

# Mutual Code of Practice

Mutual Building Societies and Credit Unions

Final Draft – April 2008



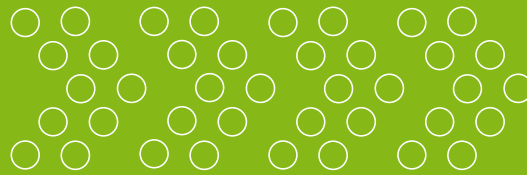
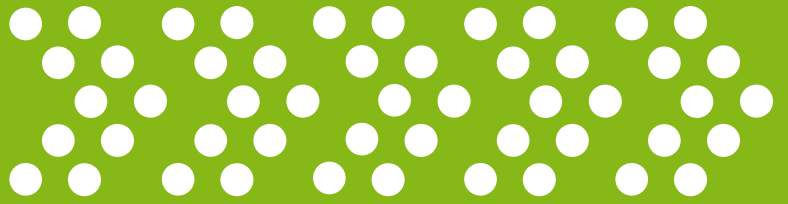
**Abacus**  
Australian Mutuals



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# Preface

Abacus will prepare a suitable preface (our intention is to seek endorsement from relevant Federal Minister) for the final launch version of the code in early 2009.

## Part A – Introduction

This Code of Practice is the industry code of *Abacus – Australian Mutuals*, the association of mutual building societies and credit unions. All credit unions and mutual building societies that belong to Abacus subscribe to the Code.<sup>1</sup> Credit unions and mutual building societies are owned by our members – this is what being a mutual means.<sup>2</sup> 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 regulation (under the *Consumer Credit Code*, administered by State and Territory government consumer agencies).
- 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, we agree to abide by the higher standards and additional requirements set out in the Code.

### 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 also have consumer and member booklets summarising the Code's key commitments.

### Commencement date<sup>3</sup>

This Code of Practice commenced on [1 May 2009]. The commitments under the Code apply to building societies and credit unions affiliated with Abacus from this date.

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<sup>1</sup> More information about Abacus, and a list of Abacus affiliated financial institutions, is available at: [www.abacus.org.au](http://www.abacus.org.au)

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

<sup>3</sup> See *Appendix: Definitions* for an explanation of this term.

## 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 belongs to Abacus. “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 Business<sup>4</sup> members or customers.
- Individuals and Small Businesses who give guarantees or indemnities securing loan facilities that we provide to our members or customers.<sup>5</sup>
- 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 facility.<sup>6</sup>
- 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.

If you believe we have breached the Code, you can complain 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 refer the matter to the External Dispute Resolution scheme to which we belong (see Part D, section 29). If the complaint does not involve loss or detriment, you can report it to the Code Compliance Manager (see Part D, section 30).

### 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*.

### Credit Union Code of Practice replaced

From the Commencement Date<sup>7</sup>, this Code replaces the *Credit Union Code of Practice*.

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<sup>4</sup> See *Appendix: Definitions* for a definition of Small Business for the purposes of this Code.

<sup>5</sup> While Part D, section 12 (*Safeguards for loan guarantors*), is addressed to loan guarantors specifically (see 12.1), other aspects of the Code (e.g., Part D, sections 27-30 relating to complaint handling and dispute resolution) apply to loan guarantors to the extent they are applicable.

<sup>6</sup> 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.

<sup>7</sup> See *Appendix: Definitions* for an explanation of this term.

## 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

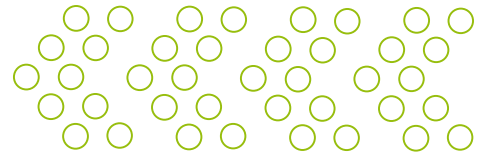
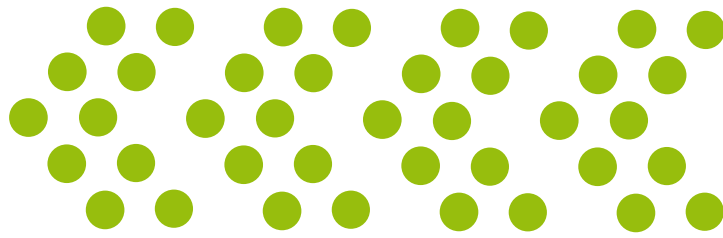
We will provide clear and accessible information about our products and services, so you can make an informed decision about the product you want. We will disclose interest rates, fees and charges in an accessible and clear format and provide you with regular statements. We will give you information 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 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 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 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 this Code of Practice

We will promote this 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 (or what we fail to say).

### 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 answer any questions you have about the features of our products and how they work.

(2.3) We will make a copy of the standard Terms and Conditions/Agreement 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.

### 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.

(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/Agreements (“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.

(4.2) Our 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 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/Agreements entered into after the Commencement Date of this Code (see *Part A - Introduction*).

## 5. Fees and charges

(5.1) We will regularly review any fees and charges on our products and services, including their level, and the effectiveness of our disclosure to members.

(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 responsible lenders. 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.

(6.2) 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).

(6.3) 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 undertake our own independent checks as well.

(6.4) 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 loans<sup>8</sup>

(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)<sup>9</sup>, or
- Adopt policies and practices that are consistent with the SEQUAL Code.

(8.3) If we issue a reverse mortgage loan 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. Our training will be consistent with generally accepted industry standards. Our training will comprehensively address the steps prospective borrowers should take to ensure they make a fully informed decision about a reverse mortgage loan.

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<sup>8</sup> See *Appendix: Definitions* for a definition of reverse mortgage loan.

<sup>9</sup> For more information about SEQUAL go to [www.sequal.com.au](http://www.sequal.com.au)

## 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 cancel 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 card holder 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) 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.

(11.2) 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 facility.

(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 advances or 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 debtor under the same credit facility.

## 12. Safeguards for loan guarantors

### Application of this section

(12.1) In this section only, "you" refers to an individual or Small Business<sup>10</sup> that gives a guarantee or indemnity 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), (12.13) and (12.15) of this section apply in this situation.

### 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.

### 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 final letter of offer and loan contract to which the proposed guarantee relates.
- Details of any security to be provided by the borrower in support of the loan, and
- A copy of any current credit-related insurance contract in our possession.

(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 facility we have given the borrower will be cancelled, or if the 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.<sup>11</sup>

(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 (12.8), and
- 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 (12.8).

(12.10) We will not give the guarantee to the debtor, or someone acting on behalf of the debtor, to arrange the signing, unless the person acting on behalf of the debtor 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 debtor.

#### **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 final letter of offer and loan 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 additional or further 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 statement of account (if any) provided to the borrower.

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<sup>10</sup> See *Appendix: Definitions* for a definition of Small Business for the purposes of this Code.

<sup>11</sup> 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.

(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 products<sup>12</sup>**

(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 we distribute are useful, reliable and of value to our members and customers. We will regularly review the third party products we distribute.

(13.2) We will only distribute financial products (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 allow 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. Clear, timely, effective communication**

(15.1) We are committed to timely and effective communication with our members and customers.

We will generally respond to phone and electronic messages within 3 working days. If you write to or fax us, we will generally respond within 7 days of receipt of your communication. (Time frames for responding to complaints are set out in section 28 below).

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

(15.3) 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 statements to the last address you have given us. (The provision of statements electronically is considered in section 18).

(16.2) Statements will be sent or made available at least every 6 months; and can be provided more frequently on request. We will also comply with our obligations in relation to statements under the Consumer Credit Code and any other applicable laws.

(16.3) 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 what the balance on your account is. We will not impose any fees for using this access method.

(16.5) This section does not apply to:

- Passbook accounts (if we offer these), and
- Accounts that are dormant.

## 17. Notifying changes to your account

(17.1) We will give you at least 30-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 a change 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 the 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 individually 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 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.

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<sup>12</sup> 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.

## 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 terms and conditions, and details of interest rates and fees and charges).
- A mortgage or other security document.
- A statement of account, 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 time frames, we will advise you in writing, together with the expected time frame for providing the document.

(19.3) Documents may be provided in the form of a computer-generated record. We may charge a reasonable fee, reflecting our costs, for providing a document.

(19.4) 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 time frame 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 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 also make general information on the chargeback mechanism available in our product information and on our website (if we have one).

(21.4) Whether through our product 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 security 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 seven 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 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).<sup>13</sup> 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*, 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 provide you with options to report security breaches at any time. We will regularly review the security and reliability of our banking and payment services.

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

(23.5) 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. 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.

(23.6) 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 the Policy if you ask us.

(23.7) 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).

### Raising awareness of security issues

(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 breaches of your account promptly.

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<sup>13</sup> "Exceptional circumstances" would include circumstances where we reasonably suspect fraud or criminal activity involving the account.

(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.
- Send you unsolicited emails that include attachments, or
- Send you emails that include hyperlinks in the message.

(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.

## 24. If you are in financial difficulties

(24.1) We will work with you in a constructive way if you experience genuine difficulties 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.<sup>14</sup>

(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.
- Where 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).<sup>15</sup>

(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.<sup>16</sup> 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.<sup>17</sup> 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. This paragraph is not intended to apply to sales of debts connected with funding arrangements for our business (for example, securitisation programmes).

## 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 are committed to responding to complaints 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.

(27.3) We have an internal process for handling complaints of our members or customers in relation to the products 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 complaint is within the scheme’s terms of reference). Complaints and disputes about products 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.

(27.4) 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.

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<sup>14</sup> See s66 – s69, Uniform Consumer Credit Code.

<sup>15</sup> 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](http://www.asic.gov.au) and [www.accc.gov.au](http://www.accc.gov.au)).

<sup>16</sup> In some cases, we are required to provide such notice by law.

<sup>17</sup> 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 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.)
- 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 time frames set out in clauses (28.3) and (28.4) in dealing with the complaint.
- 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.<sup>18</sup> 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 of 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.

**(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 product information and Terms and Conditions; 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.<sup>19</sup>

### 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 Code Compliance Manager (details below).<sup>20</sup>

Code Compliance Manager

Mutuals Code Compliance Committee

To be finalised in consultation with members

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<sup>18</sup> The requirement to provide reasons does not apply in the case of immediately resolved complaints.

<sup>19</sup> There are also various limits on scheme jurisdictions (e.g., monetary and time limits on claims)—scheme staff will be able to tell you about these.

<sup>20</sup> Also see Part E – 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.

### Code compliance monitoring

3. The Code Compliance Committee is an independent committee consisting of: an industry representative (appointed by Abacus); a consumer representative (appointed by Abacus on the nomination of the Consumers Federation of Australia); and an independent Chair (appointed by Abacus in consultation with ASIC).

4. The Code Compliance Committee has responsibility for monitoring and reporting on compliance with the Code, and determining Code breach issues that have been referred to it. The Committee may impose sanctions on subscribers if it determines that a breach of the Code has occurred (see *Sanctions for breach of the Code* below). 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 will 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 will include: receiving compliance reports from Code subscribers; receiving and investigating Code breach allegations; undertaking compliance audits; preparing reports; 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 and external dispute resolution

8. The Code Compliance Committee will seek to establish referral protocols between the Compliance Manager and the External Dispute Resolution schemes to which Code subscribers belong. Through these protocols, the Committee will seek to 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.

9. The Code Compliance Committee will also seek to establish reporting protocols between the Compliance Manager and the External Dispute Resolution schemes to which Code subscribers belong. Through these protocols, the Committee will seek to 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

10. 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.

11. We will have appropriate systems and processes in place to enable the Code Compliance Manager to monitor our compliance with the Code.

12. We will compile an annual report to the Compliance Manager on our compliance with the Code, and will submit that report within an agreed time frame.

13. We will cooperate fully with the Code Compliance Manager and Compliance Committee in the discharge of their functions including undertaking compliance audits and reviews, and investigating alleged breaches of the Code by us.

14. We accept that Code breach determinations by the Code Compliance Committee made in accordance with this Code are binding on us, and will comply with those determinations.

### Sanctions for breach of the Code

15. Before making a determination or imposing a sanction, the Code Compliance Committee will ensure the Code subscriber is accorded procedural fairness, including an adequate opportunity to respond to a finding by the Manager that it has breached the Code. In conjunction with Abacus, the Committee will develop a process for ensuring procedural fairness is accorded to Code subscribers.

16. Having made a determination in relation to a Code breach, the Code Compliance Committee may (but is not required to) impose one or more of the following sanctions:

- Formally warn the subscriber.
- Require the subscriber to undertake a compliance audit.
- 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, or
- Advise Abacus of the subscriber's non-compliant status and/or failure to undertake a required course of action.

### Amending the Code

17. As Code owner, Abacus may amend the Code from time to time. Except in relation to purely technical changes, Abacus will consult with industry and external stakeholders, including ASIC, before amending the Code.

### Reviewing the Code

18. Abacus will arrange for an initial review of the Code, to be undertaken by an independent reviewer. This will commence within 3 years of the Commencement Date<sup>21</sup> of the Code. Subsequent reviews of the Code will be undertaken at least every 5 years.

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<sup>21</sup> See *Appendix: Definitions* for an explanation of this term.

## 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 Mutuals Code of Practice, unless otherwise qualified.

*"Commencement date"* – The date from which the requirements of this Code become binding on subscribers to this Code. The Commencement Date will be announced by Abacus. The Commencement Date will be not less than 12 months after this Code is officially released by Abacus.

*"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.

*"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 is affiliated with Abacus – Australian Mutuals.

*"Us"* – Refers to your building society or credit union if it is affiliated with Abacus – Australian Mutuals.

*"We"* – Refers to your building society or credit union if it is affiliated with Abacus – Australian Mutuals.

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

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