



BCCC
Banking Code
Compliance Committee

Annual Report

Year in Review **2020–21**



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Message from the Chair



This year was a period of significant achievement for the Banking Code Compliance Committee (BCCC). We kept a strong focus on monitoring banks' compliance with the Banking Code of Practice (Code) and sharing good practice guidance to improve industry standards and outcomes for bank customers.

Banks' organisational capability

In response to concerns that too often banks identify 'human error' as the cause of Code breaches the BCCC published a landmark report in February 2021 about how they should build organisational capability to improve compliance with the Code. This report will influence our future monitoring work.

An impactful communication strategy, effective learning and development, and having fit-for-purpose systems, processes and technology – with the needs of customers and employees at their centre – are all crucial to banks' efforts to meet their Code Obligations.

Compliance concerns

The BCCC recently released an extensive report into banks' compliance with guarantee obligations. We have serious concerns about failures to consistently provide full disclosure of key information to guarantors – a finding supported by the performance audits conducted by banks.

We intend to follow up in 2022 on how banks have implemented the report's recommendations, which are focused on guidance for lending staff, improved monitoring, better record management practices, taking non-compliance into account when enforcing guarantees and banks' guarantee-related data capability.

“...banks need to increase their focus on preventing breaches and the community expects improvements to be made in a timely manner.”

In light of the pandemic we provided banks with an extended reporting deadline and excluded some data requirements to give banks some relief at the start of the year. Nevertheless, breach reporting remains at the core of our monitoring program.

Banks have reported approximately 20,000 breaches for three consecutive reporting periods since the Code came into effect in July 2019. We have

commended banks' efforts to build capability to identify non-compliance and remediate customers. However, banks need to increase their focus on preventing breaches and the community expects improvements to be made in a timely manner.

The BCCC regularly receives reports from customers about banks' conduct. While we focus on investigating priority issues, we are grateful to everyone who has taken the time to inform us about their concerns. One of our targeted investigations this year, initiated as a result of multiple breach allegations from customers, led to the BCCC applying its second naming sanction for serious and systemic breaches of the Code (see page 11).



The BCCC and its predecessor Committee have been monitoring banks' compliance with the Code's cancellation of direct debits obligations for over 10 years. Our periodic mystery shopping activities have continually indicated very low compliance rates. Our research from this past year indicates there has been a marked improvement in bank staff awareness of their obligations. While more work is needed, we welcome the improvements that have occurred.

We will soon conclude an inquiry conducted into the vulnerability, inclusivity and accessibility provisions of the Code. We look forward to sharing best practice initiatives which will be especially pertinent in light of the ongoing impacts of the pandemic.

The year ahead



In addition to new monitoring activities, including an inquiry into the Code's deceased estate obligations, the BCCC plans to conduct several follow up monitoring activities in 2021–22 and will seek to ensure banks implement our better practice recommendations.



The BCCC is also committed to building strong relationships with stakeholders as well as enhancing data and monitoring capabilities to improve our operations. We recently published a new three-year Strategic Plan, updated Operating Procedures and a Business Plan for the year ahead. We have also welcomed the opportunity to commission a thorough review of our activities.



The Australian Banking Association (ABA) announced it has engaged Mike Callaghan AM PSM to **conduct a review of the Banking Code** at the end of 2020–21. In accordance with our Charter obligations, we have appointed Phil Khoury to review the BCCC and anticipate he will report on his findings later this year. Mr Khoury is engaging with Mr Callaghan to ensure their reviews are appropriately coordinated.

Acknowledgements

I want to thank my colleagues Anne O'Donnell, Gordon Renouf and Cat Newton for their dedicated support and expertise during the year. Gordon's term on the Committee came to an end in May 2021 and I express my gratitude to Gordon for his invaluable contribution over nine years to the BCCC and its predecessor Committee, as the consumer representative. Cat Newton was appointed in May by the consumer representatives on the Board of the Australian Financial Complaints Authority (AFCA) as the BCCC's new consumer representative for a three-year term.

I would also like to acknowledge the BCCC's Small Business and Agribusiness Advisory Panel and the many other stakeholders who have assisted our work throughout the year, including AFCA, the Australian Securities and Investments Commission (ASIC), the ABA, banks and consumer stakeholders, who have provided invaluable contributions.

“Under the leadership of both Sally and Rene, the staff continued to provide excellent support to the Committee over the last 12 months.”

In March 2021, after more than five years in the position, Sally Davis retired from her role as the BCCC's Chief Executive Officer. I would like to thank Sally for her outstanding contribution to the BCCC and wish her every success for the future. The BCCC's Investigations Manager, René van de Rijdt, has done an excellent job as acting CEO since Sally's departure. Under the leadership of both Sally and Rene, the staff continued to provide excellent support to the Committee over the last 12 months.



Ian Govey AM

Our work at a glance

Summary of key outputs over the last three years

2020–21



- BCCC Report – Building Organisational Capability: How banks can improve compliance with the Banking Code of Practice and deliver better customer outcomes (February 2021)
- BCCC Report: Banks' compliance with the Banking Code of Practice – July to December 2019 (August 2020)
- BCCC Report: Banks' compliance with the Banking Code of Practice – January to June 2020 (April 2021)
- Guidance Note No. 3: COVID-19 Special Note – Complaints handling timeframes and customer notifications (September 2020)
- Application of naming sanction for two banks (September 2020 and May 2021)
- Three Code breach findings

Other completed work

- BCCC Inquiry Report: Banks' compliance with the Banking Code's guarantee obligations (August 2021)
- BCCC Report: Banks' compliance with the Banking Code of Practice – July to December 2020 (August 2021)
- BCCC compliance update: Cancellation of direct debits (September 2021)

2019–20



- Transition to the BCCC (July 2019)
- Guidance Note No 1: Breach Identification and Reporting (September 2019)
- BCCC Inquiry Report: Banks' Transition to the 2019 Banking Code of Practice (November 2019)
- Compliance with the Code of Banking Practice 2018–19 (November 2019)
- Guidance Note No 2: Clause 10 – fair, reasonable and ethical behaviour (November 2019)
- Six Code breach findings

2018–19

- Code Compliance Monitoring Committee (CCMC) Inquiry Report: Assisting customers in financial difficulty (November 2018)
- CCMC Report: Compliance with the Code of Banking Practice 2017–18 (November 2018)

Our work in progress

- Inquiry into compliance with vulnerability, inclusivity and accessibility obligations
- Inquiry into compliance with deceased estates obligations
- Six-monthly breach data collection and reporting
- Targeted inquiries and investigations into serious and systemic breach concerns, including requiring banks to conduct audits

Our monitoring activities

Banks' compliance with guarantee obligations

Towards the end of 2020–21, the BCCC concluded its inquiry into banks' compliance with the guarantee obligations in the Code.¹

The Code's guarantee obligations help ensure people can make fully informed decisions before agreeing to be a guarantor and are a crucial safeguard to ensure guarantors understand the risks involved when providing a guarantee. Consumer advocates highlighted the link between guarantees and financial abuse, which can stem from elder abuse or family violence.

Some banks conducted performance audits – a new requirement for a BCCC inquiry – which identified non-compliance with several important Code provisions, including pre-guarantee disclosure obligations. The audits also found numerous instances where banks could not demonstrate compliance.

The [Inquiry report](#) highlighted our serious concerns about failures to consistently provide full disclosure of key information to guarantors – an issue closely linked to banks' poor record keeping practices and the challenges associated with disparate systems, business units and subsidiary brands.

“The audits also found numerous instances where banks could not demonstrate compliance.”

The Inquiry found that while banks had adequate written policies and processes to comply, they:

- **Frequently failed to comply with their pre-guarantee Code obligations** based on the breach data, BCCC investigations and the audit results.
- **Had inadequate or ineffective monitoring of compliance controls** and control gaps in their



guarantee processes which were not previously detected by their routine monitoring activities.

- **Lacked effective record management practices;** this was the leading reason audited banks could not demonstrate compliance with the pre-guarantee obligations.
- **Dealt with non-compliant guarantees on a case-by-case basis and relied too heavily on legal advice** when considering whether to enforce a non-compliant guarantee. While it is appropriate for the bank to obtain legal advice, it is also important that banks avoid an overly legalistic approach.
- **Lacked guarantee-related data capability** and had difficulty providing requested data about guarantees.

The BCCC expects banks to implement the report's 23 recommendations for improved industry practice across the guarantee provisions. Our key recommendations included:

- Audit compliance with the current Code's guarantee obligations and include an assessment of the controls in place to ensure compliance with the Code's guarantee obligations.

¹ The 2013 Code of Banking Practice.

- Review the robustness of guarantee-related Quality Assurance processes to ensure that they effectively identify, record and report Code breaches for investigation.
- Develop guidance to support lending staff who detect signs that a prospective guarantor may be at risk of financial abuse, including during the signing of the guarantee.
- Update policies and processes to require staff to consider the prospective guarantor's unique circumstances when delivering key disclosures, particularly if they show signs that they may need extra help to understand the nature and effect of the guarantee.
- Ensure that processes, systems and technology enhance staff capability to identify vulnerable guarantors who may require additional support to understand the guarantee information provided.
- Provide clear guidance in processes to help staff to locate, retrieve and store guarantee disclosure information, particularly where the bank has disparate systems, business units and subsidiary brands.
- Strengthen record management requirements in pre-guarantee processes and procedures to ensure that evidence always exists on the file to demonstrate compliance.
- Conduct pre-enforcement reviews of a guarantee to ensure that it has been obtained in accordance with the Code before commencing enforcement action.
- Strengthen data capability by collecting guarantor outcome data, such as enforcement and complaints data.

We will follow up with banks on the actions they have taken to address the findings and recommendations in this report in March 2022.

Breach reporting and compliance data

Banks must self-report Code breaches to the BCCC every six months via a Banking Code Compliance Statement. The information we receive from banks about how and why they have breached the Code enables us to:

- benchmark banks' compliance with the Code
- report on current and emerging issues in Code compliance to the industry and the community, and
- identify priority areas for future monitoring.

In addition to reporting publicly on this data twice a year, we provide individual feedback to each bank highlighting any areas of concern and good practice.

Compliance with the Code of Banking Practice 2019–20

In April 2021, we published a compliance report covering the first full year of operation of the current Code.²

Key stats for 2019–20



- **40,629** Code breaches.
- Almost **8 million** customers affected.
- Total financial impact of more than **\$220 million**.

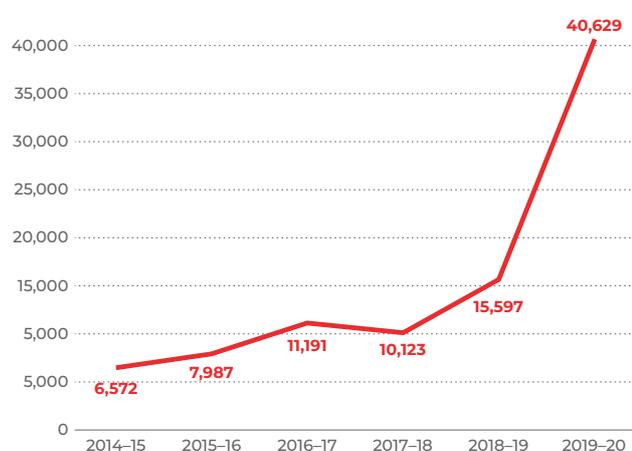
Banks reported 19,766 Code breaches for the six-month period January to June 2020. Combined with the 20,863 breaches for the previous reporting period, this amounted to over 40,000 breaches of the Code for the full year – July 2019 to June 2020.

The significant increase in the number of breaches when compared to the 15,597 for the 2018–19 period was attributed to increased awareness and

² The full report can be downloaded at bankingcode.org.au/resources/bccc-report-banks-compliance-with-the-banking-code-of-practice-january-to-june-2020.

monitoring of Code compliance, and improvements to risk culture. A small percentage of the increase was due to the additional Code obligations that came into effect in 2019 and an increase in the number of subscribing banks.

Chart 1 Total number of Code breaches, 2014–15 to 2019–20³



The BCCC assessed breach incidents that were reported as, or that appeared to be, a direct result of conditions created by the COVID-19 pandemic. While some banks reported an increased workload and resourcing issues as a direct cause of some breaches, at that time COVID-19 did not appear to have significantly affected banks' ability to comply with the Code. The report also highlighted some of the impacts of scams and fraud on both customers and banks' compliance with the Code.

Banks received 351,245 requests for financial difficulty assistance in 2018–19. This increased to 894,112 in 2019–20. This increase was unsurprising in light of the impact of COVID-19 on individual and small business customers. However, the BCCC considers the actual figure is likely to be much higher because several banks excluded the COVID-19 payment deferral packages provided to customers from the financial difficulty data they reported.

Banks' Code compliance data – July to December 2020

Self-reported breaches increased again in the period July to December 2020. A 14% increase led to 22,473 breaches being reported, with one major bank accounting for more than 45% of the total number. However, the data indicated that fewer customers (2.8 million) were affected when compared to the previous six-month reporting period, and the financial impact was also lower at \$76 million.

Top Code Chapters breached between July and December 2020

Code Chapter	Breaches
04 Trained and competent staff (inc. fair and reasonable conduct)	4,564
05 Protecting confidentiality	4,165
17 A responsible approach to lending	2,860
43 When we are recovering a debt	2,635
09 Communication between us and you	1,259
41 We will try to help you if you are experiencing financial difficulty	1,086
11 What information we will give you	957
47 If you have a complaint about us	872
48 How we handle your complaint	699
08 Providing you with information	460
34 Direct debits and recurring payments	448
14 Taking extra care with customers who may be vulnerable	442
36 Closing any of your banking services	332
45 Helping with deceased estates	318
39 Contact us if you are experiencing financial difficulty	303
20 Helping a small business when it applies for a loan	225

³ Data for 2014–15 to 2018–19 included the 13 subscribers to the 2013 version of the Code. The 2019–20 data covered the 19 subscribers to the current Banking Code. The six new subscribers accounted for 2% of the total number of breaches for 2019–20.



The main reasons banks provided for the increase included better detection and identification of potential Code breaches as a result of improved risk cultures. While we view banks' ongoing efforts to build capability to identify and fix non-compliance as a positive development, there is growing concern that so many breaches of the Code are occurring. We have called on banks to increase their focus on preventing breaches.

We have called on banks to increase their focus on preventing breaches.

Banks also provided explanations that changes made to address COVID-19 impacts, such as additional volumes of activities and significant numbers of new staff engaged to support customers, had led to more compliance incidents.

In 2021, the ABA obtained ASIC's approval to amend the Code in light of concerns that COVID-19 may affect banks internal resources and capacity. The COVID-19 Special Note came into effect on 1 July 2020 and provides some exemptions from strict

timing requirements for notices and communications under the Code.

Our most recent [compliance report](#) included information about instances that would have constituted breaches of the timing requirements but for the Special Note exemptions. Nine banks reported 4,651 incidents which may have constituted breaches if not for the exemptions.

Direct debit compliance update

In March 2021, a market research firm conducted a mystery shopping exercise on our behalf to examine how well banks comply with the Code obligations to cancel direct debits and identify customers who may be experiencing financial difficulty.

Our [recent report](#) on this activity showed banks have improved on their past poor performance with 71% of interactions with branch and call centre staff indicating banks would comply.

However, if 29% of customers receive the wrong information or banks do not cancel a direct debit when requested, it shows banks still have a lot of work to do.

The BCCC's report highlighted some good practice initiatives banks have implemented and should continue to implement to make sure they meet their obligations. We shared an identifiable example of the type of information banks should be making available on their websites to promote better practice.

Investigations and targeted inquiries

The BCCC has discretionary powers to investigate an allegation from any person that a Code-subscribing bank has breached the Code. We can also investigate potential Code breaches that we identify through our monitoring activities, such as inquiries.

In 2020–21, the BCCC received 76 new breach allegation matters – a figure consistent with the 79 matters received the previous year.⁴

⁴ The BCCC's 2019-20 Annual Report included a figure of 82 matters for the period covered by the report. This figure included three matters opened by the BCCC as targeted inquiries.

When someone reports a Code breach allegation to the BCCC, we review the information provided and assess whether we have the power to consider the matter and whether we should use our discretion to commence an investigation or targeted inquiry in accordance with our Operating Procedures. While we do not investigate all of the matters reported to us, information from every allegation is recorded by the BCCC and used to inform our monitoring priorities. This process means we are able to focus on matters of highest priority, particularly issues that reflect serious or systemic misconduct.

In 2020–21, the BCCC made three Code breach findings as a result of its investigations work. Several other matters remain in progress.⁵

Each finding includes good practice guidance, setting out how banks should ensure ongoing compliance with the relevant Code provisions.

BCCC findings

Case reference	Finding
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CX4213	The bank breached the following 2013 Code obligations: <ul style="list-style-type: none"> · clause 37.2 (complaints handling), and · clause 3.2 (fair and reasonable conduct).
CX4242	The bank breached the following 2013 Code obligations: <ul style="list-style-type: none"> · clause 37.2 (complaints handling), and · clause 3.2 (fair and reasonable conduct).
CX6933	The BCCC imposed the sanction to name the bank for breaches of the Code – see Page 12 for further information.



While the BCCC also concluded another investigation by making a finding and imposing a sanction during the 2020–21 period, this matter was addressed in detail in the BCCC’s 2019–20 Annual Report.⁶

ME Bank sanctioned for serious and systemic Code breaches

In May 2021, the BCCC sanctioned Members Equity Bank Limited (ME Bank) for serious and systemic breaches of the Code.

The BCCC’s [Notice of Sanction](#) stated that in May 2020, the BCCC commenced an inquiry into ME Bank’s decision to adjust available redraw amounts on some of its customers’ legacy home loan accounts.

⁵ Findings can be viewed at bankingcode.org.au/resource/findings.

⁶ [BCCC 2019-20 Annual Report](#), September 2020.

ME Bank commenced making adjustments to available redraw amounts on 27 April 2020. However, the bank only notified impacted customers of the adjustments after they were made. ME Bank did not communicate the changes at all to customers who did not use internet banking and/or were not active users of their redraw facility. Several customers contacted the BCCC to report their concerns.

In April 2021, the BCCC issued a Finding which concluded that ME Bank breached the following Code provisions:

- Clause 17 (timely, clear and useful communication), and
- Clause 10 (fair and reasonable conduct).

The BCCC found ME Bank's breach of clause 17 to be systemic and breach of clause 10 to be both systemic and serious.

...understand what occurred leading up to the event, why it occurred and what the key lessons were to improve customer outcomes in future.

ME Bank's poor communication to customers at the time it made the adjustments would have had a detrimental impact on some customers, especially those who experiencing vulnerable circumstances or those whose financial situations were exacerbated due to the impacts of COVID-19. Having considered the seriousness of the breaches and the associated customer impact, the BCCC imposed a sanction to name ME Bank on its website and in this Annual Report.

On 8 May 2020, ME Bank decided to change back the available redraw limits for any impacted customers who requested it. ME Bank also implemented a Management Action Plan in response to a Post Incident Review it undertook to understand what occurred leading up to the event, why it occurred and what the key lessons were to improve customer outcomes in future.



The BCCC's sanctioning powers

Clauses 214 and 215 of the Code empower the BCCC to apply sanctions to a bank for a breach of the Code, and to determine the type of sanctions to apply according to the seriousness of the breach.

The following sanctions are available to the BCCC:

- a) require a bank to rectify or take corrective action on the breach identified
- b) require a bank to undertake a compliance review of their remediation actions
- c) formally warn a bank
- d) require a bank to conduct a staff training program on the Code
- e) name a bank in the BCCC annual report or website, and
- f) report serious or systemic ongoing instances where a bank has been non-compliant to ASIC.

Looking ahead

Vulnerability, inclusivity and accessibility

The BCCC will shortly publish the outcomes of an inquiry into banks' compliance with Part 4 of the Code, which outlines the key consumer protections for disadvantaged customers.

Part 4 contains several important obligations, including the requirement to take extra care with customers experiencing vulnerable circumstances and to treat them with sensitivity, respect and compassion. Banks must also make banking services inclusive and accessible to everyone, including older people, people with disability, Indigenous people and people with limited English.



We conducted this inquiry throughout 2020–21 and intend to report on:

- compliance gaps and areas that require industry improvement
- the BCCC's expectations and recommendations for improved practice, and
- extensive examples of how the BCCC's recommendations could be implemented in practice – including new and innovative activities undertaken by banks to enhance their capability.

Deceased estates

The BCCC has recently commenced an inquiry into banks' compliance with Chapter 45 of the Code (Helping with deceased estates).

The Code requires banks to:

- treat a deceased customer's representatives with respect and compassion and to provide clear and accessible information on how to manage a deceased customer's account

- cease charging fees for banking services no longer provided
- act on instructions from a deceased customer's representative within 14 days
- provide information about a deceased customer's accounts, and
- allow customers with joint accounts to continue to operate accounts in the event of the death of their fellow joint account holder

The inquiry will be conducted throughout 2021–22.

Promoting improved practice in the banking industry

Building Organisational Capability

We published a milestone report in February 2021 about how banks should develop their organisational capability to improve compliance with the Code. The report highlighted that effective employee communication strategies, learning and development programs, systems, processes, technology and a bank's culture all play a key role in ensuring Code compliance and good customer outcomes.

Concerned that too often banks identify 'human error' as the cause of Code breaches without establishing, recording or acting on the 'root cause' of the problem, we made recommendations focused on the steps banks should take to make compliance with the Code a core part of its strategy. We found that when a breach occurs for which 'human error' is to blame, it is often the case that staff conduct or actions have been influenced or constrained by internal systems, processes, technology, training and/or organisational culture.

Engage staff with compelling narratives and storytelling that resonates with their business unit and respective roles.

With the assistance of external experts and candid feedback from banks, the report set out the BCCC's expectations around five key capability areas.

The BCCC asked banks to also consider how its recommendations are connected. An impactful communication strategy, effective learning and development, and designing all systems, processes and technology with the needs of customers and employees at their centre – are all underpinned by an organisation's culture and a mind-set of continuous improvement and delivering good customer outcomes. Key recommendations included:

Communication strategy

- Deliver impactful and consistent messaging from the top down that highlights the importance of the Code commitments to successfully shift behaviours
- Engage staff with compelling narratives and storytelling that resonates with their business unit and respective roles

Learning and development

- Continuously iterate and improve staff training programs to close knowledge gaps identified by trends in the banks' breach data
- Establish a central repository for all staff to access supporting resources they need to do their jobs

Systems, processes and technology

- Develop an organisation-wide design objective that puts good customer outcomes and employee compliance at the centre of all products, systems, processes and technologies
- Test and iterate processes and products using human-centred design in pursuit of continuous improvement
- Integrate learning and technology in a way that increases employee engagement, self-guided learning and compliant outcomes
- Develop and adopt real-time reporting and analysis to proactively prevent and detect Code breaches

Culture

- Reinforce a culture that links employee compliance to clear customer outcomes and fosters a continuous improvement mindset
- Review reward and recognition programs to link employee performance and incentives to positive customer outcomes and avoid creating incentives that undermine those outcomes
- Create relationships between banks to share success stories and best practice



Enhancing capability through robust compliance frameworks

- Improve processes for identifying and addressing the root causes of Code breaches
- Enable and support employees to understand their Code obligations, recognise when Code breaches occur and report them promptly

Guidance Notes

Guidance Note No. 3: COVID-19 Special Note – Complaints handling timeframes and customer notifications

The BCCC published a new Guidance Note during 2020–21 on one of the requirements within the Banking Code’s COVID-19 Special Note.

The Special Note came into effect on 1 July 2020 and describes how the effects of COVID-19 may mean that Code-subscribing banks are unable to fully comply with strict timing requirements for notices and communications under the Code.

Chapter 48 (How we handle your complaint) and clauses 205 and 206 of the Code provide timeframes for when banks must notify customers of the progress and outcome of their complaints. The Special Note provides for circumstances where a bank may not be able to comply with those timelines due to COVID-19 and sets conditions where failure to meet timelines may not constitute a Code breach.

Some banks indicated that they did not foresee delays to their complaints handling processes and sought clarification from the BCCC on the requirements of the Special Note. The Guidance Note explains how the BCCC will assess compliance with the complaints handling notification requirements of the Special Note and the relevant Code obligations. The Guidance Note also recognises the concerns of some banks and outlines applicable exemptions to the requirements of the Special Note.

Submissions to industry consultations

Small business

ASIC’s original approval of the Banking Code was subject to the ABA commissioning an independent review of the definition of ‘small business’ in the Code within 18 months of the Code’s commencement in July 2019. In September 2020, the ABA appointed Pottinger to conduct an independent review of the definition of small business under the Code.⁸

The BCCC made a submission to the review, following consultation with its Small Business and Agribusiness Advisory Panel.⁹ Our position was that it is very important for there to be a uniform definition across the industry, and we noted the Code definition is different to AFCA’s small business jurisdiction. The BCCC’s view was that a uniform adoption of a \$5m credit threshold could lead to more consistent application across industry, less confusion and more consistent outcomes for small business customers.

⁷ Guidance Notes are published on the BCCC website – bankingcode.org.au/resource/guidance-notes.

⁸ For further information about Pottinger and its review visit – www.pottinger.com/sbr.

⁹ [BCCC submission to the small business definition review](#), October 2020.

The ABA has agreed it will expand the definition of small business in the Code as part of its response to the Banking Code review.¹⁰

Credit law reforms

In November 2020, Treasury sought feedback from stakeholders on proposed reforms to consumer credit laws to be implemented through changes to the *National Consumer Credit Protection Act 2009* and the *National Consumer Credit Protection Regulations 2010*.

The BCCC made a submission to Treasury highlighting that the proposed changes would impact the responsible lending obligations under the Code because the operation of clause 49 of the Code (to act with the care and skill of a diligent and prudent banker) is directly linked to the relevant law for responsible lending. We were concerned that these proposed changes would considerably diminish the operation and effect of the Code as a protection for each individual bank customer.

This information is vital to us identifying current and emerging issues which can be examined through our targeted monitoring work.

We also addressed this issue in the BCCC's submission to the Banking Code review.¹¹ We recommended that regardless of whether the responsible lending laws are repealed or amended, clause 50 of the Code should set out the principles of the current protections in legislation, in particular requirements for lenders to make reasonable inquiries about a customer's requirements or objectives, and to assess whether they will be able to repay any borrowed amount without experiencing substantial hardship.



ABA consultations

We also provided input into the ABA's work designed to improve the consistency of Code breach reporting and on industry guidelines regarding financial abuse and family and domestic violence, and financial difficulty.

Stakeholder engagement

The BCCC or its Secretariat attended approximately 150 meetings or events with a range of stakeholders, including the Small Business Panel, the ABA, banks, regulators, consumer groups and AFCA throughout 2020–21.

The BCCC regularly meets with banks at both a senior and operational level to discuss emerging issues, specific compliance concerns and to ensure the Code is kept front of mind for both executives and frontline employees.

The BCCC thanks financial counsellors, community legal centres, Legal Aid organisations and other community groups that have shared a wealth of information about banking practices this year. This information is vital to us identifying current and emerging issues which can be examined through our targeted monitoring work.

¹⁰ For further information about the ABA's response visit – www.ausbanking.org.au/priorities/small-business-definition-to-be-expanded.

¹¹ BCCC submission to the Banking Code review, August 2021.

BCCC strategy and operations

The BCCC is an independent monitoring body established under clause 207 of the Code 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.

Strategy and business plans

In June 2021, we published a new three-year Strategic Plan and 2021–22 Business Plan. The BCCC's Strategic Plan outlines the areas we will focus on to achieve our purpose, including taking action to:

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

The BCCC's Strategic Plan outlines the areas we will focus on to achieve our purpose

The BCCC also developed a Business Plan for 2021–22 which provides further information about our priority areas. The BCCC has been, and will continue to be, especially mindful of the ongoing challenges for individual and small business customers, and the banking industry, caused by the COVID-19 pandemic when conducting our work.

The following represent the priority areas that the BCCC will focus on in 2021–22:

- Challenges caused by the COVID-19 pandemic, including financial difficulty
- Customers experiencing vulnerability
- Small business and farming customers
- Banks' organisational capability to comply with the Code
- Deceased estates
- Banks' communications with customers and provision of information.

Updated Operating Procedures

We consulted with banks on changes to the BCCC's Operating Procedures in 2021. The procedures were updated to:

- clarify the steps the BCCC will undertake when imposing a sanction to name a bank and the sequence in which these steps will be undertaken
- explain the BCCC's role and involvement in the corrective actions and customer remediation a bank undertakes as a result of its non-compliance with the Code, and
- include additional procedures to meet the requirements set out in clause 13 of the Charter.

BCCC review

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.

In response to the news that the ABA would be commencing a review of the Code in July 2021, we made plans for a review of the BCCC to be conducted at the same time by preparing Terms of Reference for the review and appointing Phil Khoury, of *cameron. ralph. khoury*, as the reviewer.

The review commenced in August 2021.



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 Board of AFCA.



Ian Govey AM

Independent Chairperson

Current term: February 2020 – February 2023

Ian is a lawyer by training and occupied a number of senior positions with the Commonwealth Government before leaving in 2016. These roles included the position of Australian Government Solicitor (AGS) and AGS chief executive between 2010 and 2016, and Deputy Secretary of the Attorney-General's Department from 2000 to 2010. His work in the Attorney-General's Department and The Treasury focused significantly on commercial law reform.

Ian is Chair of the Audit Committee of the Federal Court of Australia and Deputy Chair of the Audit Committee of the Commonwealth Director of Public Prosecutions and of the ACT Community Services Directorate. His other current roles include director of the Australasian Legal Information Institute (AustLII) and director, and member of the executive, of the Australian Centre for International Commercial Arbitration (ACICA).

Ian's former roles include membership of the National Alternative Dispute Resolution Advisory Council (NADRAC) and representing Australia as a delegate at international forums, including as the elected Australian member of the Governing Council of the International Institute for the Unification of Private Law (UNIDROIT).

Ian was appointed a Member of the Order of Australia (AM) in the General Division in the 2015 Australia Day Honours for 'significant service to public administration and to the law, as a leader in the provision of government services, and to professional organisations'. He is also a fellow of the Australian Academy of Law.

Ian has degrees in Law from the University of Adelaide and in Economics from the Australian National University (ANU).



Anne O'Donnell

Industry Representative

Current term: October 2018 – 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 Sprit Superannuation Fund. Other current non-executive roles include director of The Churchill Memorial Trust, director of Agricultural Innovation Australia Ltd, member of the UBS Compliance Committee, chair of IP Australia's Audit Committee and member of the National Capital Authority 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.



Cat Newton

Consumer Representative

Current term: May 2021 – May 2024

Cat is a consumer advocate at Consumer Action Law Centre, an independent, not-for-profit consumer organisation that provides free legal and financial counselling services.

Cat joined Consumer Action in 2015 as a lawyer, providing legal advice and representation to Victorians on a range of consumer, credit and debt matters. As well as working with banking customers directly, Cat provided legal assistance and training to community workers who advocate on behalf of consumers. Now a Senior Policy Officer, Cat leads the Centre's campaigns on financial difficulty, insolvency and insurance. This has included implementation of the Financial Services Royal Commission reforms, such as banning the unsolicited selling of financial products and banning unfair terms in insurance contracts, as well as reforms to junk add-on insurance and debt management firms.

Cat has represented consumer interests on the ASIC Consumer Advisory Panel, Insurance Council of Australia Consumer Liaison Forum, TAL Consumer Consultative Board, and Super Consumers Australia Policy Reference Committee.

Cat's advocacy is informed by her experience working with and for people impacted by misconduct, and in collaboration with other consumer advocates, to achieve fair outcomes, resolve systemic issues and improve practice in the banking and financial services sector.

In previous roles, Cat was a lawyer at Allens Linklaters and judges' associate at the Supreme Court of Victoria. Cat holds a Bachelor of Commerce/Bachelor of Laws (Hons) from the University of Melbourne.

Gordon Renouf

Former Consumer Representative

July 2012 – May 2021

Gordon was the Committee's consumer representative for nine years. He is a lawyer and consumer advocate. He is Chair of the Australian Securities and Investments Commission's Consumer Advisory Panel, Deputy Chair of the Consumers' Federation of Australia and serves on the board of the Telecommunications Industry Ombudsman (as a Director with Consumer

Experience). He is also a co-founder and CEO of Good On You – the ethical shopping service.

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 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 a **Chief Executive Officer** and is supported by a team made up of a **Compliance** and **Operations Manager**, an Investigations Manager and several Compliance Analysts.



René van de Rijdt

Acting Chief Executive Officer

Current term: March 2021 to current

René van de Rijdt is the acting General Manager of the AFCA Code Compliance and Monitoring team and acting CEO of the BCCC. In these roles, René leads the strategic direction and operational management of the BCCC, ensuring delivery of its compliance and monitoring obligations.

René has worked in the AFCA Code team since 2017, initially as the Code Compliance Investigations Manager, and at AFCA and its predecessor schemes since 2011. René has a background in law and external dispute resolution and holds a Bachelor of Law from Monash University and a Bachelor of Planning and Design from the University of Melbourne.

Sally Davis

Former Chief Executive Officer

September 2015 – March 2021

Sally was the CEO of the BCCC and General Manager – Codes at AFCA. Her role included oversight of the Business Plan and Budget of the BCCC and four other independent Committees which monitor compliance with codes of practice across the financial services industry.

Sally worked at AFCA and its predecessor schemes from 2000 to 2021 and was previously Senior Manager of Systemic Issues at the Financial Ombudsman Service.

BCCC financial details

	30 June 2020	30 June 2021
Staff costs		
Gross salaries (including Committee remuneration), leave provisions, Super, training and recruitment	\$1,153,692	\$1,268,614
Operating expenses		
Office Costs	\$9,643	\$10,045
Professional Assistance	\$159,911	\$51,796
Communications, Stakeholder Relations and Travel	\$55,081	\$40,389
Technology	\$47,256	\$68,428
Occupancy Costs	\$82,706	\$102,456
Total Salaries and Expenses	\$1,508,289	\$1,541,728
Total Funding	\$1,530,918	\$1,761,361
Annual Surplus/ (Deficit)	\$22,629	\$219,633*

*The BCCC has committed to contribute a portion of the surplus to the 2021–22 budget to fund the BCCC review.



Contact details

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