



29 June 2015

Ms T Matulick
Secretary
Parliamentary Joint Committee on
Corporations and Financial Services

By email to: corporations.joint@aph.gov.au

**Code Compliance
Monitoring Committee**
PO Box 14240
Melbourne
Vic 8001
Phone: 1300 78 08 08
Fax: 03 9613 7481
Email: info@codecompliance.org.au

Dear Ms Matulick,

Parliamentary Joint Committee on Corporations and Financial Services inquiry into the impairment of customer loans

Thank you for inviting the Code Compliance Monitoring Committee (the CCMC) to make a submission to the Parliamentary Joint Committee on Corporations and Financial Services inquiry into the impairment of customer loans.

The CCMC is an independent compliance monitoring body established under clause 36 of the 2013 Code of Banking Practice (the Code). It is comprised of an independent chair, a person representing the interests of the banking industry and a person representing the interests of consumers and small business. This is consistent with the model for self-regulatory governance under ASIC's Regulatory Guide 183.

The CCMC adopts a collaborative approach to working with code-subscribing banks and aims to be a trusted and valued partner, assisting banks to comply with their Code obligations. The CCMC's Mandate (which is an attachment to the Code) sets out its powers and functions, which include:

- monitoring banks' compliance with the Code's obligations
- investigating an allegation from any person that a bank has breached the Code, and
- monitoring any aspects of the Code that are referred to the CCMC by the Australian Bankers' Association (the ABA).

The Code is a voluntary code of conduct which sets standards of good banking practice for subscribing banks to follow when dealing with persons who are, or who may become, an individual or small business customer of a code-subscribing bank, or a guarantor. The Code and Mandate were developed and published by the ABA.

Eighteen banks, representing 13 banking groups, currently subscribe to the Code meaning that it covers approximately 95% of the Australian retail banking industry.

The Code forms an important part of the broader national consumer protection framework and the banking services regulatory system. It is a means by which the ABA and code-subscribing banks can complement formal law and regulation in areas relating to services issues for consumers, standards of professional conduct, practice standards and ethical behaviour.

The Code applies to banking services provided by banks to individual and small business customers or potential customers, as defined in the Code. It also applies to any individual from whom a bank has obtained, or proposes to obtain, a Guarantee.



However, where the Code applies to a banking service which is a “financial product” or a “financial service” for the purposes of Chapter 7 of the *Corporations Act 2001*, the Code only applies to a “retail client” as described in Chapter 7 of the *Corporations Act 2001*. Therefore the Code does not apply to a person who is a “wholesale client” in respect of such products and services.

While there are no specific provisions in the Code related to the revaluation of security or impairment of loans, the 2013 version of the Code introduced an obligation related to changes to Terms and Conditions of credit facilities provided to small businesses. This obligation, which came into effect on 1 February 2014, requires a bank to provide a small business customer with at least 10 days’ notice of any change to Terms and Conditions, where the change affects only that customer and the bank considers that the change will have a materially adverse effect on the customer (clause 20.4 of the Code).

We have reviewed our records and can confirm that the CCMC has not received any allegations that a bank has breached this clause of the Code.

The Code also contains obligations whereby a bank must try to help an individual or small business customer overcome any financial difficulty the customer has in repaying a credit facility with the bank (clause 28 of the Code). The CCMC considers that a bank should genuinely engage in this process in order to comply with its code obligations.

Banks that have subscribed to the Code have made a commitment to work continuously to improve the standards of practice and service in the banking industry, promote better informed decisions about their banking services and act fairly and reasonably in delivering those services. As such, the Code plays an important role in enhancing the relationship of trust between consumers and their banks. Once a bank has subscribed to the Code, it becomes part of the enforceable contract between the customer and the bank. A breach of the Code by a bank is a breach of that contract.

In case they are useful to the Committee in their deliberations, I enclose a copy of the 2013 Code of Banking Practice and the CCMC’s Annual Report for 2013-14.

If you have any questions or would like to discuss any aspects of the CCMC’s role, please do not hesitate to contact me c/o the CCMC’s acting CEO, Robert McGregor, on
or by email at

Yours sincerely,

Chris Doogan AM
Independent Chairperson
Code Compliance Monitoring Committee (CCMC)



<http://www.ccmc.org.au>



info@codecompliance.org.au



1300 78 08 08 (Mon-Fri: 9am to 5 pm – Melbourne time): a telephone service provided by FOS



PO Box 14240, Melbourne, VIC 8001