



Abacus
Australian Mutuals

Association of Building Societies and Credit Unions

Abacus Australian Mutuals – Code of Practice Public Consultation

Introduction

Abacus is the peak industry body for Australia's 141 credit unions and 9 mutual building societies. Formed in 2006, Abacus brings together the membership of the Credit Union Industry Association (part of Cuscal), the Australian Association of Permanent Building Societies and the National Credit Union Association of Australia to represent all Australian customer-owned banking institutions.¹

Abacus-affiliated institutions provide financial services to over four and a half million people and support communities across the country. Building societies and credit unions as a sector enjoy very high levels of customer satisfaction in the market, as measured by independent rating agencies.

The Abacus board has decided to develop a new Code of Practice for our industry. Once finalised, the new Code will replace the current Credit Union Code of Practice, and will apply to all our credit union and building society affiliated organisations.

This paper and the accompanying Consultation Draft launch the public phase of Abacus' Code of Practice project. The Consultation Draft has been developed in close conjunction with our financial institution members. We have also asked key external stakeholders what issues they think the Code should cover, and have considered a range of written sources including other codes of practice and Australian Security and Investments Commission regulatory guidance.

We now seek submissions and comments on the Draft Code from members and customers of credit unions and building societies; consumer and community organisations; government bodies; external dispute resolution schemes; third party service providers; other financial institutions and their representatives; and interested groups and individuals. Comments are sought by **Friday, 7 December 2007**. Details of how to provide comments can be found at the end of this paper.

Status of Draft Code

This Draft is a consultation document only. Views expressed or implied in the Draft and this paper do not necessarily represent the views of Abacus or its member institutions. The Draft is likely to be amended in response to feedback. The Draft Code is also subject to approval by the Abacus Board.

Abacus' objectives for the Code

We are seeking to develop a Code of Practice that meets a number of objectives, including:

- To reflect and further enhance the high standards of practice, conduct and service of credit unions and mutual building societies;
- To reflect the principles of mutuality as applied by mutual banking institutions in Australia;
- To address real and contemporary issues impacting users of banking services;
- To meet or exceed stakeholder reasonable expectations about a Code of Practice for the sector;
- To provide protection in areas not covered by law or products not regulated under the the law;
- To strike an appropriate balance between regulatory costs and benefits, having regard to the diversity of Abacus member organisations.

¹ For more information, visit our web site: www.abacus.org.au

Overview of Consultation Draft

The Draft Code consists of the following parts:

- *Introduction* – explains that the Code is the Code of Practice of credit unions and mutual building societies, sponsored by Abacus. Once finalised, it will set out the Code Commencement Date.
- *Coverage, Status of the Code, Other Matters* – explains who is given protection under the Code; the products covered; the status of the Code and how it will be applied; and how the Code relates to the law and other relevant industry codes.
- *Our 10 Key Promises to You* – articulates the proposed high-level commitments of Abacus' affiliated organisations to their members and customers. As well as being part of the Code itself, the finalised 10 Key Promises will form the basis of a separate brochure-style publication to be made widely available to the members and customers of Code organisations (see below).
- *Delivering on Our Key Promises* – sets out the proposed detailed commitments on banking issues. Twenty-eight topics are covered. Roughly speaking, the specific sections follow the product lifecycle, from introduction and take-up, through ongoing servicing of accounts, to closing your account. There are also detailed sections on dealing with members and customers in financial difficulties and complaint handling.
- *Appendix – How the Code is administered* – this section, which forms part of the Code,² sets out our proposed commitments on publicising the Code, training staff, compliance arrangements, sanctions for breach, and amending and reviewing the Code.

Some points to note

Style, presentation, length

We have sought to produce an accessible plain language document, addressed to each member of a participating credit union or building society. The relative length of the Code reflects its status as a generic banking code covering a broad range of issues. A proposed brochure based on the *Our 10 Key Promises to You* (see above) is intended to provide an introductory point of access for institutions' members - it will tell readers how to obtain a copy of the Code and support material.

Other documents incorporated by reference

In general, the Draft is self-contained, so the reader does not need to refer to other documents when reading it. However, at a few points other guidelines, codes and other matters are incorporated by reference.³ This is consistent with the approach of other industry codes, and it allows us to avoid duplication and adding to the Code's length.

*Commencement date*⁴

Our members have indicated that commitments proposed under the Code will involve significant changes to systems, policies, documentation, and staff training. In addition to changes effected by the Code, Abacus members also face major changes and costs in implementing anti-money laundering, Basel II and other regulatory changes in 2008. In consequence, a minimum 12-month transition period is envisaged for the Code from the date of publication.

*Scope/ coverage*⁵

The Code applies to Small Business, as well as individual members or customers. Small Business is defined by reference to the Corporations Act definition: see footnote 2, Consultation Draft. The Code also extends to individual guarantors to the extent applicable. Specific sections (to do with product information) also apply to the public generally.

² See under *Code includes* in *Coverage, Status of Code, Other Matters*.

³ These include the SEQUAL Code of Conduct (section 11); the National Privacy Principles (section 21); and the ASIC & ACCC Debt Collection Guideline (section 24).

⁴ See *Introduction*, Draft Code.

⁵ See *Coverage, Status of Code, Other Matters* section of Draft Code.

Distributed products⁶

Many credit unions and mutual building societies introduce or distribute financial products (for example, credit cards and general insurance products) issued by other financial institutions, with full disclosure to members about the issuing entity. Typically, the credit union or building society has no ongoing role in relation to such products, and little influence over how accounts are managed, claims handled, complaints resolved etc.

Reflecting this, the Consultation Draft covers products and facilities issued by another organisation “only in relation to our introduction or distribution of the product of facility”. Note, however, that Key Promise 5 (see page 8) makes a general commitment to “issue *and/or distribute* useful, high quality products and services” (emphasis added).

Commitment to comply⁷

It is proposed that Abacus members will make an explicit commitment to comply with the Code. Arguably, an entity that consistently failed to comply with a provision of a Code of Practice to which it purported to subscribe would risk breaching legal prohibitions against misleading and deceptive conduct. In addition, the Code will be applied by the external dispute resolution schemes to which Abacus members belong. It will also be monitored and enforced by the proposed Code Compliance Manager and Compliance Committee (see *Appendix – How this Code is administered*).

As stakeholders may note, we have not sought to require subscribing institutions to give their members and customers contractual rights in respect of the Code's commitments (for example, by incorporating adherence to the Code in product Terms & Conditions). In our view, making the commitments of the Code contract terms (in effect) would be at odds with the non-technical and aspirational style of drafting of the Code. As noted in the previous paragraph, our members will have significant obligations and incentives to comply with the Code.

Credit Union Code of Practice replaced⁸

Credit union members of Abacus currently adhere to the Credit Union Code of Practice. Abacus is currently considering what transitional arrangements should apply in respect of these existing commitments. We may modify how the Code deals with this issue in the final document.

Substantive commitments: general

We believe the detailed commitments set out in *Delivering on Our Key Promises* are generally comparable with or exceed the commitments made in other comparable codes of practice covering banking issues, both Australian and international. Some areas where, we believe, the Code goes further than other codes in providing consumer benefit include—Fair products and fees (section 4); Responsible lending practices (section 5); Use of finance brokers (section 10); Equity release products (section 11); Clear, timely and effective communication (section 12); Account statements and balances (section 13); If you are in financial difficulties (section 22); Debt collection and legal action (section 23); and Our complaints handling process (section 26).

Code administration

In conjunction with our member institutions, Abacus will develop detailed structures and procedures to implement the commitments on administering the Code set out in the *Appendix – How the Code is administered* section. This process has commenced, and will continue during the proposed 12-month transition period.

Abacus will also develop compliance guidance material for its members to assist their implementation of Code-compliant products and practices.

⁶ See under *Coverage of Code* in *Coverage, Status of Code, Other Matters* section of Draft Code.

⁷ See *Coverage, Status of Code, Other Matters* section of Draft Code.

⁸ See *Coverage, Status of Code, Other Matters* section of Draft Code.

The process from here

Having given our member institutions an opportunity to consider the input of external stakeholders in response to this consultation, Abacus will publish a summary of comments and submissions received, together with proposed changes to the Code reflecting respondents' input. We will also explain why we have not adopted a suggestion or proposal, where this is the case. There will be a short opportunity for any further comments following publication of this summary.

Our objective is to release the final Code, subject to approval by the Abacus board, in early 2008. A transition period of 12-months from publication is envisaged.

How to Provide Comments

You are invited to provide your views on the Consultation Draft as a whole, as well as on any specific aspect or aspects of the Draft Code.

Copies of the Code can be downloaded from the Abacus public website at: www.abacus.org.au.

Aspects you may wish to comment on include—the proposed scope of the Code; its status; its relation to other regulatory instruments; organisation, style and presentation; the proposed substantive commitments (as set out in *Our 10 Key Promises to You and Delivering on Our Key Promises*); and the Code administration arrangements. You are also invited to raise any other issues or topics that you believe the Code should address. Responses may be extensive or limited — you should not feel obliged to comment on all or most of the specific commitments, unless you wish to do so. While our preference is to receive comments electronically, they may be sent in any format.

Confidentiality - Please indicate if all or part of your submission is to be treated as confidential (otherwise we will assume it is suitable for placing on the Abacus public website).

Responses are requested by **Friday, 7 December 2007** and should be sent to the Code Consultant, Michael Funston. Please contact Michael directly if you have any questions about this Draft or the consultation process.

PLEASE SEND COMMENTS AND QUESTIONS TO:

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Public Affairs

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Comments are sought by Friday 7 December 2007

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