



## Department of Justice

Consumer Affairs Victoria

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*Michael*  
Dear Mr Funston

### **ABACUS – AUSTRALIAN MUTUALS DRAFT CODE OF PRACTICE**

Thank you for providing the Uniform Consumer Credit Code Committee (UCCCMC) with the opportunity to provide input on the Abacus – Australian Mutuals' Draft Code of Practice (Draft Code).

Attached are UCCCMC's suggestions on the draft Code. If you have any queries, please contact myself on (03) 8684 6449 or alternatively, Claire Taylor, National Project Officer, UCCCMC, on (03) 8684 6433.

Kind regards,

Ian Clyde  
Chair  
UCCCMC

## **ABACUS Draft Code of Practice – UCCCMC suggestions**

### **Coverage, Commitment to Comply, Other Matters**

#### **Commitment to comply with Code**

The statement that the consumer cannot refer the matter to an External Dispute Resolution (EDR) scheme unless the complaint involves a claim of financial loss could mislead some consumers. The Credit Union Dispute Resolution scheme can hear complaints of non-financial loss, such as privacy breaches. This section should provide that if the credit union is not able to satisfactorily resolve the complaint, the consumer may refer the matter to the relevant EDR scheme. If the complaint is not within the jurisdiction of the EDR scheme, the EDR scheme should be able to provide the consumer with any other options available to them.

#### **Our 10 Key Promises to You**

##### **9. We will recognise our impact on the wider community**

We understand from the Affordable Credit Summit held earlier this year that Abacus is keen to increase its involvement in small-amount lending. We suggest that Abacus reflect this commitment in this section.

#### **Delivering on Our Key Promises**

##### **1. Advertising**

(1.1) Consider including a statement that advertising will not be inconsistent with key financial literacy and corporate social responsibility messages.

##### **3. Information on interest rates, fees and charges**

(3.2) Given that there is confusion about interest rates on credit cards, we suggest that a greater commitment is made to explaining how interest applies to a credit card product and when the interest-free period on a credit card product expires.

(3.4) Does this include electronic and ATM banking services? For example, will a customer at an ATM be informed what the charge for the ATM transaction will be before they proceed with a cash withdrawal?

##### **4. Fair products and fees**

Consider including a provision in this section which provides that we will not adopt Terms and Conditions that are unfair. Unfair could then be defined in accordance with s.32W of the Fair Trading Act 1999 (Vic), which provides that:

A term in a consumer contract is to be regarded as unfair if, contrary to the requirements of good faith and in all the circumstances, it causes a significant imbalance in the parties' rights and obligations arising under the contract to the detriment of the consumer.

## **5. Responsible Lending Practices**

(5.1) We suggest that for equity release products there should be an obligation to make a careful and prudent assessment of the consumer's financial position before offering an equity release product. In relation to reverse mortgages, we would refer you to the proposed requirements for brokers in clause 37 of the National Finance Broking Scheme Consultation Package.

(5.3) We suggest that responsible lending requires a commitment to:

- not make unsolicited offers to increase a credit limit to consumers who are known to be on a government benefit. This position has been adopted by several banks as part of their responsible lending practices.
- proactively contact credit card customers who may be experiencing difficulty in managing their credit (as indicated could be done in section 22.2 of the draft Code of Practice). Again, this position has been adopted by several banks as part of their responsible lending practices.
- be responsive to the requests of a guardian when the credit card holder is in the care of a guardian.

(5.4) We suggest that any unsolicited offer to increase the credit limits on a credit card or other revolving credit facility should include information on:

- How to opt out of unsolicited offers of credit increases; and
- How to reject the offer. Information on how to reject the offer should not be limited to situations where the consumer is having difficulties meeting their repayments or their financial circumstances are likely to deteriorate in the near future.

## **6. Joint accounts**

(6.1) We suggest that it be specified that the information provided will include the procedures for cancelling a joint account.

(6.2) In the interests of environmental sustainability, it could be worth mentioning in this section that joint account holders can agree that information relating to the account be sent to only one of the account holders.

## **7. Subsidiary cards**

Consider whether a statement should be made about your responsibilities when the subsidiary card is for a minor.

## **11. Equity release products**

(11.1) It would appear desirable that members or customers should only be referred to intermediaries who have completed a SEQUAL-accredited course.

#### **14. Notifying changes to your account**

(14.4) We suggest that any changes to a customer's account referred to in this section should be communicated to the person directly.

#### **15. Provision of statements and notices electronically**

We consider that this section should include a commitment not to charge consumers who want to continue to receive account information in paper form.

#### **17. Account security and security breaches**

(17.4) Most consumers would not understand how liability is determined for unauthorised transactions under the EFT Code. We suggest you include a statement about this.

(17.5) We suggest that you include a statement about what you will do if it is determined that you are responsible for any resulting losses.

#### **23. Debt collection and legal action**

(23.1) We note that Victoria has specific provisions about debt collection in its *Fair Trading Act 1999*. As a result, Consumer Affairs Victoria has published its own debt collection guidelines.

(23.3) Include that the notice will be titled as a "Default Notice". Consider also including the following information:

- the date after which enforcement proceedings may lawfully commence; and
- the debtor's right to make applications for hardship variation under the Consumer Credit Code.

(23.5) A commitment could also be included to only refer debts to debt collectors who comply with the relevant state/territory legislation (for example, licensing or accreditation requirements).

### **Appendix – How the Code is administered**

#### **Sanctions for breach of the Code**

(11) We suggest that you include a statement that the Code Compliance Committee will produce an annual report detailing any breaches of the Code.