BCCC
Banking Code Compliance Committee

CCMC

Annual Report

Year in Review 2018–2019

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Message from the Chair and CEO

The past year heralded a number of changes for the CCMC, the most significant of which was its transition on 1 July 2019 to the new Banking Code Compliance Committee (BCCC). The BCCC comprises the same Committee members as the CCMC and was formed to coincide with the release of the 2019 Banking Code of Practice (2019 Code), which also came into effect on 1 July. It is in this context that the BCCC is issuing the annual report for the final 12 months of the CCMC's operations.

2018–19 will undoubtedly be remembered as one of the most transformative and challenging years, both for the CCMC and the Australian banking sector. November 2018 saw the formation of the Australian Financial Complaints Authority (AFCA), an amalgamation of the Financial Ombudsman Service, the Credits and Investments Ombudsman and the Superannuation Complaints Tribunal.

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry culminated in February 2019 with the release of Commissioner Hayne's Final Report and there was some sobering reading for banks. The demand from government, regulators and the community for banks to adopt and implement a culture of fairness in the wake of the Royal Commission has been unequivocal and the industry has had to respond swiftly and decisively.

Of the 76 recommendations in the Royal Commission's Final Report, eight were specific to the banking sector and six included changes to the Banking Code of Practice. We understand these changes are on track to be implemented in the Code by March 2020. For its part, the CCMC was pleased that the Royal Commission recognised the important role of codes of practice in the Australian financial services sector and welcomed the recommendations for strengthening the Code.

Throughout this time of change and transition, the CCMC continued its focus on maintaining a strong Code monitoring program while also implementing a robust transition plan, enabling it to lead transition to the 2019 Code.

Looking ahead to 2019–20, the BCCC will focus on monitoring banks' transition to, and compliance with, the 2019 Code, with particular emphasis on the treatment of customers experiencing vulnerability, small businesses and customers in the farming sector. We will develop guidance to assist banks to meet their obligations towards these customers under the new Code. We will also engage with key consumer, small

business and agribusiness stakeholders to monitor areas of concern within the banking industry and identify where improvements can be made.

As this is the final publication by the CCMC, I wish to thank my colleagues, Consumer Representative Gordon Renouf, and Industry Representative Anne O'Donnell. Gordon and Anne have provided valuable guidance and insight to the CCMC, and I look forward to their continued support as we transition to the BCCC. I would also like to thank the CCMC's previous Industry Representative Sharon Projekt for her invaluable contribution to the CCMC. Her six years on the Committee ended in November 2018.

Finally, on behalf of the CCMC I thank our secretariat staff, ably led by Chief Executive Officer Sally Davis. Their hard work in supporting the Committee has helped us successfully navigate the changes and challenges of the last 12 months.

"Looking ahead to 2019–20, the BCCC will focus on monitoring banks' transition to, and compliance with, the 2019 Code, with particular emphasis on the treatment of customers experiencing vulnerability, small businesses and customers in the farming sector."

Christopher Doogan AM

Sally Davis

"One of the central pillars of the CCMC's strategies for the 2018–19 period was to lead the transition to the 2019 Code."

A Year in Transition

Committee and Code transition

Transitioning to the 2019 Code

Following a review of the 2013 Code, the Australian Banking Association (ABA) redrafted the Code to include a number of enhanced protections for small businesses and farmers, and customers experiencing vulnerable situations. ASIC approved the new Code on 25 June 2019 and the 2019 Code came into effect on 1 July 2019.

One of the central pillars of the CCMC's strategies for the 2018–19 period was to lead the transition to the 2019 Code. To do this, the CCMC committed to:

- Support banks, including current and new subscribers, to transition to the 2019 Code by providing guidance and setting clear expectations of Code compliance
- Support other stakeholders to understand the 2019 Code by providing training and other guidance to external dispute resolution schemes and customer, small business and farming stakeholders
- Review our internal operations to ensure our processes are robust
- Review our Guidance Notes so that they reflect the 2019 Code and help banks interpret and comply with it.

To enable banks and the CCMC to transition smoothly to the 2019 Code, we undertook several key activities during the year. These activities included:

- Establishing and documenting new ways of working for the CCMC, to maximise efficiencies and drive improved practice
- Creating and launching a new website
- Developing a revised approach to data collection
- Developing and rolling out training to key stakeholders on the 2019 Code
- Providing guidance to industry on interpretation and application of the 2019 Code
- Scoping the formation of a Small Business and Agribusiness Advisory Panel.

Transitioning to a new Committee

On 1 July 2019, to coincide with the release of the 2019 Code, the CCMC transitioned to the BCCC, an independent monitoring body established under clause 207 of the 2019 Code. The BCCC has an increased jurisdiction to monitor and enforce banks' compliance with the 2019 Code, including previous iterations in instances where banks subscribed.

One of the BCCC's first priorities was to launch an inquiry into banks' transition to the 2019 Code to see whether they are taking the necessary steps to ensure compliance. The transition inquiry will:

- Assess, benchmark and report on banks' transition projects
- Check that banks' compliance frameworks, including policies, processes, procedures and systems, will support ongoing compliance with the 2019 Code
- Ensure that any gaps in compliance are corrected
- Assess banks' commitment to embedding the spirit of the Code into their culture, including the Code's Guiding Principles and the concept of fairness
- Identify the compliance gaps between practices that occurred under the 2013 Code and obligations set out in the 2019 Code
- Identify and share examples of good practice.

The BCCC will report on the outcomes of the transition inquiry in late 2019.

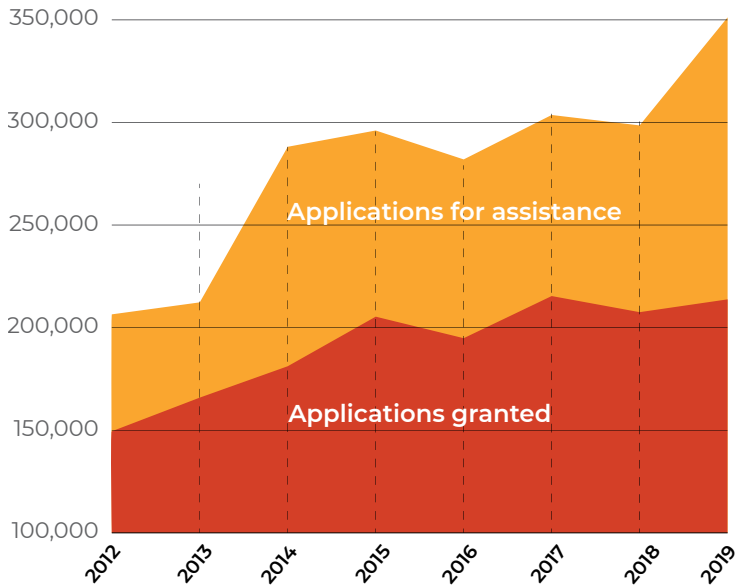
Our monitoring activities

Financial Difficulty

Financial difficulty is a sensitive area of engagement between banks and their customers, and one that has grown in significance. Customer requests for financial difficulty assistance have increased significantly since 2012, with banks receiving some 352,245 requests in 2018–19. Clause 28 of the 2013 Code set out banks' obligations towards these customers.

As banks prepared to transition to the 2019 Code, the CCMC conducted an own motion inquiry investigating banks' compliance with these important financial difficulty obligations. The CCMC found that banks have financial difficulty programs that generally comply with the requirements of the 2013 Code. The CCMC's review of these policies and processes highlighted both examples of good practice and areas where banks can improve.

FINANCIAL DIFFICULTY— APPLICATIONS RECEIVED VS. APPLICATIONS GRANTED



Areas for improved practice

The CCMC made 14 recommendations to improve Code compliance and progress toward better practice. The CCMC set out its expectations that all subscribing banks should consider and implement these 14 recommendations as part of their transition program to the 2019 Code.

Key recommendations include:

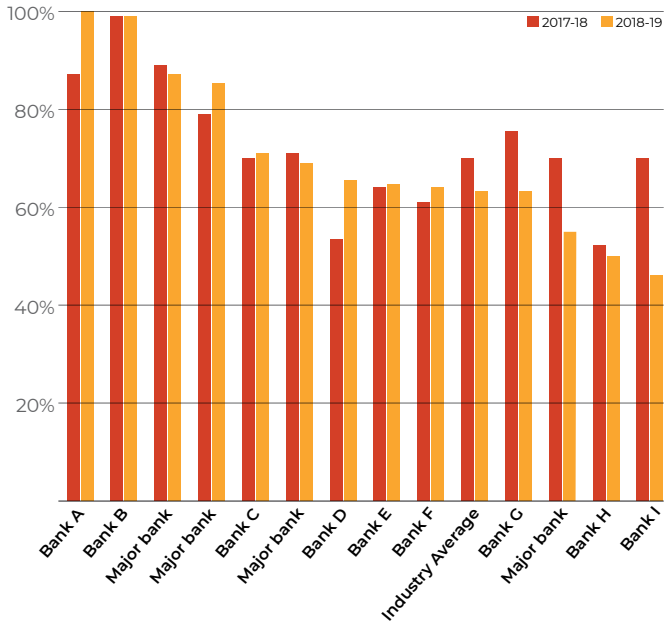
- Ensure that financial difficulty assistance information is prominently displayed and easily accessible on bank websites and other digital platforms, such as smartphone or tablet applications.
- Develop and incorporate criteria for credit assessment processes to identify indicators of financial difficulty

when customers apply for new credit, top-up credit and refinancing.

- Promote a culture that reflects the values of non-judgment, flexibility and compassion to support tailored, customer-centric decisions and out-of-the-box thinking. Incorporate targets and measures in performance review processes and reward programs that encourage creative, flexible decision-making.
- Ensure that the financial difficulty assistance decisions achieved by self-represented customers and customers represented by authorised third-parties are recorded and monitored to promote decisions that are consistent, regardless of representation.
- Develop and implement metrics to assess the effectiveness of customer financial difficulty arrangements. Where possible, monitor the performance of the loan and the customer's financial position for at least 12 months after the end of financial difficulty assistance to assess sustainability.

Supporting documents not supplied/insufficient information remains the most common reason banks did not provide assistance. The CCMC raised this as a concern in its

BANK LEVEL BREAKDOWN—FINANCIAL DIFFICULTY APPLICATIONS APPROVED

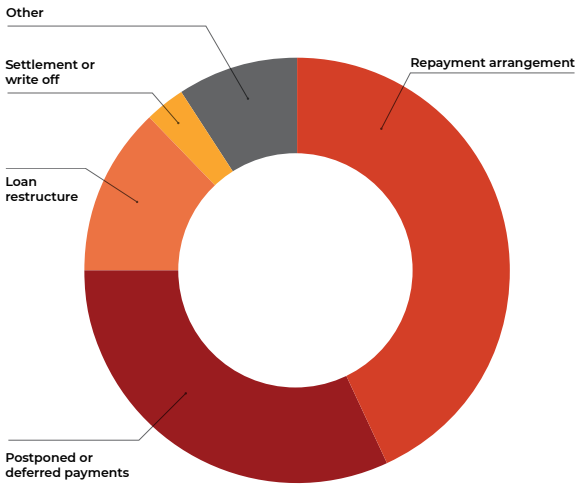


CCMC research

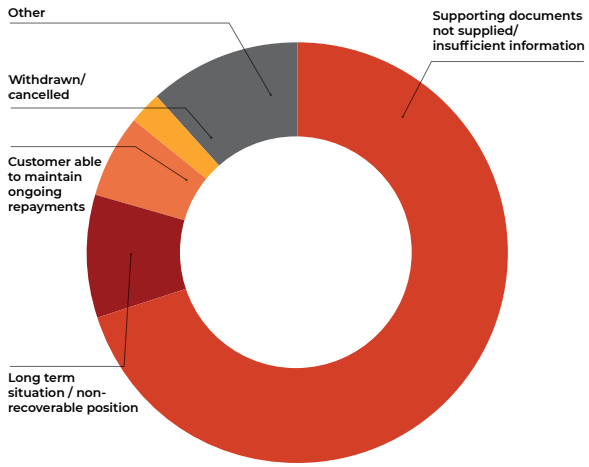
In October and November 2018, the CCMC surveyed 200 branches and 60 call centres to assess banks' compliance with the direct debit obligation under clause 21 of the 2013 Code. During this exercise we also tested bank staff's ability to identify a customer in financial difficulty and provide them with appropriate assistance or a referral. In each interaction, the mystery shopper provided the bank with a common financial difficulty indicator.

Concerningly, the CCMC found that in 74% of interactions, bank staff failed to recognise that the customer was showing signs of financial difficulty and further made no mention of the availability of financial difficulty assistance.

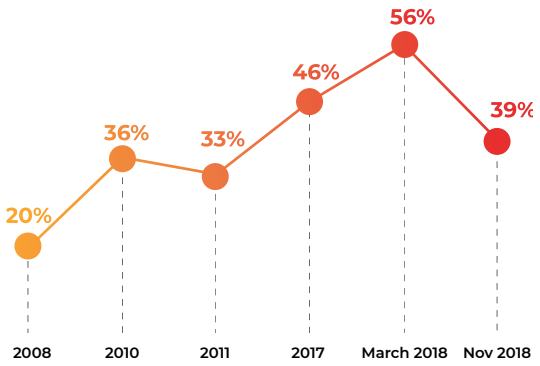
TYPES OF ASSISTANCE PROVIDED – 2018-19



REASONS ASSISTANCE NOT PROVIDED 2018-19



DIRECT DEBIT COMPLIANCE TREND 2008 TO 2019



2018 Financial Difficulty Inquiry Report and recommended that banks:

- Adopt or revise written policy on supporting documentation to ensure it is not needlessly inflexible or burdensome, and that supporting documentation is limited to what the bank reasonably needs in order to understand the customer's circumstances.
- Ensure that the written policy on supporting documentation expressly contemplates circumstances under which documentation requirements may be limited or waived, especially for customers who are particularly vulnerable.

Direct Debits

The 2013 Code of Banking Practice gives customers the right to request that their bank cancel a direct debit. This is an important safeguard that helps customers – especially those in financial difficulty – to maintain control of their finances. This protection is replicated in the 2019 Code.

The CCMC continued its monitoring of banks' compliance with the direct debits obligation by conducting its largest ever mystery shopping exercise in November 2018. The Committee was disappointed to find that, once again, the level of compliance was unacceptably low.

As a result, we required banks to develop and implement a remediation plan within 6 months to improve rates of compliance with the direct debit obligations.

Action being taken by banks

In response to our mystery shopping and call to action, banks have

> "Supporting documents not supplied/ insufficient information remains the most common reason banks did not provide assistance."

committed to implementing a range of initiatives to improve compliance, these actions include:

- Making it possible for customers to cancel direct debits online; making direct debit cancellation forms on websites more accessible; enhancing search functions about direct debits and recurring payments; and, publishing customer guidance online
- Enhancing staff communication by updating induction training programs; sending quarterly reminders to contact-centre staff to reinforce the process; emphasising the process in internal newsletters; and, providing all staff with a "suggested customer conversation" for cancellation requests.
- Compulsory monthly team 'huddles' about direct debit cancellation requests; role-play scenarios; and, tracking staff members' involvement in direct debits training through the bank's learning and development team.
- Conducting monthly mystery shopping calls, or testing team members within a branch each month.
- Using speech analytics tools to identify and monitor calls where a customer has asked to cancel a direct debit.

The BCCC will continue the CCMC's monitoring of the direct debits obligations in 2020 by conducting another large mystery shopping exercise to test whether banks' efforts have been successful to improve Code compliance.

200
Branches surveyed

60
Phone calls made to banks' contact centers

63%
Call center compliance (down from 75% in March 2018)

32%
Branch compliance 32% (down from 45% in March 2018)

4 Banks
Put on notice that failure to improve compliance will result in sanctions

Compliance investigations

The Committee can investigate allegations that a bank has breached the Code. Investigations enable us to focus on concerns raised by individual customers, and to consider compliance issues within individual banks. In 2018–19, the CCMC received 45 new matters containing 95 Code breach allegations and closed 35 matters.

To help it meet its purpose, the Committee developed new operating procedures for investigations for the 2019 Code. These procedures allow the Committee to focus on matters that are of highest priority, using the BCCC's discretion to decide whether or not to commence an investigation based on criteria including:

- the nature of the allegations (including number of customers affected, severity of breach and public interest)
- whether it considers the matter may be serious or systemic
- whether the BCCC is the appropriate forum
- whether the concerns are about broad priority areas set out in the BCCC's Strategic and Business Plans

Promoting improved practice in the banking industry

Submissions to industry consultations

The ABA's consultation on a guideline for Better Banking for Vulnerable Customers

The CCMC supported the ABA's work to develop a new industry guideline on supporting customers experiencing vulnerability.

While being largely supportive of the ABA's proposals, the CCMC made the following comments:

- Banks need to ensure that financial difficulty assistance information is prominently presented and readily accessible on bank websites and other digital platforms, such as smartphone or tablet applications. The CCMC also encouraged banks to contemplate how their approach to financial difficulty assistance will vary for small business and agricultural business customers.
- The CCMC considers that the 2019 Code's promise to take 'extra care' with customers that experience vulnerability is broad and inclusive and extends to the design and distribution of products and services. We encourage banks to consider a customer's vulnerability and potential for vulnerability when designing and distributing products and services.
- The CCMC has always emphasised the importance of training to ensure that all bank staff can competently fulfil their duties and obligations under the Code. The obligation to take extra care with customers experiencing vulnerability is a broad and inclusive one and we expect that banks will need to develop targeted training to assist staff build competency in this area.
- The CCMC was disappointed that obligations on banks when undertaking debt collection activities were lessened under the 2019 Code. The CCMC encourages the ABA to consider this when it sets out its expectations in the new Guideline and to take positive steps to ensure customers experiencing vulnerability are not disadvantaged by the change.

ASIC's consultation to update RG 209: Credit licensing: Responsible lending conduct

The CCMC supported ASIC's work to update the responsible lending regulatory guide – RG 209: Credit licensing: Responsible lending conduct.

The CCMC made the following comments:

- The CCMC listed some factors that may prompt a diligent and prudent banker to make additional inquiries, before

applying the selected credit assessment method and forming an opinion about a customer or potential customer's ability to repay the credit facility, and these include:

- a history of consistently late or partial repayments and/or overdue notices
- a history of only making minimum (or close to minimum) repayments or revolving credit payments, where the payment amount is quickly withdrawn
- spending that regularly exceeds credit card limits
- spending patterns that increase debt levels to each newly increased credit limit with no material reduction in debt, and
- unusual transaction activity – for example, frequent cash withdrawals, deposits or repayment patterns where these are inconsistent with income levels disclosed to the bank.

- The CCMC considers it is imperative that banks take steps to ensure that information provided by a customer is accurate. While the CCMC takes a case-by-case approach when assessing a bank's compliance with the Code, in all cases banks are required to make reasonable inquiries and verify the customer's (or potential customer's) financial situation. The use of current and accurate information regarding a customer's financial circumstances is crucial to meeting the provision of credit obligations under the Code. The more accurate and up-to-date the information a bank can obtain, the more effective and Code compliant its credit assessment processes are likely to be.
- The CCMC considers that the proposed clarification of guidance about understanding the customer's requirements and objectives would be useful. The CCMC understands that credit cards differ from other unsecured credit in that they may not have a specific purpose. The CCMC was concerned, however, that credit cards may be inappropriate for a customer's intended purpose in some circumstances. The CCMC noted that at the time of its Inquiry into unsecured lending, over two-thirds (68%) of unsecured credit applications were for credit cards. The CCMC stated that a bank that establishes the purpose for a credit card application may be in a better position to assess the facility's suitability for the customer.

Stakeholder engagement highlights

The CCMC was pleased to attend and share our knowledge at:

- Financial Counselling Australia's annual conference
- The Credit Law conference, and
- The Responsible Lending Summit.

The CCMC provided training to:

- Community legal centres, and
- AFCA.

The CCMC attended over 150 meetings with:

- AFCA
- ASIC
- The ABA
- Code subscribing banks
- New subscribers to the 2019 Code
- Financial counselling groups, and
- Customer advocacy groups.

About the Committee

The CCMC was an independent compliance monitoring body established under clause 36 of the 2013 Code of Banking Practice. On 1 July 2019 the CCMC was replaced by the Banking Code Compliance Committee (BCCC).

The BCCC is an independent monitoring body established under clause 207 of the 2019 Banking Code of Practice. The BCCC's purpose is to monitor and drive best practice Code compliance.

To do this, the BCCC will:

- Examine banks' practices
- Identify current and emerging industry wide problems
- Recommend improvements to bank practices, and
- Consult and keep stakeholders and the public informed.

The Committee

Three representatives make up the Committee. The Independent Chairperson is jointly appointed by the ABA and AFCA. The Chair is joined by a banking representative, appointed by the ABA, and a consumer representative, appointed by the consumer representatives of the AFCA Board of Directors.

Christopher Doogan AM

FIML 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 as Chair of the CCMC on 1 February 2014.

Chris has held several public sector positions, including 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).

Chris 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.

Chris 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, a Director of ACT & Southern NSW Rugby Union Limited (the Brumbies) and a member of The Winston Churchill Memorial Trust fellowship selection panel.

Anne O'Donnell

Banking representative

Current term:
27 October 2018
– 26 October 2021

Anne is a non-executive director with extensive work experience in the banking, funds management and superannuation sectors.

Anne is a Director of Equity Trustees Holdings Ltd, an ASX listed company providing

specialist Corporate Trustee and Wealth Services and a Director of the MTAA Superannuation Fund.

Other current non-executive roles include Director of The Churchill Memorial Trust, member of the UBS Compliance Committee and Chair of IP Australia's Audit Committee.

Her past roles include Chair of Beyond Bank, Chief Executive Officer and Managing Director of Australian Ethical Investment Ltd and twenty years with the ANZ Bank. Anne holds a Masters of Business Administration and a Bachelor of Arts, Banking and Finance. She is a Senior Fellow of the Finsia and a Fellow of the AICD.

Gordon Renouf

Consumer 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.

Gordon 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.

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 AFCA. The secretariat is led by Chief Executive Officer, Sally Davis, and is supported by a team made up of a Code Compliance Manager, an Investigations Manager and Compliance Analysts.

Sally Davis GAICD

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 the Financial Ombudsman Service (FOS) and worked at FOS and its predecessor schemes for over 18 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 AFCA. Her work as General Manager involves the oversight of four other codes of practice in the financial services industry in addition to the Banking Code of Practice.

Financial Information

	30 June 2018	30 June 2019
Total funding	**$1,120,919**	**$1,237,385**
Staff salaries and Committee remuneration	$697,451	$906,255
Office costs	$10,575	$9,329
Professional assistance	$19,950	$51,163
Communications and stakeholder relations	$108,594	$118,366
Technology	$8,998	$43,979
Occupancy costs	$51,511	$58,281
Total expenses	**$897,079**	**$1,187,372**
Annual Surplus	**$223,840***	**$50,013**

* Noting that the 2019 Banking Code of Practice was approved later than expected, the Committee's expenses for the 2017–18 period were less than anticipated. The Committee therefore committed to contribute a portion of the surplus to the 2018–19 budget.

Contact details

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1800 931 678
(This is a telephone service provided by AFCA – please ask to speak to the Code Compliance and Monitoring team)

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Compliance Committee

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