

# 2021 Review of the Banking Code Compliance Committee

## Terms of Reference

### Introduction

The Banking Code Compliance Committee (BCCC) is an independent compliance monitoring body established under clause 207 of the Banking Code of Practice (the Code).

The BCCC's purpose is to monitor and drive best practice Code compliance. To do this, the BCCC:

- examines banks' practices
- identifies current and emerging industry wide problems
- recommends improvements to bank practices
- sanctions banks for serious compliance failures, and
- consults and keeps stakeholders and the public informed.

The BCCC operates with reference to a three-year Strategic Plan which outlines its focus areas for the period 2021–22 to 2023–24, including taking action to:

- improve the visibility of the BCCC
- enhance its intelligence sources and identify important issues
- expand its engagement with consumer stakeholders
- hold banks to account and apply sanctions for breaches of the Code, and
- follow up its monitoring activities and seek to ensure banks remediate customers and improve practices.

### Code and BCCC reviews

The Australian Banking Association (ABA) will commence a review of the Code in 2021.

Clause 14.1 of the Charter requires the BCCC to arrange a periodic review of its activities, coinciding with the periodic review of the Code by the ABA.

This review of the BCCC (the Review) is being undertaken in accordance with that requirement.

### Independent Reviewer

The BCCC has appointed *cameron. ralph. khoury* to conduct the Review.

## Final report

The BCCC Reviewer will prepare a final report with findings and recommendations about the operation and performance of the BCCC and any other relevant matters regarding the role and powers of the BCCC.

The findings and recommendations will be those of the Code Reviewer. The BCCC will consider the report and determine its response and any next steps.

## Timeline

Action	Due by
Review commences	8 July 2021
Complete Review process	31 October 2021
Final report	30 November 2021
BCCC response to the Review	31 March 2022

## Scope of the Review

The Review will assess the BCCC's performance of its functions and operations as set out in the Code and the BCCC Charter.

The Reviewer will:

- Have regard to the fact that the BCCC came into effect in July 2019, following a comprehensive review of the 2013 Code of Banking Practice and its predecessor, the Code Compliance Monitoring Committee, in 2016.
- Consider the performance of the BCCC taking into account good practice standards, including but not limited to, those parts of ASIC's *Regulatory Guide 183: Approval of financial services sector codes of conduct* that relate to the operation of the BCCC.
- Engage with the reviewer of Banking Code to ensure the reviews are coordinated (where possible) to minimise any duplication, especially in the process of industry and consumer consultation.
- Consider whether the Charter is an appropriate governing document for the BCCC.
- Take into account the CFA's Good Practice Principles for the development & review of industry codes & EDR schemes (where relevant).
- Consider and make recommendations about:
  - What other powers and sanctions may be appropriate for the BCCC.
  - What actions the BCCC should take to improve the effectiveness of its monitoring program.
  - What the BCCC's reporting requirements are intended to achieve.

In completing the Review, reference will also be made to the following matters.

### 1. The BCCC's powers and role, including:

- a. The extent to which the BCCC achieves its purpose to monitor and drive best practice

Code compliance and provides benefits to individual and small business customers (and guarantors) by monitoring banks' compliance with the Code.

- b. Whether the BCCC is properly interpreting its role under the Code and Charter and the extent to which the Code and Charter clearly set out the BCCC's powers and role.
- c. The extent, if any, to which the BCCC has been prevented from fulfilling its purpose because of any requirements or restrictions of its Charter and/or and Chapter 49 of the Code.
- d. Whether the powers, including sanctions powers, available to the BCCC are appropriate for it to achieve its purpose.
- e. Whether the BCCC appropriately implemented the recommendations of the 2016 review of the CCMC.
- f. Whether the BCCC has acted fairly, independently and appropriately with respect to its role under the Code and its Charter.
- g. The appropriateness of the current structure of the BCCC and its secretariat staff, including whether it has sufficient resources to fulfil its role and purpose.
- h. Whether the BCCC has adequate systems for the collection, recording and processing of data about Code compliance.
- i. Whether the BCCC has developed appropriate operating procedures to fulfil its role, including its operating procedure for the application of sanctions on banks.

## **2. The BCCC's performance of its monitoring role, including:**

- a. Whether the BCCC has adopted an appropriate and effective approach to compliance monitoring and how well the BCCC has prioritised the various compliance monitoring activities it undertakes.
- b. The extent to which the BCCC responds appropriately and in a timely manner to individuals or organisations who raise allegations of breaches of the Code.
- c. The extent to which the BCCC has met its reporting requirements and whether its reporting would be improved by publicly benchmarking banks' compliance in an identifiable manner.
- d. Whether the BCCC's compliance monitoring activities and techniques are effective in ensuring high levels of compliance by banks with the Code.
- e. The BCCC's use of external resources, or requirements for banks to use external resources, to support its monitoring activities.
- f. Whether the BCCC's application of its sanction powers supports Code compliance and deters Code breaches.
- g. Whether the BCCC identifies and responds to the areas of greatest compliance concern for each type of consumer, for example individuals, small businesses and farmers.

**3. The extent to which the BCCC's external relationships are appropriate for its role, including:**

- a. Whether the BCCC has an appropriate and sufficient public profile and is accessible to stakeholders.
- b. The effectiveness of the relationships the BCCC has developed with its stakeholders.
- c. Whether the BCCC has timely access to necessary information from stakeholders to enable it to assess bank's compliance with the Code.
- d. The adequacy of the BCCC's Small Business and Agribusiness Advisory Panel's (Panel) Terms of Reference and the extent to which the Panel assists the BCCC to meet its purpose with regard to small business and agribusiness matters.
- e. Whether the BCCC is adequately promoting the Code.

**4. Any other issues**

- a. The Reviewer may consider and report on any other relevant issues that may arise during the Review.