

Looking ahead, the CCMC will tackle individual breach allegations by working one-on-one with the banks concerned and reporting publicly on outcomes. More broadly, the Committee will monitor this area of growing risk and may launch an inquiry into debt collection issues.

Financial difficulty

Under the Code, banks are required to consider and respond promptly to requests for assistance from customers who are in financial difficulty. Most commonly, banks assist customers by capitalising arrears and postponing or reducing payments.

This year, banks received more requests for financial difficulty assistance

↑ 9% from 2015–16 to 303,635

At the same time, banks approved more of these applications

granting assistance to 73% of applicants

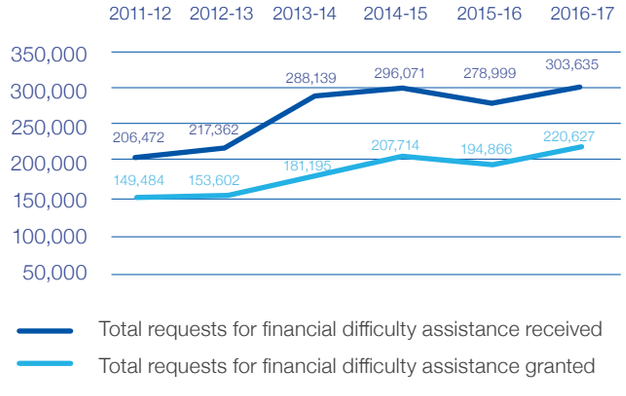
slightly higher than the 70% approval rate the previous year.

Approval rates, however, varied substantially from bank to bank.

A customer's failure to provide supporting documentation was the most common reason for their application to be declined, accounting for 62% of declines in 2015–16. Much of these declines come from just a couple of banks who report some difficulty balancing the need to assist customers in a flexible way against data collection obligations. Nonetheless, these same banks reported that they do take a flexible approach when assessing and providing financial difficulty assistance to customers facing family violence or financial abuse who cannot provide standard documents.

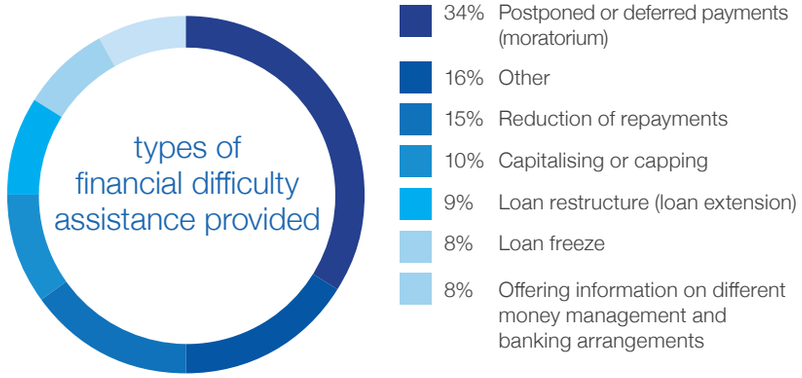
2011-2017

Request for financial difficulty assistance and assistance granted



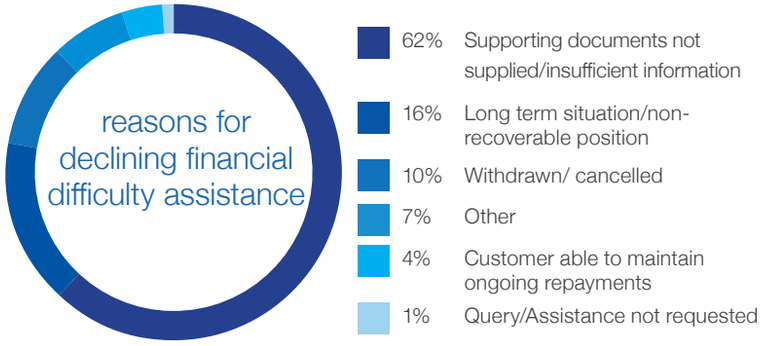
2016-2017

Breakdown of types of financial difficulty assistance provided by banks



2016-2017

Breakdown of reasons for declining financial difficulty assistance by banks



Moreover, many banks noted that they are shifting away from financial difficulty assessment models that require supporting documentation – a move that the CCMC welcomes. Reporting on its 2015 inquiry into banks' compliance with their financial difficulty obligations, the Committee recommended a flexible approach to supporting documents. This flexibility is especially important for vulnerable customers and those facing family violence or financial abuse, who may not be able to provide documentation. Next year, the CCMC hopes to see a reduction in the proportion of applications being declined due to lack of supporting documents.

There are other positive developments in banks' responses to family violence and financial abuse. ACS responses point to a growing trend of banks providing financial difficulty and collections training that addresses these issues. Some banks now have specialised staff and initiatives for customers experiencing abuse. Taking a holistic approach to customers' financial and personal circumstances, one major bank has created and continued to develop an accessible online guide that helps customers to find support for both financial and nonfinancial difficulties, such as family violence or mental health issues.

With a new inquiry into banks' compliance with their financial difficulty obligations planned for early next year, the CCMC looks forward to learning more about these and other initiatives.

Banks are shifting away from financial difficulty assessment models that require supporting documentation – a move that the CCMC welcomes

A focus on direct debits

This year banks self-reported just 95 breaches of their direct debit obligations, a decrease from 136 the year before. This decrease is of considerable concern for the Committee and raises questions about banks monitoring processes and whether they are sufficiently robust to identify and report on breaches of direct debit obligations.

Banks' compliance with their direct debit obligations has been on the CCMC's radar for a number of years. The CCMC has been actively monitoring banks compliance in this area since 2008, releasing reports in 2009 and again in 2012. On each occasion the CCMC reported that banks compliance with the Code was disappointing and challenged banks, through its recommendations, to improve practices.

This year, consumer concerns prompted a wider CCMC examination of banks' compliance with their obligation to cancel direct debits when requested by a customer. Earlier in 2016–17, the CCMC heard from financial counsellors and community legal centres that their clients were finding that banks were not always meeting this direct debit obligation. These anecdotal reports were followed by a spike in Code breach allegations about direct debit cancellations, with 10 matters received within a short period.

The Code gives consumers the right to cancel a direct debit with their bank. This important safeguard helps consumers – especially those in financial difficulty – to maintain control of their finances

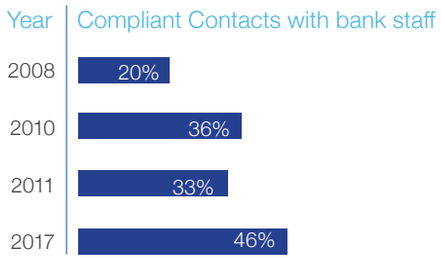
Building on previous research, the latest round of mystery shopping indicated that, while compliance has improved since 2011, non-compliance remains unacceptably high and is an industry-wide problem. In just over half of mystery shopping contacts (54%), bank staff gave non-compliant advice in response to an enquiry about cancelling a direct debit.

Non-compliance was higher for branches than for contact centres. The CCMC reported on these findings in October 2017.

When banks fail to comply with their direct debit obligations, customers are inconvenienced and can also suffer financial detriment. Conscious of these impacts but aware that past compliance efforts have seen only limited improvement, the CCMC is engaging with industry to better understand the challenges of meeting the direct debit obligations. The CCMC will work with banks to resolve the issues, and will continue monitoring compliance until satisfied that banks are consistently meeting their obligations.

Compliance trend

Direct debit mystery shopping



The CCMC will continue monitoring direct debit compliance until satisfied that banks are consistently meeting their obligations

Staff training

A bank's compliance with the Code rests on the knowledge and skill of its staff. Staff who are trained in the Code are more likely to both meet their obligations and to recognise any non-compliance by others. The training obligations in the Code are therefore crucial. The CCMC expects banks to train staff to competently and efficiently discharge their obligations under the Code.

Overall, banks reported fewer breaches of the Code's training provisions this year. However, there was great variation among banks, with some reporting no breaches relating to staff training.

In part, this variation may reflect the fact that banks' views about what constitutes a breach of these provisions differ – sometimes markedly. Some banks take a liberal approach. For example, where a staff member is found not to be not carrying out their role as they have been trained to do, the bank may link this to ineffective training and register it as a breach of the Code. For other banks, the criteria are more rigid: one bank only reports a breach where staff conduct can be directly linked to a training gap or a failure to meet learning module deadlines. The CCMC will consider banks' reporting approaches and may issue guidance to address inconsistencies.

Banks must train their staff to provide banking services competently, efficiently and in compliance with the Code

Accurate and consistent breach reporting

For some time, banks have been inconsistent in reporting breaches of the Code. To help banks identify and report breaches, in 2015 the CCMC issued detailed instructions with Guidance Note 12.

One bank, for example, reports very large breach numbers, and has been an outlier for several years. This bank has told the CCMC for the first time that because its systems do not capture Code breaches in an easily identifiable way, it reports 'possible' breaches. This means that the bank's data is unlikely to be a true reflection of its compliance with the Code. Conversely, some banks who are reporting smaller numbers have advised the CCMC that within these individual breaches there are at times large customer impacts.

The CCMC recognises the need to better understand the underlying issues and customer impact of breaches. Moving forward the CCMC will be working with banks to better understand the issues, customer impact and financial impact of the breach data reported.

Issues also arise with how banks are categorising breaches. The breaches reported by banks indicate that they have well established processes to identify areas where they breach legislative obligations. The Committee has concerns however that some banks current compliance processes are not sufficiently robust to identify and categorise breaches of Code obligations that are not found in law, with few banks reporting breaches in these areas.

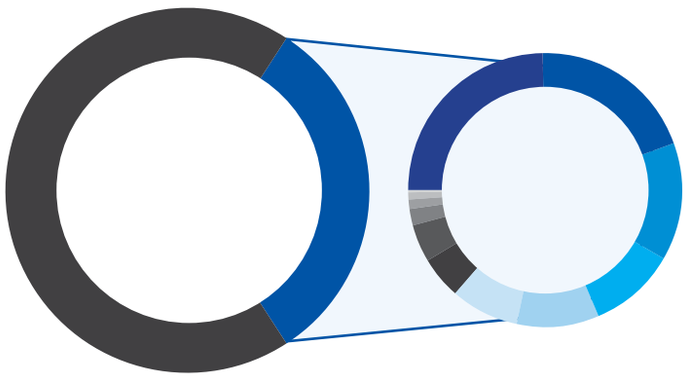
As banks transition to the new Code, the Committee will focus on addressing these long-running monitoring and reporting issues. The CCMC wants banks to ensure that their compliance frameworks are mapped to the new Code, allowing them to identify, categorise and report on breaches in a consistent and robust way. Achieving this will mean focusing on the training for staff who are responsible for this work. The Committee expects all subscribing banks to use the transition period as an opportunity to review and bolster their compliance programs, ensuring that compliance with the revised Code is actively monitored, and that Code breaches are correctly identified and consistently reported to the CCMC.

As banks transition to the new Code, the Committee will focus on addressing long-running monitoring and reporting issues

2016-17

Percentage of total self-reported Code breaches by bank

Bank 1	68.5%	Bank 8	1.6%
Bank 2	7.8%	Bank 9	1.4%
Bank 3	6.2%	Bank 10	0.6%
Bank 4	4.3%	Bank 11	0.3%
Bank 5	3.2%	Bank 12	0.3%
Bank 6	3.1%	Bank 13	0.03%
Bank 7	2.5%		



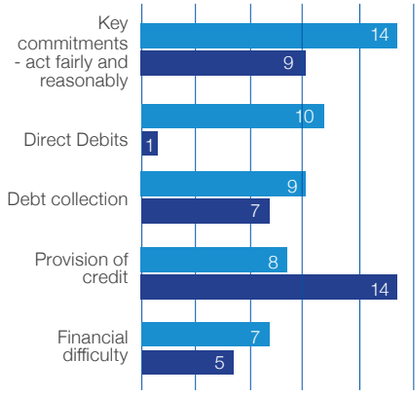
Investigating alleged breaches of the Code

The Code gives the CCMC powers to investigate individual allegations that a bank has breached the Code. The aim of an investigation is to establish whether a breach has occurred, and if so, to work with the bank to improve future practices. Investigations also inform the CCMC's broader work, adding a source of data on banks' compliance, illuminating the real-life impact of Code breaches, and highlighting areas of emerging risk.

In 2016–17, Code breach allegations increased. The number of new matters referred to the CCMC rose 41% to 48, compared to 34 in the previous year. At the same time, the number of alleged breaches associated with these matters increased 18% to 77. The Code obligation that was most commonly alleged to have been breached was the key commitment to act fairly and reasonably. Code obligations about direct debits, debt collection, provision of credit and financial difficulty were the remaining top contributors.

2016-17 vs. 2015-16

Alleged breaches: top 5 areas



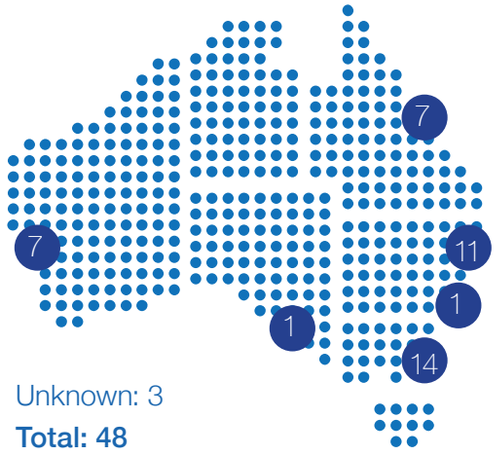
Challenges in the investigations referral process

The CCMC closed 45 investigations this reporting year. From these, only four breaches were confirmed. In just under half of the closed investigations (49%), the customer withdrew the allegation or did not stay in contact with the CCMC. In most of the remaining closures, the CCMC did not examine the circumstances surrounding the alleged breach because, for example, the Code did not apply to the bank, product or service concerned; too much time had passed since the alleged events; the allegation was the same as a previous allegation; or because another forum was more appropriate or had made a finding that the CCMC then adopted.

These outcomes illustrate challenges in the investigations referral process. Many consumers appear to be confused about both the purpose of investigations and the CCMC's powers. Dispute resolution is not the CCMC's function: unlike an external dispute resolution body or a court, the CCMC cannot award compensation or make declarations about a customer's legal rights and entitlements. Instead, the CCMC's aim is to work with banks to improve future practice. Through its review process, the CCMC will consider this challenge and look for better ways to educate customers about the CCMC's investigation function.

More information about the CCMC's plans for the future can be found on page 32.

Most new matters were referred by customers, either directly (71%) or via a consumer advocate (23%). FOS referred the remaining 3 matters (6%). Geographically, most matters originated from Victoria, New South Wales or Queensland. More detail on the CCMC's investigations is in **Appendix 3.**



OUR STAKEHOLDERS

Sharing information and collaborating

Listening to organisations on the front line

Working on the front line with customers every day, financial counsellors, community legal centre staff and other community workers have a wealth of information about banking practices. Their knowledge of where banks are falling short of their obligations has tremendous value for the CCMC, feeding into its assessment of risk and informing its monitoring work.

2016–17 saw the CCMC engaging heavily with community and consumer organisations. The CCMC met with the Consumer Action Law Centre (CALC) in Melbourne to discuss the Code review and other issues. Liaison with CALC, Westjustice, Western Suburbs Legal Centre and Wyndham Legal Service built the CCMC's understanding of consumer issues and the impact of non-compliance, while discussions with the First Nations Foundation informed the CCMC's special report on Indigenous customers' access to banking services.

The CCMC kept abreast of developments in the financial counselling sector, attending and presenting at national, Queensland and Northern Territory financial counselling conferences. As part of the Northern Territory conference, the CCMC also visited the remote Indigenous community in the Tiwi Islands.

Next year, the CCMC will broaden and strengthen its relationships with community and consumer organisations. The CCMC's aims are to foster a reciprocal exchange of information and to build trust by listening to and, crucially, acting on these organisations' on-the-ground intelligence.

Community and consumer organisations' knowledge of where banks are falling short of their obligations has tremendous value for the CCMC

Sharing the CCMC's experience

The CCMC maximises the value of its work by sharing insights from its monitoring and its recommendations for better practice. The provision of credit was a focus of the CCMC's dissemination efforts this year. Presenting at the Responsible Lending and Borrowing Summit in Sydney, the CCMC CEO, Sally Davis, reported on the upwards trend in provision of credit breaches and shared recommendations from the CCMC's inquiry. Together with Dr Craig Latham, Deputy at the Office of the Australian Small Business and Family Enterprise Ombudsman, Ms Davis addressed the FOS conference on lending to small business. The Committee also attended the conference.

Working with banks and regulators

Throughout the year the CCMC worked with banks and the ABA to help them achieve their visions for customer service and best industry practice. Engagement focused on discussing areas of concern, improving reporting and collaborating to tackle non-compliance. The CCMC's Annual Forum is a key event on the engagement calendar, and is an opportunity for the CCMC and industry to discuss Code obligations and compliance efforts. 'Change' was the theme of this year's Forum, which welcomed Phil Khoury to talk about the Code and CCMC reviews.

The CCMC also continued its liaison with ASIC, meeting quarterly to discuss emerging issues and the Committee's work.

OUR PLANS

Positioning ourselves for the future

Transitioning to a stronger Code

To ensure that the Code helps banks to serve customer interests and build trust and confidence, in July 2016 the ABA commissioned an independent Code review. Contributing to both the review and the work flowing from it was a substantial part of the CCMC's work this year.

During the review's consultation period, the CCMC made a submission to the Code reviewer, Phil Khoury. The CCMC's submission recommended extending the Code by expanding its protections – particularly for vulnerable customers – and reducing or eliminating carve-outs. The CCMC also advocated for agreed definitions of key terms as the basis for shared understanding and improvements to reporting.

Reporting in January 2017, the reviewer observed that a strengthened Code could help restore trust in the banking industry. In line with the CCMC's suggestions, Phil Khoury recommended that the Code's protections be expanded to apply to a wider range of consumers and consumer issues, and that carve-outs be reduced. Another proposal was that the Code be re-drafted in plain English, making it more accessible to the public.

The reviewer observed that a strengthened Code could help restore trust in the banking industry

The CCMC remained in close communication with the ABA as it began to redevelop the Code in response to these recommendations. Encouraging the ABA to make the most of this redrafting opportunity, the CCMC reiterated the need for the Code to offer consumer protection over and above legal minimum standards, and to address banks' culture and commitments from the CEO down. The Code also needs to be written in a plain and inclusive way.

With the revised and ASIC-approved Code expected to be released in late 2017 or early 2018, the CCMC's next focus will be overseeing a smooth transition. This will include reviewing and, where necessary, updating the CCMC's Guidance Notes, as well as welcoming new Code Subscribers.

Guidance Notes

Guidance Notes boost transparency and certainty by setting out how the CCMC will approach different compliance matters and how it interprets its own obligations under the Mandate. The CCMC develops its Guidance Notes in consultation with industry and with FOS.

Refocusing the CCMC's work

To maximise value to the banking industry and its customers, the CCMC commissioned an independent review of its own work and processes. The CCMC review ran parallel to the Code review and was also conducted by Phil Khoury. The review examined the Committee's governance arrangements, its investigations and monitoring work, and its relationships with stakeholders.

Reporting on his findings, Phil Khoury observed that the CCMC adds value for banks and consumers. Industry benefits from the CCMC's efforts to share best practice, while the CCMC's individualised reporting, which benchmarks banks against their peers, motivates continuous improvement. The review also found that the CCMC investigates Code breach allegations in a fair, diligent and timely way, and that its flexible approach to inquiries ensure that the best techniques and tools are used.

Industry benefits from the CCMC's efforts to share best practice, while its individualised reporting motivates continuous improvement

However, Phil Khoury concluded that the CCMC would benefit from a more robust Mandate, greater promotion, and more in-depth and frequent reporting. He made six recommendations detailing his proposed approach. The CCMC has incorporated these into its workplan, identifying resourcing and improving its risk-based monitoring approach as priorities.

CCMC review recommendations: a summary

- Gather more information about Code effectiveness and compliance from banks, external dispute resolution schemes, customer advocates, small business representatives and regulators.
- Set out a three-year plan to increase resourcing, conduct more inquiries and give banks advance notice of information needs.
- More actively promote inquiry reports, both directly to stakeholders and via media releases.
- Use Code breach allegations to inform risk assessment and monitoring, rather than investigating them individually.
- Use the Annual Report and ACS to present data meaningfully and encourage best practice.
- Have sufficient resourcing to recruit and hire specialists to work on data analysis and reporting.

Risk-based monitoring and investigations

Investigating Code breach allegations gives the CCMC valuable information about banks' practices. To make the most of this information and in line with recommendations from the review, the CCMC is considering changes to the investigations process that would see it investigating the issues more broadly, either within an individual bank or across the industry. The CCMC will also look at proactively reporting investigation outcomes to all banks, giving them both a prompt to review their own practices and guidance on how to deliver a better customer experience.

Any change to the CCMC's investigations approach will be part of an overarching effort to improve its risk modelling. By expanding its avenues for intelligence and improving its analysis, the CCMC aims to tackle the areas of greatest concern and consumer impact.

Resourcing

To make sure that it has the skills and capabilities to meet future needs, the CCMC will also review its resourcing, as recommended in the review. As a priority, the CCMC will look at engaging a risk professional to develop an enhanced risk framework, as well as a communications strategist and data analysis expert. The CCMC expects to have finalised the review and have the necessary resources in place by June 2018, ready for the new Code and Mandate.

ABOUT US

Our decision-making and governance

The CCMC is the independent body that monitors banks' compliance with the Code of Banking Practice, identifying and reporting on industry-wide problems and encouraging continuous improvement. The CCMC's powers and responsibilities are set out in its Mandate.

The Committee

Three representatives make up the Committee. The CCMC Independent Chairperson is jointly appointed by the ABA and the FOS Chief Ombudsman. The Independent Chairperson is joined by an industry representative, appointed by Code-subscribing banks, and a representative of individual and small business customers, appointed by the consumer representatives of the FOS Board of Directors.

Christopher Doogan

AM FAIM FAICD
Independent Chairperson

Current term:
31 January 2017 – 30 January 2020

Chris is a company director and lawyer by background, having occupied several senior positions in both the private and public sectors. He was first appointed to the CCMC in February 2014.

His public sector positions included Deputy Comptroller-General and Comptroller-General of Customs prior to his appointment to the High Court of Australia as inaugural Chief Executive and Principal Registrar. In addition to partnership in a leading law firm of which he was the Managing Partner, he has been CEO of the National Capital Authority; Chairman of a company owned by the Commonwealth of Australia and the State of New South Wales, Law Courts Limited; Chairman of a health insurance company, Australian Health Management Group Limited; and Chairman of Community CPS Australia Limited, a mutual bank (trading as Beyond Bank Australia).

He has written an administrative law textbook, is a trained mediator from Harvard Law School and has filled many community positions including Vice President of the Australian Institute of Management and membership of advisory bodies relating to tertiary education, health and finance.

He has been a member of several regulatory agencies including the Commonwealth Tax Practitioners Board and the ACT Legal Practitioners Admission Board, and was a member of the Australian Business Foundation Board, the Principal Member of a specialist Commonwealth Appeals Panel, the independent Chairman of the Audit and Risk Committee for the Family Court of Australia and the Federal Circuit Court of Australia and Chairman of the Board of the Centre for Customs and Excise Studies. He is currently the independent member of the ACT Community Services Directorate Audit and Risk Committee, an Adjunct Professor at Charles Sturt University and a Director of ACT & Southern NSW Rugby Union Limited (the Brumbies).

The Committee met nine times in 2016–17

Sharon Projekt

Industry Representative

Current term:
7 August 2015 – 7 August 2018

Sharon has a legal background with broad experience across the Australian retail banking sector in the areas of legal advice, compliance, and internal and external dispute resolution. She was first appointed to the CCMC in August 2012.

She has extensive experience in escalated and complex complaint handling and investigations, having worked on a number of high–profile projects.

Sharon has also worked on compliance–related projects including coordinating and implementing a terms and conditions project to ensure banking compliance following the introduction of the Financial Services Reform Act, Code of Banking Practice and anti-money laundering legislation.

Sharon has worked in debt recovery, providing legal advice on insolvency issues related to mortgage and small to medium business banking customers. She completed the Insolvency Practitioners Association of Australia Advanced Insolvency Law and Practice course in 2002.

Gordon Renouf

Consumer and Small Business Representative

Current term:
1 July 2017 – 30 June 2020

Gordon is a lawyer and consumer advocate. He is a co-founder and CEO of Ethical Consumers Australia, which operates the Good on You ethical shopping service. He is Deputy Chair of Justice Connect and the Consumers' Federation of Australia and serves on the boards of the Telecommunications Industry Ombudsman (as a Director with Consumer Experience) and Good Environmental Choice Australia. He served two terms as a member of the Commonwealth Government's Consumer Affairs Advisory Council, and from 2007 to 2009 he was a member of the executive of Consumers International, the global peak body for national consumer organisations.

He was first appointed to the CCMC in July 2012. Gordon has worked as Director, Policy and Campaigns for the consumer group CHOICE, Director of the National Pro Bono Resource Centre, Director of the North Australian Aboriginal Legal Aid Service and Director of the Northern Territory Government's 2004 Alcohol Framework Inquiry.

The Secretariat

The Committee is supported by a secretariat through a business arrangement with FOS.

Sally Davis

Chief Executive Officer

September 2015 – current

Sally was appointed as Chief Executive Officer on 1 September 2015. Sally previously worked as Senior Manager of Systemic Issues at FOS and has worked at FOS and its predecessor schemes for 17 years. Sally is an accredited mediator and holds a Bachelor of Commerce and a Bachelor of Laws degree from the University of Melbourne and a Graduate Diploma (Arts) from Monash University.

Sally brings to this position extensive experience in financial services, as well as good relationships with regulators, industry and consumer groups.

Sally is also General Manager of Code Compliance and Monitoring at the Financial Ombudsman Service (FOS) Australia. Her work as General Manager involves the oversight of four other codes of practice in the financial services industry in addition to the Code of Banking Practice.

Donna Stevens

Compliance Manager

June 2017 – current

Donna has a background in the banking industry and in law, she holds a Bachelor of Law and Legal Practice from Flinders University. Donna joined the CCMC after 7 years with the Westpac Group where she specialised in litigation and internal and external dispute resolution. Her experience spans a number of jurisdictions and areas of the retail banking sector, some of which include: disputes arising offshore, banking fraud, consulting on matters of general banking compliance and strategy, and collections.

She is responsible for delivering the CCMC's Code monitoring program as set out in its annual work plan.

Liam Cronin

Compliance Analyst

January 2013 – current

Liam has a number of years' experience across financial services, including in a compliance monitoring role with a large UK bank. His strong analytic skills assist the CCMC in scoping and developing inquiries and in the interpretation and reporting of industry data.

Heidi Nehrmann

Compliance Analyst

December 2016 – current

Heidi has a background in law and dispute resolution and joined the CCMC Secretariat after two and a half years with FOS. She assists in investigating alleged breaches of the Code and with the CCMC's various compliance monitoring activities.

Ralph Haller-Trost

Investigations Manager

July 2011 – August 2017

Ralph left the CCMC in August 2017. His role included investigating alleged breaches of the Code, CCMC governance issues, conducting CCMC initiated enquiries and the CCMC's stakeholder engagement with consumer advocates.

René van de Rijdt

Investigations Manager

September 2017 – current

René has a background in law and external dispute resolution. He holds a Bachelor of Law from Monash University and a Bachelor of Planning and Design from the University of Melbourne.

René joined the CCMC after five years at FOS as a Case Manager in both financial difficulty dispute resolution and systemic issues investigations. Prior to this he was a solicitor at the Consumer Action Law Centre, Australia's largest consumer law legal and policy centre.

His role includes managing targeted investigations and information gathering to enable the CCMC to report concerns and trends in relation to the Code.

Kailey Ryan

Code Co-ordinator

June 2016 – current

Kailey is the Coordinator for Code Compliance and Monitoring at FOS and works across the five codes. She is the first point of contact for organising the logistics and administrative functions with the CCMC.

Kailey joined the CCMC Secretariat after 4 years with FOS.

Planning our work

To plan and carry out its work, the CCMC prepares a three-year workplan. 2016–17 was the final year of the last workplan. The Committee's new workplan for 2017–20 and beyond focuses on helping industry to transition to the new Code and on directing CCMC monitoring efforts at the areas of highest risk.

Banks

Thirteen banks subscribe to the Code:

- AMP Bank Limited
- Australia and New Zealand Banking Group Limited
- Bank of Queensland Limited
- Bank of Sydney Limited (formerly Beirut Hellenic Bank)
- Bendigo and Adelaide Bank Limited
- Citigroup Pty Limited
- Commonwealth Bank of Australia (including its subsidiary Bank of Western Australia)
- HSBC Bank Australia Limited
- ING 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 BankSA)

Code-subscribing banks represent

93.5%

of the Australian retail banking sector

APRA monthly banking statistics, September 2016 (released 31 October 2016)

Financial Statement

	30 Jun 2017	30 Jun 2016
Salaries		
Salaries - Gross including Committee remuneration, leave provisions, Super and Payroll Tax	$656,815	$ 568,527
Expenses		
Office Costs	$8,943	$10,324
Professional Assistance, including independent review of the CCMC	$82,659	$0
Communications and Stakeholder Relations	$79,742	$69,956
Leases, Maintenance & Development	$14,324	$17,405
Occupancy Costs	$28,424	$27,436
Finance Costs	$0	$1,001
Total Salaries and Expenses	$870,907	$694,649
Total Funding	$944,069	$776,462
Surplus/(Deficit)		
Annual Surplus/(Deficit)	$73,162	$81,813

APPENDIX 1

Appendix 1

2016-17 Code Breach Summary

		Bank breaches	Other forum breaches	Significant breaches	Total breaches
General		1,290	57	10	1,357
3	Key commitments	433	39	-	472
4	Compliance with laws	612	10	10	632
5	Retention of rights	-	-	-	-
9	Staff training and competency	206	7	-	213
13	Copies of documents	19	1	-	20
15	Operation of accounts	13	-	-	13
18.2	New account information - ID requirements and TFN legislation	5	-	-	5
34	Branch closure protocol	2	-	-	2
Disclosure		94	1	3	98
12	Terms and conditions	62	-	3	65
14	Cost of credit	13	-	-	13
17	Bank cheques & inter-bank transfers	3	-	-	3
18.1	Pre-contractual information	5	-	-	5
20	Changes to terms and conditions	11	1	-	12
Provision of banking service		182	3	1	186
7	Customers with special needs	8	-	-	8
8	Customers in remote Indigenous communities	-	-	-	-
12.5	Terms and conditions - Chargebacks	1	-	-	1
16	Account suitability	4	-	-	4
18.3	New account information - Account combination	-	-	-	-
19	Account combination	2	-	-	2
21	Direct debits	95	-	-	95
22	Chargebacks	26	2	-	28
23	Information relating to foreign exchange services	12	-	-	12
25	Payment instruments	14	-	-	14
26	Statements of account	20	1	1	22
12.5	Terms and conditions - Chargebacks	-	-	-	-
Provision of credit		5,531	47	1	5,579
27	Provision of credit	4,181	19	-	4,200
28	Financial difficulty	192	15	-	207
29	Joint debtors	4	1	-	5
30	Joint accounts and subsidiary cards	4	-	-	4
31	Guarantees	37	6	1	44
32	Debt collection	1,113	6	-	1,119
Other		3,142	39	1	3,182
10	Promotion of Code	13	-	-	13
11	Availability of copies of the Code	2	-	-	2
24	Privacy and confidentiality	2,741	37	1	2,779
33	Closure of accounts in credit	25	-	-	25
35	Electronic communications	76	-	-	76
37	Internal dispute resolution	283	2	-	285
38	External dispute resolution	-	-	-	-
39	Availability of information about dispute resolution processes	2	-	-	2
40	Family law proceedings	-	-	-	-
Total		10,239	147	16	10,402

Appendix 2

Issue	Background	Outcome
Clause 4 Compliance with Laws		
Inappropriate financial advice	The bank identified that a financial adviser had provided inappropriate advice and did not follow the bank's advice policies and procedures. The financial adviser had a total of 125 active customers when they left the bank.	The bank is reviewing potentially affected customers to determine where inappropriate advice was provided and whether any customer loss has occurred. This review is in accordance with the bank's remediation program for advised customers. The bank reported this matter to ASIC.
Inappropriate financial advice	The bank identified instances of inappropriate financial advice provided on structured products from 1 January 2009 to 28 March 2013. The underlying cause of this issue was insufficient enquiries into a customer's circumstances.	The file assessment process is ongoing, therefore the magnitude of the breach has yet to be determined. Compensation payable to customers at the end of the reporting period was $408,000. All structured product files within the review period will be assessed for appropriateness with compensation payable if advice is found to have been inappropriate. This matter was reported to ASIC.
Inappropriate financial advice	The bank identified that a financial advisor had provided inappropriate advice and did not follow the bank's advice policies and procedures. The financial advisor had a total of 289 active customers when they left the bank.	The bank is reviewing potentially impacted customers to determine where inappropriate advice was provided and whether any customer loss has occurred. This review is in accordance with the bank's remediation program for advised customers. The bank reported this matter to ASIC.
Failure to credit balances on credit card and loan accounts	An internal review found that credit balances on closed credit card and loan accounts were not returned to customers in line with the product terms and conditions.	The bank has assess that 115,968 customers were impacted with $1,451,720 owing to consumers. The bank will be sending correspondence and credit balance refunds, including interest adjustments, to affected customers. The bank has also established a monthly process to identify customers with closed accounts with a credit balance to ensure appropriate refunds are provided.
Non-payment of bonus interest	The bank identified a breach involving the non-payment of bonus interest on certain accounts. The underlying cause of the breach was identified as a system programming error.	The bank has formed a working group to investigate and remediate all related issues and engaged an independent reviewer to validate the remediation program. All customers who are eligible for the bonus interest will be paid their correct entitlement with interest. At the time of reporting, 5,476 accounts had been paid a total of $397,650. The bank reported the incident to ASIC.
Not complying with internal policies and processes	Following enhanced monitoring of banker activity, the review of a sample of bankers identified a number of instances of non-adherence to internal policies and processes relevant to banker behaviour and Code of Conduct requirements.	The bank has formed a project team who will work to identify the impact of the breaches found. The project team has undertaken a significant amount of work across a number of streams. This work includes root cause identification and remediation to provide customer compensation. This matter was referred to ASIC.
Incorrect charging of fees	The bank identified that some customers were charged duplicate account fees from 1 January 2014. An incident of the same nature previously occurred and was remediated in 2013. However, a sustainable solution to prevent re-occurrence was not implemented. Human error and a number of processes and system deficiencies were identified as the root cause.	A total of 1,698 accounts were impacted. Compensation of $402,175 was paid to customers including the reversal of the duplicate fees plus any interest charged. The bank reported the issue to ASIC.
Non-compliant process	The bank identified that one branch was failing to follow the correct process when entering a threshold transaction into the system. The branch was entering the third party code in all threshold transaction reports but had not created manual reports for these transactions. As a result, 359 threshold transaction reports were not submitted to the Australian Transaction Reports and Analysis Centre (AUSTRAC).	The bank supplied a breach notification to AUSTRAC. The bank reported that there was no customer impact. The bank has commenced gathering data for each of these transactions and has submitted all individual data reports to AUSTRAC.
Account transactions conducted before completion of 'Know Your Customer'	The bank identified that some customers were able to transact on their accounts prior to the completion of 'Know Your Customer' checks. The full magnitude of the beach was not known at the time of reporting.	As at June 2017, 2,418 actual 'Know Your Customer' breaches had been reported to AUSTRAC. Remediation action had focused on the closing out of files where 'Know Your Customer' checks were pending. Core system controls are planned to be delivered in 2018 which will prevent recurrence of this issue. Manual processes have also been put in place to reduce the risk of 'Know Your Customer' breach exposures until an automated solution is implemented.
Merchant facility software error	An error in the software running the bank's merchant facilities prevented approved payments and refunds being sent to the bank's host server. This resulted in discrepancies when merchants were reconciling takings at the end of the day and delays in merchants receiving sale funds. This issue was identified via a Financial Ombudsman Service (FOS) Australia investigation and was determined as a definite systemic issue.	961 merchant terminals were impacted. A software fix was deployed to merchant terminals. Before the software fix was deployed, if the bank was contacted by a merchant about missing funds, those amounts were reimbursed. After the fix was deployed, impacted customers were reimbursed for any approved transactions.

Issue	Background	Outcome
Clause 12 Terms and Conditions		
Customers able to redraw excessive amount	The bank became aware that it had allowed some customers to redraw in excess of the amount the customer had made in early and additional repayments to their loan. The cause of the issue was a coding change to the bank's system.	A technology fix has been implemented to stop the coding issue from reoccurring. Other solutions have also been put in place to prevent recurrence of the issue including changes to process and reporting. The bank is yet to ascertain the magnitude of the breach. The bank is continuing to work to identify impacted open and closed loan accounts and a remediation strategy has been developed to address any adverse customer outcomes.
Inadequate disclosure of Overseas Transaction Fee	The bank identified that an overseas transaction fee charged to consumer credit cards may have been charged when there is a credit to the account. The bank also identified that its contractual documents have not historically clearly disclosed to customers that this fee may be charged where there is a credit transaction to the account.	The bank is reviewing the disclosure in contractual documents regarding the charging of an overseas transaction fee where there is a credit transaction to the account. The bank is also working to identify impacted active and closed credit card accounts, to determine customer impacts and develop an appropriate strategy to address any adverse customer outcomes. The bank estimated that approximately $7 million has been charged to customers over the last 7 years in connection with credit transactions on consumer credit card accounts. The bank is still to ascertain the number of impacted consumer credit card accounts.
Incorrect set up of banking packages	The bank identified that some customers who have been provided banking packages did not receive one or more discounts or fee waivers on eligible accounts. The manual nature of the package set up resulted in a failure to ensure that packages were set up correctly or that benefits were appropriately applied.	The bank has estimated that approximately $5 million has been overcharged to impacted customers. The bank is currently determining ways it can improve controls and reduce the incidence of error when packages are opened or customers acquire additional products that are eligible for package benefits. The bank is also developing an appropriate strategy to address any adverse customer outcomes.
Clause 31 Guarantees		
Lack of evidence of appropriate warnings and disclosures to guarantors	The bank identified that, under its current practices, it may not be able to evidence that appropriate warnings and disclosures were provided to guarantors for business lending. The underlying cause of the issue was identified as ineffective systems and processes to assist bankers to consistently meet and evidence the disclosure requirements relating to the taking of guarantees.	The potential breach in relation to the provision of disclosures to each guarantor was remediated as part of the first phase of a targeted initiative. Where there is more than one guarantor, each guarantor is now provided with a set of the prescribed documents. The bank had also established a guarantees project to address the remaining areas of non-compliance. This project includes further process and policy changes, enhanced guarantor documentation and collateral, automated processes and education and training support.
24 Privacy and confidentiality		
Client account statements made available to third party	The bank identified that some Australian client statements were made available on the bank's online banking system to some overseas clients for a short period of time. Each Australian client statement was visible to one overseas client.	The overseas clients who had viewed the information were contacted by their relationship manager and asked to delete any copy of the third party statement they may have made. The impacted Australian clients were notified by phone and follow up email and provided the option of setting up a new account. These customers were also provided with contact details for the Office of the Australian Information Commissioner if they wished to lodge a complaint.
26 Statements of account		
Issuing of incomplete or incorrect statements of account	Following the migration of its home lending products to a new core banking platform, the bank identified that customers were receiving statements that were incomplete or that had incorrect data. The bank suspended the issuing of statements until a fix was deployed in the system. Approximately 6,500 statements were affected. As a result of the suspended issuing of statements, approximately 2,600 statements may potentially have been issued outside prescribed timeframes. There was no identified financial loss incurred by impacted customers.	Replacement statements were re-issued to all affected accounts with an accompanying letter of explanation. For subsequent migrations, the bank will consider more appropriate functional testing before deployment in relation to this issue.

Appendix 3

2016-17

Investigations Summary

Code Obligation	No. of allegations 2016-17	No. of allegations 2015-16	Variance
Key commitments - Act fairly and reasonably	14	9	5
Direct debits	10	1	9
Debt collection	9	7	2
Provision of credit	8	14	-6
Financial difficulty	7	5	2

		Entity Type: Individual	Small Businesses	Total Entity Type
Source	Direct	32	2	34
	Consumer Advocate	10	1	11
	FOS referral	3		3
	Total Source	45	3	48

Breach	1
No further contact by customer	12
Withdrawn by consumer	10
Not a Code subscriber or not product/ service to which the Code applies	6
Delegated decisions	16
12 months rule	5
No breach	3
Adopt finding made by another forum	2
Self-reported breach by banks	2
Same events as previous allegation with no new information	2
CCMC discretion - other forum more appropriate	1
CCMC discretion - not to investigate the allegation	1
Total	45

Breach findings

Breach identification

Breach identified by CCMC Determination:

2

Clause: Provision of credit

Breach conceded by banks through the delegated decision process

1

Clause: Key commitments – Act fairly and reasonably

1

Clause: Direct Debit

BANKING CODE COMPLIANCE
MONITORING COMMITTEE

P.O. BOX 14240
MELBOURNE VIC 8001
PH: 1800 367 287
www.ccmc.org.au
info@codecompliance.org.au