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Dear Mr Fitt

Senate Economics References Committee - inquiry into consumer protection in the banking, insurance and financial sector

Thank you for providing the Code Compliance Monitoring Committee (the CCMC) with an opportunity to respond to submissions made to the Senate Committee's inquiry which refer to the CCMC.

The CCMC and the Code of Banking Practice

The CCMC is an independent compliance monitoring body established under clause 36 of the 2013 Code of Banking Practice (the Code). It is comprised of an independent chair, a person representing the interests of the banking industry and a person representing the interests of consumers and small business.

The CCMC's Mandate (which is an attachment to the Code) sets out its powers and functions, which include:

- monitoring Code-subscribing banks' compliance with the Code's obligations
- investigating an allegation from any person that a bank has breached the Code, and
- monitoring any aspects of the Code that are referred to the CCMC by the Australian Bankers' Association (the ABA).

The Code is a voluntary code of conduct which sets standards of good banking practice for subscribing banks to follow when dealing with persons who are, or who may become, an individual or small business customer of a Code-subscribing bank, or a guarantor. The Code and Mandate were developed and published by the ABA. Once a bank subscribes to the Code it becomes mandatory for that bank to comply with the Code and the obligations under the Code are incorporated into the contracts between the bank and those customers to whom the Code applies.

Thirteen banking groups currently subscribe to the Code. These banking groups cover approximately 95% of the Australian retail banking industry.



Reviews of the Code and the CCMC

In April 2016, the ASA announced that it would be reviewing the Code as part of a package of measures to improve trust in the Australian banking industry. An independent review commenced in July 2016, undertaken by Mr Philip Khoury of Cameron Ralph Khoury. Mr Khoury's report of the review of the Code was published in February 2017.

The ASA released its response to the Code review in March 2017¹. In this response the ASA supported the majority of the reviewer's recommendations related to the CCMC. It is the CCMC's understanding that the ABA has commenced redrafting the Code and a revised Code is due to be completed by the end of 2017.

In accordance with clause 14.3 of the CCMC's current Mandate, the CCMC arranged a review of its activities to coincide with the review of the Code. This review was also undertaken by Mr Khoury. The CCMC is in the process of implementing the recommendations made by the reviewer. The reports of both reviews are available on the following websites:

- Code review - <http://cobpreview.crkhoury.com.au/>
- CCMC review - <http://ccmcreview.crkhoury.com.au/>

Submissions referring to the CCMC

It is the CCMC's understanding that the submissions made by the Tasmanian Small Business Council (TSBC), JMA Parties and Staff of the Jenolan Village and Bank Victims (collectively – the 'Submissions') are connected. The Submissions raise similar issues, refer to the same entities and are authored (at least in part) by the same individuals. The CCMC is familiar with the matters raised and the material provided to the Senate Committee.

In particular, the TSBC made a submission to the Parliamentary Joint Committee on Corporations and Financial Services (PJC) inquiry into the impairment of customer loans in 2015. This submission made a number of adverse comments about the CCMC and contained a number of errors of fact. The CCMC's submission to the PJC in 2015 identified the errors in the TSBC's submission. The Submissions to the Senate Committee appear to make the same errors of fact and provide incorrect information about the CCMC.

To address the Submissions in further detail, the CCMC provides the following documents:

- Appendix 1 - a copy of the CCMC's submission to the PJC addressing the TSBC's submission to that inquiry (from 4 November 2015)
- Appendix 2 – issues raised by the Submissions to this Senate Committee inquiry and not covered in Appendix 1, and
- Appendix 3 – a summary of court decisions which refer to the application of the Code of Banking Practice.

Many of the issues raised in the Submissions relate to the framework which the CCMC operated under many years ago, specifically the Code Compliance Monitoring Committee Association's Constitution which was replaced by the CCMC Mandate in January 2013. The

¹ <http://www.bankers.asn.au/media/media-releases/media-release-2017/aba-responds-to-code-of-banking-practice-review>

