

# *“The Bulletin”*

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## Committee Members:

- Brian Given (Chair)
- Angela Green (Industry Representative)
- Nicola Howell (Consumer Representative)

## Next CCMC meeting dates (2012):

- 29 June 2012
- 27 July 2012
- 6 September 2012

## News :

- Draft Mandate
- Annual Work Plan
- Bank Stakeholder Liaison Group
- 2012 Annual Bank Forum
- FCA Annual Conference
- FCRC Training Program
- Year End Case Statistics
- Follow Up to the Direct Debit Inquiry.

## A message from the Chief Executive Officer

Welcome to Issue 3 of *The Bulletin*.

The CCMC has continued its busy start to the 2012 year with the both the 2012 Annual Compliance Statement and the 2012/2013 Annual Work Plan and Budget delivered to the Banks and the ABA over the past 3 months.

This year's ACS incorporates specific feedback received from the Banks at the 2011 Bank Forum, and positive feedback has been received on this year's content. I look forward to receiving the 2012 ACS from each subscribing Bank by 30 June 2012 and meeting with each Bank in August 2012 to discuss the outcomes.

We remain hopeful that the new Code of Banking Practice and the CCMC Mandate will be finalised by June 2012, and we look forward to working with the ABA and the Banks during the transition to the new operating environment.

Work also continues on the development of an internal case management system. This system will improve our breach recording and reporting, and assist us with the management of data associated with the ACS and other inquiries. This project is now in pilot phase and the CCMC Secretariat is currently involved with testing different elements of the system.

We have also begun some preliminary work on the 2012 CCMC Annual Report in line with the projected publication date of 31 October 2012, as well as the agenda for the Annual Bank Forum in Sydney on 7 September 2012.

*Dr June Smith, Chief Executive Officer*

## News from the CCMC

### Draft Mandate

The ABA have advised the new Code and draft Mandate are close to completion, we remain hopeful that both documents will be provided to the CCMC by 30 June 2012.

Upon receipt, the CCMC will work to ensure their processes and procedures reflect the provisions of the new Code and Mandate, and will advise the subscribing Banks accordingly.

### Annual Work Plan

The 2012/2013 CCMC Annual Work Plan has been finalised and was distributed to the ABA and each subscribing Bank in May 2012.

The 2012/2013 Annual Work Plan incorporates the following key provisions:

- A 15 month reporting period to reflect the CCMC's new reporting year to 30 June;
- Transition of the CCMC's processes and procedures to incorporate reference to the new Mandate and revised Code of Banking Practice;



• CCMC Closed Cases

- The completion of two own motion Inquiries, namely Guarantees and Financial Hardship;
- Publication of the Annual Report on or before 31 October 2012 with distribution to key stakeholder groups.

The CCMC will inform the ABA and the Banks of its progress against this Annual Work Plan at regular intervals throughout the year.

### **Bank Stakeholder Liaison Group**

The second Bank Stakeholder Liaison Group meeting was held via teleconference on 2 May 2012, and incorporated discussion about:

- The current status of the Foreign Currency Loan and Guarantees inquiries;
- The 2012 Annual Work Plan Transition to the new CCMC Mandate and the Code of Banking Practice;
- The 2012 CCMC Annual Work Plan.

Thank you to those who were able to participate. We hope to make this liaison group an interactive and informative channel of regular communication between the CCMC and the Banks.

The next scheduled discussion between the CCMC and Bank Representatives will be at the Annual Bank Forum in Sydney in September 2012.

### **2012 Annual Bank Forum – 7 September 2012**

The 2012 Annual Bank Forum is scheduled in Sydney on for 7 September 2012.

While the agenda is yet to be finalised, it is expected that the format of the day will be similar to the 2011 Forum with both wider group discussion and individual group break-out sessions. Possible topics for discussion include:

- Procedural matters related to the new Code and Mandate;
- Review and reflection of the 2011/2012 ACS.

We encourage each Bank to submit any ideas or suggested topics for the day directly to Compliance Manager Robert McGregor on 03 9613 6322 or [rmcgregor@codecompliance.org.au](mailto:rmcgregor@codecompliance.org.au)

A draft agenda will be provided to the Banks in June 2012.

### **Financial Counseling Australia Annual Conference**

Each member of the CCMC Secretariat team attended a session at the annual Financial Counseling Australia Conference in Melbourne between 14-17 May 2012.

The conference was a valuable opportunity to liaise with financial counselors on the CCMC's role and position in the consumer marketplace, in addition to staying in touch with what is happening within the financial counseling sector.

The CCMC will report back to the Banks shortly on the key outcomes from the conference and any key areas of focus for financial counselors in the current economic environment.



## **FCRC Training Module**

The CCMC Secretariat recently delivered a training program to the Financial and Consumer Rights Council, as part of their Continuing Professional Development Program for financial counselors.

The training outlined the role of the Codes generally, the functions of the CCMC and other Code management functions administered by FOS, as well highlighting specific Code obligations in relation to the Code of Banking Practice.

## **2011/2012 Complaint Statistics**

Complaint statistics for the 12 month reporting period to 31 March 2012 have been finalised, with key case data summarised as follows:

- 25 new complaints were received during 2011/12, resulting in 70 allegations of breaches of the Code;
- 35 cases were closed in 2011/12;
- 8 of these closed cases resulted in 28 breaches of the Code being recorded; and
- 60% of breaches recorded in 2011/12 were in respect of Dispute Resolution, with 11% related to Debt Collection.
- Number of open cases as at 31 March 2012 was 12.

The CCMC will continue to provide a quarterly de-identified update on complaint statistics to the subscribing Banks with details of the underlying causes of the allegations and related breaches.

## **Follow Up to the Direct Debit Inquiry**

During 2010 and 2011 the CCMC carried out a follow up to its 2009 Inquiry into banks' compliance with Clause 19 of the Code – Direct Debits. The follow up Inquiry took the same form as the original, a shadow shopping exercise with a total of four telephone calls to each bank.

The results of this second Inquiry demonstrated that that the levels of compliance had not improved since the first Inquiry, with examples of non compliance recorded. Only 33% of calls were judged to be fully compliant. The ability for customers to cancel direct debits at their bank is a powerful safeguard for customers, especially for those who are in financial difficulty. Failure for banks to accept or act on notice of a direct debit cancellation request may cause members who are already in financial trouble to be further impacted when exception and penalty fees are imposed on the account.

The CCMC is concerned that the level of compliance with clause 19 of the Code has not improved since the original inquiry report was published in 2009. The increased proportion of non compliant responses over the period demonstrates that banks must be conscientious in providing training and information to staff in respect of direct debits. Banks must also have in place sufficient quality assurance and monitoring to identify and correct areas of non compliance.

A full copy of the Inquiry Report can be found on the CCMC website.



## CCMC Closed Cases

Under Clause 34 of the Code of Banking Practice (the Code), the CCMC's functions include investigating and making determinations on any allegation from any person that a Code subscribing bank has breached the Code. However, not all matters that are raised with the CCMC result in investigations. Where allegations do not result in investigations the CCMC is unable to determine whether or not the relevant bank has complied with its obligations under the Code.

Some of the more common reasons why allegations of a Code breach might not be investigated include:

- the concern falls outside the CCMC's jurisdiction e.g. it has been known about for more than 12 months, it does not relate to a Code subscribing bank or a banking service, a court has made orders regarding the issue etc;
- the person raising the issue does not want to pursue the matter (e.g. because their concerns were addressed in the course of a concurrent FOS dispute investigation) and/or a Privacy Authority from the individual affected by the issue is not provided.

In these cases, the CCMC and the bank may be unable to exchange the individual customer information required to investigate the allegation in detail. In such matters the Committee reviews the allegation to consider whether the issue might raise broader compliance concerns that should be the subject of a separate, general compliance inquiry.

During the 2011/12 reporting year the CCMC received 14 allegations that did not result in an investigation. Of these, in four cases a Privacy Authority was not provided and six were closed after the allegation was withdrawn.

Please contact Compliance Manager Robert McGregor at [rmcgregor@codecompliance.org.au](mailto:rmcgregor@codecompliance.org.au) or Case Investigations Manager Ralph Haller-Trost at [rhallet-trost@codecompliance.org.au](mailto:rhallet-trost@codecompliance.org.au) should you have any further queries in relation to these cases.

## Current Projects:

- 2012 ACS
- Foreign Currency Loans
- CODEX

## Current Projects

### **The 2012 Annual Compliance Statement**

The 2012 Annual Compliance Statement (ACS) was issued to the Banks in April 2012 and scheduled for return by 30 June 2012. Thank you to those who provided positive feedback about the document at the recent Bank Stakeholder Liaison Group teleconference.

The 2012 Annual Compliance Statement focuses on :

- Capturing data in relation to the CCMC's 2012-2013 Inquiries;
- Breach Reporting for the 2011/2012 reporting year;
- Key questions in relation to compliance with specific sections of the Code;
- Follow up from last year's ACS and the inquiries on direct debits and chargebacks.

The CCMC has provided further guidance on Question 24 in relation to the provision of credit, following recent feedback from the Banks at the recent Bank Stakeholder Liaison Group Teleconference.



Please contact Compliance Manager Robert McGregor on 03 9613 6322 or [rmcgregor@codecompliance.org.au](mailto:rmcgregor@codecompliance.org.au) should you require any further assistance in completing the 2012 ACS.

## Foreign Currency Loans

The CCMC issued an Inquiry Document to those subscribing banks offering foreign currency loans in November 2011. Responses have been received from each Bank and the CCMC will provide the Banks with a copy of this draft Inquiry Report in early June 2012.

## CODEX – The New Internal Reporting System.

The CCMC has been working to develop a new internal case management and reporting system appropriately named 'CODEX'.

CODEX will be used to capture data and information from Code subscribers regarding Code breaches, ACS returns, own motion inquiries and compliance reviews. The system will allow the CCMC Secretariat to record and analyse data more efficiently and provide both industry and consumer groups with timely feedback on Code compliance matters.

The project is now in pilot phase with system development close to completion. The CCMC will provide further details about this internal reporting system at the Annual Bank Forum in September 2012.

### Case Studies:

- Clause 29
- Clause 35.1
- Clause 11

## Case Studies

As mentioned in the previous edition, *The Bulletin* now includes several *de-identified* case studies in each edition.

These case studies will highlight the types of allegations that have been considered by the CCMC. The case study will highlight the allegation made to the CCMC, the final Determination made by the CCMC and general Code compliance issues arising.

This quarter, we highlight two case studies which reflect allegations in relation to Clause 35 (internal dispute resolution), Clause 29 (debt collection) and Clause 11 (provision of documents) of the Code.

The allegations made in each of the case studies below were escalated (in part) as a result of the Bank's IDR processes not adequately responding to a complaint of dissatisfaction, raised by the customer. This is a pattern often noted in CCMC investigations and reflected in the 2011/2012 complaint statistics mentioned above.

### Case Study 1

#### A Summary

A financial counsellor (Ms A) alleged that the Bank had breached the Code after its collections team called her client despite her specific request that all contact be with Ms A.

When Ms A wrote to the bank to complain about the issue, her letter was returned to sender despite being addressed using the details provided by the bank on the website of the Financial Ombudsman Service.



### Outcome – Case Study 1

In its Determination, the CCMC found that the Bank had breached Code Clauses 29 (debt collection) and 35.1 (internal dispute resolution) as it had not:

- complied with the obligations under the Debt Collection Guidelines by contacting Ms A's client despite being requested not to do so; or
- processed Ms A's complaint although it had been received by the Bank via an appropriate channel

## Case Study 2

### A Summary

In the course of acting for a client (X), a customer representative Ms B had asked the Bank for copies of several documents in order to advise her client in relation to her debts. A customer service officer from the bank contacted Ms B and insisted that X enter into a payment agreement, stating that if this did not occur, X's file would be referred to its collections department and hardship assistance would no longer be available.

Ms B wrote to the bank but her letter was returned. Ms B wrote a further letter to the bank and contacted FOS. A customer service officer from the bank contacted Ms B and insisted that X enter into a payment arrangement. Ms B noted that the documents she had requested in order to advise X had still not been provided.

### Outcome – Case Study 2

In its determination, the CCMC found that the Bank had breached of Code Clauses 11 (provision of documents) and 35.1 (internal dispute resolution) as the bank had not:

- complied with its obligation to provide the requested documents; and
- had failed to process Ms B's letter of complaint.

The Determination noted the Banks agreement to generally to improve the compliance of its processes and debt collection activity in the period since the event occurred.

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## **Contacting the CCMC**

### **If you have a general enquiry or want to provide feedback –**

You can write to CCMC or call the CCMC using the details listed here. You can also email your enquiry to [info@codecompliance.org.au](mailto:info@codecompliance.org.au).

### **If you want to know more about the Code –**

Copies of the Code and information about the Code are available on the CCMC's website [www.ccmc.org.au](http://www.ccmc.org.au)

