



Credit Union & Building Society
Mutual Banking
Code of Practice



Draft Mutual Banking Code of Practice

INDEX

PREFACE	3
PART A – INTRODUCTION	3
PART B – COVERAGE, COMMITMENT TO COMPLY, RELATION TO OTHER LAWS AND REGULATION	4
PART C – OUR 10 KEY PROMISES TO YOU	5
PART D – DELIVERING ON OUR PROMISES	7
1. ADVERTISING	7
2. INFORMATION ABOUT OUR PRODUCTS	7
3. INFORMATION ON INTEREST RATES, FEES AND CHARGES	7
4. FAIR TERMS AND CONDITIONS	7
5. REVIEWING FEES AND CHARGES	8
6. RESPONSIBLE LENDING PRACTICES	8
7. CREDIT LIMIT INCREASE OFFERS	8
8. REVERSE MORTGAGE LOANS	9
9. JOINT ACCOUNTS	9
10. SUBSIDIARY CARDS	9
11. SAFEGUARDS FOR CO-BORROWERS	9
12. SAFEGUARDS FOR LOAN GUARANTORS.....	9
13. THIRD PARTY PRODUCTS.....	12
14. USE OF FINANCE BROKERS	12
15. TIMELY, CLEAR AND EFFECTIVE COMMUNICATION	12
16. ACCOUNT STATEMENTS AND BALANCES	12
17. NOTIFYING CHANGES TO YOUR ACCOUNT	13
18. PROVISION OF STATEMENTS AND NOTICES ELECTRONICALLY.....	13
19. COPIES OF DOCUMENTS, STATEMENTS AND OTHER INFORMATION	13
20. STOPPING DIRECT DEBIT AND RECURRING PAYMENT ARRANGEMENTS	14
21. SEEKING A CHARGEBACK ON YOUR BEHALF	14
22. CLOSING YOUR ACCOUNT	15
23. INFORMATION PRIVACY AND SECURITY	15
24. IF YOU ARE IN FINANCIAL DIFFICULTIES	16
25. WORKING WITH YOUR REPRESENTATIVE.....	16
26. DEBT COLLECTION AND LEGAL ACTION	17
27. PROMPT, FAIR RESOLUTION OF COMPLAINTS.....	17
28. OUR COMPLAINTS HANDLING PROCESS.....	18
29. EXTERNAL DISPUTE RESOLUTION (EDR) SCHEMES.....	18
30. COMPLAINTS ABOUT BREACHES OF THIS CODE	19
PART E – HOW THE CODE IS ADMINISTERED	20
PUBLICISING THE CODE	20
TRAINING OUR STAFF	20
ROLE OF CODE COMPLIANCE COMMITTEE AND COMPLIANCE MANAGER.....	20
CODE ADMINISTRATION PROCEDURES	20
RELATION TO EXTERNAL DISPUTE RESOLUTION	21
OUR COMPLIANCE RESPONSIBILITIES AS CODE SUBSCRIBERS	21
AMENDING THE CODE.....	22
REVIEWING THE CODE	22
APPENDIX: DEFINITIONS	23

Preface

Abacus will insert a suitable preface (third-party endorsement) once the Code is finalised

Part A – Introduction

This Mutual Banking Code of Practice is the industry code of *Abacus Australian Mutuals*, the association of mutual building societies and credit unions.¹ Credit unions and mutual building societies are owned by our members — this is what being a mutual means². As such, we are focused on member-benefit, community involvement, fairer fees and customer service.

Credit unions and building societies already comply with a range of regulatory requirements including:

- Responsible financial management requirements (under the *Banking Act 1959* and our regulation by the Australian Prudential Regulation Authority)
- Corporate and financial services' licensing, advice and training, and disclosure regulation (under the *Corporations Act 2001* and our regulation by the Australian Securities and Investments Commission)
- Consumer credit laws
- Privacy, fair trading and other Commonwealth, State and Territory legislation.

This Code establishes higher standards than the law requires in a range of areas, and addresses issues not addressed by the law. In adopting this Code, mutual building societies and credit unions agree to abide by the higher standards and additional requirements set out in the Code.

Who subscribes to the Code?

Most credit unions and mutual building societies subscribe to the Code—that is, they formally agree to be bound by the Code in their dealings with their members and customers. To find out if your credit union or building society is a Code subscriber, refer to the Abacus website or visit www.mutualscode.org.au.

Structure of the Code

- Part A – Introduction
- Part B – Coverage, Commitment to comply, Relation to other laws and regulation
- Part C – Our 10 Key Promises to you
- Part D – Delivering on our Promises
- Part E – How the Code is administered
- Appendix: Definition of terms used

We can also provide you with a booklet that summarises our promises to you.

Commencement Date

This Mutual Banking Code of Practice commences on 1 July 2009. The commitments under the Code apply to credit unions and building societies that subscribe to the Code, either from this commencement date or, if the entity subscribes to the Code at a latter date, from that latter date.

¹ More information about Abacus, and a list of Abacus member financial institutions, is available at: www.abacus.org.au

² In some cases an Abacus member institution may be a wholly owned subsidiary of a mutual financial institution. In such cases, this Code applies to the Abacus member, if it subscribes to the Code, with necessary variations to reflect its status.

Part B – Coverage, Commitment to comply, Relation to other laws and regulation

In this Code, “we”, “us” and “our” refers to your building society or credit union if it subscribes to the Mutual Banking Code of Practice. “You” and “your” refers to you, the reader, if you are our individual or Small Business member or customer. See *Appendix: Definitions* for other terms used in this Code.

Coverage of Code

This Code applies to our dealings with:

- Our individual and Small Business³ members or customers
- Individuals and Small Businesses who give guarantees or indemnities securing loan facilities that we provide to our members or customers
- In the case of commitments about the provision of information, prospective members or customers, and
- Any other of our members or customers to whom we may voluntarily apply the Code.

For the purposes of this Code, an entity is a “Small Business” if the entity comes within the definition of a Small Business set out in *Appendix: Definitions* when it applies for, or guarantees, a product or facility with us.

The Code covers:

- Deposit accounts, personal loans, home loans, credit and debit cards, cheques and other financial products and facilities that we issue
- Products and facilities issued by another organisation and introduced, arranged or otherwise distributed by us, but only in relation to our selection and distribution of the product or facility⁴
- Our employees, and our agents and representatives when they are acting on our behalf.

Commitment to comply with Code

We undertake to comply with this Code in our dealings with you. We will incorporate this Code by reference in our written Terms and Conditions for products and facilities to which the Code applies. We will ensure we do this within six months of the commencement date of this Code; or, if we subscribe to this Code after its commencement, within six months of the date on which we first subscribe.

Relationship to law

We will comply with this Code to the extent that applicable Commonwealth and State and Territory laws permit. If we would have to breach our statutory or common law obligations to comply with an aspect of the Code, we will not be able to comply with it. This Code cannot, and does not purport to, limit any statutory or common law obligation we may have.

Relationship to EFT Code of Conduct

We subscribe to the *Electronic Funds Transfer (EFT) Code of Conduct*, administered by the Australian Securities and Investments Commission, which also deals with banking and payment issues. To the extent of any inconsistency, this Code should be read subject to the *EFT Code of Conduct*, as revised from time to time.

Credit Union Code of Practice replaced

From the date this Code commences it replaces the *Credit Union Code of Practice*.

³ See Appendix: Definitions for a definition of Small Business for the purposes of this Code

⁴ For example, we may distribute insurance products on behalf of another organisation; in which case, this Code does not apply to the terms of policies, product documentation, claims handling etc. Part D, section 13 (*Third party products*) sets out our positive commitments in relation to these products.

Part C – Our 10 Key Promises to you

This Part of the Code contains general principles or values applying to our members and customers, as well as the broader community. Where they overlap, these principles should be interpreted by reference to the more specific and detailed commitments of *Part D – Delivering on our promises*.

1. We will be fair and ethical in our dealings with you

We will always act honestly and with integrity, and will treat you fairly and reasonably in all our dealings with you.

2. We will focus on our members

We will place a high priority on service, competitiveness and member focus. We will provide friendly and reliable service to our members and customers.

3. We will give you clear information about our products and services

We will provide clear and accessible information about our products and services, so you can make an informed decision about the product you want. We will disclose interest rates, fees and charges in an accessible and clear format and provide you with regular account statements. We will give you information on how to minimise fees and charges. Our advertising and promotional material will not be misleading.

4. We will be responsible lenders

We will lend responsibly, and will try to assist you if you find yourself in financial difficulties.

5. We will deliver high customer service and standards

We will issue and distribute products and provide services that are useful, reliable and of value to our members and customers. We will make sure our staff and agents or representatives are well trained. We will promote secure and reliable banking and financial services, and keep you up to date on any changes to the products and services we provide to you. We will treat your personal information as private and confidential.

6. We will deal fairly with any complaints

We will handle complaints promptly and fairly and provide you with information on avenues for resolving disputes if we are not able to reach an agreement with you.

7. We will recognise member rights as owners

As mutual institutions our members are our owners. We will ensure that you receive information on the benefits, costs and impacts of any reasonable proposal to change our mutual structure. As far as possible, we will ensure that any information on proposals to change our mutual structure provided to you by other parties is fair and not misleading.

8. We will comply with our legal and industry obligations

We will be responsible, prudent managers of our institution, and will comply with all our obligations under the law and relevant codes of practice. We will act fairly and consistently with good banking and financial service industry practice.

9. We will recognise our impact on the wider community

Credit unions and mutual building societies have a strong community focus. We will take account of the impact of our operations on staff, the communities we serve and our members. We will promote community engagement and will contribute to community activities and projects.

10. We will support and promote the Mutual Banking Code of Practice

We will promote the Mutual Banking Code of Practice, ensure that our staff are trained to put it into practice, and support its monitoring and effectiveness.

Part D – Delivering on our Promises

1. Advertising

(1.1) We will ensure our advertising and promotional material is not misleading or deceptive. We will not mislead or deceive you either by what we say or represent, or by omission (what we fail to say or represent).

2. Information about our products

(2.1) We will make general information about our products and facilities readily available to anyone who wants it. This information will be:

- Clear, concise and accurate
- Written in plain language
- Generally sufficient to allow you to make an informed decision about the product or facility, and
- Consistent with any applicable legal requirements.

(2.2) We will make a copy of the standard Terms and Conditions applying to a product or facility available to you, if you ask us. We will not require you to apply for the product or facility first. However, depending on our product range and systems, we may need to ascertain the features or characteristics of the product you are considering before we are able to generate a copy of standard Terms and Conditions for that product.

(2.3) We will answer any questions you have about the features of our products and facilities and how they work.

3. Information on interest rates, fees and charges

(3.1) Interest rates and fees and charges applying to our products and facilities will be readily available to anyone who wants this information. The information will be clear, concise and up-to-date.

(3.2) In the case of products with variable interest rates, we will tell you what the current rate is when you apply for the product. We will also use a range of methods to publicise our rates. We will answer any questions you have about our interest rates and how they are calculated and applied.

(3.3) Our information about fees and charges will cover all applicable fees and charges, including non-standard fees that only apply in particular situations (for example, fees if you overdraw your account or are late in making your payments). We will also provide general information to our members and customers on how to avoid or minimise fees and charges. We will answer any questions you have about the fees applying to a product or facility. We will regularly review the effectiveness of our disclosure of fees and charges to members and customers.

(3.4) We will inform you of any fee for a one-off service (e.g., issue of a bank cheque), before you become liable to pay it.

4. Fair terms and conditions

(4.1) The standard Terms and Conditions applying to our products and facilities will be:

- Clear, unambiguous, and not misleading
- Distinct from our advertising and promotional material
- Written in a plain language style, and legibly presented.

Draft Mutual Banking Code of Practice

(4.2) Our standard Terms and Conditions will be consistent with this Code and will strike a fair balance between:

- Your legitimate needs and interests as our member or customer, and
- Our interests and obligations, including our prudential obligations.

(4.3) We will not adopt standard Terms and Conditions that you are unlikely to be able to comply with.

(4.4) This section:

- Is not intended to limit our right to determine the pricing of our products and facilities on a commercial basis
- Only applies to standard Terms and Conditions entered into after the Commencement Date of this Code (see *Part A - Introduction*).

5. Reviewing fees and charges

(5.1) We will regularly review any fees and charges on our products and services, including their level.

(5.2) We will make sure any exception fees we charge (including credit card late payment fees, account overdrawn or dishonour fees, direct debit dishonour fees, cheque dishonour fees, and ATM failed transaction fees) are reasonable having regard to our costs. Our costs include charges imposed by our service providers, where applicable.

6. Responsible lending practices

(6.1) We will always act as a responsible lender.

(6.2) We will base our lending decisions, including decisions to extend existing credit facilities, on a careful and prudent assessment of your financial position. We will periodically review our credit assessment procedures and criteria for the products we issue.

(6.3) We will generally only lend amounts to you that we believe, on the information available to us, you can reasonably afford to repay. However, different criteria will apply in the case of some products, such as bridging finance arrangements and reverse mortgage loans (if we offer these).

(6.4) We expect you to provide honest and accurate information to us when applying for a loan or the extension of a credit facility. However, where it is prudent to do so, we will also undertake our own independent checks.

(6.5) We will promote the responsible use of credit to our members and customers using a range of approaches.

7. Credit limit increase offers

(7.1) If we issue a credit card or other revolving credit facility, we will act responsibly in setting and increasing the amount of credit we make available to you. We will not send you an unsolicited offer to increase your credit limit if you have a recent poor repayment history, or we are aware of other circumstances that make it imprudent for us to extend further credit to you.

(7.2) We will ensure any unsolicited offer we make to you to increase your credit limit on a credit card or other revolving credit facility that we issue includes information on:

- The new minimum payment required
- Options for lowering existing or new credit limits
- Not accepting the offer if you cannot afford further credit, you are currently having difficulties meeting your repayments, or your financial circumstances are likely to deteriorate in the near future, and
- How to tell us if you do not wish to receive offers to increase your credit limit in the future.

8. Reverse mortgage loans⁵

(8.1) We are committed to responsible lending practices in relation to reverse mortgage loans (if we issue or distribute these products).

(8.2) We will only introduce or arrange the reverse mortgage loans of product issuers that:

- Belong to SEQUAL and adhere to its Code of Conduct (as amended from time to time),⁶ or
- Adopt policies and practices that are consistent with the SEQUAL Code.

(8.3) If we issue a reverse mortgage loan product ourselves, we will:

- Belong to SEQUAL and adhere to its Code of Conduct (as amended from time to time), or
- Adopt policies and practices that are consistent with the SEQUAL Code.

(8.4) We will ensure that our staff and agents who introduce, explain, arrange, finalise or otherwise deal with reverse mortgage loans are properly trained to undertake the functions or role they perform in relation to these products. This training will be consistent with generally accepted industry standards. This training will comprehensively address the steps prospective borrowers should take to ensure they make a fully informed decision about a reverse mortgage loan.

9. Joint accounts

(9.1) If you are opening a joint account, we will make general information about your rights and responsibilities as a joint account holder available to you. This will include information on how to change the authorisations to operate a joint account. We will explain this information if you ask us.

10. Subsidiary cards

(10.1) When issuing a subsidiary credit or debit card at your (the primary cardholder's) request, we will provide you with general information on your liability for debts incurred by the subsidiary cardholder when using their card. This information will also set out our procedures for stopping or cancelling a subsidiary card.

(10.2) If you instruct us to cancel a subsidiary card, you will not be liable for any losses resulting from continuing (unauthorised) use of the subsidiary card following cancellation, provided you:

- Take all reasonable steps to ensure the card is destroyed or returned to us; and
- Do not act fraudulently or otherwise cause the loss.

11. Safeguards for co-borrowers

(11.1) We will not accept you as a co-borrower if we are aware, or ought to be aware, that you will not receive a benefit from the loan or other credit facility.

(11.2) Before we accept you as a co-borrower under a loan or other credit facility, we will provide you with general information on your liability to repay the full amount of the debt.

(11.3) If you are jointly and severally liable for a loan or other credit facility, we will allow you to terminate your liability for future financial accommodation if you give us written notice. However, this right only applies when we can terminate any obligation we have to provide further credit to another borrower under the same credit facility.

12. Safeguards for loan guarantors

Application of this section

⁵ See *Appendix: Definitions* for a definition of reverse mortgage loan

⁶ For more information about SEQUAL go to www.sequal.com.au

(12.1) In this section only, “you” refers to an individual or Small Business⁷ that gives a guarantee that secures a loan or other credit facility that we provide to our member or customer. So, in this section, “you” may not be our member or customer.

(12.2) We may require a director of a Small Business to provide a personal guarantee for a proposed or existing loan facility. Only paragraphs (12.3), (12.4), (12.12), and (12.15) of this section apply in this situation. Where we obtain a new guarantee from such a director we will follow the procedures in (12.3), (12.4), (12.12) and (12.15).

No unlimited liability

(12.3) Subject to (12.12), we will only accept a guarantee from you if your liability under the guarantee is limited to:

- A specific amount, plus interest and enforcement costs, and/ or
- The value of a specified security at the time of recovery.
- The specific amount of your liability under the guarantee may be increased with your written consent, subject to law.

Before we obtain a guarantee from you

(12.4) Before we obtain a guarantee from you, we will give you a prominent notice that:

- You can refuse to enter into the guarantee
- You have a right to limit your liability in accordance with this Code and as allowed by law
- There are financial risks involved
- You should consider the information and documents we provide to you, and seek further information or clarification if required
- You should seek independent legal and financial advice before entering into the guarantee. (In some circumstances, we may require that you obtain such advice as a condition of accepting your guarantee.)

(12.5) We will give you a copy of:

- The credit contract or proposed credit contract to which the proposed guarantee relates, and
- Details of any security to be provided by the borrower in support of the loan.

(12.6) In addition, we will provide you with all the information available to us that, in our reasonable view, a careful and prudent prospective guarantor might wish to consider regarding:

- The financial position of the borrower, and
- The borrower’s credit history for the previous twelve months (including details of any notices of demand, defaults, overdrawn accounts or other evidence of borrower distress known to us).
- This commitment does not include providing records of our *opinions* regarding the borrower, the proposed loan or related matters. We will also provide you with copies of relevant account statements and other documents on request.

(12.7) We will tell you if any existing loan or other facility we have given the borrower will be cancelled, or if the loan or other facility will not be provided, if the guarantee is not provided.

(12.8) We will not accept a guarantee from you unless the borrower agrees to the release of the information and documents referred to in this section to you.⁸

(12.9) We will not ask you to sign a guarantee, or accept it, unless we have:

- Provided you with the information referred to in paragraphs (12.4) to (12.7), and

⁷ See *Appendix: Definitions* for a definition of Small Business for the purposes of this Code.

⁸ Where security is provided by a third party who is not the borrower, we will give you full details of any security if the third party agrees to our doing so.

Draft Mutual Banking Code of Practice

- Given you until at least the next business day to consider that information. However, we are not obliged to do this if you have previously obtained independent legal advice about the guarantee, having received the information referred to in paragraphs (12.4) to (12.7).

Execution of guarantee

(12.10) We will not give the guarantee to the borrower, or someone acting on behalf of the borrower, to arrange the signing, unless the person acting on behalf of the borrower is also your solicitor. In this case, we may give the guarantee to that person to arrange the signing.

(12.11) Where we attend the signing of the guarantee, we will ensure that you sign the guarantee in the absence of the borrower.

Extensions of guarantees and new guarantees

(12.12) A guarantee may contain a provision allowing the guarantee to be extended to cover another loan in the future. However, we will not make you liable for any amount under a future loan unless we have:

- Given you a copy of the credit contract or proposed credit contract
- Provided you with any updated information available to us on the financial position of the borrower, being information that a careful and prudent guarantor may wish to consider before allowing a guarantee to be extended, and
- Obtained your written acceptance of the extension of the guarantee.

We will not accept an extension of a guarantee from you unless the borrower agrees to the release of information and documents referred to in this paragraph to you.

(12.13) We will follow the procedures set out in paragraphs (12.4) to (12.11) above before we obtain new guarantees from you.

Ongoing information

(12.14) After entering into a guarantee agreement with you, we will send you a copy of:

- Any formal demand or default notice we send to the borrower, and
- If you ask us, a copy of the latest account statement (if any) provided to the borrower.

Extinguishing liability under a guarantee

(12.15) You may at any time extinguish your liability to us under a guarantee by:

- Paying the outstanding liability of the borrower (including any future or contingent liability)
- Paying any lesser amount to which the liability of the guarantor is limited by the terms of the guarantee, or
- Making other arrangements satisfactory to us for the release of the guarantee.

Enforcement of judgment

(12.16) We will not enforce a judgment against you under a guarantee unless we have obtained judgment against the borrower, and the judgment debt remains unpaid 30 days after we demand payment from the borrower in writing. However, this commitment does not apply if:

- Any delay in enforcement against you is likely to prejudice our interests
- We have made reasonable attempts to locate the borrower without success
- The borrower is insolvent, or
- Recovery of the debt from the borrower is otherwise untenable.

13. Third party products⁹

(13.1) We may introduce, arrange or otherwise distribute products and facilities issued by other organisations. We will take steps to ensure that the third party products and facilities we distribute are useful, reliable and of value to our members and customers. We will regularly review the third party products and facilities we distribute.

(13.2) We will only distribute financial products and facilities (including credit products) of issuers that belong to an External Dispute Resolution scheme, approved by the Australian Securities and Investments Commission, that covers the product in question.

14. Use of finance brokers

(14.1) If we engage with mortgage or finance brokers to distribute our products, we will require that these brokers:

- belong to the Mortgage and Finance Association of Australia or other recognised industry association, and
- are members of an ASIC-approved External Dispute Resolution scheme.

15. Timely, clear and effective communication

(15.1) We are committed to timely communication with our members and customers. We will generally respond to telephone and electronic messages within 3 business days. If you write to or fax us, we will generally respond within 7 business days of receipt of your communication. (Timeframes for responding to complaints are set out in section 28 below¹⁰).

(15.2) We will adopt the same timeframes when communicating with a person who is acting as your duly authorised representative.

(15.3) We are committed to clear and effective communication with our members and customers. We will write our letters, notices, brochures, telephone scripts, website messages and other communications in plain language, avoiding legal and technical jargon as far as possible.

16. Account statements and balances

(16.1) We will provide you with regular account statements clearly setting out all transactions relating to your deposit and loan accounts with us. We will send these account statements to the last address you have given us. (The provision of account statements electronically is considered in section 18).

(16.2) Account statements will be sent or made available at least every 6 months. We will provide you with more frequent periodic account statements if you request these. We will also comply with our obligations in relation to account statements under consumer credit and other applicable laws.

(16.3) Account statements will include clear information about our fees and charges incurred on your account during the statement period. Fee amounts will not be bundled, but will be broken down by transaction type and channel. The impact of any applicable fee-free limit or rebate scheme will also be indicated.

(16.4) We will provide a simple method(s) of access for you to find out the balance on your account. We will not impose any fees for using this access method.

(16.5) This section does not apply to:

⁹ See Coverage of Code, Part B, on this Code's coverage of products and facilities issued by another organisation and introduced, arranged or otherwise distributed by us.

¹⁰ Separate timeframes apply for our commitments under section 19 (in relation to provision of documents) and section 22 (in relation to provision of payout figures).

- Passbook accounts, and
- Accounts that are dormant.

17. Notifying changes to your account

(17.1) We will give you at least 20 days advance notice before we do any of the following in relation to your account:

- Introduce a new fee or charge
- Increase a fee or charge
- Reduce the number of fee-free transactions permitted on the account
- Vary the minimum balance to which an account keeping fee applies
- Vary the method by which interest on your account is calculated, or
- Vary the circumstances when interest is credited or debited to your account.

(17.2) We will notify you of an increase in the interest we charge on your loan or credit facility no later than the day on which the change takes effect. We will also advise you of any new minimum repayment amount.

(17.3) We will notify you of other changes to your account when we next communicate with you (subject to any applicable laws).

(17.4) We may use various methods to notify you of changes to your account referred to in this section. Subject to applicable laws, these may include one or more of: notification on or with your account statement; notification by letter or other direct communication; announcement via our newsletter or website; or advertisement in the local media or national media. In deciding the method of notification, we will consider the nature and extent of the account change, as well as the cost and effectiveness of different methods of notification.

(17.5) Any commitment we may make to notify you at your address of changes to your account is subject to your keeping us informed of your current contact address.

18. Provision of statements and notices electronically

(18.1) We may have a facility for making account statements, notices or other prescribed account information available by electronic means. If so, and if the law permits us to do so, we may invite you to consider accessing this information electronically rather than receiving it in paper form. In the case of existing accounts, we will always give you the option of continuing to receive your account statements, notices and other account information in paper form.

(18.2) If we offer a product on the basis that statements and other account information will *only* be available electronically, we will:

- Clearly disclose this to you, and
- Obtain your specific positive acknowledgement of the arrangement

before we issue or distribute the product to you.

(18.3) We will only make your account statements, notices and other prescribed account information available at a secure electronic site requiring a pre-arranged and secure access method. (Also see section 23.)

(18.4) We will provide prescribed information to you electronically in a form that allows you to retain the information (for example by printing and saving it). Our electronic communications will be comparable with equivalent paper documents in terms of the clarity and content of the information provided.

19. Copies of documents, statements and other information

(19.1) At your request, we will send you a copy of any of the following documents relating to a product or facility you have, or have had, with us:

- A loan application
- A contract (including standard Terms and Conditions, and details of interest rates and fees and charges)
- A mortgage or other security document
- An account statement, and
- A notice we have previously given you about us exercising our rights (unless the request is for a notice issued more than two years before the discharge or termination of the contract to which the notice is related).

This section does not apply to documents we are no longer legally required to retain.

(19.2) If a copy of a document is requested, we will provide it to you:

- Within 14 days, if the original came into existence 1 year or less before you make the request, and
- Within 30 days, if the original came into existence more than 1 year but less than 7 years before you make the request.
- If for some reason we are unable to provide a document within these timeframes, we will advise you in writing, together with the expected timeframe for providing the document.

(19.3) Documents may be provided in the form of a computer-generated record.

(19.4) We may charge a reasonable fee, reflecting our costs, for providing a document.

(19.5) Access to your personal information is considered more generally in section 23.

20. Stopping direct debit and recurring payment arrangements

(20.1) We will promptly stop a direct debit facility linked to your transaction account with us whenever you ask us to do so.

(20.2) We will accept and process your complaint that a direct debit facility was not authorised or is otherwise irregular. However, we may request that you endeavour to resolve the complaint with the merchant or supplier first.

(20.3) Where possible, we will assist you to seek a chargeback of any unauthorised payments debited to your scheme credit or debit card account (e.g. MasterCard, AMEX or VISA card) pursuant to a recurring payment arrangement. The situation may occur, for instance, where payments continue to be debited to your account even though you have cancelled the recurring payment arrangement. Also see section 21 (*Seeking a chargeback on your behalf*).

21. Seeking a chargeback on your behalf

(21.1) If you have a scheme credit or debit card (e.g., a MasterCard, AMEX or VISA card) issued by us, we may be able to claim a chargeback on your behalf if a problem (such as unauthorised use, or non-delivery of goods ordered) arises.

(21.2) If you dispute a transaction with us within the required timeframe and we can seek a chargeback on your behalf, we will do so without delay. We will also:

- Ensure we claim the chargeback for the most appropriate reason, and
- Not accept a refusal to chargeback by the merchant's financial institution unless it is consistent with the relevant card scheme rules.

(21.3) We will make general information about the chargeback mechanism readily available to our members or customers, emphasising the need to promptly report problems to ensure a claim can be made within relevant chargeback periods. We will make this general information on the chargeback mechanism available in our product information and on our website (if we have one).

(21.4) Whether through our standard Terms and Conditions or otherwise, we will not seek to reduce the period or circumstances in which we can seek a chargeback on your behalf under the card scheme rules applying to your scheme credit or debit card.

22. Closing your account

(22.1) If you ask us to close your account, we will do so as long as you have discharged all of your obligations under the applicable Terms and Conditions and any mortgage or other similar arrangements relating to the account. We may require that you put your request in writing.

(22.2) We will provide you with a payout figure for your loan or credit facility within 7 business days, if you request this.

(22.3) Unless there are exceptional circumstances, we will give you at least 14 days advance notice before closing your account when the standard Terms and Conditions of the account permit us to do so (i.e., in circumstances where you have not sought to close the account yourself).¹¹ We will notify you at the last address you have given us, or by other legally permissible means.

23. Information privacy and security

(23.1) We will comply with the Privacy Act 1988 and the *National Privacy Principles*, and any succeeding legislation or Privacy Principles, including with respect to credit reporting and the collection, storage, use and disclosure of your personal and financial information.

(23.2) We will treat your personal and financial information as private and confidential. We will not disclose that information to any other organisation unless:

- We are required to by law (for example, under anti-money laundering laws)
- There is a duty to the public to disclose the information
- Our interests require disclosure (for example, to prevent fraud)
- You ask us to disclose the information, or
- We have your permission to do so.

(23.3) We will take reasonable steps to protect your personal and financial information from misuse or loss, and from unauthorised access, modification or disclosure. We will regularly review the security and reliability of our banking and payment services.

(23.4) We will give you access to the information we hold on you if you ask us to, subject to certain exceptions. These are set out in our Privacy Policy and are consistent with the National Privacy Principles, or other Privacy Principles that may replace these. We will correct any error that you bring to our attention. If your details change, tell us as soon as possible—we will update our records promptly.

(23.5) We will make a copy of our Privacy Policy available to you on request and will publish it on our website, if we have one. We will tell you about our Privacy Policy if you ask us.

(23.6) Subject to applicable laws, the commitments made in this section do not prevent us from disclosing personal and financial information to other companies in a group of companies that we belong to (where applicable).

(23.7) We will comply with all applicable laws relating to the retention of your personal and financial information.

Raising awareness of security issues

¹¹ "Exceptional circumstances" would include circumstances where we reasonably suspect fraud or criminal activity involving the account.

(23.8) We will actively seek to promote awareness of security issues, including Internet security, to our members and customers, using a range of approaches.

(23.9) We will provide information on topics including:

- Protecting your payment methods (e.g., payment cards and cheque books) and equipment (e.g., your computer if you bank online) from unauthorised use
- What to do if you believe a security breach of your account or unauthorised transaction has occurred, and
- The possible consequences of not reporting security breaches on your account promptly.

(23.10) We will avoid communications practices that are inconsistent with our messages about avoiding fraud. For instance, we will not:

- Use unsolicited email or telephone contact to ask you to disclose your personal banking information or secure code or password to us, or
- Send you unsolicited emails that include attachments.

(23.11) If you receive such communications, delete them immediately or hang up on the caller. If a message includes our brand or name or makes reference to your banking details, contact us to report the incident.

(23.12) We will provide you with options to report security breaches at any time.

24. If you are in financial difficulties

(24.1) We will work with you in a constructive way if you experience genuine difficulties in meeting your financial commitments. With your agreement and commitment, we will try to assist you to overcome those difficulties. We will do this whether or not you have a right to seek a hardship variation or change under the consumer credit laws.

(24.2) Without limiting (24.1), we will have procedures in place to ensure we:

- Adhere to hardship variation or change provisions of the consumer credit laws
- Respond promptly to any request or application made to us. (We may also initiate contact to discuss your financial situation)
- Genuinely consider your application or request, taking account of your situation. However, we will only be able to do this if you provide us with the financial information and documents we may reasonably need to assess your situation for ourselves
- Encourage you to keep making whatever payments you can while we are considering your request
- Consider longer term as well as short-term financial issues when they are relevant. If you are experiencing longer term difficulties, we will try to develop an appropriate solution with you to allow you to meet your obligations
- Not list your default on your credit reference file while we are considering your application or request
- When you have made an application or request in respect of a debt, not sell that debt to a debt buy-out business while we are still considering the application or request
- Suggest other options or avenues that may be available to you, if we are unable to agree to your application or request
- If we agree on a plan to assist you, summarise this in a letter to you
- If we are unable to assist you, advise you promptly in writing, and
- Refer you to a Financial Counselling or similar service in appropriate cases (subject to availability).

25. Working with your representative

(25.1) You may choose to be represented or assisted by another person whom you authorise to act on your behalf in negotiations with us. For instance, you may be represented by a Financial

Counsellor, community worker, solicitor, family member or carer. We respect your right to be represented, and will work with your duly authorised representative if you have one.

26. Debt collection and legal action

(26.1) We and our agents will comply with *Debt collection guideline: for collectors and creditors* (October 2005) of the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission (as amended from time to time).¹²

(26.2) If you fall behind with your payments, we will contact you and seek to negotiate a mutually acceptable repayment arrangement with you, having regard to your financial circumstances as a whole as well as your obligations to us. If you cooperate with us and commit to dealing with the debt, we will work with you (or your representative if you have one). Where relevant, we will draw your attention to our procedures covering members or customers in financial difficulties (see section 24).

(26.3) We will send a written default notice to the last address you have given us, and will give you an opportunity to pay any amount outstanding on an account with us, before we commence legal action against you.¹³ The default notice will specify the date after which we are lawfully entitled to commence legal proceedings to recover the debt. The notice, or an accompanying letter, will invite you to contact us to discuss your options.

(26.4) Should we exercise our right to combine your accounts, we will inform you promptly after doing so.¹⁴ We will also comply with any applicable requirements of the *Code of Operation for Centrelink Direct Credit Payments*.

(26.5) We will not seek recovery of, nor will we sell, statute-barred debts. We will only sell debts to debt buy-out businesses that belong to an External Dispute Resolution scheme approved by the Australian Securities and Investments Commission.

27. Prompt, fair resolution of complaints

(27.1) The terms "complaint" and "dispute" as used in this Code are defined in *Appendix: Definitions*.

(27.2) We have an internal process for handling complaints of our members or customers in relation to the products and facilities we issue. We also belong to one or more External Dispute Resolution schemes, approved by the Australian Securities and Investments Commission, to which you can take any unresolved complaint against us (if the dispute is within the scheme's terms of reference). Complaints and disputes about products or facilities distributed by us that other financial institutions have issued should normally be referred to the complaints handling and/or External Dispute Resolution scheme of the issuing institution.

(27.3) We are committed to responding to complaints and disputes in a way that is:

- Prompt and efficient
- Consistent with the law, applicable industry codes (including this Code), and good industry practice, and
- Fair to everyone involved.

(27.4) We will only be able to deal effectively with your complaint if you continue to communicate with us, and respond to our reasonable requests for information, while we are considering the complaint.

¹² Copies of the *Debt collection guideline* and related consumer publications can be obtained from either ASIC or the ACCC (available at www.asic.gov.au and www.accc.gov.au).

¹³ In some cases, we are required to provide such notice by law.

¹⁴ Under the law, a financial institution may have a right to combine two or more of its customer's accounts, or in effect to treat the accounts as a single sum. This right may exist when one of the accounts is in arrears.

28. Our complaints handling process

(28.1) Our complaints-handling process will be consistent with the *Guiding Principles* and sections 5.1, 6.4, 8.1 and 8.2 of the *Australian Standard, Customer satisfaction—Guidelines for complaints handling in organisations (AS ISO 10 002:2004, MOD)*.

(28.2) Features of our complaints-handling process include:

- We provide information on how we deal with complaints, including your right to take unresolved complaints to an External Dispute Resolution scheme, in our product information, through our branches and on our website (if we have one). We will give or send you a copy of this information if you ask us, or if you raise a concern that we are not able to resolve immediately. We will also explain how the process works.
- Our internal process covers all customer complaints, including complaints about breaches of this Code. (On complaints about breaches of this Code, see section 30.) We will ensure our complaints handling process is adequately resourced.
- The process is free to you and accessible. We will be flexible about how complaints are made and will not require that initial complaints be made in writing (however, some complaints may subsequently need to be put in written form to be progressed).
- We will try to resolve your complaint as soon as possible—"on the spot" if we can. If this is not possible, we will adhere to timeframes set out in clauses (28.3) and (28.4) in dealing with the complaint.
- If your complaint is not resolved immediately, we will give you the name and contact details of a person in our organisation nominated as responsible for dealing with your complaint. As far as possible, this person will not be someone to whom your complaint relates (however, if we are a small organisation, this may not be possible).
- We will have a straightforward process for determining your complaint. We will not make you go through multiple internal complaints-handling personnel or processes.
- If we are not able to resolve your complaint to your satisfaction we will advise you of this in writing, giving our reasons.¹⁵ Our letter will also tell you how to contact our External Dispute Resolution scheme, should you wish to take the complaint further. We will take this action within the time frames set out below.

(28.3) We will do our best to ensure that our investigation is completed, and a decision on your complaint is communicated to you, within 21 days of our being advised of the complaint. We will inform you if we need more time.

(28.4) If we are not able to resolve your complaint to your satisfaction within 45 days you may take the complaint to our External Dispute Resolution scheme, even if we are still considering it (assuming the complaint is within the scheme's terms of reference). We will inform you that you have this right within 5 business days after the end of the 45-day period.

29. External Dispute Resolution (EDR) schemes

(29.1) Financial services EDR schemes are independent bodies with the power to investigate disputes against scheme members, and to make decisions that are binding on their members (including requiring us to make a monetary payment to the person bringing the dispute). They must act in a way that is fair to all the parties. The schemes are free to our members and customers.

¹⁵ The requirement to provide reasons does not apply in the case of immediately resolved complaints.

(29.2) We belong to one or more EDR schemes approved by the Australian Securities and Investments Commission. We will tell you which scheme(s) we belong to if you ask us, and we will prominently disclose this in our information about complaints and disputes, and on our website (if we have one).

(29.3) Our EDR scheme(s) cannot deal with your dispute unless you have attempted to resolve the problem with us first; and *either*:

- We have made a formal proposal to resolve the complaint, and you have told us that the proposal is not acceptable to you; *or*
- At least 45 days has elapsed since you made your complaint

whichever occurs sooner.¹⁶

30. Complaints about breaches of this Code

(30.1) If you believe we have breached the Code, you can make a complaint to us. If we are not able to resolve the complaint to your satisfaction and the complaint involves a claim that you have suffered loss or detriment, you may then refer the matter to the External Dispute Resolution scheme to which we belong (see sections 27 - 29). If the complaint does not involve a claim that you have suffered loss or detriment, you can report it to the Compliance Manager (details below).¹⁷

Compliance Manager Code Compliance Committee Ph: 1300 780 808

¹⁶ There are also various limits on EDR scheme jurisdictions (e.g., monetary and time limits on claims)—EDR scheme staff will be able to tell you about these.

¹⁷ Also see *Appendix – How the Code is Administered*

Part E – How the Code is administered

Publicising the Code

1. In conjunction with Abacus, we will publicise this Code and promote our adoption of it, including in our branches. We will make copies of the Code available in our branches and will give or post you a copy on request. We will publish the Code (or a link to it) on our website, if we have one.

Training our staff

2. We will ensure that our employees, agents and representatives receive training on the Code, and that they apply it in their dealings with you.

Role of Code Compliance Committee and Compliance Manager

3. The Code Compliance Committee is an independent committee established by the Mutual Banking Code Compliance Committee Association. It consists of: an industry representative (appointed by the MBCCCA); a consumer representative (appointed by the MBCCCA on the nomination of the Consumers Federation of Australia); and an independent Chair (appointed by the MBCMCA in consultation with ASIC).

4. The responsibilities of the Code Compliance Committee are set out in the Constitution of the MBCCCA¹⁸. In summary, these responsibilities include monitoring and reporting on compliance with the Code, and determining Code breach issues that have been referred to it. The Committee will publish an Annual Report on Code subscribers' compliance with the Code and the Committee's compliance activities.

5. The Code Compliance Committee may appoint a Compliance Manager to undertake compliance functions on behalf of the Committee. The Compliance Manager will report to and be directed by the Committee. Functions of the Compliance Manager may include: receiving compliance reports from Code subscribers; receiving and investigating Code breach allegations; undertaking own motion compliance inquiries; preparing reports and recommendations; and supporting the Committee.

6. Any person may make a complaint about an alleged breach of the Code to the Compliance Manager. This includes: representatives of government and consumer organisations; representatives of credit unions and mutual building societies; members and customers of credit unions and mutual building societies; and other interested organisations and individuals.

7. Complaints about alleged breaches of the Code may relate to an individual incident or practice and/or to an individual Code subscriber (subject to the limitation set out in Part D, section 30 of this Code). Complaints may also relate to wide-ranging or systemic issues and/or issues potentially involving several or many Code subscribers.

Code administration procedures

8. Consistently with the MBCCCA Constitution, the Compliance Manager and the Code Compliance Committee will ensure that all parties to a complaint are accorded procedural fairness. As part of this, all parties will be given a reasonable opportunity to make submissions about the complaint, and a further opportunity to make submissions before any proposed or draft determination is finalised.

¹⁸ The Constitution of the MBCCCA is available at: www.mutualscode.org.au

9. Consistently with the MBCCCA Constitution, all determinations of the Code Compliance Committee will be in writing, and will include a description of the complaint, a summary of the Committee's findings and conclusions, the Committee's decision, and a brief statement of the Committee's reasons.

10. The Code Compliance Committee may (but is not required to) impose one or more of the following Sanctions on a Code Subscriber:

- Formally warn the subscriber
- Require the subscriber to undertake a compliance review
- Require the subscriber to undertake a staff training program on the Code
- Require the subscriber to undertake corrective advertising
- Publicly name the subscriber as non-compliant with the Code
- Advise Abacus of the subscriber's non-compliant status and/or failure to undertake a required course of action.

11. Consistently with the MBCCCA Constitution, the Code Compliance Committee may only impose a Sanction on a Code Subscriber if it is satisfied that the Code Subscriber:

- Is guilty of serious or systemic non-compliance with the Code, or
- Has ignored a request from the Committee to remedy a breach of the Code or has failed to remedy that breach within a reasonable time, or
- Has breached an undertaking given to the Committee, or
- Has not taken reasonable steps to prevent a breach of the Code from continuing to occur or reoccurring after having been warned by the Committee that a Sanction might be imposed.

Relation to External Dispute Resolution

12. The Code Compliance Committee will establish referral protocols with the External Dispute Resolution schemes to which Code subscribers belong. These protocols will ensure that complaints/ disputes about alleged breaches of the Code are directed to the appropriate body in an efficient and timely manner. Consistently with Part D, section 30 of this Code, complaints received by the Compliance Manager or Code Compliance Committee that relate to claims of loss or detriment will be forwarded to the applicable External Dispute Resolution scheme for resolution.

13. The Code Compliance Committee will also establish reporting protocols with the External Dispute Resolution schemes to which Code subscribers belong. Through these protocols, the Committee will facilitate the regular provision to the Compliance Manager of aggregated and de-identified information about Code-related complaints/ disputes considered by the External Dispute Resolution schemes.

Our compliance responsibilities as Code subscribers

14. We will be in breach of this Code if our employees, agents, or representatives fail to comply with the Code when acting on our behalf.

15. We will cooperate fully with the Code Compliance Committee and the Compliance Manager in the discharge of their functions, including the undertaking of own motion compliance inquiries and the investigation of alleged breaches of the Code by us.

16. Without limiting clause 15, we will comply with any reasonable request to provide access to information, documents and systems, which the Code Compliance Committee considers necessary to discharge its functions. We will comply with any such reasonable request except if we certify that to comply with a request would constitute a breach of either the law or our duty of confidentiality to a third party, or if legal professional privilege attaches to the information requested by the Committee. Where the law or our duty of confidentiality prevents us from

Draft Mutual Banking Code of Practice

disclosing information without first obtaining the consent of a third party, we will take reasonable steps to obtain that consent.

17. We accept that Code breach determinations made, and Sanctions imposed, in accordance with this Code and the MBCCCA Constitution are binding on us, and will comply with those determinations and/or Sanctions.

18. We will complete an annual compliance report in the required form on our compliance with the Code. We will submit that report within 3 months of the end of the annual reporting period, or other period determined by the Code Compliance Committee.

Amending the Code

19. As Code owner, Abacus may amend the Code from time to time. Before doing so, Abacus will consult with Code subscribers, ASIC, the Chair of the MBCCCA, the Code Compliance Committee, and other industry and external stakeholders as Abacus determines.

Reviewing the Code

20. In consultation with the MBCCCA and the Code Compliance Committee, Abacus will arrange for an initial review of the Code, to be undertaken by an independent reviewer. This will begin within 3 years of the commencement of this Code. Subsequent reviews of the Code will be undertaken at least every 5 years.

Appendix: Definitions

For the purposes of this Code, the words and phrases set out in this Appendix are understood as follows.

"The Code", "This Code" etc – Refers to the Mutual Banking Code of Practice, unless otherwise qualified.

"Code Compliance Committee" – Refers to the Mutual Banking Code Compliance Committee established by the Mutual Banking Code Compliance Committee Association, pursuant to the Association's Constitution.

"Complaint" – Any expression of dissatisfaction made to us related to our products or services, or to our complaints handling process, where a response or resolution is explicitly or implicitly expected.

"Dispute" – A complaint that we have not been able to resolve to your satisfaction.

"Guarantee" – For the purposes of this Code, a guarantee includes an indemnity, except in relation to D12.16

"MBCCCA" – Refers to the Mutual Banking Code Compliance Committee Association (see below)

"Mutual Banking Code Compliance Committee Association" – An Incorporated Association, incorporated under the *Associations Incorporation Act 1984 (NSW)*

"Reverse mortgage loan" – A loan secured over your home that does not require that you make repayments while you remain living in the home. Your debt is repaid when you vacate the property. This may occur, for instance, when you move into care, sell your home, or die.

"Small Business" – A business having fewer than: a) 100 full-time (or equivalent) people if it involves the manufacture of goods; or, b) in any other case, 20 full time (or equivalent) people.

"Our" – Refers to your building society or credit union if it subscribes to the Mutual Banking Code of Practice

"Us" – Refers to your building society or credit union if it subscribes to the Mutual Banking Code of Practice

"We" – Refers to your building society or credit union if it subscribes to the Mutual Banking Code of Practice

"You", "Your" – Refers to you, the reader, if you are our individual or Small Business member or customer.