Australian Banking Association

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Mr Liam Cronin
Code Compliance Manage
Banking Code Compliance Committee
Melbourne
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Dear Liam

BCCC Consultation - Inquiry into banks' compliance with the Banking Code's inclusivity, accessibility and vulnerability obligations

The inclusivity, accessibility and vulnerability obligations in the Banking Code of Practice form a very important part of banks' commitments. This importance is reflected in the fact that these obligations have been revised and strengthened in the latest version of the Code, which includes implementation of the recommendations of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

An inquiry by the BCCC into banks' compliance with these obligations is consistent with the industry's intention that compliance with the Code be properly monitored and enforced by a strong and independent body, and we support the inquiry.

The focus of our submission goes to the timing for the inquiry. Given the intense demands on the resources of member banks due to the effects of the COVID-19 pandemic, and data requests to banks from other regulators on financial hardship, the ABA position is that the timeline proposed in the Consultation Paper should be revised. In our view, an appropriate approach to the timing for the inquiry would be:

- Defer the commencement of the inquiry until a more appropriate, later date – the exact date could be determined by the BCCC once the substantial COVID-19 related demand on banks has reduced. Any future date should also consider:
    - any potential overlap in timing with information required under banks' Compliance Statements to the BCCC; and
    - Some of our smaller bank members have advised that they do not believe they have sufficient resources to participate in this inquiry before 2021, in light of the demands of responding to customer needs during COVID-19; and
- Extend timeframes generally, particularly to allow at least a 3-month period for banks to respond to the questionnaire in the scoping paper; and
- Consider reviewing the scope of data that will be sought, having appropriate regard to banks' capacity in the current circumstances.

We set out below further context to explain the reasons for our submission on timing of the inquiry.

Background

Banks' resources are under significant stress

Resources in those areas of member banks dealing with vulnerable customers are under heavy pressure due to the COVID-19 pandemic. Financial hardship teams are struggling to cope with high volumes of customers seeking COVID-19 assistance. Some banks have even diverted teams away from other teams to support customers via their financial hardship teams. Product and branch teams are looking to ensure ongoing accessibility in the current environment, and the IDR/EDR teams are focused on reducing backlog in preparation for a likely increase in complaint numbers.

Although much of the inquiry focuses on the policies and procedures – these responses require extensive interviews and verification with these staff, so banks' focus on supporting customers could be adversely impacted by diverting staff who are otherwise directly supporting customers during this difficult time, for the purposes of responding to requests for information associated with the vulnerability inquiry.

Further, some of the issues around fulfilling obligations to vulnerable customers are evolving in the current environment. For example, banks' approach to code obligations around accessibility will require adjustment in the context of the lock down and branch closures that have been warranted in some instance by the circumstances of the pandemic.

While there has been some easing of these conditions after the initial wave of COVID-19 customer assistance was provided by banks, the situation is likely to intensify again soon, when existing bank assistance measures expire – for example, around the 2, 3 and 6 month points where loan deferrals on both unsecured and secured lending have been granted.

Given these pressures, along with the detailed nature of the information requested, member banks request that the BCCC allow at least 12 weeks for banks to respond to the questionnaire.

Other reasons to defer commencement of the Inquiry

In addition to the request for more time to respond to the questionnaire, member banks also request that the BCCC consider deferring commencement of the Inquiry to a later time. This time should be determined by the BCCC after the more significant impacts of COVID-19 on bank staff and resources have largely subsided.

Further to the resource constraints noted above, member banks also generally consider that their response to the Inquiry would be more complete post COVID-19 because they could collate information in hindsight rather than when measures are in the process of implementation / action. Banks' responses to customers requiring assistance during COVID-19 have been rapid, in recognition of the urgent needs of their customers.

Finally, the ABA is expecting to consult with stakeholders, including the BCCC, on a final draft of its Guidelines for Customers Experiencing Vulnerability, in the third quarter of 2020. In our view, this would be an opportunity for banks and the BCCC to co-operate in determining best practice, and the BCCC would be better placed to undertake the Inquiry, and member banks better placed to participate, following the finalisation of the process and bank implementation of the guidelines. This would ensure that the BCCC Inquiry is held against the most up-to-date baseline of bank industry practice, and that the approach in the ABA Guidelines aligns with the BCCC's approach to monitoring the obligations.

Scope of the Inquiry

While banks have committed to complying with the provisions that are the subject of the proposed inquiry, they are still in the process of developing best practice. One way they are doing this is through development of the ABA's Guidelines, referred to above.

The granularity inherent in some of the questions tends to assume that the BCCC already has expectations on what is 'best practice'. For example, the following questions may fall into this category:

Page 10 question 28:

Confirm whether the bank uses a system 'flag' to indicate that a customer has additional needs. In your response explain:

> *a. the bank's rationale and approach for using a system 'flag' or alike, and*
>
> *b. the benefits and risks of the approach.*

Page 8, question 11:

To address elder financial abuse, explain how the bank does the following:

> *a. pro-actively detects customers at risk of elder financial abuse.*

Page 8, question 14*:*

What options are available to a customer who applies for a new bank account/card but has no fixed residential address due to fleeing a violent situation (e.g. the customer resides in a safe house or is homeless)? In your response, clarify if the bank has a current policy for updating its system with mailing and residential address details in these circumstances.

We would suggest that the Inquiry be framed to investigate what is 'good practice' or 'best practice' rather than simple compliance with the Code provisions which are the subject of the proposed inquiry.

Further, and as noted earlier, banks are likely to be better placed to answer such questions, especially if it is cast as an inquiry into 'best practice', as we think it should be:

a) After the ABA Guidelines are finalised and implemented by banks; and

b) When the pressure on banks' resources from the impact of COVID-19 abates.

If the Inquiry is to proceed in the near future, we suggest that the BCCC should review the scope and then settle on a set of questions that takes into account these factors, potentially cast at a higher level.

We would welcome the opportunity to discuss any of the matters raised above if you would like to do so

Yours sincerely

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