

**Submission:**

**ABA Independent Review of the Code of  
Banking Practice**



**OUR JOBS  
OUR FUTURE**



FINANCE SECTOR UNION

National Assistant Secretary: Geoff Derrick

2/341 Queen Street

Melbourne Victoria Australia 3000

P: 1300 366 378

E: [fsuinfo@fsunion.org.au](mailto:fsuinfo@fsunion.org.au)

[www.fsunion.org.au](http://www.fsunion.org.au)

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## **FSU SUBMISSION TO THE ABA INDEPENDENT REVIEW OF THE CODE OF BANKING PRACTICE**

The Finance Sector Union (FSU) represents the workers who provide banking services to the public; they are a workforce that is not only committed to the provision of excellent customer service but also to improving the industry's reputation.

This submission contains both general and specific feedback in relation to the Code (as a whole) and specific sections of the Code. The feedback comes from the union's extensive experience in dealing with all of the banking institutions in our industry as well as direct feedback from our members in relation to the Code.

### **General Feedback**

#### *Objectives and Scope of the Review*

The objectives and scope of the review (as outlined) highlight the industry's desire to lift standards and meet community expectations. The FSU's position is that neither of these ambitions are achievable, nor can the industry's reputation be repaired, without a highly skilled, trained, motivated, professionally oriented and appropriately remunerated workforce.

#### *Whole of Industry Approach*

The FSU supports the broad application of the Code and its ambition to establish professional standards that apply across the industry. The union believes that the continued growth of product specific and reactive regulations have made education and compliance increasingly difficult for generalist bankers.

The FSU's concerns in relation to the operation of the Code often emanate from the lack of coherence and underlying inconsistency in banking regulation and the subsequent gaps between policy and practice from banks that too often leaves bank employees without the necessary training and support required to ensure consistent application of the code.

#### *Banks Have Responsibilities as Employers That Directly Impact Upon Customer Service*

The FSU believes there is a stark omission from the code as a whole, and that is the perspective that banks have obligations as employers that directly impact on each institution's (and their workforces) ability to provide quality customer service.

Each bank has an obligation to train and support their employees, as well as create a working culture and environment that not only supports the implementation of the Code, but also does nothing to undermine the implementation of the Code.

Based on consistent feedback from bank workers (from across the industry) and its own experiences in dealing with banks, the FSU believes that many institutions have created working environments and systems that are not designed to meet the customer's genuine banking needs nor do they positively contribute to a 'customer first' compliance regime.

## Specific Feedback

### PART A: INTRODUCTION

Whilst financial institutions are not compelled to adhere to the Code, surely any institution that volunteers to be bound by the Code should commit to being fully compliant with the Code.

The FSU believes that the ability for each institution and its staff to comply with the Code is directly impacted on by that institution's behaviour as an employer. Each institution that volunteers to comply with the Code should commit to meeting all of its employer obligations, including;

1. Providing the necessary training (facilities, time and resourcing) to enable staff to understand their role and the Code, and
2. Creating a working culture and environments that facilitate the implementation of the Code and good customer service on a sustained basis. This should not be allowed to become a "set and forget" employee training regime done once at or near induction and never revisited.

Member feedback received by the union in relation to the Code consistently stated that they have only received minimal training in relation to the Code and that the training had occurred only once, that is there has been no refresher training provided, nor has the importance of the Code been emphasised during staff training sessions that relate to customer engagement.

The FSU believes that education and training in relation to the Code should occur annually.

Where an employee observes a breach in the Code, the FSU believes the employee should be encouraged to report that breach. Should an employee raise a breach of the Code with their employer they should be afforded full whistle blower protections. The union notes that the ABA has

announced a separate review of whistle blower policies and practices. The FSU will make a specific submission to that review (if provided the opportunity) but wishes to place on the record, for the purposes of this submission, that it is the experience of the FSU and many of its members that there is a substantial gap between the rhetoric and reality when it comes to the application of whistle blower policies in Australian banks.

## PART C: OUR KEY COMMITMENTS AND GENERAL OBLIGATIONS

### 3.1 (b)

Should include the following additional statements:

- The bank will not use product based payments to employees or third parties that could lead to poor customer outcomes
- By only providing services or products that meet the genuine financial needs of the customer
- By ensuring that the customer's interest will always come first

### 3.2

The notion of 'fair and reasonably' is not strong enough, it should clearly state that a part of behaving ethically includes only providing services or products that meet the genuine banking needs of the customer, as the union believes that ethical banking and excellent customer service requires the industry to move away from systems that encourage and reward pushing of services and products onto customers.

#### 9 Staff training and Competency

This section does not confer a sufficient obligation on the member institutions to act in a manner that ensures their staff are fully aware of, and compliant with the Code.

The notion that staff only need to have an 'adequate' knowledge of the Code completely undermines the industry's desire for anyone to take the Code seriously. The FSU is not aware of any other aspect of finance work where an employer would be satisfied with its staff only having 'adequate' knowledge, particularly when it comes to dealing with customers.

As bank workers are the people who provide banking services to customers, each institution must provide sufficient resources (time and staffing) to enable all staff to achieve competency in relation to the application of the Code in terms of their dealings with customers.

In addition each institution must ensure their employment policies and practices as well as their management and remuneration systems create a culture and working environments that encourage and reward Code and legal compliance and the provision of high levels of customer service.

## PART D: INFORMATION WE WILL GIVE YOU ABOUT OUR BANKING SERVICES

### 12.1 (b)

The FSU's position is that the FOFA provisions (cessation of conflicted remuneration models) should be extended to all products and services across the industry, including debt related products. Pending that outcome all institutions should be required to fully declare all incentive and/or other payments paid to employees and/or third parties to promote a product or service and/or for successfully selling a product or service.

### 13.7

Notwithstanding recent court cases, the notion of a 'reasonable fee' surely requires further clarification in order to improve consumer understanding of the concepts and principles involved. FSU members regularly report customer abuse based on disputes about fees and charges and it is clear from these reports that the assumption that customers are aware of the law is fundamentally wrong. This has become such an acute problem that the banks have now adopted a common reporting and tracking regime for aggressive customer incidents.

## PART E: BANKING SERVICES PRACTICES

### 24 Privacy and Confidentiality

Given that an increasing amount of data and banking services are held and/or processed offshore and the fact that institutions are unable to provide customers with an absolute guarantee that their personal and banking data will not be illegally accessed or obtained, banks should be required to obtain the written informed consent of a customer before their data is sent, stored or accessed offshore.

In addition, where data is sent, stored or accessed offshore, institutions should be required to enter into a contract with the customer that details what data is held and/or accessed overseas, what steps will be taken to secure the data, how notification will be made if a breach occurs, what steps will be taken in the event of a breach and how any breach will be remedied (including any financial remedies).

### 24 (c)

The notion that an institution's interests are able to void relevant Privacy Act and other general duties is too broad.

### 32.1

An additional statement should be added that if a collection agency breaches the Debt Collection Guidelines three times or more, the institution commits to stop using their services.

All breaches by a collection agency should be prominently published on the member institution's website.

## PART F: RESOLUTION OF DISPUTES, MONITORING AND SANCTIONS

36 (j)

The FSU believes that it is not sufficient to publish breaches on the CCMC's website. All breaches of the Code should be prominently published on the relevant institution's website.

### SECTION C: CCMC'S COMPLIANCE INVESTIGATION PROCESS

Whilst the FSU understands that any investigation should not deliberately disrupt the institution and/or a customer, the union believes the language of this section is too heavily weighted towards asking for relevant information rather than establishing the ability and powers to properly investigate an issue.

All investigations are disruptive, that fact should be acknowledged, but require the full cooperation of relevant parties, including the production of all relevant material and access to relevant personnel to expedite the process and ensure a complete finding is able to be rendered.

7.5

A 'reasonable excuse' should not be able to be used as an excuse for a breach.

For further information, please contact National Assistant Secretary Geoff Derrick via email [geoff.derrick@fsunion.org.au](mailto:geoff.derrick@fsunion.org.au)

Yours faithfully



Geoff Derrick  
National Assistant Secretary  
Finance Sector Union of Australia



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