BCCC

Banking Code Compliance Committee

BCCC Inquiry Report

Banks' transition to the 2019 Banking Code of Practice

November 2019

Table of Contents

Executive Summary

The Banking Code Compliance Committee (BCCC) conducted an inquiry between July and October 2019 into Code subscribing banks' (banks) transition to the new 2019 Banking Code of Practice (the Code) to confirm whether banks have taken appropriate steps to ensure compliance with the Code. The inquiry is a holistic review of banks' transition to the Code. This Report provides a high level review of banks' approach, identifies good practice and makes recommendations for consideration by banks in light of that review. It does not provide a detailed examination of compliance with every Code obligation.

The 19 banks (detailed in **Table 1**) that subscribe to the Code were required to provide the BCCC with information about the steps they had taken to transition to meet the requirements of the Code.

Table 1. List of Code subscribing banks

Existing Code subscribers	New Code subscribers
AMP Bank Limited	Arab Bank Australia Limited
Australia and New Zealand Banking Group Limited	Bank Australia Limited
Bank of Queensland Limited	Bank of China
Bank of Sydney Limited	Macquarie Bank Limited
Bendigo and Adelaide Bank Limited	Members Equity Bank Limited (ME Bank)
Citigroup Pty Limited	MyState Bank Limited
Commonwealth Bank of Australia	
HSBC Bank Australia Limited	
ING Bank (Australia) Limited	
National Australia Bank Limited	
Rabobank Australia Limited	
Suncorp Metway Limited	
Westpac Banking Corporation	

Key observations

Transition to the Code was a major project for all banks leading up to 1 July 2019. Through the information provided during the course of this inquiry, banks demonstrated that they had dedicated significant resources to plan and execute their Code transition projects. Bank-wide efforts were required to deliver transition projects that covered all relevant business units, distribution channels, systems, training materials, and internal culture to support ongoing compliance with the Code.

Those efforts appear to have resulted in banks addressing many or most issues that would be expected for a successful transition. However, the BCCC has significant concerns about compliance in a number of key areas across the industry, and some specific concerns in relation to individual banks. Banks will need to continue their efforts to meet the BCCC's expectations and the higher standards required under the Code.

To support the work required to be undertaken by banks, this Report includes a number of specific recommendations and examples of good practice that all banks should review and implement, where appropriate. The BCCC will conduct one on one meetings with individual banks during which we will raise issues specific to that bank.

Executive oversight

The BCCC has consistently communicated to all banks the importance of the Code being embedded within risk management frameworks and for senior executives and members of the Board to have oversight of compliance. The BCCC expects executive level staff to take an active and leading role in embedding the spirit of the Code.

All 19 banks have nominated an executive who will take responsibility for compliance with the Code within their organisation.

The BCCC expects that, even beyond transition, all banks should ensure that the spirit and awareness of Code obligations is embedded at all levels of the bank. Banks should continue to report to executives and the Board to ensure appropriate oversight of compliance with the Code is maintained.

Staff training and key performance metrics

Banks' responses to this inquiry indicate that they consider staff training to be key to ensuring the Code is embedded within the bank's culture, particularly in regard to the new vulnerability, inclusivity and accessibility obligations.

The BCCC acknowledges that significant investment has been made to upskill staff to competently comply with the Code and banks' approaches to Code training will vary. While some banks collaborated with external training providers, others deployed the Code training modules developed by the Australian Banking Association, or otherwise designed their own tailored Code training.

While the BCCC has not reviewed banks' training materials, it found that banks' responses to our inquiries did not state whether customer facing staff are trained to identify and report a possible breach of the Code. The BCCC expects a positive customer focused culture to be supported through training and considers that customer-facing staff are well positioned to identify and escalate a possible breach of the Code.

Banks should ensure that staff training programs adequately raise staff awareness and competency to identify and report a possible breach of the Code internally. The training programs should promote the importance of a positive customer focused culture that promotes compliance with the Code.

The BCCC found that banks responses did not confirm whether Code training is delivered to external third parties, such as brokers, and offshore customer-facing staff.

Banks must ensure that communications and training about the Code are delivered to all staff, including any external third parties through whom they provide their services and offshore staff. This will enable banks to set expectations of what is required to comply with the Code and how the bank will monitor and report on their compliance.

The BCCC considers meaningful cultural change will stem from how banks measure the performance of their staff, including the value they assign to good customer outcomes.

11 out of 19 banks confirmed that they had made changes to their key performance indicators (KPIs) in pursuit of a 'balanced scorecard'. Those banks that did not report that changes to KPIs had been implemented are strongly encouraged to consider the effectiveness of the measures they have in place to deliver and build the right culture to support Code compliance.

Banks should review and develop KPIs that ensure staff performance metrics promote behaviours that prioritise good customer outcomes and reflect the Guiding Principles and spirit of the Code.

Inclusivity and accessibility

Banks are required to provide inclusive and accessible services for their customers. This includes older customers, people with a disability, indigenous Australians and those in remote areas.

Staff competency is instrumental in ensuring banks comply with the obligations under Chapter 13. Chapter 13 has two explicit training requirements - to treat customers with sensitivity, respect and compassion (clause 33) and to provide cultural awareness training to staff who assist customers in remote Indigenous communities (clause 37).

9 out of 19 banks confirmed they provided staff with both sensitivity and cultural awareness training. In some cases, this training has been combined with training on the obligations to assist customers in vulnerable circumstances. Eight banks did not provide details of any training provided to ensure staff are equipped to competently comply with Chapter 13. The BCCC is concerned by this outcome and will seek further information from these banks.

Some new subscribers noted the accessibility of the branches without reference to the accessibility of products and services. Branch accessibility is an important way to enhance access for customers, but it is not enough to demonstrate compliance with Code. The Report includes some good practice initiatives taken by banks to comply.

Banks should continue developing initiatives to improve products and services that are inclusive and accessible to all groups of customers. Bespoke initiatives are important to challenge old ways of working and using external partners may provide useful expertise.

Banks should adopt a broad interpretation of inclusive and accessible products and services.

Many banks did not provide an adequate response to questions about how they would monitor compliance with the accessibility obligations. Banks focused on one or two elements of the Code provisions without offering a comprehensive overview of how they will comply and monitor compliance across the various clauses of Chapter 13.

Banks should ensure they train staff to comply with the obligations of Chapter 13 of the Code and have comprehensive plans for how they will monitor compliance.

Vulnerability

The Code introduced important new obligations requiring banks to take extra care with customers experiencing vulnerable circumstances.

The BCCC found that banks have made significant efforts to empower staff to provide extra care but there is a lot more work to be done. Most banks acknowledged this in their responses.

11 out of 19 banks explicitly stated that they had either developed new policies, improved existing policies or created specific customer guidelines to support staff who deal with vulnerable customers. The BCCC is concerned about the ability of the remaining banks to support their staff and comply with these aspects of the Code and will seek further information from them.

13 out of 19 banks confirmed they have designed and rolled out vulnerability training to staff. Only one bank reported that training is also delivered to its broker channel and tailored for its offshore staff. Three banks did not refer to vulnerability training in their response at all.

The BCCC expects all banks to ensure they have developed specific vulnerability policies, processes, training and resources to support compliance with Chapter 14. Training should be delivered to all customer facing staff on an ongoing basis.

The BCCC intends to conduct further inquiries about banks' efforts to take extra care with customers experiencing vulnerability. Banks will be required to provide the BCCC with additional information to demonstrate how they have embedded the commitments into policies, training and the broader culture of the bank to comply across all customer facing channels and product development.

Small business and farming customers

The BCCC required banks to explain how they will apply the Code's small business definition. Eleven banks told the BCCC they intend to apply a broader definition to small business customers than that prescribed in the Code.

The BCCC is concerned that 2 of the 11 banks adopting a broader definition of small business, have reserved the right to contend that the Code does not apply to the relevant customer in the event of a BCCC investigation. The BCCC finds this unacceptable and expects that the Code's small business obligations, if broadly applied by a bank, should continue to apply for the purposes of any BCCC inquiry or investigation.

Where a bank has chosen to adopt a broader small business definition, it should not later assert the relevant Code obligations do not apply.

Two of the big four banks provided information about how they will report small business data to the BCCC. One of them has indicated it will report to the BCCC in line with the Code requirements, and the other has stated that it will report small business data on a best endeavours basis.
In early 2020, the BCCC plans to scope and undertake a targeted monitoring activity into compliance with the small business obligations of the Code.

Without exception, banks must develop capabilities for reporting small business data to the BCCC. Banks need to provide consistent reporting to allow for benchmarking and year on year comparisons.

Post Implementation Reviews and ongoing Code monitoring

18 out of 19 banks plan to assess the effectiveness of their Code transition projects over the next 6 to 12 months targeting areas specific to that bank. The BCCC will require banks to provide updates on the outcomes of these reviews in due course.

Banks should consider conducting a gap analysis for their post implementation reviews on areas where the bank has identified deficiencies or otherwise implemented short-term compliance solutions. Banks should test short-term fixes that were implemented to address compliance and confirm if these are effective, or otherwise evaluate the adequacy of plans for implementing replacement solutions (including scope and timeframes).

Some responses did not provide an appropriate level of detail about their compliance monitoring frameworks for the BCCC to form a view about whether they are positioned to adequately monitor Code obligations.

Banks' compliance frameworks may not currently be mature enough to comprehensively monitor Code compliance from 1 July 2019 to the BCCC's satisfaction. Banks' responses often indicated that they would be continuing to amend their controls and compliance frameworks post 1 July 2019, particularly for small business, vulnerability and financial difficulty obligations.

This raises a concern that non-compliance may go undetected in the interim and remain that way until banks have improved their Code monitoring controls.

Banks' compliance monitoring frameworks should be mapped to explicitly reference <u>all</u> Code provisions.

The BCCC expects transition work to be ongoing, and that key initiatives and projects will extend well beyond 1 July 2019. The BCCC will continually engage with banks, particularly around vulnerability, small business and staff capability, to understand how they support Code compliance and ensure that non-compliance is identified, investigated, recorded and reported in a timely manner.

Introduction

The Banking Code Compliance Committee (BCCC) conducted an inquiry into banks' transition to the new 2019 Banking Code of Practice (the Code).

The Code was initially approved by the Australian Securities and Investments Commission (ASIC) and published by the Australian Banking Association (ABA) on 31 July 2018. An amended version of the Code was approved by ASIC on 25 June 2019.

The BCCC has been established under chapter 49 of the Code to monitor subscribers' (banks) compliance with the Code. The BCCC's role and powers are set out in its Charter.

The Code and the BCCC Charter came into effect on 1 July 2019. 19 banks have subscribed to the Code.

At the time of publication of this Report, more changes and additional obligations are likely to be introduced in a revised Code with a proposed commencement date in March 2020.

Purpose of the Inquiry

The purpose of this Inquiry is to find out if banks have taken all necessary steps to ensure compliance with the new Code.

To achieve this the BCCC assessed banks' transition projects and compliance frameworks for ensuring ongoing compliance with the Code.

The BCCC sought to identify any gaps in compliance with the Code or areas for improvement, and to share examples of good practice.

Scope and methodology

The Inquiry focused on the steps taken by banks to:

- identify the compliance gaps between existing practices prior to Code approval and the obligations set out in the Code, and
- develop and implement appropriate policies, processes, procedures and system changes to ensure compliance with the Code from 1 July 2019.

The BCCC made several information requests from banks covering areas including:

- culture
- the application of the Code
- Code implementation projects, and
- Code monitoring frameworks.

Culture

Culture, governance and remuneration was a major focus of the Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.[1]

In addition, the Australian Prudential Regulation Authority's (APRA) information paper on self-assessments of governance, accountability and culture, released in May 2019, provided guidance for banks to meet best practice and highlighted that the management frameworks of non-financial risk required significant improvement to meet an appropriate industry standard.[2]

As an outcome of these developments, there have been demands by government, regulators and the community for banks to adopt and implement a culture of fairness towards their customers. The BCCC acknowledges that the development and implementation of the new Code is an important step taken by industry to rebuild trust and culture with a greater focus on customers.

Embedding the Code into bank culture

Through this Inquiry, the BCCC sought to understand how banks have created a culture that supports and promotes the Code. This is not simply about adhering to the letter of the Code but embedding the spirit of the Code.

The Code is a collection of promises and is grounded in fairness. While banks' stronger commitment to ethical behaviour is interwoven through various provisions in the Code, the BCCC regard clause 10 as one of the Code's most important clauses. Clause 10 requires banks to act in a fair, reasonable and ethical manner in all their dealings with both existing and prospective customers.

The BCCC has published a guidance note setting out its expectations for clause 10 of the Code. The guidance note highlights that the Code's Guiding Principles (trust and confidence; integrity; service; and transparency and accountability) underpin the Code.

Culture and practices within the bank should reflect these Guiding Principles. The Code should be:

- embedded from the top down with adequate oversight from and reporting to senior executives and the Board
- elevated and prioritised within the banks' risk frameworks, and
- embedded throughout the banks' wider culture.

[1] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, 'Final Report: Volume 1' (February 2019) <https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf>.
[2] Australia Prudential Regulation Authority, 'Information Paper: Self-assessments of governance, accountability and culture' (May 2019) <https://www.apra.gov.au/sites/default/files/information_paper_self-assessment_of_governance_accountability_and_culture.pdf>.

The BCCC asked banks about:

- the programs implemented to reinforce the Guiding Principles and the concept of fairness throughout the bank
- any changes made to key performance indicators and incentives to support cultural change, and
- reporting obligations to and oversight from senior executives and members of the Board.

Embedding culture in the bank starts with messaging from leaders and ensuring that Code compliance is overseen by senior executives. Training and internal performance metrics and incentives should empower, and drive fair and ethical staff behaviour and risk and governance frameworks should be enhanced to include non-financial risks.

Internal communications and messaging

10 out of 19 banks confirmed that senior leaders delivered messages to staff about the Code on several occasions during transition; nine banks did not confirm their leadership did this. Examples of messaging included:

- CEO and group executive communications to staff about the Code and raising awareness of its protections, operational changes and the importance of training
- lead executives for business units raising awareness of the Code and its application within those business units, and
- internal communications such as news articles, videos, face-to-face briefings, brochures, intranet updates and team meetings.

Senior executive staff should ensure that the spirit of the Code and awareness of its obligations is embedded at all levels of the bank.

Training programs

All 19 banks indicated they considered staff training to be key to ensuring the Code is embedded within the bank. While some banks collaborated with external training providers, others deployed the Code training modules developed by the ABA, or otherwise designed their own tailored Code training. Banks have developed training programs on vulnerability, inclusive and accessible banking, as well as sensitivity training and cultural awareness for specific staff.

The responses show a significant investment has been made to upskill staff to comply with the Code.

One major bank implemented mandatory risk awareness training, which had been updated to include the Code’s Guiding Principles and key obligations. 4 out of 19 banks noted that employees’ compliance with learning requirements have consequences linked to individual score cards, key performance metrics or remuneration.

Banks should ensure that staff training programs adequately raise staff awareness and competency to identify and report a possible breach of the Code internally. The training programs should promote the importance of a positive customer focused culture that promotes compliance with the Code.

Other initiatives reported by banks

Team huddles – several banks note that teams have discussed the new Code to raise awareness within those teams about their obligations and how the Code provisions will impact the way they help customers.

Banks' internal Code of Conduct – 6 out of 19 banks have built the Guiding Principles into their internal code of conduct.

External party communications – 2 out of 19 banks (one being a major bank) confirmed that Code communications and training were extended to intermediaries and third parties that work with the bank. Training included vulnerable customer eLearning modules. The remaining 17 banks did not confirm if similar training had been provided to intermediaries and third parties that regularly interact with customers.

Banks must ensure that communications and training about the Code are delivered to all staff, including any external third parties through whom they provide their services and offshore staff. This will enable banks to set expectations of what is required to comply with the Code and how the bank will monitor and report on their compliance.

Bolstering the role of the Customer Advocate's (CA) office – One bank noted that its CA office was a key way to embed a customer voice and increase transparency and accountability. It would help to build trust and confidence with customers.

Banks should build the capability and understanding of all staff rather than rely on the CA office alone to embed a 'customer voice'. This may achieve greater Code compliant outcomes, increase accountability and build trust and confidence with customers.

Key performance indicators (KPIs) and incentives to support cultural change

The Royal Commission's Final Report was particularly critical of the way in which banks structure their incentives, bonuses and commission schemes. It stated:

> *"Yet incentive, bonus and commission schemes throughout the financial services industry have measured sales and profit, but not compliance with the law and proper standards. Incentives have been offered, and rewards have been paid, regardless of whether the sale was made, or profit derived, in accordance with the law. Rewards have been paid regardless of whether the person rewarded should have done what they did."*

Remuneration both affects and reflects culture. The BCCC notes the Royal Commission recommendation 5.5 which outlines the expectation for banks to implement the recommendations of the Sedgwick Review. Recommendations focused on removing a sale-based remuneration and moving towards incentives based on an individual's performance across a range of measures.[3]

The BCCC wanted to know whether banks had reviewed internal KPIs and incentive programs during transition to the new Code and whether KPIs support the behaviours required to comply with the Code.

Responses from 3 out of 19 banks confirmed they already had project teams working to make changes to their remuneration arrangements following the Sedgwick Review. These changes aligned with the Code.

11 out of 19 banks confirmed they made changes to their KPIs in pursuit of a 'balanced scorecard' that reflects and supports cultural change. 9 out of 19 banks indicated the changes had incorporated a focus on customer outcomes.

> Banks should review and develop KPIs that ensure staff performance metrics promote behaviours that prioritise good customer outcomes and reflect the Guiding Principles and spirit of the Code.

Responses showed many banks are developing a more customer-centric approach, which has historically not been the case.

One bank did not have sales-based KPIs, incentives or bonuses. It stated it is evolving its performance reviews by building KPIs with a focus on behaviours and positive impact on customers. The bank noted that KPIs and measures would include satisfactory completion of learning and development requirements, including mandatory Code training and demonstrating behaviours aligned to organisation values. Only 4 out of 19 banks confirmed that employees' compliance with learning requirements were linked to individual score cards, key performance metrics or other remuneration.

Good industry practice

Banks implemented a number of initiatives to achieve positive cultural change. Some good practice examples include:

- Creation of a Board remuneration committee that is responsible for reviewing, assessing and recommending remuneration policies and practices to the Board. The focus of this committee is on good customer outcomes alongside sustainable bank outcomes.
- Developing improved balanced scorecards to change the way in which remuneration, incentives and commission are structured including increasing scorecard weighting to support positive customer outcomes.
- Including Code compliance in executive scorecards.

[3] 'Report: Retail Banking Remuneration Review', Stephen Sedgwick AO (April 2017) <https://www.betterbanking.net.au/wp-content/uploads/2018/01/FINAL_Rem-Review-Report.pdf>.

- Removal of sales incentives and a move to behavioural incentives, for example, a branch team recognition program now recognises branches who perform well in customer measures where recognition was previously based on sales performance.
- Changes to recruitment strategy:
    - language in job descriptions for retail roles reflects customer focus, and
    - embedding cultural elements into job descriptions and interviews.

The BCCC understands that banks are required to balance sustainable business and sales outcomes with good customer outcomes. Nevertheless, banks that did not report that changes to KPIs had been implemented should consider the effectiveness of the measures they have in place to deliver and build the right culture to support Code obligations. This should be considered across all areas of the bank from executives to front line staff.

Senior executive and Board oversight of the Code

The Royal Commission referred to the importance of governance in its Final Report. In particular, the Commissioner found that Boards often:

> *"did not get the right information about emerging non-financial risks and did not do enough to seek further or better information where what they had was clearly deficient".*

The Royal Commission identified that entities would often put profit over the needs of customers. This is an important factor in recognising the role of senior executives and the Board having sufficient oversight of Code compliance.

APRA's self-assessments Information Paper highlighted a clear expectation that institutions – and particularly the Boards and the senior leadership of those institutions – should proactively seek to understand their risk culture and embed strong governance frameworks and risk management practices. The Paper identified a number of common themes that have emerged from the self-assessments. These include that non-financial risk management requires improvement; and the management frameworks of non-financial risk required significant amendment to meet an appropriate industry standard.

The BCCC has consistently communicated to all banks that it is important for the Code to be embedded within risk management frameworks and for senior executives and members of the Board have oversight. When meeting with bank executives, the BCCC has explained that it expects them to take an active and leading role in supporting, embedding and promoting the Code. There must be adequate oversight from and reporting to senior executives and the Board so that they are informed of the banks' compliance with the Code obligations.

The BCCC asked that all banks nominate an executive to take responsibility for the Code within their organisation. All banks have nominated an executive for this purpose.

These executives have been asked to:

- take an active role to support and promote the Code, while taking it beyond risk and compliance to embed it within the bank's culture, and

- support reporting on the bank's compliance with the Code to senior executives including the Chief Executive Officer (CEO) and the Board.

17 out of 19 banks confirmed there was reporting to senior executives while embedding the Code either on a weekly, monthly or quarterly basis.

There were several common actions taken by the banks during transition regarding executive and senior management oversight. These included:

- Oversight by an executive accountable for delivery of transition projects.
- Steering committees consisting of sponsorship by chief executives, risk officers or executive general managers, and senior management assigned ownership and responsibility for specific obligations.
- Projects that required engagement and representation from senior managers and subject matter experts from a wide range of business units including people and culture, operations, operating risk, distribution, lending, collections, compliance, and corporate affairs.
- Regular meetings to discuss the implementation of the Code, other Code themes and any issues identified.
- Working group committees reporting into senior management or Board committees.
- Developing action plans and reporting frameworks for post implementation reviews.

Good industry practice

There were many activities across a wide range of banks that represent good industry practice, including:

- At one bank senior executives receive updates about the Code through the regulatory breach report that is presented to the non-financial risk committee or Board risk committee.
- Any breaches of the Code that were deemed systemic or serious by the bank or the BCCC are reported to group risk committees and Board.
- One bank implemented key risk indicator metrics relating to interactions with regulators including the BCCC. These provide senior executives with greater visibility of the volume and status of current BCCC requests and the bank's timely response to these matters. The creation of these metrics demonstrates the focus the bank places on ensuring any requests relating to Code matters are addressed with a high level of importance and priority.
- One bank has expanded its existing reporting to provide senior executives and members of the Board heightened reporting on the Code – including an overview of the bank's compliance with the Code, and any incidents and breaches during the reporting period. This report is provided quarterly to the bank's operational risk committee which is chaired by the CEO and has participation from bank senior executives.
- One major bank has broken up all of the Code's obligations into segmented obligations and nominated a person who is accountable for each. The bank then reports on these obligations and updates the Board regularly on its progress and the status of implementation. This process allowed the bank to conduct an analysis of the Code and its obligations and identify if there were any gaps that needed to be addressed.

Banks should continue to report to executives and the Board to ensure appropriate oversight of compliance with the Code is maintained.

Application of the Code

Entities to which the Code applies

The BCCC requested that banks provide a list of its entities, subsidiaries and brands within the banking group that will be bound by the Code. With very few exceptions, banks confirmed they are applying the Code to all relevant entities and/or brands within the banking group. Exceptions may apply where banks have subsidiaries that operate under their own Australian Credit Licence.

One bank indicated that the Code does not extend to its other entities except where it must provide certain products services on behalf of the entity, for example, the bank must provide financial difficulty assistance or resolve complaints for the entity's products – in which case the relevant Code provisions will apply to the non-subscribing entities products by extension.

Banks should ensure that:

- any applicable entities, subsidiaries and brands comprehensively comply with the Code
- that they can report on those entities' compliance with the Code, and
- that the same standards of application apply across those entities.

Some banks confirmed that products are offered under 'white-label' agreements (particularly for credit cards). As part of the implementation of the Code, reviews and changes were undertaken to ensure that white-labelled products, services and processes aligned to the Code requirements.

Banks should ensure that Code compliance for any products offered under white-label agreements are closely monitored, particularly where customers request financial difficulty assistance and make complaints.

Product types and services to which the Code applies

The BCCC required banks to provide a list of the product types and services to which the Code will apply. All banks provided lists of the product types they offer that will be bound by the Code. Some banks provided more detail than others.

Some banks apply the Code with exceptions for particular entities and products. For example, one bank indicated that they apply the Code to non-subscribing subsidiaries, however the application of the Code is limited and does not form part of the compliance monitoring and breach reporting framework.

The BCCC understands that limited adoption of the Code may only be required in some departments of a bank such as private wealth services or institutional banking. Nevertheless, where the Code does apply, even to a limited extent, banks should have oversight of this to monitor compliance with the relevant Code provisions and for reporting to the BCCC.

Banks should apply the standards set out in the Code widely to their products. While some Code obligations will only apply to particular product types, some of the key obligations covering how banks should interact with their customers should apply to all customer interactions regardless of the product or service being provided to the customer. This includes behaviours such as being inclusive and accessible, taking extra care with customers who may be vulnerable, communicating in a timely manner, and engaging in a fair, reasonable and ethical manner.

Application of the Code to small business customers

Commissioner Hayne stated in the Royal Commission Final Report that:

> *"the chief protection for small business borrowers has for some time been, and remains, the Banking Code".*

The Code introduced enhanced obligations for small business and agribusiness customers.

These obligations include:

- greater transparency and assistance for customers when applying for credit
- limitations on non-monetary defaults, and
- fairness and transparency when appointing property valuers, investigative accountants and insolvency practitioners.

Other important Code obligations that apply to all customers, including small business customers, are:

- a requirement that banks help small business and agribusiness customers who are experiencing financial difficulty
- an obligation on banks to take extra care with customers who may be experiencing vulnerability, and
- an obligation on banks to make information about banking services accessible to customers who live in remote areas.

Code definition of small business customer

Clause 1 of the Code defines a small business as:

> *A business is a "small business" if at the time it obtains the banking service all of the following apply:*
>
> *a) it had an annual turnover of less than $10 million in the previous financial year; and*
>
> *b) it has fewer than 100 full-time equivalent employees; and*
>
> *c) it has less than $3 million total debt to all credit providers including:*
>
> *i. any undrawn amounts under existing loans;*
>
> *ii. any loan being applied for; and*
>
> *iii. the debt of all its related entities that are businesses.*

The BCCC asked banks to provide information about how they will apply the small business definition to their customer groups.

The BCCC required banks to confirm whether they apply a strict interpretation of the Code's small business definition, or whether the Code applies to a broader range of small business customers. Where they apply the Code to a broader range of small business customers than specified by the Code's definition of small business, the BCCC asked banks to confirm:

- that they will not selectively suggest that the Code does not apply to a small business (that previously fell within the broader application), should the bank's conduct in relation to a small business form the focus of a BCCC investigation or monitoring activity, and
- the criteria that will be used when reporting small business data to the BCCC (and for the avoidance of doubt, that the criteria must be at least as broad as the Code definition).

Banks' application of the definition

All but one bank confirmed they lend to small business customers. 8 out of 19 banks confirmed they will strictly adopt the Code's small business definition. 11 out of 19 banks apply a broader definition to small business customers than that described in the Code.

Banks differentiate their small business definitions in a variety of ways. Of the 11 banks that apply a broader definition to small business customers:

- Six banks have adopted criteria of up to $5 million total debt.
- One bank has opted to apply the Code protections to all its business banking customers.
- Three banks do not apply the *annual turnover* or *number of employees'* criteria.
- One bank did not specify how they will apply a broader definition to small business customers.
- One major bank noted that each of its 'corporate' and 'institutional' divisions would apply broader definitions separately depending on the type of contract involved.
- One bank highlighted that the broad interpretation of the Code is to reduce the inadvertent risk of excluding a small business from the Code's obligations.

2 out of 11 banks choosing to adopt a broader definition of the Code and have reserved the right to comment as to whether the Code will be subjectively applied in the event of a dispute with the customer or a BCCC investigation.

Banks must ensure they comply with the Code for all small business customers that fall within the criteria of the small business definition. Where a bank wishes to adopt a broader definition of the Code, this should be outlined to the Committee clearly. A bank should not selectively state that the Code does not apply, if a BCCC investigation / monitoring activity were to identify issues. In other words, where it adopts a broader definition than the Code, it should not reserve the right at some future date, to assert that the customer was not covered by the Code. When reporting small business data, banks should use consistent criteria, state what those criteria are, and differentiate between small business customers and individual customers.

Where a bank has chosen to adopt a broader small business definition, it should not later assert the relevant Code obligations do not apply.

Reporting to the BCCC

Two major banks confirmed how they will report to the BCCC. One bank has indicated it will report to the BCCC in line with the Code requirements, and the other has stated that it will report on small business data on a best endeavours basis.

Historically, the BCCC has faced challenges with banks distinguishing between their individual and small business customers and data has often appeared incomplete and unreliable. Banks must identify solutions to be able to distinguish between individual and small business customers. Banks should develop reporting capabilities for internal use and for reporting to the BCCC.

Without exception, banks must develop capabilities for reporting small business data to the BCCC. Banks need to provide consistent reporting to allow for benchmarking and year on year comparisons.

The BCCC’s monitoring of the Code’s small business obligations

The BCCC has exercised its power, pursuant to clause 10.1(b) of its Charter, to:

> *appoint a person or panel of persons with expertise in small business and/or agribusiness matters to act as a consultant on small business and agribusiness matters.*

The BCCC has considered its requirements and resolved to appoint a panel of consultants with expertise in small business and agribusiness matters to act as advisers to the BCCC.

In early 2020, the BCCC will increase its engagement with the small business sector and identify specific areas for the targeted monitoring of the Code’s small business obligations.

Code transition projects and Code monitoring

Banks' transition projects

Banks were required to provide information about their arrangements to transition to the Code, including copies of documentation which summarised their transition management projects and confirmed to the bank's senior management that it had implemented those projects.

The BCCC expected this information to:

- confirm banks are able to comprehensively comply with the Code across all of the bank's brands and any financial products and services to which the Code applies, and
- to detail the actions taken, or to be taken, to ensure compliance and the status of those actions.

Banks' responses needed to be sufficiently detailed to assist the BCCC to understand how it will comply with each Code obligation and include descriptions of items including:

- policies
- processes
- procedures
- training
- systems or system changes
- written materials (such as Terms and Conditions)
- website changes
- templates, and
- any other relevant information or document.

Transition to the Code required a significant improvement from all banks leading up to 1 July 2019. Bank-wide engagement was required to ensure all relevant business units, distribution channels, systems, training, customer collateral and communications support ongoing compliance with the Code.

Banks have demonstrated to the BCCC that they allocated significant resources to plan and execute their bank-wide Code transition projects. A planned strategy of transition to the new Code was necessary to ensure that comprehensive arrangements were made that would help each bank uphold promises made to its customers.

Responses demonstrated that Code transition has been taken seriously and prioritised appropriately. All banks required amendments to processes to be able to comply with the Code.

Transition work will continue well beyond 1 July 2019. The BCCC will continue to engage with banks and monitor Code compliance, particularly around vulnerability and small business obligations, to ensure that non-compliance is identified, investigated, recorded, fixed and reported in a timely manner.

Feedback will be provided directly to banks who failed to provide sufficient information about compliance processes for the Code's inclusivity, accessibility and vulnerability obligations. The BCCC intends to scope a broader inquiry in this area and will be asking for further information from banks in due course.

Post implementation reviews

The BCCC required banks to provide information about post implementation reviews (PIR) of their Code transition projects. Banks provided information about who will undertake reviews, which specific matters will be reviewed and the timeframes for conducting any reviews.

Transition PIRs have been scheduled by banks over the next six to twelve months to assess the effectiveness of compliance arrangements and target areas that are considered higher risk. Banks have also confirmed they have ongoing plans to strengthen compliance and further improve in areas they have self-identified as falling short or are deemed high risk.

Nearly all banks (18 out of 19) have designed or planned to design a PIR of their arrangements to transition to the Code in the six to twelve months after 1 July 2019. One major bank did not confirm to the BCCC it plans to conduct a PIR separate to its general compliance monitoring reviews planned by its first (monitoring, system monitoring and quality assurance), second (internal compliance governance) and third line (internal audit) compliance and risk functions.

- 11 out of 19 banks will engage their internal audit function to plan and conduct the PIRs.
- 2 out of 19 banks have engaged external expertise to conduct the PIR, with focus areas instructed by the bank.
- 2 out of 19 banks will engage their second line to conduct the review.
- 2 out of 19 banks had yet to decide who would be conducting their PIR.
- One bank engaged an external party prior to 1 July 2019.

14 out of 19 banks identified specific areas that would be the focus of a PIR to ensure Code compliance. These included specific:

- brands
- products and services
- business units
- services channels
- back office and processing teams
- websites, and
- control environments (to ensure it can adequately report to BCCC).

Other review areas include a sample of controls for specific Code obligations about fair, reasonable and ethical behaviour, trained and competent staff, financial difficulty, vulnerability, responsible lending for individual and small business customers, guarantees, inclusive and accessible banking, Indigenous customers, low-income earners, direct debits, complaints handling, credit cards and deceased estates.

One bank said it would review the manual and technology solutions that were deployed to ensure the bank met its compliance obligations. Another bank identified issues with a high or very-high risk rating for its PIR focus. Some banks' responses did not disclose specific matters that would be a focus of PIRs at the time of reporting.

Some banks identified areas that were considered a priority for PIRs, particularly where they had made short-term arrangements to meet compliance until permanent system controls could be developed to comply with the Code. In these instances, they would ensure the PIR considers the effectiveness of the short-term fix and the adequacy of the plans to remediate the issue.

Banks should conduct a gap analysis for their post implementation reviews on areas where the bank has identified deficiencies or otherwise implemented short-term compliance solutions. Banks should test short-term fixes that were implemented to address compliance and confirm if these are effective, or otherwise evaluate the adequacy of plans for implementing replacement solutions (including scope and timeframes).

All new subscribing banks have indicated they plan to conduct PIRs.[4] One bank will engage their internal audit function to conduct this review. Three banks stated they will be engaging second line compliance teams to conduct their reviews. One of these banks will engage external lawyers. The two remaining banks will use their project team and other compliance teams to conduct the PIRs.

Responses indicate that new banks' audit functions are not resourced sufficiently to support Code compliance.

Banks should ensure that appropriately trained staff from an independent function are available to review transition and the effectiveness of controls and monitoring activities for ongoing compliance with the Code.

PIRs should be a proactive review based on areas the banks consider a higher risk of non-compliance or where further improvement is required in areas of training, policy, process and / or control environments.

New Code subscribing banks should conduct adequate testing on newly implemented policies and processes to ensure compliance with the Code.

The BCCC requires banks to provide it with a copy of PIR results when they have been completed.

[4] Banks that did not subscribe to the 2013 version of the Code.

Ongoing compliance monitoring

The BCCC required banks to provide information about how they will ensure compliance with the Code on an ongoing basis after 1 July 2019.

Responses confirmed that they have reviewed their compliance frameworks and implemented new controls or enhanced existing controls to ensure ongoing Code compliance. Many banks indicated that Code working groups would continue to work to amend their control environment and compliance frameworks post 1 July 2019, particularly in areas of small business, vulnerability, and financial difficulty.

The BCCC found that some banks' responses did not provide an appropriate level of detail on their compliance monitoring frameworks for the BCCC to form a view about whether they are positioned to adequately monitor Code obligations.

The BCCC acknowledges transition to the Code has been a large bank-wide project to manage and deliver. However, banks' compliance frameworks may not currently be mature enough to comprehensively monitor Code compliance from 1 July 2019. Many banks have suggested that 'phase two' work would include a review of their compliance arrangements against key process changes. This raises a concern that non-compliance may go undetected in the interim and remain that way until banks have improved their Code monitoring controls.

Banks' compliance monitoring frameworks should be mapped to explicitly reference **all** Code provisions.

Focus on key Code obligations

The following sections address how banks have implemented policies, processes, procedures, training, system changes or any other controls and their compliance monitoring plans for some key and new Code obligations.

Training (Code Chapter 4)

The Code requires staff to be trained, competent and to understand how to comply with the Code when they are dealing with customers. The BCCC expects banks to have, at a minimum:

- mandatory training courses to ensure staff can competently do their work and comply with the Code, and
- key controls to ensure completion of training, including systemised tracking and reporting of completion to be able to identify and address non-compliance within a timely manner.

The BCCC also expects banks to consider how individual staff non-compliance is addressed – for example, the impact of non-compliance on key performance metrics or other role-based incentives.

14 out of 19 banks confirmed they had mandatory Code training in place which is monitored to ensure completion. Their completion monitoring systems have reporting capabilities that feed into risk and compliance teams. Several banks noted that business unit managers are tasked with signing attestations that mandatory training has been completed by staff. Some banks did not confirm how they will monitor compliance with the Code's training obligations.

One bank established a dedicated mandatory learning governance committee and mandatory learning working group. These groups are tasked with ensuring the right training is being mandated for correct roles to support organisational competence, and this includes Code training.

9 out of 19 banks reported that they have incorporated the ABA's standard training modules into their program, and some relied solely on these training modules in the implementation of the Code. The ABA training modules were designed to assist new banks to comply with the Code. All banks would be expected to have additional training that is tailored to meeting the banks' needs.

Training is just one method for banks to ensure that staff comply with the Code in their day-to-day conduct and interactions with customers. The BCCC is currently scoping a research project into how banks build the capability of their staff through supporting resources, systems and culture, as well as training. The BCCC will aim to share best practice principles that can be applied by banks, regardless of size, to improve bank staff capability and compliance with the Code.

Providing information (Code Chapter 8)

The Code includes requirements for providing information to customers. Banks have an obligation to provide clear information about products and services, so customers can make informed decisions. Banks must ensure that advice is given by staff who are trained to do so, or otherwise recommend that a customer seeks advice.

Banks communicate and provide information to customers via various channels and methods, including customer collateral and published documents, website and other digital platforms, call centres, and face-to-face via branch networks and mobile bankers. Banks are expected to build monitoring controls to ensure the Code obligations in Chapter 8 are complied with across all its channels.

The majority of banks detailed how they monitor compliance with the Chapter 8 obligations. 8 out of 19 banks did not provide a substantive response about how they monitor compliance with Chapter 8 of the Code. 9 out of 19 banks confirmed that they monitor more than one communication channel.

Where banks provided information relating to the controls they have in place for various channels, the following were the most commonly implemented:

Customer collateral and documents	Controls include segregated content reviews and sign-off approval processes prior to publishing. A new Code subscribing bank informed the BCCC of a document approval system where all documents are processed to ensure consistent and compliant messaging.
Assisted channels (including branches and relationship managers)	Controls include staff training, processes, customer interaction observations and intranet information to support staff during customer conversations. One bank highlighted it would commence a new mystery shopping program across its network to assess its actual compliance and customer experience using an external provider. A new Code subscribing bank's controls are via knowledge tests and staff interviews in the branch.
Contact Centres	Controls include staff training, quality assurance call monitoring and staff scorecards which measure compliance with Chapter 8 of the Code.
Website	Controls include existing content reviews and approval processes for new content.

The BCCC is concerned that there are inadequate controls and monitoring across all channels and little detail was provided about the frequency in which these controls are tested.

Banks should review their plans for monitoring whether information is provided in compliance with the Code to determine whether they are positioned to be able to adequately identify, record and report instances of non-compliance across **all** channels.

BCCC Desktop audit

To test whether banks comply with the Code's requirements for the provision of information, the BCCC conducted an audit of banks' websites after 1 July 2019.

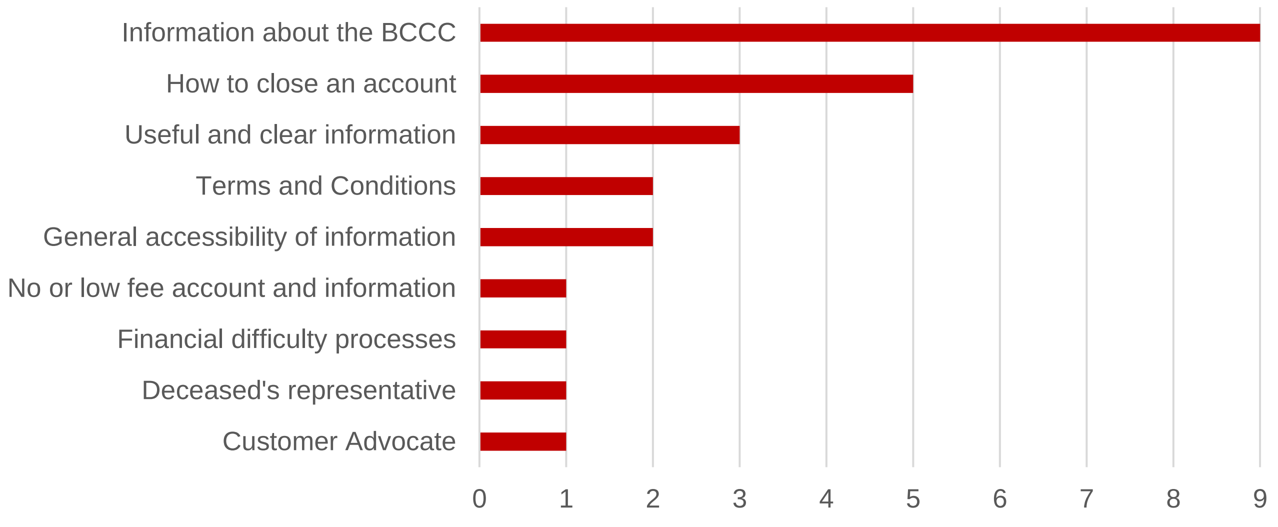
The BCCC notes that as a response to its predecessor Committee's investigations into family law proceedings, three banks confirmed the guidelines they were required to publish on their websites were removed in error during the transition from the 2004 to the 2013 Code. Similar transition errors need to be avoided following transition to the Code.[5]

The BCCC's website audit aimed to confirm whether banks are complying with Code requirements for the provision of information, including that:

- terms and conditions state that relevant provisions of the Code apply (clause 2)
- the Code is available (clause 5)
- a privacy policy is available (clause 12)
- information is useful and clear (clauses 15 and 17)
- information about banking services is generally accessible (clause 34)
- the bank has a no or low fee account and information about that account is easily accessible (clauses 45-47)
- information about how to close an account is readily accessible (clause 141)
- information about financial difficulty processes is available (clause 168)
- information for a deceased's representative is clear and accessible (clause 189)
- information about the Customer Advocate is available (clause 193)
- information about internal and external dispute resolution is available (clause 197), and
- information about the BCCC is provided (clause 209).

Banks' websites are compliant with the new obligations, however, the BCCC identified areas of improvement for several banks and will provide individual feedback about these improvements. **Chart 1** displays the number of banks that need to make improvements to specific aspects of their website.

Chart 1. Number of banks that need to make specific improvements to website information



The BCCC was satisfied that information for the following areas is available:

[5] For further information see the Banking Code Compliance Monitoring Committee's April 2019 Bulletin.

- the Code
- a privacy policy, and
- internal dispute resolution (IDR) and external dispute resolution (EDR).

Inclusivity and accessibility (Code Chapter 13)

The Code requires banks to provide inclusive and accessible services for their customers. This includes older customers, people with a disability, indigenous Australians and those in remote areas. The BCCC required banks to share how they monitor compliance with these commitments.

Staff competency is instrumental in ensuring banks comply with the Chapter 13 Code obligations. There are two training requirements within the chapter. Responses indicated that new training has been rolled out to staff across the board. Training has been delivered via eLearning and face-to-face sessions and 9 out 19 banks confirmed they provided staff with both sensitivity (clause 33) and cultural awareness (clause 37) training.

Separate to providing information about the training requirements, banks responses described other controls and initiatives to ensure compliance with Chapter 13 of the Code. These banks took a holistic approach and even considered inclusivity and accessibility when developing products. Some examples of good industry practice are listed below.

Examples of good industry practice

Older customers (clauses 32–34)

- Supporting older customers to become more IT competent and gain confidence to ensure safe access to banking services. This is offered through digital learning sessions starting in 2020.
- Making it easier for customers to be supported by a third party with clearer guidance for bankers about Power of Attorney, Letter of Authority, and Guardianship or administrative orders.
- Customers have access to the Interpreter Network and bank staff who speak different languages.
- Banks have guidelines in place to ensure physical access to the branch network accommodates the requirements of elderly and disabled customers. Measures include:
    - ramps
    - self-opening doors
    - counters raised to an appropriate height
    - sufficient floorspace available for wheelchairs to move around freely
    - chairs available in the foyer of each branch, and
    - private offices that are available for sensitive discussions.

People with a disability (clauses 32–34)

- A focus on inclusive and universal design when developing products and services.
- Embedding an inclusive culture and an understanding that accessibility is about more than physical spaces.
- Wheelchair and lift access at branches.
- Use of National Relay Service to make it easier for customers with a hearing or speech impairment to communicate with bank staff.
- Establishment of a diversity and inclusion team to drive inclusivity and accessibility. With the help of a qualified accessibility consultant, the bank has created an access and inclusion plan that focuses on premises, workplace adjustments, communications and marketing, products and services, information and communication technology, recruitment, career development, suppliers and partners, and innovation.
- One bank has started an initiative with disability groups and card manufacturers to develop accessibility solutions. For example, Braille to identify debit and credit cards and a notch to assist customers with card insertion into ATMs and eftpos terminals.
- Collaboration with community groups to develop an eLearning module to equip staff with skills to better assist customers who may be impaired or experiencing vulnerability.

Indigenous customers and customers living remotely (clauses 35–37)

- A commitment to keeping branches open in regional and rural Australia until at least January 2021.
- Opening contact centres in four major regional towns to service agribusiness and small business customers.
- Three major banks have implemented a dedicated phone line for Aboriginal and Torres Strait Islander people, which is serviced by staff who have been trained to be aware of customers' culture.
- Options for customers to have an interpreter or be accompanied by family or a friend to the initial interview for a product to translate or explain the interview / product / contract to them.
- Collaboration with a community organisation for the delivery of cultural professionalism training.
- Options to provide alternative acceptable identification.
- Staff follow AUSTRAC's guidance on identification and verification of persons of Aboriginal and Torres Strait Islander heritage.

Banks should take a broad interpretation of inclusive and accessible products and services (for example, accessibility does not just refer to a physical space such as how a branch is set up). Accessibility of branch set up was commonly cited by new banks without reference to accessibility of other products or services. While branch set up is important, it is not enough to demonstrate full compliance with the Code.

Banks' responses to monitoring protocols for Chapter 13 of the Code were disappointing. Many banks focused on one or two elements of the provisions without offering a comprehensive overview of how they will comply and monitor compliance across the various clauses of the Chapter.

Banks should ensure they train staff to comply with the obligations of Chapter 13 of the Code and have comprehensive plans for how they will monitor compliance.

Banks should continue developing initiatives to improve products and services that are inclusive and accessible to all groups of customers. Bespoke initiatives are important to challenge old ways of working and using external partners may provide useful expertise.

Banks should adopt a broad interpretation of inclusive and accessible products and services.

Vulnerable customers (Code Chapter 14)

The Code introduced important new obligations requiring banks to take extra care with customers experiencing vulnerable circumstances. The BCCC has publicly stated its expectation that banks should take a broad and inclusive approach to vulnerability and this extends to the design and distribution of products and services.

Banks' commitments to customers in vulnerable circumstances should go beyond the express protections of the Code and must become part of their culture and conduct. For banks to comply with the obligation to engage customers in a fair, reasonable and ethical manner, bank staff should have vulnerability and the potential for a customer's vulnerability, front of mind. The BCCC expects banks to develop targeted training and other resources to assist staff build competency in this area.

As an industry, significant efforts have been made to improve internal infrastructure to empower staff to more consistently provide additional care to customers in vulnerable circumstances. Nevertheless, there is more work to be done and banks have shown awareness of this in their responses.

The BCCC found that:

- 11 out of 19 banks had either developed new policies, amended existing policies or created specific customer guidelines to support staff dealing with vulnerable customers.
- 13 out of 19 banks designed and rolled out vulnerability training to staff.
- One bank requires all onshore and offshore staff, including brokers, to complete mandatory vulnerability training.
- 4 out of 19 banks confirmed they had established a specialist vulnerability team that receives additional training to support customers who have been referred by various areas of the bank. In some cases, they adopted a case management model so that customers can have a primary contact within the bank.

- One bank noted that the Customer Advocate's office hosts a specialist team for financial abuse cases and there is possible future scope to introduce a centralised team to support all types of vulnerability.
- 2 out of 19 banks established internal vulnerability working groups or steering committees to drive the banks' ongoing commitment to its customers, with executive leadership endorsement and oversight.

The BCCC identified the following are areas of concern:

- 2 out of 19 banks noted the general Code training provided to staff.
- 3 out of 19 banks did not refer to vulnerability training in their response to the BCCC.
- One bank provided staff with only financial abuse training.

Specialist financial difficulty and complaints teams have been developed to monitor how banks deal with vulnerability related to contact centre staff from collections, however, there has been little focus on how front-line branch staff will be monitored. The BCCC has found in its previous work monitoring the financial difficulty and direct debit Code obligations, there can be a higher risk of non-compliance by front line branch staff.

4 out of 19 banks noted some of the following controls and monitoring activities for front line staff:

- Mystery shopping programs conducted in branches.
- Scripting to assist staff deal with various situations.
- Branch visits for compliance checks, staff interviews and knowledge tests.
- Annual reviews scheduled to assess adequacy and effectiveness of vulnerable customer approach documents.

The BCCC expects all banks to ensure they have developed specific vulnerability policies, processes, training and resources to support compliance with Chapter 14 of the Code. Training should be delivered to all customer facing staff on an ongoing basis.

Banks did not state the steps they will take in the event of a breach of the vulnerability obligations. One bank did note that it would be recorded as an incident in their incident management system.

The BCCC expects banks' compliance frameworks to appropriately classify Code breaches of the vulnerability obligations to ensure that breaches can be captured and are appropriately dealt with. Staff must be adequately trained to identify possible breaches and record them in the relevant incident management system.

Concluding remarks

Banks must develop specific training and policies and processes to address the commitments made in Chapter 14 of the Code. The BCCC will provide three banks with individual feedback about concerns about the lack of sufficiently improved staff capabilities, policies and processes to monitor compliance with Chapter 14 of the Code.

Banks' organisational understanding of vulnerability will continue to evolve, and this includes developing an understanding of what customers experiencing vulnerability need from the bank.

Banks must ensure that staff are appropriately supported to feel empowered to use their best judgement, initiative and emotional intelligence to make appropriate decisions for customers in vulnerable situations.

The BCCC will request further information to understand how banks have embedded these obligations into policies, training and culture to comply across all customer facing channels and product development.

Selling Consumer Credit Insurance (Code Chapter 18)

The Code imposes limitations on how banks can market and sell consumer credit insurance (CCI) at the point of sale for credit cards and personal loans. Chapter 18 of the Code requires that if a bank offers CCI, it will give the customer clear information to enable them to make an informed decision.

The Code requires that banks ensure that before they enter into the contract with the customer, they have the customer's express consent to acquire the product. Additionally, there are different rules that apply for digital applications and applications made in branches or over the phone.

The intent of this inclusion is to reduce *'the risk that a consumer will feel pressured to purchase the CCI product or purchases a CCI product that does not meet their needs'*.[6]

17 out of 19 banks have confirmed that they have ceased selling CCI. The BCCC is mindful that many banks still have existing customers who have purchased CCI and that banks should be considering how they will service these customers moving forward.

2 out of 19 banks currently offer one type of CCI product, for home loan protection which insures its eligible home loans. One bank sells the insurance via assisted channels (face-to-face and over the phone), accredited lenders and digital channels. The other bank does not sell the product via digital channels. These two banks have improved disclosures in line with the Code obligations for their home loan insurance products. The bank that sells by both assisted and digital channels has set up controls to amended disclosure across both channels.

The BCCC is satisfied that the two banks that offer CCI on mortgage products have extended the Code requirements to protect customers that seek to purchase these products.

Banks should consider how they will support customers with existing CCI policies and proactively engage with their existing CCI customers to arrange a follow-up

[6] ASIC Media Release 17-255MR 'Banks to overhaul consumer credit insurance sales processes' (1 August 2017).

assessment to determine if the product is fit for purpose and is something the customer understands and wishes to retain.

One bank confirmed it sends an annual reminder about the product to all existing CCI customers.

The BCCC will continue to engage with the banks that offer CCI to ensure compliance with Chapter 18 of the Code. If a bank reintroduces CCI to its product suite, it should notify the BCCC.

Deceased estates (Code Chapter 45)

The Code obligations in Chapter 45 refer to the commitment by banks to help with deceased estates. Bereavement can be an overwhelming and difficult time for a customer's family, who often have little awareness of how the bank's process works and who they should speak to for guidance. The Code obligations extend to representatives of the deceased customer's estate and detail the steps banks must take to work with the representative to provide them with clear information and assistance to finalise the estate.

The BCCC expects banks to create training, policies and processes to ensure that staff assisting the deceased's representative are equipped to comply with Chapter 45 of the Code. Websites should provide clear and accessible information for representatives seeking information on how to work with the bank to settle a deceased's estate.

18 out of 19 banks confirmed they have either updated or implemented new policies and processes to ensure that staff comply with Chapter 45 of the Code. One bank did not provide any detailed information on this Code provision and the BCCC will engage with that bank directly to ensure they are compliant.

7 out of 19 banks explained they have dedicated teams to assist with deceased estates. While this is positive, there are risks associated with having a siloed approach to training and monitoring which may increase the risk of non-compliance in other channels that deal with these customers.

5 out of 19 banks explicitly noted they had updated and improved training for staff dealing with deceased representatives.

Banks should deliver training that extends to all relevant channels that may receive enquiries from a deceased person's representatives. This ensures that the amended processes are well promoted and embedded throughout the business and not just in dedicated call centre teams. Training should include enhancing 'soft skills' to enable staff to treat the deceased persons' representatives with respect and compassion. It should provide clear information on what steps they should take to manage the customer's accounts.

The BCCC's desktop audit found that 18 out of 19 banks have provided clear and easily accessible information. One bank will receive individual feedback that relevant information was difficult to find.

Banks provided details of various mechanisms they had in place to comply with and monitor compliance with Chapter 45 of the Code, including:

- Quality assurance programs across call centres, including call monitoring to ensure staff are treating personal representatives with respect and compassion and clearly articulating required information.
- Scripting provided to staff to assist with sensitive conversations.
- Periodical testing of websites to ensure links work and information is accessible.
- System-based solutions to ensure that accounts receive automatic cancellation and reversal of fees.
- Process controls to ensure that the bank has appropriately actioned a request within 14 days.
- System restraints applied to the account that allows credits but prevents debits.
- Reporting capabilities for complaints captured relating to deceased estates.

Small business lending (Code Chapters 17 and 20)

As part of the Royal Commission Final Report, the Commissioner was interested in how banks discharge their obligations to assess whether small businesses will be able to repay a loan. The Code provides that, if a lender is considering providing a borrower *'with a new loan, or an increase in a loan limit', the lender will 'exercise the care and skill of a diligent and prudent banker'*.

The BCCC expects banks to:

- provide adequate training, and have appropriate policies and processes
- ensure lenders provide small business funding appropriately, and
- ensure compliance frameworks have effective controls in place to monitor small business lending across all bank channels and business units, including where applicable business banking units and corporate or institutional banking.

The BCCC asked banks to provide details about the types of controls and monitoring activities they have in place to ensure compliance with the Chapter 17 of the Code.

14 out of 19 banks confirmed they had amended policies and processes to align with the Code. Ten of these banks confirmed lending policies had been reviewed and amended, and another four banks confirmed that training programs had been improved to ensure lenders are equipped to meet the Code obligations. Other banks did not explicitly inform the BCCC of any changes.

For banks that provide business lending, 13 out of 19 outlined specific actions they have implemented to ensure compliance. These include:

- Application checklists that require a lender's sign off, including that:

  - that applicant's needs, requirements, objectives and loan recommendations have been discussed and captured in the relevant system
  - credit guides have been provided to the customer prior to application

    - guarantor disclosures to applicants have been completed, and
    - hardship has been recognised and referred to the relevant area (where appropriate).

- A quality assurance program that requires compliance staff to undertake a three-question test asking if all:

    - regulatory obligations have been met, including relevant obligations under the Code that apply to the type of lending
    - customer enquiries have been resolved, correspondence is accurate and appropriate, and customers are not taken advantage of, and
    - necessary business requirements were completed, including that critical and relevant information is provided and correct.

- Other quality assurance programs reported by banks include checks on whether:

    - individual loan files meet credit policies
    - staff behaviours are observed to ensure compliance with Code, and
    - delegated lending authorities are complied with (authorities reflect skill and experience).

- Other reported compliance controls and monitoring activities included:

    - reporting on training completion
    - document verification processes before a loan is approved to ensure accuracy and compliance
    - check points before completing the credit assessment
    - post approval or hindsight reviews
    - periodic random samples of the bank's lending book tested against specific Code questions
    - periodic reviews of relevant procedures, training and customer documentation, including fact sheets and plain English documents
    - complaints reviews, and
    - compliance attestations.

Many responses and the activities listed were general in nature and did not articulate the Code obligations. Record keeping was not highlighted by banks in their responses about monitoring activities.

Banks should build accurate record keeping requirements into compliance attestations and application review mechanisms.

The BCCC identified the following examples of good practice:

- Product reviews being undertaken annually to ensure they are fit for purpose.
- Where a small business loan is denied, an automated letter is sent to the customer with the appropriate reasons for decline (to comply with clause 74 of the Code). Controls include periodic tests to ensure the letter is triggered.

- One bank's risk team developed a credit decision engine to ensure that any credit application is assessed according to the rules and formulas built into the engine.

The BCCC supports system-based solutions that improve banks' ability to lend appropriately, including system-built guidance on additional questioning and prompts based on the specific circumstances.

There was a lot of variation in how banks monitor compliance with Chapter 17 and Chapter 20 of the Code. Few banks confirmed how they monitor compliance via various distribution channels or that lending staff have been provided training on policy and process improvements to ensure their dealings with small business customers comply with Code obligations.

The BCCC plans to scope a targeted monitoring activity into the Code's obligations to small business customers to examine how banks comply with the Code requirements and where industry can improve practice. The scoping exercise will take place in early 2020 and feedback is invited from any interested parties on areas of concern that the BCCC should focus on.

End of Report