



CODE COMPLIANCE MONITORING COMMITTEE

(the CCMC)

Guidance Note No. 1

CCMC Compliance Monitoring

The CCMC is an independent compliance monitoring body established under clause 36 of the revised 2013 Code of Banking Practice (the 2013 Code). When endorsing the 2013 Code the subscribing banks agreed that Clause 36 would commence on 1 February 2013. At the same time, a new Mandate for the CCMC (the Mandate) which details its powers and functions became effective.

This Guidance Note is issued in accordance with clause 36(i) of the 2013 Code and clause 1.4 of the Mandate. It describes the CCMC's likely approach when undertaking its function to monitor compliance with the Code under clause 5 of the Mandate.

All matters that come before the CCMC are considered on the basis of their individual circumstances, so this information operates as a guide only. Further, no Guidance Note can anticipate all issues that may need to be taken into account in a particular case.

Subscribing banks have until 1 February 2014 to adopt the 2013 Code. Until that time the provisions of the 2004 version of the Code will apply. During the period to 1 February 2014, the CCMC will, therefore, monitor and investigate banks' obligations in respect of the 2004 Code.

Introduction

1. 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 (or a guarantor) of a Code subscribing bank. The role, functions and powers of the CCMC are set out in its Mandate.
2. Independent Code monitoring is important to ensure non-compliance with the Code is detected and remedied. Robust compliance monitoring arrangements are essential for maintaining public confidence that code subscribers comply with, and are seen to comply with, the Code.
3. The CCMC conducts a Code compliance program that reflects the objectives of the Code and comprises three core activities, namely:
 - a. independently monitoring compliance with the Code;
 - b. investigating allegations of Code breaches; and
 - c. engaging with stakeholders to achieve continuous improvement in banking practice and standards.

Range of Activities Undertaken to Monitor Compliance with the Code

4. The Mandate empowers the CCMC to undertake a range of activities which can be undertaken to determine subscribers' compliance with the Code. These activities include:
 - a. requiring code subscribers to submit an Annual Compliance Statement (ACS);
 - b. conducting own motion Inquiries, either involving one or all Code subscribers;
 - c. conducting market research;
 - d. conducting mystery or shadow shopping activities;
 - e. on-site visits or desktop audits; and
 - f. consultation with stakeholders.

Annual Compliance Statement Program

5. Clause 5.2 of the Mandate requires each Code subscribing bank to lodge an ACS with the CCMC in respect of their compliance with the Code during the previous 12 months. The ACS program is developed by the CCMC in conjunction with stakeholders and consists of:
 - a. the completion and return of a questionnaire by each subscribing bank;
 - b. analysis by the CCMC of information provided by banks against their Code obligations;
 - c. on-site verification visits to discuss the outcomes of the analysis with each subscribing bank; and
 - d. providing a de-identified analysis of information for inclusion in the CCMC's Annual Report.
6. In conducting the ACS program, the CCMC focuses on several aspects of Code compliance, including:
 - a. how effectively banks are complying with their Code obligations;
 - b. the effectiveness and robustness of the Code compliance monitoring frameworks within the banks;
 - c. reviewing and assessing Code breach identification and breach management within the banks;
 - d. identifying and reporting on significant breaches and systemic issues related to Code compliance, monitoring rectification activity and assessing industry impact;
 - e. areas of emerging or significant risk in relation to banks' compliance with their code obligations; and
 - f. identifying and reporting areas of good industry practice.
7. As the ACS program relies on self-certification and reporting, however, the CCMC may undertake the range of monitoring activities available to it to independently verify the information provided by banks under the ACS program.

Own Motion Inquiries

8. Own Motion Inquiries may be undertaken by the CCMC to determine subscribing banks' compliance with specific Code obligations. An Inquiry may be conducted in respect of one or more subscribing bank or all subscribing banks. In determining whether to conduct an Own Motion Inquiry into any particular area of Code compliance, the CCMC adopts a risk based assessment taking into consideration, amongst other things:
 - a. responses to the ACS program;
 - b. breach allegations received for investigation;
 - c. statistical data about disputes received by external dispute resolution schemes; and

- d. issues raised by other bodies such as the Financial Ombudsman Service (FOS) or the Australian Bankers Association (ABA).
9. The CCMC's Own Motion Inquiry in respect of all subscribing banks may be conducted in several stages. Full details of the stages of an Inquiry of this nature are given in Appendix 1.
10. Where a subscribing bank does not provide a product or service related to the subject matter of an Inquiry, the subscribing bank will not be required to participate in the Inquiry. The CCMC will, however, provide the Inquiry documentation to the bank for information purposes only.
11. Under Clause 5 of its Mandate, the CCMC may also conduct an Own Motion Inquiry regarding how an individual subscribing bank complies with specific Code obligations.
12. Where a breach of the Code has been identified, the CCMC may conduct a Compliance Investigation in accordance with clause 6 and may make a determination in accordance with clause 10 of the Code. If the information obtained by the CCMC suggests non-compliance may not be limited to that particular bank, the CCMC may also elect to conduct an Own Motion Inquiry into how all subscribing banks comply with their obligations in respect of the identified areas of the Code.

Conducting Market Research

13. The CCMC may engage external organisations, including industry experts or academic bodies, to conduct market research to help it assess subscribing banks compliance with the Code.

Conducting Shadow Shopping Activities

14. The CCMC may, from time to time, use shadow shopping to test the customer experience of compliance with regard to specific aspects of the Code.
15. In conducting a shadow shop, the CCMC may develop a scenario and script to be used. The bank will then be contacted, by telephone or at a branch, and the scenario and script used to test the bank's compliance with its Code obligations. The responses by the bank staff are analysed and feedback provided to the bank with areas of concern and/or good industry practice highlighted.
16. The CCMC may also consider shadow shopping internet and social media services offered by banks.

On-Site Visits or Desktop Audits

17. The CCMC may, on occasion, visit a subscribing bank to test compliance with the Code or to verify information previously provided by a bank. In addition, the CCMC may ask a bank to provide it with information about practices and procedures in order that the CCMC may consider whether these procedures are compliant with the Code.
18. The CCMC will provide adequate prior notice to a subscribing bank regarding its intention to conduct an on-site visit, and arrange a convenient time for the visit to take place.

This Guidance Note reflects the CCMC's views as at the date of publication. Please refer to the CCMC website (www.ccmc.org.au) for the latest version of this document.

Appendix 1 Stages of an Own Motion Inquiries

Issue identified for Own Motion Inquiry

Stage 1	Discuss scope and timing of the Inquiry with subscribing Banks.
Stage 2	Research and analyse external information and data related to the Inquiry: <ul style="list-style-type: none"> • published external dispute resolution data; • ASIC and APRA publications • recent Australian Court cases • academic research; and • media publications
Stage 3	Develop Inquiry documentation and determine methodology to be used: <ul style="list-style-type: none"> • information and data required from subscribing banks; • compliance visits to the premises of subscribing banks; • consultation and feedback with consumer advocates; • market research activities such as mystery or shadow shopping, surveys and forums; and • engaging external experts.
Stage 4	Issue inquiry documentation and conduct Inquiry: <ul style="list-style-type: none"> • send Inquiry documentation to banks requesting information and data and conduct any visits; • consult with independent external experts and consumer advocates; and • undertake any market research activity.
Stage 5	Assess & analyse information. Determine any issues or good practice: <ul style="list-style-type: none"> • collate and review information from all sources; • seek clarification on inconsistent information; • identify examples of good industry practice and areas of concern; and • determine if there are any breaches of the Code
Stage 6	Issue draft report for feedback and discuss individual results with subscribing banks: <ul style="list-style-type: none"> • hold teleconferences or face to face meetings with subscribing banks to discuss the Inquiry and individual bank results.
Stage 7	Incorporate feedback into the final report. Publish the final report: <ul style="list-style-type: none"> • issue the final report to stakeholders; and • publish the final report on the CCMC website.