

13 June 2017

Mr Mark Fitt  
Committee Secretary  
Senate Economics References Committee  
PO Box 6100  
Parliament House  
Canberra  
ACT 2600

By email to: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Mr Fitt

**Senate Economics References Committee – inquiry into consumer protection in the banking, insurance and financial sector**

1. Thank you for providing the Code Compliance Monitoring Committee (The CCMC) with an opportunity to respond to submissions made to the Senate Committee's inquiry which refer to the CCMC.

**The CCMC and the Code of Banking Practice**

2. 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.
3. The CCMC's Mandate (which is an attachment to the Code) sets out its powers and functions, which include:
  - Monitoring Code-subscribing 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).
4. 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. Once a bank subscribes to the Code it becomes mandatory for that bank to comply with the Code and the obligations under the Code are incorporated into the contracts between the bank and those customers to whom the Code applies.
5. Thirteen banking groups currently subscribe to the Code. These banking groups cover approximately 95% of the Australian retail banking industry.

**Reviews of the Code and the CCMC**

6. In April 2016, the ABA announced that it would be reviewing the Code as part of a package of measures to improve trust in the Australian banking industry. An independent

review commenced in July 2016, undertaken by Mr Philip Khoury of Cameron Ralph Khoury. Mr Khoury's report of the review of the Code was published in February 2017.

7. The ABA released its response to the Code review in March 2017. In this response the ABA supported the majority of the reviewer's recommendations related to the CCMC. It is the CCMC's understanding that the ABA has commenced redrafting the Code and a revised Code is due to be completed by the end of 2017.
8. In accordance with clause 14.3 of the CCMC's current Mandate, the CCMC arranged a review of its activities to coincide with the review of the Code. This review was also undertaken by Mr Khoury. The CCMC is in the process of implementing the recommendations made by the reviewer. The reports of both reviews are available on the following websites:
  - Code review – <http://cobpreview.crkhoury.com.au/>
  - CCMC review – <http://ccmcreview.crkhoury.com.au/>

### **Submissions referring to the CCMC**

9. It is the CCMC's understanding that the submissions made by the Tasmanian Small Business Council (TSBC), JMA Parties and Staff of the Jenolan Village and Bank Victims (collectively – the 'Submissions') are connected. The Submissions raise similar issues, refer to the same entities and are authored (at least in part) by the same individuals. The CCMC is familiar with the matters raised and the material provided to the Senate Committee.
10. In particular, the TSBC made a submission to the Parliamentary Joint Committee on Corporations and Financial Services (PJC) inquiry into the impairment of customer loans in 2015. This submission made a number of adverse comments about the CCMC and contained a number of errors of fact. The CCMC's submission to the PJC in 2015 identified the errors in the TSBC's submission. The Submissions to the Senate Committee appear to make the same errors of fact and provide incorrect information about the CCMC.
11. To address the Submissions in further detail, the CCMC provides the following documents:
  - Appendix 1 – a copy of the CCMC's submission to the PJC addressing the TSBC's submission to that inquiry (from 4 November 2015)
  - Appendix 2 – issues raised by the Submissions to this Senate Committee inquiry and not covered in Appendix 1, and
  - Appendix 3 – a summary of court decisions which refer to the application of the Code of Banking Practice.
12. Many of the issues raised in the Submissions relate to the framework which the CCMC operated under many years ago, specifically the Code Compliance Monitoring Committee Association's Constitution which was replaced by the CCMC Mandate in January 2013. The Code, the Constitution and the Mandate are documents developed and controlled by the ABA.
13. Where the Submissions refer to specific Code breach allegations that were raised with the CCMC, I can confirm that these allegations were dealt with professionally and

appropriately within the context of the framework provided by the Constitution or Mandate that applied at the time.

14. The CCMC's investigations and monitoring work examines whether a bank has complied with its Code obligations. The focus is on helping the bank to improve its compliance with the Code, including changes to its policies or processes where required. It is not the CCMC's role to declare the rights and entitlements of individual parties, provide compensation, restitution or another type of individual outcome, or issue fines or penalties.

### **Current Developments**

15. As referenced earlier in this letter, the Code and its Mandate have recently been independently reviewed. The ABA has the carriage of that review and has responded indicating that a full redraft of the Code and its governance arrangements will be completed by the end of 2017. We suggest that the Committee approach the ABA directly if it has any further queries about that process.
16. Many of the references to the Code and the operation of the CCMC made in the noted submissions are either incorrect or redundant. In addition, the accompanying appendices do not refer to any specific cases as the CCMC will not comment on the details of any one particular case. Should the Committee wish to speak with the CCMC further to obtain any more information about the operation of the CCMC or its investigations, we invite you to contact us and would be pleased to attend.
17. I attach a copy of the 2013 Code of Banking Practice and the CCMC's Annual Report for 2015-16.
18. 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 CEO, Sally Davis, on [REDACTED] or by email at [REDACTED]

Yours sincerely,

[REDACTED]

**Christopher M Doogan AM**  
Independent Chairperson  
Code Compliance Monitoring Committee (CCMC)  
PO Box 14240  
Melbourne Vic 8001