



ASIC

Australian Securities & Investments Commission

REPORT 20

Compliance with the Payments System Codes of Practice and the EFT Code of Conduct (April 2001 to March 2002)

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Executive Summary

This report details the results of the annual code monitoring exercise conducted by the Australian Securities and Investments Commission (ASIC). ASIC has responsibility for monitoring industry compliance with the:

- Code of Banking Practice;
- Building Society Code of Practice; and
- Credit Union Code of Practice.

Collectively, these codes are referred to as the payments system codes.

ASIC is also responsible for monitoring compliance with the Electronic Funds Transfer Code of Conduct (the EFT Code).

ASIC inherited responsibility for monitoring the codes from the Australian Payments System Council in July 1998. Monitoring is based on completion of a self-assessment compliance report and the provision of dispute statistics by the members of each of the codes.

This report contains information on:

- code membership;
- code compliance;
- compliance assessment;
- staff training;
- arrangements for external dispute resolution; and
- code-related complaints and disputes;

for each of the payments system codes and the EFT Code.

As a result of the recent amendments to the Code of Banking Practice, responsibility for monitoring that Code will move to another body from August 2003.

Changes made to reporting process

In response to a number of requests from the industry we changed the process of completing the statement of compliance from a paper-based form to an electronic statement.

The aim of this change was to make it easier for the institutions to complete the questionnaires and speed up the process for ASIC to complete the final report. Apart from converting the statement of compliance into an electronic questionnaire the only other amendment made from the 2000/2001 statement was that we are no longer monitoring compliance with EFT Security Guidelines.

The role of the codes

Each of the payments system codes will be affected by the changes resulting from the financial services reform (FSR) process that are now embodied in the Corporations Act 2001. These reforms began operating from 11 March 2002 although there is a two-year transition period. The reforms do not significantly impact upon the reporting period covered in this report.

In our view, the codes remain important parts of the regulatory environment. Their most important function in the future is likely to continue to be dealing with consumer protection issues not covered in legislation. There is scope, however, for them also to clarify what needs to be done to comply with legislative requirements and/or elaborate or build upon legislative requirements.

Since the last monitoring report, the amendments to the Banking Code of Practice have been finalised and the revised EFT Code came into operation on 1 April 2002. The impact of these changes, however, won't start to be monitored until future monitoring periods. In addition, progress has been made on the review of the Credit Union Code of conduct. No announcement has yet been made about the review of the Building Society Code.

Code membership

In the time period covered by this monitoring report, membership of each of the payments system codes and the EFT Code remained high. All banks with significant retail operations in Australia submitted a Banking Code monitoring statement. One of these, however, complies with the code but is yet to formally do so. More recently, however, we have been concerned to learn that Members Equity ceased belonging to the code as of January 2003. ASIC has expressed its strong disappointment about this decision and our hope is that it will be reversed. We also remain concerned that at the time of monitoring a number of Building Societies (4), all based in Queensland, had still not adopted that industry's code. Also, while it is pleasing that during this monitoring period 197 of the 199 credit unions had adopted the Credit Union code we would also like to see the remaining two credit unions join up.

To the best of our knowledge all institutions offering ATM and EFTPOS transfers at the time of the monitoring period had adopted the EFT Code of conduct. Since the period under review, adoption of the revised EFT Code has also been encouraging and we now have over 220 signatories to the revised code an increase over the 199 members at the time of this monitoring report.

Most code members reported full compliance with each of the provisions in the respective codes.

There were a small number of institutions that were not able to report full compliance. Of these, some were relatively new market entrants, and still in the process of implementing the codes. Others reported that, once identified, the instances of non-compliance had been remedied or were being corrected.

Compared to the last reporting period, the incidence of reported non-compliance has again decreased in the case of the Credit Union Code and the EFT Code.

Thus, overall compliance remains high compared to the number of institutions that are members of the various codes.

Compliance assessment

As reported over the last years, the members of the payments systems codes are required to report on the system of internal assessment used for monitoring compliance with the code and for identifying areas of non-compliance.

Almost all institutions reported that they had established an internal assessment system for monitoring compliance with the code. A very small number of credit unions with small membership and staff numbers indicated that they did not have an internal compliance system. This number had decreased from last year when ASIC took this issue up with all credit unions which reported that they didn't have internal compliance systems. The type of compliance assessment used by those institutions that did have a system varied between institutions however, there were some elements (eg appointment of a compliance manager, compliance officer, or compliance unit) that were common to many institutions.

Staff training

Institutions that are members of the payments system codes and the EFT Code were also asked to provide information on the methods and materials used to train staff about the requirements of the code(s) to which the institution belongs.

Although the training methods varied between institutions, many incorporated some form of training or procedures manual in their programs.

External dispute resolution arrangements

All members of the Banking Code reported that they used the Australian Banking Industry Ombudsman scheme to meet their obligations to provide external dispute resolution process to their customers.

In contrast, credit unions have established a number of different schemes or arrangements for external dispute resolution. The vast majority of credit unions are members of the Credit Union Dispute Resolution Centre, however, a significant number are members of the Credit Union Ombudsman scheme¹. Other external dispute resolution arrangements are used only by a small number of credit unions and these will need to join a scheme, which has been approved by ASIC by the end of the FSRA transitional period in March 2004.

Members of the Building Society Code have not established an industry-wide external dispute resolution scheme. Instead, they use a combination of small claims and consumer claims tribunals, expert determination and/or a mediation process based on a model developed by the Australian Association of Permanent Building Societies. Going forward, the AAPBS has supported the development of the

¹ The Credit Union Ombudsman Scheme will be replaced by the Financial Co-operative Dispute Resolution Scheme.

Financial Co-operative Dispute Resolution Scheme (FCDRS) as the external dispute resolution scheme for its members. The FCDRS, which will replace the Credit Union Ombudsman and be open to credit union and building society members, was approved by ASIC on 28 January 2003 (ie it did not exist for the period of this report). ASIC expects members to sign up to the new scheme quickly to fulfil their licensing obligations under FSRA.

Complaints and disputes

Between April 2001 and March 2002, banks reported 9,445 disputes under the Code of Banking Practice. Overall this was a decrease in the number of disputes from the previous period (12,668). At the same time as disputes decreased, the number of transactions increased by roughly 500 million. There was, therefore, a significant decrease in the incidence of disputes per million transactions from 3.28 disputes per million transactions in 2000/2001 to 2.17 disputes per million transactions in 2001/2002.

The largest number of disputes under the Banking Code related to EFT (PIN based) transactions (1,997). Large numbers of disputes were also recorded for disclosure of fees and charges, account debiting and crediting and banking service delivery.

The number of transactions under the Building Society Code of Practice also increased despite a reduction in the number of personal accounts held. Transactions increased by over 17.9 million. There was also, however, a rise in complaints from 1.2 per million transactions in 2000/2001 to 1.7 per million transactions in 2001/2002.

The steepest increase in complaints per million out of the four codes being reviewed was under the Credit Union Code of Conduct. In the reporting period under consideration there were 5.8 complaints per million transactions, up sharply from 3.8 per million in the previous monitoring period. This rapid increase is a cause for concern.

As with the large number of disputes relating to EFT (PIN based) transactions reported under the Banking Code, so too was the case with the Credit Union Code. Just under 80% of all disputes reported under the Credit Union Code related to PIN based EFT transactions. The incidence of EFT (PIN based) disputes reported under the Building Society Code of Conduct decreased for the 2001/2002 monitoring period. The figure represented only 26% of total complaints.

While the overall number of complaints under the EFT code increased in this reporting period from 121,434 in 2000/01 to 132,517 in 2001/02, there was also an increase in the number of transactions by 140 million. The rates of complaints per million transactions remained constant at 81 complaints per million transactions.

Complaints relating to system malfunction rose by 18.6% to 97,046, however complaints about unauthorised transactions fell by 6.2% to 23,978. Where the cardholder was found at least partly liable for such complaints this was significantly more likely than in the previous period to be because of customer negligence with the PIN than because it was unclear how the transaction occurred. This meant

customers were likely to wear more of the liability. Interestingly, complaints falling into the other category, which includes confusion over merchant name or processing date and double debit complaints decreased by 32% on the last monitoring period – down to 11,497.

As in previous monitoring periods, the majority of system malfunction complaints were resolved in favour of the cardholder (76%) while those about unauthorised transactions and other complaints were generally resolved in favour of the card-issuer (57% and 78% respectively).

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Section 1

Introduction

Since 1 July 1998, the Australian Securities and Investments Commission (ASIC) has been responsible for monitoring industry compliance with the:

- Code of Banking Practice;
- Building Society Code of Practice; and
- Credit Union Code of Practice.

Collectively, these codes are referred to as the payments system codes.

ASIC is also responsible for monitoring compliance with the Electronic Funds Transfer Code of Conduct (the EFT Code).

The payments system codes and the EFT Code are voluntary, and must be adopted by an institution in order to bind that institution. The codes prescribe certain standards of behaviour and practice for financial institutions in their dealings with consumers. They cover:

- disclosure;
- principles of conduct;
- privacy;
- dispute resolution; and
- in the case of the EFT Code, rules for allocating liability in disputes.

This is ASIC's fourth report on compliance with the Code of Banking Practice, the Building Society Code of Practice, the Credit Union Code of Practice and the EFT Code or practice. Our reports cover the periods April to March and commence with the April 1998 to March 1999 period. Each of these reports is available on the ASIC website (<http://fido.asic.gov.au>)². Previously the Australian Payments System Council (APSC) was responsible for monitoring the codes. Compliance results from years before 1999 are in the annual reports of the APSC.

This report gives compliance results for the period April 2001 to March 2002 inclusive.

²

<http://fido.asic.gov.au/fido/fido.nsf/byheadline/compliance+with+financial+industry+codes+of+practice+FIDOv?openDocument>

Section 2

The role of the codes and some recent reforms.

Before looking at the 2001/2002 results, it is worth providing some brief introductory information about the role of the payments system codes and the EFT Code, particularly in light of the recent changes resulting from the Financial Services Reform process. These changes are now embodied in the Corporations Act 2001.

At the time the Code of Banking Practice, the Credit Union Code of Practice, and the Building Society Code of Practice were first established there was virtually no law covering the types of matters dealt with in these codes. The situation was very similar for the Electronic Funds Transfer Code (the EFT Code). With the recent passage of the Corporations Act 2001 (Financial Services Reform Act 2001) and the amendments to the Privacy Act 1988 (Privacy Amendment (Private Sector) Act 2000) this situation has changed. Between them, these two pieces of legislation provide a new consumer protection regime in terms of areas such as disclosure, dispute resolution and privacy. The impact of these reforms is greatest on the payments system codes.

These reforms have meant that it is necessary to review the codes monitored in this report. Such reviews have already occurred for the Code of Banking Practice and the EFT Code. In both cases, those reviews have resulted in stronger codes that more accurately reflect modern practices. A review of the Credit Union Code is underway. At the time of writing (March 2003) an announcement had yet to be made about the now overdue review of Building Society Code of Practice.

Given the significant changes that have just occurred, it is timely to consider the role of the payments system and EFT codes going forward. As stated in the last monitoring report, ASIC is firmly of the view that codes continue to have an important role to play in the regulatory matrix protecting financial services consumers. We see such codes as serving one or more of three main purposes. They can:

1. deal with consumer protection issues not covered in legislation;
2. clarify what needs to be done to comply with legislative requirements; and/or
3. elaborate or build upon legislative requirements and set out something approaching best (or at least good) practice in an area covered by the legislation.

In the last monitoring report we provided some details about the review of the Code of Banking Practice. That review has now been completed and the code

amended. The amendments see the code continuing to have as its primary purpose the first of these roles, namely dealing with consumer protection issues not covered by legislation. The revised Banking Code will commence from August 2003 although at least one institutions has signalled its intention to implement the new code from an earlier date.

Some of the key amendments included in the revised Code of Banking Practice include:

- a commitment for member banks to act fairly and reasonably towards their customers in a consistent and ethical manner;
- extension of the code to cover small business;
- providing information on chargebacks on disputed credit card transactions;
- providing more information for potential guarantors;
- better protections for joint debtors and primary card holders; and
- creation of new and improved oversight .

Section 3

Monitoring compliance

ASIC's role

ASIC has been given a formal monitoring role for each of the payments system codes and the EFT Code. This role is provided for in the codes themselves.

The unrevised Code of Banking Practice, in place at the time of this survey, states that:

The Australian Payments System Council may obtain from the Reserve Bank of Australia consolidated information based on reports and information provided by banks so that the Australian Payments System Council may provide reports to the Treasurer of the Commonwealth on compliance with the Code and its general operation.

The Reserve Bank of Australia will receive each year from each of the banks:

- i. a report on the operation of the Code; and
- ii. information concerning the number of disputes referred to in sections 20.3 and 20.4 of the Code, according to their categories and how each of those categories of disputes has been handled.

Similar provisions are found in the Building Society Code of Practice and the Credit Union Code of Practice.³

Clause 12 of the EFT Code (as it was at the time of this monitoring period) also includes specific reference to a monitoring role for the Commonwealth Government, and an obligation on Code members to annually report on compliance and training.⁴

In exercising this monitoring role, we have adopted an approach similar to that taken by the former APSC.

The contents of the codes monitored in this report remained stable during the reporting period. Our next monitoring report, however, will be the last looking at the Banking Code as in the future it will be reviewed by a different body. The next monitoring report will also be the first monitoring of the revised EFT code and

³ These provisions have not yet been updated to reflect the changes in regulatory responsibilities that came into effect on 1 July 1998. References to the Australian Payments System Council and the Reserve Bank of Australia in the payments system codes should therefore now be read as references to ASIC.

⁴ A similar provision is contained in clause 23 of the revised EFT Code.

importantly will provide complaint data broken down by payments mechanisms so there will be separate statistics for ATM, EFTPOS, Internet and telephone banking.

In addition to the monitoring role given to ASIC under each of the Codes, ASIC has a formal role under s.1101A of the Corporations Act 2001. This provision gives ASIC the power to approve codes of conduct in certain circumstances. Under the FSR reforms, it is not, however, compulsory to have any code approved by ASIC and membership of codes is not compulsory either. That said, ASIC will continue to encourage all banks, credit unions and building societies to belong to their respective codes and all institutions offering electronic funds transfer services to belong to the EFT Code.

The monitoring process

The current reporting period for compliance with the payments system codes and the EFT Code is 1 April 2001 to 31 March 2002 ("the reporting period"). This is the same period as in previous years so that:

- statistics provided by each institution can be compared; and
- any trends or concerns with the operation of the codes can be identified.⁵

The monitoring process primarily involves self-assessment of compliance by code members.

Each institution must complete monitoring statements that together comprise:

- a Code of Conduct checklist or statement of compliance with the relevant code covering the reporting period; and
- a report on the number and nature of any disputes that arose during the reporting period

See Appendix A for a copy of the monitoring statement sent to the members of the Banking Code. A similar statement was sent to credit unions and building societies, reflecting the appropriate code provisions.

See Appendix B for a copy of the monitoring statement sent to EFT Code members.

Monitoring statements were sent to all code subscribers between 31 March and 4 April 2002, with completed returns to be forwarded to ASIC by 12 May 2002.⁶

⁵ The revised EFT Code came into effect from 1 April 2002. This date was selected to fit with the monitoring timetable.

⁶ As described in Section 7 of this report, CUSCAL collected the completed EFT Code responses of its Redinet affiliate credit unions, and provided a collated and summarised return to ASIC.

Statement of compliance

Each member of the Banking, Building Society, and Credit Union Code of Practice has to complete a statement of compliance. The institution's chief executive or other senior officer must sign the statement.

The statement requires institutions to report separately on whether:

- the institution's internal documents and/or information comply with each section of the Code;
- the institution's procedures comply with each section of the Code; and
- appropriate staff are trained in compliance with the Code.

Each institution must also report on:

- whether it has internal assessment systems in place to monitor compliance;
- whether it has identified any recurrent areas of non-compliance;
- the nature of training provided to staff;
- the name of the external dispute resolution service or process offered to customers; and
- any general concerns about the operation of the Code.

EFT Code of Conduct checklist

In the case of the EFT Code, members must complete an annual Code of Conduct checklist. The checklist is designed to help institutions ensure that they have conformed to all aspects of the Code.

For each provision of the EFT Code, institutions must advise whether or not they have complied with that provision during the reporting period. Institutions must also report on staff training in the Code's provisions.

A letter from a senior executive of the institution must accompany the completed return and checklist:

- certifying that the institution's internal auditors are satisfied that the institution has complied with the Code and, where it has not been able to do so, what is being done to rectify this; and
- including any commentary to qualify or clarify responses.

Complaints and disputes

As well as reporting on compliance, each code member must report to ASIC on:

- the number of code-related disputes that have arisen during the reporting period;
- the categories of disputes; and
- how the disputes were resolved.

Each code contains a specific definition of "dispute". Code members only have to report complaints or disputes that fall inside the relevant definition.

The definition of what constitutes a "dispute" is substantially the same in each of the Banking, Building Society and Credit Union Codes. A dispute arises and must be reported to ASIC when a customer has complained to the institution about a service (and/or product in the case of the Credit Union Code) and is not satisfied with the response given by the institution.

In the case of the EFT Code, members must report on the numbers and types of complaints. The definition of complaints includes *all complaints* about matters falling within the EFT Code of Conduct where the issue of liability arises, or may arise. "Complaints" as defined in the EFT Code is therefore wider than "disputes" as defined in the payment system codes (which would include only those EFT complaints that were not immediately settled).

Because the definition of "complaint" in the EFT Code is wider than the definition of "dispute" in the Banking, Building Society and Credit Union Codes, institutions that are a member of both the EFT Code and one of the Banking, Building Society, or Credit Union Codes will report *all* EFT complaints in their EFT Code report. However, in their return for the Banking, Building Society, or Credit Union Codes, they will only report those EFT complaints that have become disputes.

Finally, each institution must provide information on the number of personal accounts open at the end of the reporting period, and the number of transactions made during this period.

EFT Security Guidelines

As foreshadowed in the last monitoring report, statistics on compliance with the EFT Security Guidelines have not been collected in this monitoring report. Results have been fairly consistent for some years now. ASIC will be consulting about whether or not the Guidelines are the most appropriate place to deal with EFT security issues and, if they are not, how such matters should best be addressed and who is best placed to do this.

Review of the monitoring process

As mentioned in our previous reports on code compliance, there was/is a need to review the monitoring processes to ensure that they are effective and efficient, and do not impose unnecessary burdens on Code members. A review has now taken place for the EFT code. All current members of the code were consulted about how the monitoring questionnaire should be amended to take account of the changes made to the revised code and simplify it. An amended draft was circulated and the feedback received taken into account when finalising the information that will be collected. An important reform incorporated into the new monitoring procedures will be the collection of data on unauthorised transactions broken down by channels. This means that separate statistics will be available for ATM and EFTPOS transactions as well as for internet and telephone banking. The revised monitoring questionnaire for the EFT code will be used for when monitoring of compliance with the revised code from 1 April 2002 to March 2003 is undertaken.

As already noted, one outcome of the review of the Banking Code of Conduct is that there will now be a body responsible for administering that code. They have been given responsibility for monitoring the code along with more extensive monitoring powers than previously existed. ASIC recommended such a change and welcomes this reform.

A decision on the need to review the monitoring procedures for the Credit Union and Building Society Codes will be made once these codes have been reviewed.

Consistency of the data

The information in this report is based on the compliance and complaints data provided by institutions. The change in process from paper-based to electronic collection of data from the institutions does not interfere with the consistency in the results.

As can be seen from the monitoring statements in Appendixes A and B, institutions should report total complaints:

- received during the reporting period (A);
- held over from the last reporting period (B);
- resolved in favour of the consumer (C);
- resolved by mutual agreement (D)
- resolved in favour of the issuer (E); and
- outstanding at the end of the reporting period (F).

The total (A + B) should equal the total (C + D + E + F), the new process ensured the consistencies in the results.

Section 4

The Code of Banking Practice

Scope of the Code

The Code of Banking Practice ("the Banking Code") was released in 1993 and became fully operational on 1 November 1996. The Banking Code as it was at the time applicable to this monitoring applies to retail transactions in which a bank provides a "banking service"⁷ to a customer. Note that the definition of "customer" means that the Banking Code applies only to personal customers who are dealing exclusively in a private and domestic capacity.⁸ (The revised Code of Banking Practice, which comes into effect in August 2003, will also apply to small business transactions.⁹)

The Banking Code prescribes certain standards of behaviour and practice between the bank and its customers, and covers:

- disclosure of information;
- principles of conduct for general banking requirements; and
- complaints and dispute resolution.

Membership of the Banking Code is voluntary but the Code is binding once adopted.

As noted earlier, the Code of Banking Practice has recently been revised. As a result of that revision new monitoring procedures will be put in place and ASIC will no longer be responsible for monitoring compliance with the Code after the Code commences in August 2003.

⁷ A "banking service" is defined as "a deposit, loan or other banking facility provided by a bank to a customer, but does not include a service in relation to a bill of exchange, a variation of a term or condition of a facility or a debt to a bank that arises as a result of a withdrawal of more than the amount by which an account is in credit without the approval of the bank." (s. 1.1 Banking Code).

⁸ See s. 1.1 Code of Banking Practice.

⁹ The definition of a small business in the revised code is the same as that adopted in the Financial Services Reforms).

Methodology

The general methodology for monitoring compliance with the Banking Code is described in Section 3 of this report. In summary, Banking Code members are required to complete:

- a statement of compliance with the Code (including information on compliance systems and training); and
- dispute statistics.

The statement used to monitor compliance with the Banking Code for the 2001/2002 reporting period was similar to that used for 2000/2001.

Monitoring results

Code membership and responses

At the time of writing this report, there were fourteen Australian owned banks, twelve foreign subsidiary banks, and twenty-five branches of foreign banks operating in Australia.¹⁰ However, the Code applies only to banks with retail operations. Nineteen banks operating in Australia at present have significant retail operations and, each of these banks submitted a Banking Code monitoring statement for the 2001/2002 reporting period. Of the nineteen banks, which submitted monitoring statements, only eighteen have formally adopted the Code.

Table 5 shows the membership of the Code of Banking Practice as at 31 March 2002.

ASIC is concerned, however, that in January 2003 Members Equity announced that it will no longer be subscribing to the Banking Code. ASIC considers this to be an extremely regrettable decision and one, which we hope will be reversed.

Compliance with the Banking Code

In Part 1 of the monitoring statement, banks must report any instances where the bank's internal documentation and procedures failed to comply with the Code.

One bank, reported six instances of non-compliance. The bank reported that they now have an area dedicated to monitoring compliance as well as business unit compliance officers, which should assist in rectifying the areas of non-compliance in the 2002/2003 monitoring period. It is worth noting this bank has not formally adopted the code but comply and submit a monitoring statement each reporting period.

As well as ensuring that internal documentation and procedures comply with the Code, banks must report on any cases of recurrent non-compliance with the Code.

¹⁰ See <http://www.apra.gov.au/adi/ADIList.cfm#AOBC> (downloaded 20/03/03).

No instances of recurrent non-compliance were reported during the monitoring period.

Internal compliance assessment

Part 2 of the monitoring statement requires banks to report on the system of internal assessment used for monitoring compliance with the Banking Code and identifying areas of non-compliance. The means by which compliance was promoted was through:

- the incorporation of compliance into banking procedures, manuals and codes;
- training of staff in the code; and
- vetting of documents and procedures for compliance with the code.

A number of banks also mentioned the strategy of promoting a "compliance culture" in their institution. One institution had done so in a formal manner and reported that it had enshrined this approach into a code of ethics.

The Code members indicated that compliance was managed by:

- a compliance committee;
- general counsel;
- an internal audit committee; or
- senior management.

The most commonly mentioned means by which compliance was monitored was through:

- internal audit;
- self assessment of operations;
- random external checks of customer service; and/or
- and analysis of complaints.

Here is an example of a compliance system within a bank:

There is a dedicated area, Banking Practice and Compliance (BP&C), in the Bank to monitor compliance with the Code of Banking Practice (the Code). Compliance is achieved by examination of all product and procedural specifications prior to implementation of any initiative. All proposed amendments to account terms and conditions, all advertising (written, audio or visual) and training material for new product initiatives are also examined by BP&C before their implementation.

The Bank's internal auditors also play a role in ensuring the Bank is complying with the Code.

Staff training

All banks advised that they conduct training of staff in the Code, although, as with compliance systems, the methods used varied considerably between individual institutions. Most banks reported that coverage of the code took place during induction training. A number used formal assessment procedures and kept records of staff participation.

In terms of method of presentation, some commonly used media were:

- facilitator led training
- on the job training;
- self-study materials;
- regular repeat training;
- face-to-face formal training; and
- online training packages

Here are some specific examples of training methods

Example A

A blended approach has been adopted, based on a combination of facilitator-led sessions and self-study materials. Appropriate materials are issued, and completed and assessed according to staff functions to meet the standards.

Example B

The Learning and Development team has included in their Induction and Orientation Program a module on the Code of Practice requirements. The content of the Induction and Orientation Program is provided to every Personal Financial Centre and Department Manager to allow for any other staff to attend this module.

External dispute resolution arrangements

All banks reported that they used the Australian Banking Industry Ombudsman (ABIO) to meet their obligations under section 20.4 of the Banking Code.

General comments

All banks were offered the opportunity to provide any comments on the code. Only one comment was received this year and it was simply to note that the Bank's concerns were raised last year and with the review of the code underway no further concerns were evident.

Complaints and disputes

A "dispute" occurs when a customer's complaint about a banking service has been rejected by the bank, and the customer has asked for the decision to be reviewed.

As part of the code monitoring process, banks must give ASIC the statistics on Code-related disputes dealt with internally by the bank.

Banks also report on the number of personal accounts open at the end of the reporting period and the number of transactions on these accounts during the period. These statistics allow us to calculate the number of disputes per million transactions.

Not all customers will be satisfied with the result of a bank's internal dispute resolution process. However, we don't know how many of those dissatisfied customers take the next step of referring their dispute to the ABIO, and how many simply let the matter lie. It is important that consumers are aware of all avenues open to them, including their right to approach the ABIO. Individual banks, the ABIO and ASIC can all help to promote the availability of the ABIO to consumers.

When a dispute fails to be resolved under a bank's internal dispute resolution processes, it may then be referred to the ABIO. To complement the internal dispute information provided by the banks, we asked the ABIO to provide us with information about disputes resolved externally.

Disputes resolved internally

Table 2 shows that during the 2001/2002 period, banks reported:

- 9,445 disputes resolved internally;
- 43,537,599 personal accounts open as at 31 March 2002; and
- 4,344,650,348 transactions conducted through those accounts.

This equates to 2.17 disputes resolved internally per million transactions.

In the previous reporting period from 1 April 2000 to 31 March 2001 banks reported 12,668 disputes and a rate of disputes per million transactions of 3.28.

Table 2 – Trend in Banking Code disputes resolved internally

Year	Number of disputes (incl those held over from 00/01)	Number of accounts	Number of transactions	Disputes per million transactions
2001/2002	9,445	43,537,599	4,334,650,348	2.17
2000/2001	12,668	41,866,333	3,865,375,740	3.28 ¹¹
1999/2000	10,357	39,969,702	3,699,315,524	2.79 ¹²
1998/1999	8,551	40,012,410	2,922,670,655	2.92

The overall number of disputes reported is significantly lower than the previous reporting period. The decrease in internally resolved disputes dropped by 25.5% on the previous reporting period whereas the number of transactions increased by just under 11%. Therefore the rate of disputes per million transactions is considerably lower than that for the preceding monitoring period. Table 3 shows that of the 9,445 disputes considered internally, the majority of disputes were resolved either in favour of the customer (48%) or by mutual agreement (13%). Compared to the previous monitoring period (40.7% and 20.8% respectively) there is a notable increase in the number of disputes resolved in favour of the customer. Another instance where there also appears to be some sizeable change, is the proportion of disputes outstanding at the end of the period. For 2000/2001, this was 24% of disputes, whereas for 2001/2002, the figure was 33%.

The largest single cause of disputes during the 2001/2002 reporting period continues to be EFT (PIN based) transactions (21%).¹³ However this is down from approximately 25.6% during 2000/2001, and a decrease in the total number of complaints related to banking services, which is in line with the overall trend. Of these disputes, 31% were resolved in favour of the customer, while 8.6% were resolved by mutual agreement and 19% were resolved in favour of the bank.¹⁴ In keeping with the overall trend, there was a large number of disputes in this category outstanding at the end of the period (41.1%). The number of disputes outstanding in this category represents a significant increase from the previous reporting period where it was (25.3%).

Other areas in which there were large numbers of disputes were disclosure of fees and charges (16.5%) and account debiting and crediting (11.8%).

¹¹ One bank failed to provide an estimate of the number of transactions, and another provided some information but could not separate business and personal account transaction. Both were therefore excluded from the calculations.

¹² Recalculation from 2.72 previously reported.

¹³ This category includes disputes relating to unauthorised transactions and system malfunction. It excludes complaints that the customer does not pursue further after the initial decision of the institution. However these are reported under the EFT Code.

¹⁴ This category does not include disputes relating to the existence, application or the level of fees and charges.

A downturn in the number of complaints related to areas of disclosure can be seen from the Table 3 below, (2,244) compared with (2,728) in 2000/2001. A concerning statistic is the increase in the number of complaints related to variations to terms and conditions. These complaints accounted for 0.76% (97) of complaints in 2000/2001 compared with 2.1% (199) of total complaints in this monitoring period.

A higher proportion of disputes (16%) fell into the "catch-all" category of "Other aspects of service delivery" this year compared with last year (8.2%). This includes all other disputes concerning aspects of banking service delivery that are not elsewhere included, and are not a matter of commercial judgment. Banks do not identify the types of disputes included in this category, however, they may include disputes about matters such as fraudulent transactions, incorrect cash given, bank error leading to dishonour or fault in funds transfer, loss of documents, or failure to reply to correspondence.

Table 3 – Banking Code Disputes resolved internally, 2001-2002

Personal Accounts open as at 31 March, 2002: 43,537,599

Transactions Conducted During the Reporting Period: 4,334,650,348

Dispute Category	Total Disputes (incl those held over from 00/01)	Resolution			
		Customer's Favour	Mutual Agreement	Bank's Favour	Disputes Outstanding
Disclosure					
Terms & Conditions	207	81	26	17	83
General Information	316	86	78	16	136
Fees & Charges	1557	528	159	103	767
Cost of Credit	107	39	10	9	49
Foreign Exchange Services	57	25	4	4	24
<i>Total Disclosure</i>	2244	759	277	149	1059
Variations to Terms & Conditions	199	26	72	62	39
Banking Service Delivery					
Statements	190	111	37	17	25
Account Combination/Closure	667	523	92	46	6
Account Debiting/Crediting	1112	455	140	109	408
Proper Interest Rate, Fee, Charge	452	221	72	91	68
Instructions	633	254	100	35	244
EFT (PIN based)	1997	622	172	382	821
Other Aspects of Service Delivery	1107	725	197	116	69
<i>Total Banking Service</i>	6068	2911	810	796	1641
Advertising	21	10	3	2	6
Privacy & Confidentiality					
Disclosure to Related Entities	23	17	4	2	0
Other Aspects of Privacy/ Confidentiality	208	78	18	17	95
<i>Total Privacy & Confidentiality</i>	231	95	22	19	95
Provision of Credit	506	158	26	29	293
Guarantees	5	3	1	0	1
Dispute Resolution Process	81	52	15	13	1
Total of All Disputes	9445	4014	1226	1070	3135

Disputes resolved externally

Where disputes are not resolved through the bank's internal process, the consumer can refer them to the Australian Banking Industry Ombudsman.

During the 2001/2002 reporting period, the ABIO reported 4880 disputes about alleged Code breaches (including disputes that had been carried over from the previous reporting period).

In comparison to the 2000/2001 monitoring period that's a 31% increase.

As mentioned above there was a decrease in the number of internally resolved disputes, which shows a significant rise in the instances of complaints being referred to the ABIO for external resolution.

Externally resolved disputes in the areas of disclosure and banking services increased, however these were the areas that had a significant reduction in number of internally resolved disputes.

As you can see in table 4, of the 4880 complaints referred to the ABIO, 2794 were referred back to the bank by the ABIO for resolution.

Table 4 shows that the largest single number of Code-related disputes, referred to the ABIO, arose from complaints that the bank concerned had failed to act in accordance with the customer's instructions or authority or on undertakings given to the customer 1255 (25.7%).

PIN-based EFT transactions (12.5%), account crediting and debiting (13.2%) and the catchall category "Other aspects of service delivery" (22.9%) accounted for a significant proportion of disputes referred to the ABIO. Unlike internally resolved disputes however, fees and charges were disputed in only 4.4% of externally resolved cases.

The ABIO resolved 57.2% of the disputes reported which translated to 80.7% of matters closed for the period. 64 disputes were resolved in favour of the customer and 155 were resolved in favour of the bank. This shows an increase in the proportion of disputes resolved in favour of the bank compared to last year (104 and 144 respectively in 2000/01)

Over half of all disputes referred to the ABIO (57.3%) were referred by the ABIO back to the bank, and were resolved at that level. It is pleasing that most disputes are resolved early in the ABIO's processes. However, we would be concerned if the majority of these matters were ones where the bank had an opportunity to resolve the matter before it was referred to the ABIO. If this were the case, it might suggest that the bank's internal dispute resolution processes may not be operating effectively.

Table 4 – Banking Code Disputes resolved externally, 2001-2002

Personal Accounts open as at 31 March, 2002: 43,537,599

Transactions Conducted During the Reporting Period: 4,344,650,348

Dispute Category ¹⁵	Total Disputes	Resolution						
		Disputes referred back to bank for resolution ¹⁶	Resolved in Customer's Favour	Resolved in Bank's Favour	Dispute benefiting both parties	Discontinued disputes	Disputes outside terms of reference	Disputes Outstanding
Disclosure								
Terms & Conditions	116	76	2	4	2	10	9	19
General Information	130	56	3	9	4	23	12	27
Fees & Charges	211	147	1	2	0	25	12	24
Cost of Credit	13	4	0	1	1	1	2	4
Foreign Currency Transactions	10	5	0	0	0	0	3	2
<i>Total Disclosure</i>	480	288	6	16	7	59	38	76
Variations to Terms & Conditions	105	56	3	2	3	18	12	16
Banking Service Delivery								
Statements	65	45	0	1	1	7	4	7
Account Combination/Closure	89	48	1	4	2	6	11	19
Account Debiting/Crediting	645	431	4	6	9	70	25	116
Proper Interest Rate, Fee, Charge	255	160	3	8	7	27	13	47
Instructions	1255	718	16	26	35	139	49	307
EFT (PIN based)	612	370	16	56	32	33	6	119
Other Service Delivery	1116	577	12	21	15	132	94	283
<i>Total Banking Service</i>	4037	2349	52	122	101	414	202	898
Advertising	16	7	0	0	0	3	5	1
Disclosure to Related Entities	8	5	0	0	1	2	0	1
Other Aspects of Privacy/Confidentiality	53	24	0	4	4	8	3	11
<i>Total Privacy & Confidentiality</i>	61	29	0	4	5	10	3	12
Provision of Credit	143	48	3	9	1	14	19	54
Guarantees	18	5	0	2	1	2	3	6
Dispute Resolution Process	20	12	0	0	0	3	3	4
Total of All Disputes	4880	2794	64	155	118	523	285	1067

¹⁵ Note: The number of complaints outstanding at the end of the period does not equate exactly to the "outstanding from prior period" plus "received during the period" minus "closed during the period". Reasons for this are:

1. Cases closed during previous reporting period reopened;
2. Cases deleted (eg where duplicated in error)
3. Amendments to Codes between initial processing of the complaint and closure

¹⁶ These disputes were referred back to the bank by the ABIO for further consideration. They still met the ABIO criteria for external disputes and are counted as such.

Table 5 – Membership of the Code of Banking Practice as at 31 March 2002.

Banks that have adopted the Banking Code of Practice
Adelaide Bank Limited
AMP Bank Limited
Arab Bank (Australia) Limited
Australia and New Zealand Banking Group Limited
Bank of China ¹⁷
Bank of Queensland Limited
Bank of Western Australia Ltd (Bankwest)
Bendigo Bank Limited
Citibank Limited
Commonwealth Bank of Australia
HSBC Bank Australia Limited
ING Mercantile Mutual Bank (Australia) Ltd
Macquarie Bank Limited
Members Equity Pty Ltd
National Australia Bank Limited
Primary Industry Bank of Australia Limited
St. George Bank Limited
Suncorp-Metway Limited
Westpac Banking Corporation

¹⁷ Bank of China submit a monitoring statement under the Code of Banking practice, however they have not formally subscribed to the Code.

Section 5

The Building Society Code of Practice

Scope of the Code

The Building Society Code of Practice ("the Building Society Code") was released in 1994 and became fully operational on 1 November 1996. Similar to the Banking Code, the Building Society Code applies when a building society provides a "service"¹⁸ to a customer.

The Building Society Code prescribes certain standards of behaviour and practice between the building society and its customers and covers:

- disclosure of information;
- principles of conduct in dealings with customers; and
- resolution of disputes.

Membership of the Building Society Code is voluntary but the Code is binding once adopted.

The Code will need to be reviewed in light of the recent Financial Service Reform amendments to the Corporations Act 2001. No announcement had been made on this as at February 2003.

Methodology

The general methodology for monitoring compliance with the Building Society Code is described in Section 3 of this report. In summary, building societies that are members of the Code must complete:

- a statement of compliance with the Code (including information on compliance systems and training); and
- dispute statistics.

¹⁸ A "service" is defined as "a deposit, loan or other banking facility provided by the building society to the customer" (s. 1.1 Building Society Code).

The statement used to monitor compliance with the Building Society Code for the 2001/2002 reporting period was identical to the 2000/2001 statement.

Monitoring results

Code membership and responses

There are fourteen building societies operating in Australia,¹⁹ and nine of these have adopted and implemented the Building Society Code.

As indicated in the last report, the Heritage Building Society, Mackay Permanent Building Society, Pioneer Permanent Building Society and The Rock Building Society still have not adopted the Building Society Code, nor have they adopted another code of similar scope.²⁰

After contacting these societies it was indicated that there is no intention on their behalf to adapt the Building Society Code. One institution mentioned that as they are regulated by APRA and will be regulated by ASIC under FSRA and having signed to the Co-Operative Dispute Resolution Scheme, that it would be superfluous to also be bound and regulated by a Code of conduct. ASIC does not agree with this view given that the function of the payments system codes is to provide protections that go beyond the law.

The other three Building Societies suggested that under the new FSRA licensing requirements they will sign up to the Financial Co-operative Dispute Resolution Scheme (FCDRS) as the external dispute resolution scheme for their members, but not the Code of Conduct. Again, this is a position, which ASIC finds disappointing and one, which we hope will be reassessed.

We will continue to liaise with individual building societies and industry organisations to promote the adoption of the Building Society Code or other codes offering the equivalent level of consumer protection and compliance monitoring. In the mean time, their members will soon receive the benefits of the FSR amendments to the Corporations Act 2001. These will provide them with a number of important protections, especially in terms of disclosure and dispute resolution.

Table 8 shows the membership of the Building Society Code and other Codes.

Compliance with the Building Society Code

Monitoring statements were received from all building societies that have adopted the Code.

¹⁹ See <http://www.apra.gov.au/adi/ADIList.cfm> (accessed 30/01/2003).

²⁰ They were, however, all members of the EFT Code at the time this report covers

Part 1 of the statement asks building societies to report on any instances in which the building society's internal documentation and procedures failed to comply with a provision or provisions of the Code. Building societies must also report any cases of recurrent non-compliance with the Code.

As with the previous monitoring period none of the building societies reported instances of non-compliance or recurrent non-compliance with the Code during the reporting period April 2001 to March 2002.

Internal compliance assessment

In Part 2 of the monitoring statement, building societies report on their system of internal compliance assessment.

All building societies advised that they have established internal assessment systems to monitor compliance with the Building Society Code although, as may be expected given the differences in size between building societies, the standard and type of compliance assessment varies between institutions.

The most common system of compliance assessment reported involves regular or ad hoc auditing by internal audit sections or the internal audit officer.

Some building societies conducted a thorough audit before they adopted the Code and any subsequent change in procedures or documentation is assessed by a legal or compliance officer to ensure compliance with the Code. However, this system does not provide a check on ongoing compliance so is usually supplemented by internal auditing.

Although many building societies are relatively small, one reported appointing a full-time compliance officer with the specific task of ensuring compliance with the Code. Other smaller building societies reported that supervisory staff or other staff members share responsibility for compliance with the Code.

Here is an example of a compliance system within a building society:

Example

The Society has appointed its Company Secretary to the task of ensuring compliance with the Code's provisions, and in the areas of training, procedures & documentation. The Society's Internal Audit Department performs regular reviews of compliance issues through its regular branch and department audits. The audit of compliance issues is reported to the Audit Committee and the CEO.

Staff training

Building societies were also asked to report on staff training including the methods and materials used to train staff in the Building Society Code and its requirements. All building societies advised that they had staff training in the Code available, although the extent and formality of this training varied between institutions. For example, one institution's training consisted of just providing information relating to the Code to staff and updates when necessary, whereas others reported having training that was assessed and rectified if below standard.

Training methods included:

- training manuals based on standard operating procedures;
- internal communication of changes to the Code by email;
- induction training supplemented by regular training of existing staff;
- on the job training.

Here is an example of the training methods used by one building society:

Example

Building Society staff are trained in the requirements of the Code on an annual basis. At training sessions each staff member is given a booklet on the Building Society's obligations under the Code, and how to comply with them.

The training covers all aspects of the Code in detail. It is run in small groups to facilitate discussions and questions. This also enables the trainer to focus on particular aspects of the Code, which are relevant to each area. Overhead slides noting key points, are used, and the session concludes with a quiz and question and answer session.

External dispute resolution arrangements

Unlike banks, building societies do not have an industry-wide external dispute resolution scheme.

Instead, building societies reported that for external dispute resolution, they used a combination of Department of Fair Trading, expert determination, and/or a mediation process based on a model developed by the Australian Association of Permanent Building Societies (AAPBS). Under the AAPBS model, an external, independent and impartial mediator must be appointed, at the expense of the building society concerned, to hear and resolve the dispute.

It is difficult to properly assess complaints activity and trends, and complaints handling standards, in the absence of an independent external scheme.

Going forward, the AAPBS has supported the development of the Financial Co-operative Dispute Resolution Scheme (FCDRS) as the external dispute resolution scheme for its members. The FCDRS, which will replace the Credit Unions Ombudsman and be open to credit union and building society members, was approved by ASIC on 28 January 2003 (i.e. it did not exist during the period of this report). ASIC expects members to sign up to the new scheme quickly to fulfil their licensing obligations under FSRA.

General comments

As part of the monitoring questionnaire, building societies were asked whether they wished to raise any concerns about the operation of the Building Society Code. No comments or concerns, however, were offered.

Complaints and disputes

A "dispute" occurs when a customer's complaint about a service has been rejected by the building society and the customer has asked for the decision to be reviewed by the building society.

Building societies must report information on Code-related disputes dealt with internally by a building society as part of the code monitoring process.

When a dispute fails to be resolved under a building society's internal dispute resolution processes, it may then be referred to the external dispute resolution process. Information on the disputes referred for external resolution is provided directly by the building society concerned.

Building societies also report on the number of personal accounts open at the end of the reporting period and the number of transactions on those accounts during the period. These statistics allow us to calculate the number of disputes per million transactions.

Disputes resolved internally

Table 6 shows that during the current reporting period, building societies reported:

- 145 disputes resolved internally;
- 1,257,770 personal accounts open as at 31 March 2002; and
- 85,171,951 transactions conducted through those accounts.

Although the number of personal accounts fell by nearly 20,000, the number of transactions increased by over 17.9 million from 2000/2001 to 2001/2002. The rate of disputes per million transactions for 2001/2002 (1.7) rose from the 2000/2001 monitoring period (1.2).

Table 6 – Trend in Building Society Code disputes resolved internally

Year	Number of disputes (incl those held over from 00/01)	Number of accounts	Number of transactions	Disputes per million transactions
2001/2002	145	1,257,770	85,171,951	1.7
2000/2001	80	1,277,273	67,218,374	1.2
1999/2000	168	1,197,706	71,806,463	2.3
1998/1999	84	973,244	55,430,950	1.5

Table 7 shows that of the 145 disputes considered internally, more than half 80 (55%) were resolved in the customer's favour. A further 45 (31.2%) were resolved

in the Building Society's favour and the remaining 19 (13.8%) were resolved by mutual agreement, with only one dispute outstanding at the end of the period.

For the 2001/2002 reporting period, the total number of disputes has risen significantly from 80 disputes in 2000/2001 to 145 in this period. Although accounting for a large proportion of total disputes, the number of PIN-based EFT transaction disputes fell from the previous monitoring period. More than half of these were resolved in favour of the customer, (55.2%).

Notable increases in complaints were in the areas of proper interest rate, fees and charges up from 8 disputes in 2000/2001 to 23 in 2001/2002 and the catch-all category of "other aspects of service delivery" increased from 6 for the 2000/2001 reporting period to 26 in the current reporting period.

Disputes resolved externally

Where disputes regarding alleged breaches of the Code fail to be resolved internally, they can be referred to an external dispute resolution process. There were 4 disputes resolved externally. The figure in the last monitoring period was 5 disputes resolved externally. Of these disputes, one related to EFT (PIN-based) transactions, one dispute related to account debiting and crediting and one related to disclosure of proper interest rate, fees or charges. The other related to the "other" aspects of service delivery.

Table 7 – Building Society Code Disputes resolved internally, 2001-2002

Personal Accounts open as at 31 March, 2002: 1,257,770

Transactions Conducted During the Reporting Period: 85,171,951

Dispute Category	Total Disputes Received (incl those held over from 00/01)	Resolution			Disputes Outstanding
		Customer's Favour	Mutual Agreement	Building Society's Favour	
Disclosure					
Terms & Conditions	4	1	0	3	0
General Information	6	0	3	3	0
Fees & Charges	8	1	5	2	0
Cost of Credit	0	0	0	0	0
<i>Total Disclosure</i>	18	2	8	8	0
Variations to Terms & Conditions	0	0	0	0	0
Banking Service Delivery					
Statements	5	4	0	1	0
Account Combination/Closure	1	1	0	0	0
Account Debiting/Crediting	14	4	4	6	0
Proper Interest Rate, Fee, Charge	23	20	0	3	0
Instructions	4	3	0	1	0
EFT (PIN based)	38	21	2	15	0
Other Service Delivery	26	21	2	2	1
<i>Total Banking Service</i>	111	74	8	28	1
Advertising	0	0	0	0	0
Privacy & Confidentiality					
Disclosure to Related Entities	0	0	0	0	0
Other Aspects of Privacy/Confidentiality	5	1	3	1	0
<i>Total Privacy & Confidentiality</i>	5	1	3	1	0
Provision of Credit	11	3	0	8	0
Guarantees	0	0	0	0	0
Dispute Resolution Process	0	0	0	0	0
Total of All Disputes	145	80	19	45	1

Table 8 – Membership of the Building Society Code of Practice

Building Societies that have adopted the Building Society Code of Practice	Building Societies that report under another payments system code	Building Societies that have not adopted a payments system code
<p>ABS Building Society Ltd</p> <p>B&E Ltd (formerly Bass & Equitable Building Society Ltd)</p> <p>Greater Building Society Limited</p> <p>Home Building Society Limited</p> <p>HSBC Building Society (Australia) Limited</p> <p>Hume Building Society Limited</p> <p>Illawarra Mutual Building Society Limited</p> <p>Newcastle Permanent Building Society Limited</p> <p>Maitland Mutual Building Society Limited</p>	<p>Lifeplan Australia Building Society Limited (Credit Union Code of Practice)</p>	<p>Heritage Building Society Limited</p> <p>Mackay Permanent Building Society Limited</p> <p>Pioneer Permanent Building Society Limited</p> <p>The Rock Building Society Limited</p>

Section 6

The Credit Union Code of Practice

Scope of the Code

The Credit Union Code of Practice ("the Credit Union Code") was released in 1994, and became fully effective in 1996. It applies where a credit union provides credit union products or services²¹ to a member.

However, the Credit Union Code does not apply to:

- a service involving a bill of exchange;
- an insurance or financial planning service;
- a travel service; or
- the provision of unauthorised credit.

The Credit Union Code contains provisions covering:

- disclosure of information;
- standards of practice; and
- complaints and dispute resolution.

Credit unions adopting the Credit Union Code must incorporate the provisions of the Code into their terms and conditions for members. They must give members a copy of the terms and conditions when or before a credit union product or service is supplied.

As discussed above, the Credit Union Code is presently under review.

²¹ A "Credit union product or service" is a deposit, loan or other facility provided by a Credit Union to a member, wholly and exclusively for the member's personal, domestic, or household purposes (s 1.1 Credit Union Code).

Methodology

The general methodology for the monitoring compliance with the Credit Union Code is described in Section 3 of this report. In summary, Code members must complete:

- a statement of compliance with the Code (including information on compliance systems and training); and
- dispute statistics.

Monitoring results

Code membership and responses

Based on responses to last year's returns, we wrote to the 206 credit unions that we understood were members of the Credit Union Code. We asked each of these institutions to complete the monitoring statement.

Membership of the Credit Union Code changed during the reporting period as a result of some credit unions changing names or merging with others.

Table 13 shows that, as at 31 March 2002, there were 197 members of the Credit Union Code.

To our knowledge, there are only two credit unions that have not adopted the Credit Union Code. They are Broadway Credit Union, and Queensland Professional Credit Union. ASIC is very pleased with the high level of adoption of the Credit Union Code. However, we remain disappointed that these few credit unions have chosen not to adopt the Code. We will continue to encourage these credit unions to adopt this Code or another code of equivalent standard. In the mean time, their members will soon receive the benefits of the FSR amendments to the Corporations Act 2002. These will provide them with a number of important protections, especially in terms of disclosure and dispute resolution.

At the time of preparing this report, all but one current Code subscribers had returned monitoring statements. The institution not providing a statement was:

- Muslim Community Credit Union

It was reported by the acting CEO of the Muslim Community Credit Union that the institution was in the process of winding up and would cease operating on 30 September 2002.

Compliance with the Credit Union Code

Ninety seven percent (97%) of all credit unions reported full compliance with all provisions of the Code (excluding any provisions not applicable).

In total there were 13 instances of non-compliance with the Credit Union Code during the reporting period reported by seven institutions. Of these instances:

- 4 instances involved a failure to provide documents and/or information complying with a provision of the Code;
- 4 instances involved a failure to have procedures in place to enable compliance with a provision of the Code;
- 4 instances involved failure to train appropriate staff in a provision of the terms and conditions of the Code; and
- 1 instance involved failure to have procedures in place to enable compliance with the dispute resolution provision of the Code

No credit unions reported more than three instances of non-compliance,

As reported in the previous year's report, a number of credit unions also reported "not applicable" responses. These primarily involved the Code provisions on payment services, account combination, foreign exchange services, payment instruments, and guarantees. We assume that these "not applicable" responses are because those credit unions provide little or no services in these areas.

Only two credit unions reported instances of recurrent non-compliance with the provisions of the Credit Union Code. In all cases, credit unions noted the corrective action they had taken, or are taking, to rectify non-compliance. Table 9 gives details of the areas of recurrent non-compliance.

Table 9 – Recurrent non-compliance with the Credit Union Code

Explanation of non-compliance	Steps taken to rectify
Few areas of procedural matters	Re-training and follow up undertaken
Minor problems have been discovered with new staff	Re-trained staff and kept an eye on. These have since corrected themselves

A number of credit unions stated that although they had no recurrent areas of non-compliance during the 2001/2002 monitoring period, they were confident that their internal monitoring systems would identify any should they arise, and remedial action would soon follow.

Internal compliance assessment

Credit unions were asked to report on the system of internal assessment used to monitor compliance with the Code provisions and to identify areas of non-compliance.

Credit unions vary considerably in size, with the smallest operating perhaps with one or two part-time staff only. Given the differences in size, there was considerable variation in the means by which compliance was assessed by credit unions. For example, while some credit unions described multiple means of assessment, others mentioned only one or two. A small number of the smaller credit unions do not have a formal compliance assessment system in place, and

instead, responsibility for compliance rests with the manager, and staff are trained on the provisions of the Credit Union Code to ensure compliance in the day-to-day conduct of the business.

In the last monitoring period we reported eight credit unions that had no system or procedures or did not respond to this question (<5% of the group). ASIC wrote to these credit unions expressing our concern about the lack of compliance assessment and stressing the importance that we place on this. In this period five credit unions reported that they had no systems of compliance in place and one credit union did not respond to the question.

- Comtax Credit Union
- Carboy (SA) Credit Union
- Hoverla Ukrainian Credit Union
- Maleny Credit Union
- Westax Credit Union

Most credit unions, however, do have a compliance assessment system in place. But, as mentioned above, the scope of the system varies between organisations, and therefore it is not possible to provide a generalised picture. Some features common to a number of credit unions include, however:

- appointment of a compliance manager, compliance officer, and/or compliance unit, with overall responsibility for compliance with the Credit Union Code;
- ad hoc, "as needed" checks of compliance, usually in response to complaints
- establishment of Board subcommittees to oversee compliance;
- use of exception reports that highlight non-compliance;
- use of the compliance manual, software and/or and compliance notes issued by the Credit Union Services Corporation (CUSCAL);
- random checks of documentation and other procedures including mystery shopping;
- formal process for sign-off on documentation changes, which takes into account Code compliance;
- internal and/or external auditing of compliance on a regular basis (monthly, quarterly, annually);
- use of "checklists" to ensure appropriate procedures are followed and relevant documentation provided;
- staff training incorporating Code compliance;
- discussion of compliance issues and procedures at regular staff and/or management meetings
- overseeing of staff operations by senior staff

By far the most often cited method of compliance assessment was the use of regular internal/external audit. This occurred on a monthly, quarterly or annual basis. Almost half of the credit unions mentioned this method specifically. Here is an example of a compliance system implemented by one credit union:

Example

An annual review of compliance is conducted in all areas by senior management.

Checklists have been engineered to ensure that all staff are reminded of current requirements and procedures.

Particular areas are also subject to review by Internal and External Audit function in accordance with their Audit Plans.

Staff training

Credit unions were asked to provide a brief report on staff training, including methods and materials used to train staff about the Code and its requirements. As with compliance systems, the methods and materials used varied considerably between institutions. Credit unions used one or more of the following approaches:

- External training provided by CUSCAL, as well as the CUSCAL Code compliance manual and CUSCAL bulletins for ongoing reference. Several credit unions also mentioned training material provided by the Credit Union Dispute Resolution Centre.
- Training on the Credit Union Code included in the induction program for new staff. Refresher courses on the Credit Union Code are also provided for existing staff at regular intervals (eg every 12 – 18 months) and/or when new requirements are introduced.
- Computer-based training, including interactive software, PC-based modules, CUSCAL CD-ROM, and/or local intranet, often self-paced.
- Supplement training during regular staff training meetings or seminars.
- Many smaller credit unions also rely on "on the job training", or unstructured one-on-one instruction. Checklists are popular as an ongoing way to reinforce training about the Code requirements.

The most often cited methods of training in the Credit Union Code of Practice were through induction programs and the external training provided by CUSCAL.

Credit unions were also asked to identify how training methods varied according to staff function. Many credit unions (particularly the smaller ones) reported that all staff are multi-skilled and trained to the same level. However, other credit unions indicated that training is more specific to an individual's functions and responsibilities. A number had more senior staff attend formal external training which was then "passed on" to more junior staff. Only a small minority reported formal testing with or without remedial action or minimum requirements.

External dispute resolution arrangements

At the time of the monitoring period under consideration credit unions used four schemes or arrangements to meet their obligations under section 20.4 of the Credit Union Code. These were:

- Credit Union Dispute Resolution Centre (CUSCAL);
- Credit Union Ombudsman (National Credit Union Association);
- Endispute;
- Alternative Dispute Resolution Service, Queensland Department of Justice.

One credit union did not belong to an external scheme but used an independent external person who spoke the language of the majority of their members to resolve the disputes that could not be resolved internally. They will need to belong to an ASIC approved scheme by 11 March 2004.

We asked credit unions to identify which alternative dispute resolution (ADR) scheme or process they used. Table 10 lists the results. CUDRC is the most well established scheme and, as expected, it has the largest membership.

Table 10 – Credit union membership of EDR schemes/processes

ADR scheme / process	Number of credit union members
Credit Union Dispute Resolution Centre	176
Credit Union Ombudsman	3
National Credit Union Association (NCUA)	14
Endispute	2
Other	1
No response	1
Total	197

Under the Financial Services Reform Act, which commenced on 11 March 2002 with a 2-year transitional period, all financial services licensees who do business with retail clients (which will include credit unions) will need to belong to an EDR scheme which has been approved by ASIC. As at 31 March 2002, ASIC was considering applications for approval from the Credit Union Dispute Resolution Centre and the Credit Union Ombudsman, which will also cover some building societies (the scheme will be renamed the Financial Co-operative Dispute Resolution Scheme). ASIC treats each application on its individual merits and applies the approval standards consistently, irrespective of the size of the scheme. The approval process is, therefore, likely to drive rationalisation in the credit union EDR sector (Endispute is unlikely to seek approval, for example). This should reduce the potential for consumer confusion in the event of a dispute.

General comments

In this monitoring period, four credit unions commented on the operation of the Credit Union Code. The main concern raised was how the Code of Practice requirements will be integrated with the new Financial Services legislation.

Two smaller institutions commented on the fact that changes in other laws such as the Privacy Act have an impact on the Code and that it is difficult given limitations in resources, to train all staff in certain areas and also to change appropriate paperwork.

Most of these issues will no doubt be addressed in the present review of the Credit Union Code.

Complaints and disputes

Credit unions are asked to provide information on disputes that have been resolved internally. A dispute arises where a credit union's response to a member's complaint is not accepted by that member.

When a dispute fails to be resolved under a credit union's internal dispute resolution processes, it may then be referred to the CUDRC or other external dispute resolution process.

To complement the information from credit unions about disputes resolved internally, we asked CUDRC to provide information about disputes referred to them.

Disputes resolved internally

During the reporting period, credit unions reported a total of:

- 2,524 disputes
- 5,361,151 personal accounts open at 31 March 2002; and

- 438,848,061 transactions conducted during the year.

This equates to 5.8 disputes per million transactions, up from 3.8 per million last year.

Table 11 shows the types of disputes credit unions recorded during the reporting period.

Banking services attracted 94% of total complaints including those held over from 2000/2001, 35% higher than the figure reported in the last monitoring period. The major area of dispute was EFT (PIN based) transactions (78%) and a large number of these disputes (70.3%) were resolved in favour of the customer.

Other significant areas of dispute were:

- account debiting/crediting (7.3%)
- proper interest rate, fee or charge (4 %); and
- the catchall category – other aspects of service delivery – accounted for 3.2% of disputes.

Proper interest rate, fee or charge disputes accounted for only 2.5% of the total disputes reported in the last monitoring period. The increase to 4% of total complaints is a notable increase.

Table 11 – Credit Union Code Disputes resolved internally, 2001-2002

Personal Accounts open at 31 March, 2002: 5,361,151
 Transactions Conducted During the Year: 438,848,061

Dispute Category	Total Disputes (incl those held over from 00/01)	Resolution			Disputes Outstanding
		Customer's Favour	Mutual Agreement	Credit Union's Favour	
<u>Disclosure</u>					
Terms & Conditions	11	3	2	4	2
General Info	20	4	8	8	0
Fees & Charges	48	17	16	12	3
Cost of Credit	9	2	1	6	0
Foreign Currency Transactions	7	4	3	0	0
<i>Total Disclosure</i>	95	30	30	30	5
Variations to Terms & Conditions	0	0	0	0	0
<u>Banking Service Delivery</u>					
Statements	13	9	2	2	0
Account Combination	12	7	2	2	1
Account Debiting/Crediting	184	115	16	44	9
Proper Interest Rate, Fee, Charge	101	28	17	55	1
Instructions	14	6	4	3	1
EFT (PIN based)	1971	1387	76	399	109
Other Service Delivery	84	29	28	24	3
<i>Total Banking Service</i>	2379	1581	145	529	124
Advertising	1	0	0	1	0
<u>Privacy & Confidentiality</u>					
Disclosure to Related Entities	1	0	0	1	0
Other Aspects of Privacy/Confidentiality	13	0	8	4	1
<i>Total Privacy & Confidentiality</i>	14	0	8	5	1
Provision of Credit	17	5	3	7	2
Guarantees	1	0	0	1	0
Dispute Resolution Process	17	1	1	9	6
Total of All Disputes	2524	1617	187	582	138

Disputes resolved externally

Table 12 shows the number and type of disputes considered by each of the external ADR processes in Table 10.

The total number of disputes considered by these schemes during the reporting period was 119. The number of disputes considered externally was 12% less than the number of disputes in the 2000/2001 period (135).

The breakdown of disputes resolved externally were:

- (PIN based) services (57%);
- account crediting/debiting (17.6%); and
- terms and conditions (7%)

Again EFT (PIN based) transactions accounted for more than half of the total disputes considered.

Table 12 – Credit Union Code disputes resolved externally, 2001-2002

Dispute Category	Total Disputes (incl those held over from 00/01)	Resolution			Disputes Outstanding
		Customer's Favour	Mutual Agreement	Credit Union's Favour	
Disclosure					
Terms & Conditions	8	3	3	2	
General Info	0				
Fees & Charges	3	2	1		
Cost of Credit	1	1			
Foreign Currency Transactions	0				
<i>Total Disclosure</i>	<i>12</i>	<i>6</i>	<i>4</i>	<i>2</i>	
Variations to Terms & Conditions	0				
<u>Service Delivery</u>					
Statements	0				
Account Combination/Closure	0				
Account Debiting/Crediting	21	5	4	4	8
Proper Interest Rate, Fee, Charge	1	1			
Instructions	8	2	3	1	2
EFT (PIN based)	68	14	13	18	23
Other Service Delivery	5	2	1	1	1
<i>Total Service Delivery</i>	<i>103</i>	<i>24</i>	<i>21</i>	<i>24</i>	<i>34</i>
Advertising	0				
<u>Privacy & Confidentiality</u>					
Disclosure to Related Entities	1		1		
Other Aspects of Privacy/ Confidentiality	1	1			
<i>Total Privacy & Confidentiality</i>	<i>2</i>	<i>1</i>	<i>1</i>		
Provision of Credit	0				
Guarantees	0				
Dispute Resolution Process	2	1			1
Total of All Complaints	119	32	26	26	35

Notes to table:

As per previous years, a breakdown of each resolution was not provided. Only figures relating to the total number of complaints and the breakdown of the dispute categories.

Table 13 – Membership of the Credit Union Code of Practice

Institutions that have adopted the Credit Union Code of Practice			
Albury Murray Credit Union Ltd	Coastline Credit Union Limited	Ericsson Employees' Credit Co-operative Limited	Herald Austral Credit Co-operative Limited
Ancor Credit Co-operative Limited	Collie Miners' Credit Union Ltd	Esso Employees' Credit Union Ltd	Heritage Isle Credit Union Limited
AMP Employees' & Agents Credit Union	Combined Australian Petroleum Employees' Credit Union Ltd	Eurobodalla Credit Union Ltd	Hibernian Credit Union Limited
Australian Central Credit Union	Community First Credit Union Limited (formerly Grand United Credit Union Ltd)	Family First Credit Union Limited (formerly Lithgow Mutual Credit Union)	HMC Staff Credit Union Ltd
Australian Defence Credit Union Ltd	Companion Credit Union Limited	Fire Brigades Employees' Credit Union Limited	Holiday Coast Credit Union Ltd
Australian National Credit Union	Comtax Credit Union Limited	Fire Service Credit Union Limited	Horizon Credit Union Ltd
AWA Credit Union	Connect Credit Union of Tasmania Limited	Firefighters Credit Co-operative Limited	Hoverla Ukrainian Credit Co-operative Limited
Bananacoast Community Credit Union Ltd	Country First Credit Union Ltd	First Gas Employee's Credit Union Limited (formerly AGL Group Employees')	Hunter United Employees' Credit Union Limited
Bankstown City Credit Union Ltd	CPS Credit Union (SA) Ltd	First Pacific Credit Union Limited	IMG Credit Union Limited
Bemboka Community Credit Union Ltd	CPS Credit Union Co-operative (ACT) Limited	Fitzroy & Carlton Community Credit Co-Operative Limited	Intech Credit Union Limited
Berrima District Credit Union Ltd	Credit Union Australia Ltd	Flying Horse Credit Union Co-operative Limited	IOOF South Australia Credit Union Limited
Big River Credit Union Ltd	Croatian Community Credit Union Limited	Ford Co-operative Credit Society L Limited	Island State Credit Union Ltd
Blue Mountains & Riverlands Community Credit Union	CSR Employees' Credit Union Limited	Gateway Credit Union Ltd (formerly C.B.O.A. Credit Union Ltd)	Karpaty Ukrainian Credit Union Limited
BP Employees' Credit Co-operative	Dairy Farmers Credit Union Ltd	Geelong & District Credit Co-operative Society Limited	La Trobe Country Credit Co-operative Limited
B-W Albury Employees' Credit Union Ltd	Defence Force Credit Union Limited	GMH (Employees) QWL Credit Co-operative Limited	La Trobe University Credit Union Co-operative Limited
Calare Credit Union Ltd	Dependable Credit Union Ltd	Gold Credit Co-operative Ltd	Laboratories Credit Union Ltd
Capital Credit Union	Discovery Credit Union Ltd	Goldfields Credit Union Ltd	Latvian Australian Credit Co-operative Society Limited
Capricornia Credit Union Ltd	Dnister Ukrainian Co-operative Credit Society Limited	Gosford City Credit Union Ltd	Lithuanian Co-operative Credit Society (Talka) Limited
Carboy (SA) Credit Union Limited	ELCOM Credit Union Ltd	Goulburn Murray Credit Union Co-operative Limited	Macarthur Credit Union Ltd
CDH Staff Credit Union	Electricity Credit Union Ltd	Health Services Credit Union Society Limited	Macaulay Community Credit Co-operative Limited
Central Murray Credit Union	Encompass Credit Union Limited		Macquarie Credit Union Ltd
Central West Credit Union Limited			
Circle Credit Co-operative Limited			
City Coast Credit Union Ltd			

Maitland City Council Employees' Credit Union Ltd	NRMA Employees' Credit Union Ltd	Randwick Credit Union Limited	Sutherland Shire Council Employees' Credit Union Ltd
Maleny & District Community Credit Union Limited	NSW Teachers Credit Union Limited	Reliance Credit Union Ltd	Sydney Credit Union Ltd
Manly Warringah Credit Union Ltd	Old Gold Credit Union Co-operative Limited	Resources Credit Union Limited	TAB Staff & Agents Credit Union Limited
Maritime Workers of Australia Credit Union Ltd	Orana Credit Union Ltd	RTA Staff Credit Union Limited	Tartan Credit Union Ltd
Maroondah Credit Union Ltd	Orange Credit Union Ltd	Satisfac Direct Credit Union Limited	Telstra Credit Union Ltd
Media Credit Union Queensland Ltd	Parkes District Credit Union Ltd	Savings & Loans Credit Union (SA) Limited	Breweries Union Co-Operative Credit Society Ltd
Melbourne Credit Union Ltd	Peel Valley Credit Union Ltd	Security Credit Union Ltd	The Broken Hill Community Credit Union Ltd
Melbourne University Credit Co-operative Limited	Phoenix (N S W) Credit Union Ltd	Select Credit Union Ltd	The Gympie Credit Union Ltd
Members Australia Credit Union Limited (formerly Rothville Credit Union Ltd)	Plenty Credit Co-Operative Limited	Service One Credit Union	The Illawara Credit Union
Merbersfirst Credit Union	Police & Nurses Credit Society Limited	SGE The Service Credit Union Ltd	The Manly Vale Credit Union Ltd
Metropolitan Credit Union Ltd	Police Association Credit Co-operative Limited	Shell Employees' Credit Union Limited	The Police Department Employees' Credit Union Ltd
Money Wise Credit Union Limited	Police Credit Union Limited	Shoalhaven Paper Mill Employees' Credit Union Ltd	The Summerland Credit Union Ltd
Muslim Community Credit Union	Polish Community Credit Union Ltd	Softwoods Credit Union Co-operative Limited	The TAFE and Community Credit Union Ltd
NACOS Credit Union Limited	Post-Tel Credit Union Ltd	South East Community Credit Society Ltd	The University Credit Society Ltd
New England Credit Union Ltd	Power Credit Union Ltd	South West Credit Union Co-operative Ltd	Traditional Credit Union Limited
Newcastle Bus Credit Union Ltd	Powerstate Credit Union Ltd	Southern Cross Credit Union Ltd	Transcomm Credit Co-operative Ltd
Newcastle City Council Employees' Credit Union Ltd	Prospect Credit Union Ltd	Spicer Employees Credit Union Ltd (formerly BTR Employees Credit Union Ltd)	Transport Industries Credit Union Ltd
Newcom Colliery Employees' Credit Union Ltd	Pulse Credit Union Limited	St Mary's Swan Hill Co-operative Credit Society Ltd	Uni Credit Union Ltd
North East Credit Union Co-operative Ltd	Punchbowl Credit Union Ltd	St Patrick's Mentone Co-Op Credit Society Ltd	Unicom Credit Union Ltd
North West Country Credit Union Co-operative Ltd	Qantas Staff Credit Union Limited	St Philip's Credit Co-operative Ltd	United Credit Union Ltd
Northern Districts Credit Union Ltd	Queensland Community Credit Union Limited	StateHealth Credit Union Limited	Upper Hunter Credit Union Ltd
Northern Inland Credit Union Ltd	Queensland Country Credit Union Limited	StateWest Credit Society Ltd	Victoria Teachers Credit Union Ltd
Nova Credit Union Limited	Queensland Police Credit Union Ltd	Sutherland Credit Union Ltd	Wagga Mutual Credit Union Ltd
	Queensland Teachers' Credit Union Limited		
	Queenslanders Credit Union Limited		
	RACV Employees' Credit Union Co-operative Limited		
	Railways Credit Union Limited		

Warwick Credit Union Ltd Waverley Credit Union Co-operative Ltd	WAW Credit Union Co-operative Ltd Westax Credit Society Ltd	Western City Credit Union Ltd Woolworths/Safeway Employees' Credit Co-operative Ltd	Wyong Council Credit Union Ltd Yennora Credit Union Ltd
Other institutions that have adopted the Credit Union Code of Practice			
Lifeplan Australia Building Society Limited			
Credit unions that have not adopted the Credit Union Code of Practice or another payments system code			
Broadway Credit Union Ltd Queensland Professional Credit Union Ltd			
Credit Unions that have merged/been taken over/changed names since previous report			
APESMA Professionals First Credit Union Ltd merged with Members Australia Australian Central Credit Union merged with Northern Territory Credit Union Cessnock City Council Employees' Credit Union Limited taken over by Companion Credit Union Energy Credit Union merged with Police & Nurses Credit Society Grand United Credit Union Limited merged with Grand United Credit Union Northern Rivers Credit Union Ltd merged with First Pacific Credit Union Northern Territory Credit Union Limited merged with Australian Central Credit Union Point Henry Credit Co-operative Limited merged with AWA Credit Union Snowy Mountains Credit Union Ltd merged with Service One Credit Union Sosecure Co-operative Credit Union Limited Central Murray Credit Union formerly Yarrawonga Credit Union			

Section 7

Electronic Funds Transfer Code of Conduct

Scope of the EFT Code

The Electronic Funds Transfer Code of Conduct (EFT Code) has operated since 1989. At the time this survey relates to, it covered consumer transactions intended to be initiated through use of a card and a personal identification number (PIN). This included ATM cash transactions, electronic payments (such as EFTPOS) and transactions made through terminals before a teller with the use of a card and PIN. The EFT Code regulates the rights and obligations of both card issuers and consumers (or cardholders) and establishes the liability for disputed transactions and the nature or extent of that liability. As well as articulating the rights and obligations of each party to a transaction, the EFT Code also sets out:

- requirements for handling disputes;
- the requirement to disclose certain information to customers;
- privacy and security obligations; and
- the need for an audit trail.

Card issuers must provide to all cardholders a terms and conditions of use document that outlines the rights and obligations between the parties and includes a warranty that the card issuer will comply with the Code.

As noted in Section 2 of this report, the EFT Code has just undergone a major review and expansion. From 1 April 2002 it applies to all forms of electronic funds transfers including, for the first time, internet, mobile phone and telephone banking. It also has a special section dealing with stored value facilities such as prepaid telephone cards.

Methodology

The general methodology for monitoring compliance with the EFT Code is described in Section 3 of this report. In summary, Code members must complete:

- an EFT Code checklist; and
- complaint statistics.

The statement used to monitor compliance for the 2001/2002 reporting period is identical to the 2000/2001 statement other than the fact that it is now in an electronic form. The only significant change is the removal of questions on the EFT Security Guidelines.

Monitoring results

Code membership and responses

There are 41 individual companies that have advised either the former APSC or ASIC that they had subscribed to the EFT Code at the time of the monitoring period.

The majority of individual Code members at that time were financial institutions, and they included banks, building societies, credit unions, finance companies, and charge card issuers. Two companies providing EFT services to financial institutions (First Data Resources and Cashcard) were also members of the EFT Code.

The Credit Union Services Corporation (CUSCAL) subscribes to the EFT Code on behalf of all credit unions affiliated with the Redinet network (158 credit unions). These credit unions are not separately identified as individual Code members. CUSCAL provides us with aggregated statements of compliance, implementation assessments, and dispute statistics from all affiliated credit unions.

Credit unions that are not Redinet affiliates, but have subscribed to the EFT Code are separately identified as Code subscribers.

Table 20 lists all 199 Code subscribers²².

To the best of our knowledge, all financial institutions in the period under consideration that provided retail EFT transactions (as defined by the EFT Code) complied the Code. This is pleasing as it ensures that all consumers will be governed by the same set of rules, and entitled to an appropriate minimum level of protection.

The majority of Code members during the monitoring period completed monitoring statements, except for eight CUSCAL members and four other institutions from who returns were not received for a variety of reasons. A further 10 CUSCAL affiliates that offer (albeit minimal) card services were unfortunately not issued with a Statement of EFT Code of Compliance questionnaire. This omission has now been rectified and the institutions concerned will be included in the next monitoring period statistics.

²² Note that the discrepancy between the total number of institutions that subscribe to the Banking, Building Society and Credit Union Codes of Practice, and the EFT Code of Practice, is due to the number of institutions not providing the card services that require them to subscribe to the EFT Code.

Compliance with the EFT Code

There has been a significant decrease in the reported instances of non-compliance with the EFT Code in this reporting period. Excluding CUSCAL/Redinet affiliates,²³ 2 Code subscribers reported full compliance with every clause of the EFT Code. Of the remainder, most institutions were compliant with all but one or two of the clauses.

In total there were 286²⁴ instances of non-compliance with Code provisions reported to ASIC. This compares with 316 instances of non-compliance reported in the previous year.

Of course, not all instances of non-compliance give equal cause for concern. It should also be remembered that the results cover a total of 199 individual institutions (41 individual Code subscribers, and 158 credit unions represented by CUSCAL who returned a questionnaire).

The provision that had the highest rate of non-compliance was one requiring the member to publicise the availability of the institution's terms and conditions and the provision to annually provide a self-contained statement of card and PIN security requirements. The second of these breaches, in particular, is a matter of real concern since the liability of consumers under the code is directly linked to their compliance with code PIN security requirements. ASIC will be following up with those institutions concerned where we don't already have assurances that the breaches have been rectified. ASIC will also be following up with CUSCAL our concerns about a number of other areas of non-compliance by credit unions.

Table 14 comments further on specific areas of non-compliance.

²³ As CUSCAL provided aggregated responses for its credit union affiliates, it is not possible to identify the number of individual credit unions reporting full compliance.

²⁴ This total does not include the answers for CUSCAL affiliates on questions 9.1, 9.2, and 9.3 because it was not possible to distinguish those who had answered "no" to these questions and not complied, and those who had said "no" because the question was not applicable, from the consolidated CUSCAL return.

Table 14 - Most frequent areas of non-compliance with the provisions of the EFT Code

Clause No (# 1998 Code amendments)	Clause requirement	Subscribers reporting non-compliance ²⁵	Additional comments
35	Did you receive complaints about breaches of privacy in customers' EFT transactions and accounts?	6	The measure taken prevent the re-occurrence is that the provider of statementing services uses a technology which matches barcodes on the statements and the envelopes.
3(a)	Publish the availability of the institution's terms and conditions.	30	The terms and conditions documents detail the availability. The No responses relate to the availability of further advice in notices and bulletins publicising their availability.
5	Before new EFT cards were first used, did you also provide copies of document(s) to cardholders indicating: - the nature of any restrictions imposed by you on the use of the EFT card (including withdrawal and transaction limits)?	9	Of the 9 credit unions, 3 noted they had advised members of transaction limits verbally.
2.3(iv)	Provide information describing any credit facilities that may be accessed through an electronic terminal.	11	The negative responses related to provision of other material advising of the transactions & facilities available. These are generally advised documents on products & services.
18(b)	Did you include on or with the statement or record of account activity, at least, annually, a clear, prominent and self-contained statement summarising card and PIN security requirements?	5	
4.2	Give cardholders the option to receive statements more frequently than 6 monthly.	24	2 don't offer the option but will provide on request. CUSCAL members noted that this provision is noted in their "conditions of use" disclosure document. They also advised that they do not offer statements more frequently but will do so on request.
4.3(ii)	Provide on account statements, as a separate item, any charges relating solely to the use of an EFT card and PIN.	17	Some institutions noted that the transaction fees charged are not solely related to EFT usage. They are combined with general transaction fees in excess of specified transactions.
4.4	Include on account statements: a suggestion that cardholders should check all entries and promptly notify of apparent errors or possible unauthorised transactions. An address or phone number to be used for enquiries concerning the account or to report any errors on the statement	28 3	The majority of negative responses were from Redinet affiliates. CUSCAL advised that the details are set out in conditions of use. Some credit unions promote checking via newsletter. Some do not promote checking regularly on statements of account. All statements show credit union address and phone number. The terms and conditions give hotline numbers.

²⁵ These figures include the individual credit union responses provided by CUSCAL.

Clause No (# 1998 Code amendments)	Clause requirement	Subscribers reporting non-compliance ²⁵	Additional comments
4.5#	Annually provide a self-contained statement of card and PIN security requirements.	38	
11.3	Unless complaint settled immediately, advise cardholders in writing of the procedures for investigation and resolution of complaint.	2	One indicated the members were advised verbally
11.5	Unless there are exceptional circumstances, complete complaint investigations within 45 days.	7	3 noted the non compliance was in respect of isolated cases.

For the 2001/2002 monitoring period, 2 subscribers reported not being compliant with the provision that where investigations take longer than 45 days, subscribers should provide the complainant with a date by which a decision can be reasonably expected the requirement. This figure is the same as the 2000/2001 reporting period.

From the monitoring statements received relating to compliance, six institutions reported receiving a complaint regarding privacy. One subscriber noted the pending appointment of an outsourced provider of statement processing services. A human error resulted in 2 statements being placed in the one envelope, one of them incorrectly. This resulted in a complaint to the Privacy Commissioner whom was satisfied with the explanation of the event and the steps to avoid any recurrence. The measure taken to prevent the re-occurrence is that the provider of statementing services uses a technology which matches barcodes on the statements and the envelopes.

Training methods

As in previous years, Code members were asked to report on the methods used for training staff on the requirements of the EFT Code.

Institutions reported a variety of training methods. The vast majority (186 out of 199) had a procedures manual on EFT requirements that was available to all relevant staff. Other frequently used methods included:

- on the job training, (157)
- video (143)
- external training (13)²⁶
- special handouts (87); and
- computer based training (74).

As for the payments system codes, subscribers to the EFT Code must provide information about complaints.²⁷

²⁶ This number does not include CUSCAL affiliates who use CUSCAL's training which is external to the institutions themselves, but not external to the association.

All Code subscribers' returns included the required information on complaints considered under the Code.

Code subscribers reported approximately 1,640,586,411 EFT transactions in the year to March 2002. The number of transactions reported has increased in comparison with the year to March 2001 (1,499 million). This was an increase of 8.6%.

Table 16 shows that 132,517 complaints were considered during the reporting period. This figure includes complaints held over from the previous reporting period.

Table 16 – Trend in EFT Code complaints

Year	Number of complaints (incl those held over from 00/01)	Number of transactions	Complaints per million transactions
2001/2002	132,517	1,640,586,411	81
2000/2001	121,434	1,499,786,422	81
1999/2000	106,719	1,655,373,445	64
1998/1999	73,125	1,710,904,716	42

The overall number of complaints has increased since the previous reporting period, but it must be noted that the number of transactions has increased by over 140 million. Given the increase in the number of complaints in comparison to the increase in the number of transactions, the rate of complaints per million transactions has not changed (81 complaints per million transactions).

Table 17 shows that:

- 97,046 complaints related to system malfunction;
- 23,978 complaints related to unauthorised transactions; and
- 11,493 complaints were other complaints (double debits or confusion about merchant name or processing date).

²⁷ The definition of "complaints" in the EFT Code is wider than the definition of "disputes" in the payments system codes: see explanation under "Complaints and disputes" in Section 3 of this report. Thus, the number of EFT disputes reported by institutions under the payments system codes will not necessarily be the same as the number of complaints reported under the EFT Code.

Table 17 – EFT Code complaints, 2001-2002

Complaint Type	Total complaints (incl those held over from 00/01)	Resolution			
		Issuer Liable	Customer Liable	Complaints outstanding	Unaccounted for
System Malfunction	97046	73858	16452	5006	1730
Unauthorised transaction	23978	8076	12894	1280	1728
Other (confusion over merchant name, double debits)	11493	2113	9234	128	18
TOTALS	132,517	84,047	38,580	6,414	3,476

The total number of complaints has risen by just under 9% (11,083 complaints) on the previous monitoring period (121,434 complaints). Complaints relating to system malfunction rose by 18.6%, however complaints about unauthorised transactions fell by 6.2%. The notable change is in the dramatic drop in the "Other" complaints such as confusion over merchant/processing date and double debit complaints, which decreased by 32% from the last monitoring period.

Broken down by liability, the proportion of complaints resolved in favour of either the issuer or the customer across the three complaint types has not changed appreciably since the previous monitoring period. Complaints about system malfunction were generally resolved in favour of the cardholder (76%), while those about unauthorised transactions and other complaints were generally resolved in favour of the card-issuer (57% and 78% respectively).

Table 18 displays this information in complaints per million, and compares it with the previous year's results. This shows that the incidence of complaints about system malfunctions per million transactions has increased by 10%, increasing from 53 to 59 complaints. This figure seems to be increasing over each monitoring period and is a concern to ASIC. The "Other" category of complaints, which includes those where there is confusion over merchant name/processing date and double debits, fell from 11 per million transactions in 2000/2001 to 7 per million transactions in 2001/2002. This is a pleasing result although the explanation for it is not immediately apparent.

Table 18 – EFT Code complaints (per million transactions) 2001-2002

Complaint Type	Total rec'd 01/02 (incl those held over from 00/01)	Resolution			Total 00-01
		Issuer Liable	Customer Liable	Outstanding	
System Malfunction	59	45	10	3.0	(53)
Unauthorised Transactions	14	5	8	<1	(17)
Other (confusion over merchant name etc, double debits)	7	1	6	<1	(11)

The number of complaints regarding unauthorised transactions was three points lower than for the previous monitoring period. To give a more detailed picture of these complaints, Table 19 disaggregates the complaints by institutional grouping (major bank, minor bank, building society, and credit union). We have not included information from non deposit-taking institutions in this table, as the small number of institutions in this group that process transactions distorts the information.

Table 19 shows that, the number of complaints made to building societies and credit unions about unauthorised transactions has not changed significantly. Per million transactions, building societies received the same number of complaints (10) as the previous reporting period and credit unions total complaints increased by one point. The number of complaints made to major banks has decreased from 17 to 11 complaints per million transactions, and for the minor banks it has decreased from 11 to 8 complaints per million transactions from the previous to the present reporting period. It is worth noting though, that while major banks contributed 67% of the total transactions, 77% of total complaints, were attributable to them.

It is also notable that, as in previous years, the major and minor banks and building societies are more likely to resolve a dispute about an unauthorised transaction in favour of the card issuer than the customer. In contrast, credit unions appear more likely to resolve a complaint in favour on the cardholder.

**Table 19 – Unauthorised transaction complaints by major institutional groupings
(complaints per million transactions)**

Institution	Total rec'd & considered 01/02 ¹	Resolution			Total 00-01
		Issuer liable	Customer liable	Outstanding	
Banks					
Major	11	4	7	<1	(17)
Minor	8	3	5	0	(11)
	10	2	8	0	(10)
Building Societies					
Credit Unions	12	8	4	1	(11)
Total all institutions	14	5	8	<1	(15)

Notes to table:

¹ The total received figures do not include those complaints held over from 99-00 whereas the figures for issuer liable, customer liable, and outstanding may include complaints held over from the previous monitoring period.

Table 20 provides a detailed breakdown of the reasons for cardholder or card-issuer liability in the case of unauthorised transactions reported by all Code subscribers.

There was a 10.8% reduction in the 2001/2002 monitoring period in cases where customers were held liable for at least part of the loss. In this reporting period institutions were far more likely to find that customers had been negligent with their PIN rather than that the reason for the unauthorised transaction was unclear and therefore that customers' liability was limited to \$50. There was a 60% reduction in the number of cases where the customers' liability was capped at \$50. At the same time there was a large increase in the number of cases where the cardholder was considered liable, and the liability was a result of negligence with the PIN. This equated to an increase of (20.1%). There was also an 80% decrease in the number of cases where consumers were held to be liable for ATM deposit shortfalls.

Compared with the last monitoring period, there was a 51% reduction in the number of complaints where the cardholder was found liable, and liability was imposed because the investigation was terminated. This was a pleasing result. For complaints about unauthorised transactions where the card issuer accepted liability, the major reasons for liability were:

- it was clear neither the cardholder nor issuer contributed to the loss (53%);
- the matter was settled without formal investigation (28%); and
- losses occurred before the cardholder received the card or PIN (7%)

One area of concern where the card issuers accepted liability is in the dramatic increase in the number of cases resolved in favour of the consumer where cards were forged, faulty, expired or cancelled. This figure accounted for less than one percent (33) of total complaints for the 2000/2001 monitoring period, however this figure jumped to 334 instances accounting for 4.2% of the total in this period.

Table 20 – Liability for Unauthorised Transactions, 2001-2002

Customer's Liability (for at least part of the loss)	Number of complaints	% of Customer Liabile	Total 00/01
1. Customer Liability limited to \$50 (s.5.5)	456	3.6	1167
2. Customer Negligent with PIN (s.5.6)	9745	77.1	7781
3. Unreasonable delay in notification of loss or theft of card, etc. (s.5.7)	297	2.4	605
4. a. ATM deposit shortfall	22	.2	135
b. Investigation terminated	2035	16.1	4173
c. Evidence of fraud or other offence	83	.7	319
Total of all Types of Consumer Liability	12638		14180
Issuer Liabile	Number of complaints	% of Issuer Liabile	
1. Settled without formal investigation	2230	28.3	2491
2. Breach of Code by Institution (s.11.10)	56	.7	119
3. Conduct by Employees of Institution			
a) Negligent conduct by employees of institution (s.5.2(I))	51	.6	75
b) Fraudulent conduct by employees of institution (s.5.2(I))	8	.1	2
4. Conduct by employees / agents of merchants			
a) Negligent conduct by employees / agents of merchants (s.5.2(I))	201	2.5	137
b) Fraudulent conduct by employees / agents of merchants (s.5.2(I))	98	1.2	131
5. Cards forged, faulty, expired or cancelled (s.5.2(ii))	334	4.2	33
6. Losses occurred before cardholder received card or PIN (s.5.2(iii))	551	7	556
7. Losses occurred after notification of loss or theft of card (s.5.3)	152	1.9	118
8. Losses where it is clear neither the cardholder or issuer contributed to loss (s.5.4)	4197	53.2	5990
Total of All Types of Issuer Liability	7878		9652

Table 21 – Membership of the EFT Code of Conduct

Institutions that have adopted the EFT Code	
Adelaide Bank	Herald Austral Credit Co-operative Limited
Albury Murray Credit Union	Heritage Building Society Limited
AMP Bank Limited	Home Building Society Ltd
Australia and New Zealand Banking Group Limited (incorporating Town & Country Bank)	HSBC Bank Australia Limited (formerly Hong Kong Bank)
Armidale Building Society Ltd	HSBC Building Society
Bananacoast Community Credit Union Ltd	Hume Building Society Ltd
Bank of China	Hunter United Employees' Credit Union Ltd
Bank of New Zealand	Illawarra Mutual Building Society Ltd
Bank of Queensland Limited	ING Bank (Australia) Ltd
Bank of Western Australia Ltd	Lysaght Credit Union
B&E Limited (Formerly Bass & Equitable Pty Ltd)	Maitland Mutual Building Society Limited
Berrima District Credit Union	Members Equity Pty Ltd
Bendigo Bank	National Australia Bank Limited
Broken Hill Community Credit Union Ltd	Newcastle Permanent Building Society Ltd
Cashcard Australia Limited	North East Credit Union
Citibank Limited	Pioneer Permanent Building Society Ltd
Coastline Credit Union Ltd	Police Association Credit Co-operative Limited
Coles Myer Ltd	Qantas Staff Credit Union
Commonwealth Bank of Australia	Queensland Community Credit Union
Credit Union Services Corporation (Australia) Ltd (representing 153 credit union Redinet affiliates)	Queensland Country Credit Union Ltd
Diners Club International	Queensland Police Credit Union Limited
First Data Resources (Part B only applicable)	Queensland Professional Credit Union
Ford Cooperative Credit Society	St George Bank Limited
GE Capital Finance Australia	Suncorp-Metway Ltd
Greater Building Society Ltd	The Rock Building Society Limited
	Upper Hunter Credit Union Ltd
	Warwick Credit Union Ltd
	Westpac Banking Corporation (incorporating Bank of Melbourne and Challenge Bank)
	Wide Bay Capricorn Building Society Ltd

Appendix A

Code of Banking Practice return

CODE OF BANKING PRACTICE STATEMENT OF COMPLIANCE AND DISPUTES STATISTICS

INSTITUTION: (please print name) _____
For period: April 2001 - March 2002

CONTACT OFFICER:

Name: _____
Telephone: _____
Position: _____
Address: _____
Facsimile: _____
E-mail: _____
Date: _____

From 1 July 1998, the Australian Securities and Investments Commission has been charged by the Commonwealth Government with monitoring the implementation of, and compliance with, the Code of Banking Practice ("the Code"). Explanatory Notes are attached. In completing this statement, an institution is to have regard to all the products/services it offers which are covered by the Code. A separate statement is not required to be completed for each individual product/service.

Completed returns are to be forwarded to:

Tim Buskens
Consumer Protection Directorate
Australian Securities and Investments Commission
GPO Box 4866
SYDNEY NSW 1042

by **18 May 2002**.

Part 1

For each product/service covered by the Code:²⁸

Code of Banking Practice - Relevant Section

	Does your institution have DOCUMENTS &/or INFORMATION which comply with the Code in relation to: (Yes/No/NA)		Does your institution have PROCEDURES in place to enable compliance with the Code in relation to: (Yes/No/NA)		Does your institution have TRAIN appropriate staff in the requirements of the Code in relation to: (Yes/No/NA)	
Part A - Disclosures						
Terms and conditions (s 2)	1.1		1.2		1.3	
Cost of credit (s 3)	2.1		2.2		2.3	
Fees & charges (s 4)	3.1		3.2		3.3	
Payment services (s 5)	4.1		4.2		4.3	
Operation of accounts (s 6)	5.1		5.2		5.3	

Part B - Principles of Conduct

Pre-contractual conduct (s 7)	6.1		6.2		6.3	
Opening of accounts (s 8)	7.1		7.2		7.3	
Variation to terms & conditions (s 9)	8.1		8.2		8.3	
Account combination (s 10)			9.2		9.3	
Foreign exchange services (s 11)	10.1		10.2		10.3	
Privacy & confidentiality (s 12)	11.1		11.2		11.3	
Payment instruments (s 13)	12.1		12.2		12.3	
Statements of account (s 14)	13.1		13.2		13.3	
Provision of credit (s 15)			14.2		14.3	
Joint accounts & subsidiary cards (s 16)	15.1		15.2		15.3	
Guarantees (s 17)	16.1		16.2		16.3	
Advertising (s 18)	17.1		17.2		17.3	
Closure of accounts (s 19)			18.2		18.3	

Part C - Resolution of disputes

Dispute resolution (s 20)	19.1		19.2		19.3	
---------------------------	------	--	------	--	------	--

²⁸ If for any question, a negative response is appropriate for one or more products/services, a negative overall response should be entered on this statement and details of the product(s)/service(s) which gave rise to that response attached.

Part 2

Please attach responses to the following questions:

1. Is a system of internal assessment in place within your institution which monitors compliance with each of the Code's provisions and enables you to identify areas of non-compliance? Please provide a brief description of the overall system.

2. Has this internal assessment system identified any areas of recurrent non-compliance? (If yes, please provide a brief explanation along with details of corrective action; taken, under way or planned.)

3. Could you provide a brief report on staff training, citing examples of the methods and materials used to train staff about the Code and its requirements and how these methods and materials vary according to staff function.

4. Please provide the name of the external dispute resolution scheme you use for the purpose of compliance with clause 20.4 of the Code. If you are not a member of an established dispute resolution scheme, please provide summary details of the process used for external dispute resolution.

5. Are there any concerns you wish to raise regarding the operation of the Code?

Subject to any exceptions noted above and in any attachment, I certify that this institution is complying with the Code.

Signed on behalf of

Chief Executive/Nominee²⁹.

..... Date:.....

²⁹ Nominee should be an appropriate, senior officer; please indicate position held.

CODE OF BANKING PRACTICE - STATISTICAL RETURN

Period: April 2001 - March 2002

PART A NUMBER OF DISPUTES Concerning:	MANNER OF HANDLING DISPUTES "RESOLVED" INTERNALLY					
	Outstanding from prior period	Received during period	In favour of Customer	Mutual Agreement - including goodwill decisions	In favour of Bank	Outstanding at end period
	A	B	C	D	E	F
Disclosure:-						
1 Terms & Conditions						
2 General Information						
3 Fees & Charges						
4 Cost of Credit						
5 Foreign Exchange Services						
6 Variation to Terms & Conditions						
Banking Service Delivery:-						
7 Statements						
8 Account combination/closure						
9 Account debiting/crediting						
10 Proper interest rate, fee or charge						
11 Instructions						
12 EFT (PIN-based)						
13 Other aspects - banking service delivery						
14 Advertising						
Privacy & Confidentiality:-						
15 Disclosure to Related Entities						
16 Other aspects - privacy/confidentiality						
17 Provision of Credit						
18 Guarantees						
19 Dispute Resolution Process						

PART B	
DENOMINATOR DATA	
Number of:-	
20	Personal accounts _____ At end period (March 2002)
21	Personal transactions _____ During period (April 2001 - March 2002)

Appendix B

ELECTRONIC FUNDS TRANSFER CODE OF CONDUCT MONITORING STATEMENTS

INSTITUTION: _____

For period: April 2001 - March 2002

CONTACT OFFICER:

Name: _____

Address: _____

Telephone: _____

Position: _____

Facsimile: _____

Email: _____

Date of completion: _____

From 1 July 1998, the Australian Securities and Investments Commission has been charged by the Commonwealth Government with monitoring the implementation of, and compliance with, the EFT Code of Conduct. In completing the monitoring statements, an institution is to have regard to all the products / services it offers which are covered by the Code. A separate statement is not required to be completed for each individual product/service.

The monitoring statements are in three sections:

Part A EFT Code of Conduct checklist
Part B Complaint resolution assessment

All three sections must be completed.

You should return to the Australian Securities and Investments Commission the completed monitoring statements, together with a covering letter from a senior executive of your organisation:

- . certifying that your internal auditors are satisfied that your organisation has conformed with the Code and, where it has not been able to do so, what is being done to rectify this;
- . including any commentary necessary to qualify or clarify responses.

PART A
AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
E. F. T.
CODE OF CONDUCT CHECKLIST

PART B
AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
COMPLAINT RESOLUTION ASSESSMENT

PART A

E. F. T. CODE OF CONDUCT CHECKLIST

This checklist is designed to help institutions ensure that they have complied with all aspects of the EFT Code of Conduct.

There will inevitably be questions to which, for one reason or another, unequivocal responses cannot be given. Where this is the case, please provide separate qualifications and explanations.

Note: Questions 23-32, 36 and 37 concern institutions' internal systems and procedures. When answering those questions, institutions' internal auditors should ensure:

- . that those systems and procedures have been clearly spelled out; and
- . that normal auditing procedures have not disclosed any material weakness in their implementation during the past year.

Where responses indicate the need for corrective action in order to comply with the Code, details of proposed changes, including a timetable, should be given.

Yes No

SECTION 1: INFORMATION DISCLOSURE

Terms and Conditions

1. Have you developed Terms and Conditions of Use documents that reflect the requirements of the Code?

Documents available to cardholders

2. Have you provided copies of the Terms and Conditions of Use document to cardholders:
 . with the notice of acceptance of the application for an EFT card or with the card/PIN?
 . on request?

3. Are they readily available at all your branches?

3(a) Have you publicised the availability of your Terms and Conditions of Use document?

4. Do you impose any charges for the issue or use of an EFT card and PIN (separately from activity or other charges applying to the account generally)?
 If so, before new EFT cards were first used, did you also provide copies of document(s) to cardholders indicating such charges?

5. Before new EFT cards were first used, did you also provide copies of document(s) to cardholders indicating:
 . the nature of any restrictions imposed by you on the use of the EFT card (including withdrawal and transaction limits)?
 . that merchants and other institutions may impose additional restrictions?

Yes No

6. Did these or other documents you provided to cardholders describe:
 . the types of transactions that may be made, and the accounts that may be accessed using their EFT card?
 . credit facilities which may be accessed by the cardholder through an electronic terminal?

7. Did the documents you provided to new cardholders also:
 . explain what they should do to report the loss, theft or unauthorised use of an EFT card?
 . include a telephone number for use outside normal business hours to report loss, theft or unauthorised use of an EFT card?
 . explain how cardholders can lodge complaints (including queries about entries on a periodic statement) and have these investigated?

8. Has your system for acknowledging receipt of notifications, including by telephone, of lost, stolen or unauthorised use of cards, operated throughout the whole of the year?

Changing the Terms and Conditions of Use

9. Did you give cardholders written notice of at least 30 days of any changes or modifications to your EFT Terms and Conditions which:
 . imposed or increased charges relating solely to the use of an EFT card and PIN, or to the issue of an additional or replacement card?

	. increased a cardholder's liability for losses relating to EFT transactions?	_____	_____
	. adjusted the periodic transaction limits applying to the use of an EFT card?	_____	_____
		Yes	No
9(a)	When advising cardholders of an increase in periodic transaction limits, did you, at the same time, advise them in a clear and prominent fashion, that such an increase may increase their liability in the case of unauthorised transactions?	_____	_____
10.	Did you make any changes to the Terms and Conditions of Use, other than those mentioned in Question 9, known to the cardholders in advance?	_____	_____
	. If yes, did you do so by: including a notice on, or with, periodic account statements sent to them; placing notices on EFT terminals or in branches; or placing advertisements in newspapers?	_____	_____
11.	Did you subsequently follow up any changes made known to cardholders by placing notices on terminals, or in branches, or in newspapers, with written notices on account statements?	_____	_____
12.	Were there a significant number of changes made to your Terms and Conditions in the past 12 months?	_____	_____
	If so, did you reprint your Terms and Conditions?	_____	_____
	Paper records of EFT transactions		
13.	Except in case of malfunction of the receipt issuing mechanism, are receipts issued for all EFT transactions unless customers specifically elect otherwise at the time of the transaction?	_____	_____
14.	Did transaction receipts issued by your ATMs and EFTPOS terminals show:		
	. the amount of the transaction?	_____	_____
	. the date of the transaction?	_____	_____
	. the time (if practicable) of the transaction?	_____	_____
		Yes	No
	. the type of transaction, e.g. a deposit, withdrawal, transfer? (Codes may be used only if they are explained on the receipt.)	_____	_____
	. the account(s) being debited or credited?	_____	_____
	. information that would enable you to identify the customer and the transaction?	_____	_____
	. the location of the terminal used to make the transaction, or a number or code that enables that terminal to be identified?	_____	_____
15.	In the case of EFTPOS terminal receipts, did they also show the name of the merchant to whom payment was made?	_____	_____
16.	In the case of accounts accessed at an ATM, where possible, did receipts show the balance of the accounts after the transactions?	_____	_____
17.	Did you send a statement or record of account activity to cardholders at least every six months?	_____	_____
17(a)	Did you include on or with the statement or record of account activity, at least, annually, a clear, prominent and self-contained statement summarising card and PIN security requirements?	_____	_____

18. Did you also give cardholders the option to receive statements:
- . more frequently? _____
 - . on request? _____
- Did you inform new cardholders of these options when the card was first issued? _____
19. Did customer statements show for each EFT transaction made since the previous statement:
- . the amount of the transaction? _____
 - . the date the transaction was debited or credited to the account? _____
 - . the type of transaction? _____
 - . the receipt number, or other means, which will enable the cardholder to reconcile the account entry with a transaction receipt? _____
 - . (as a separate item) any charges relating solely to the use of an EFT card and PIN? _____
20. Did these periodic statements include:
- . suggestions to cardholders that they should check all entries on the statement and promptly notify you of any apparent error or possible unauthorised transaction? _____
 - . an address or telephone number to be used for enquiries concerning the account or to report any errors in the statement? _____
21. Did you conform with the Code's requirement that there should be no restrictions on cardholders' rights to make claims or any time limits for cardholders to detect errors or unauthorised transactions and report these to you? _____

SECTION 2: COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

- | | Yes | No |
|---|-------|-------|
| 22. Have you completed the statistical return on complaints and dispute resolution in Part C? | _____ | _____ |
| 23. Did you have procedures to inform complainants about: | | |
| . what steps you will take to investigate and to resolve complaints? | _____ | _____ |
| . their responsibility to disclose all information relevant to the disputed transaction? | _____ | _____ |
| 24. In the case of complaints which were not immediately settled to the satisfaction of both you and the cardholder, were your staff required to advise cardholders in writing of the procedures for the investigation and resolution of the complaint? | _____ | _____ |
| 25. In the case of complaints of unauthorised transactions, were your staff required to obtain from complainants, where available and relevant, the information shown in the Schedule to the Code? | _____ | _____ |
| 26. Did your dispute resolution procedures require you to consider all information relevant to disputed transactions before deciding how liability should be allocated? | _____ | _____ |
| 27. Has it been the practice, except where a complaint is settled immediately it is received to the satisfaction of both you and the cardholder, that staff; | | |

- . write to cardholders within 21 days of receiving complaints to inform them **either of;** _____
 - the outcome of your organisation's investigation; or _____
 - that more time has been needed to complete investigations? _____
 - . complete all investigations within 45 days of receiving a complaint unless there were exceptional circumstances of which you advised the cardholder in writing? _____
 - . write to cardholders informing them of the reasons for your decision in terms of the relevant parts of your Terms and Conditions of Use document? _____
- 27(a) If the investigation continued beyond 45 days, did you provide the cardholder with:
- . monthly updates of its progress: and _____
 - . a date when a decision can reasonably be expected? _____
- 27(b) Were you a party to an industry dispute resolution scheme that provides that a matter may be heard by the scheme if the card issuer does not give a final decision within a specified time limit? _____
28. If, as a result of investigations, cardholders have been held liable for at least part of any amount of a transaction in dispute, did your procedures require you to write to the cardholders including:
- . copies of documents or other evidence that you have that are relevant? _____
 - . the outcome of your inspection of the system's log to establish whether there had been a system malfunction at the time of the transaction? _____
29. Given the outcome as in Question 28, did your procedures require you to write to the cardholders and inform them that, if they are not satisfied:
- . they can ask for the result to be reviewed by your senior management? _____
 - . they can take the complaint to outside bodies such as Consumer Affairs Departments, Small Claims Tribunals or the Banking Industry Ombudsman? _____
- 29a) Given the outcomes as in Question 28, did your procedures require you to write to the cardholders and inform them that, if they are not satisfied they can take the complaint to external avenues of complaint resolution, including any relevant industry resolution scheme, Consumer Affairs or Fair Trading Agencies and Small Claims Courts/ Tribunals? _____
30. If, as the result of an investigation, you concluded that you were liable, did your procedures require that you:
- . adjust the cardholder's account as soon as possible (including appropriate adjustments for interest and/or charges)? _____
 - . notify the cardholder in writing of any such adjustments? _____
31. Did you resolve complaints in the customer's favour if your staff did not comply with the Code? _____

Yes No

SECTION 3: PRIVACY

32. Did your procedures require staff to comply with the principles in relation to privacy as set out below:

- (a) customer records are to be treated in the strictest confidence? _____
- (b) no person other than an employee or agent of the financial institution which maintains the account, and the customer, or any person authorised by the customer, is to have access through any electronic terminal to information concerning the customer's account? _____
- (c) except where it is being operated by an employee or agent of the financial institution concerned, no electronic terminal is to be capable of providing any information concerning a customer's account unless the request for information is preceded by the entry of the correct card/PIN combination for that account? _____
- (d) except where it is provided pursuant to a legal duty or responsibility, no information concerning the use of EFT services by a customer is to be provided by any financial institution, except with the consent of that customer? _____

33. Did you receive complaints about breaches of privacy in customers' EFT transactions and accounts?

If yes, please give details and measures taken to avoid recurrence:

.....
.....
.....
.....

34. Are cameras used to monitor transactions? _____

If so, are signs displayed at each ATM terminal indicating that transactions may be photographed? _____

INFORMATION ON STAFF TRAINING

35. Please indicate which of the following methods are utilised by your institution in EFT staff training and have the person with overall responsibility for staff training certify the response.

Training Initiatives

	Yes	No
. Procedures Manual detailing EFT requirements available to all relevant staff.	_____	_____
. On the Job Training:		
- passive	_____	_____
- video	_____	_____
- active (e.g. team meeting)	_____	_____
- testing	_____	_____
. External Training	_____	_____
. Resource Material Check-list	_____	_____
- special handout	_____	_____
- video	_____	_____
- computer-based training	_____	_____
. Other (please specify)		

Yes

No

SECTION 5: MISCELLANEOUS

Deposits at electronic terminals

36. Did your procedures require staff, when verifying funds deposited at an electronic terminal, to notify cardholders as soon as possible of any discrepancy between the amount recorded as having been deposited and the amount recorded as having been received (at the same time stating the actual amount which has been credited to the nominated account)?

Audit trails

37. Except in cases of malfunction, did your EFT systems generate sufficient records to enable transactions to be traced, checked and, where an error occurred, to be identified and corrected?

PART B

COMPLAINT RESOLUTION ASSESSMENT

INSTITUTION:**PERIOD:** 1/4/2001 - 31/3/2002

A.	EFT Transactions									
	TOTAL NUMBER OF EFT TRANSACTIONS IN PERIOD)									
B.	Transactions Complaints Resolution Data									
	TYPE	<u>Total</u>	+	<u>Complaints held over</u>	=	<u>Issuer liable</u>	+	<u>Customer liable</u>	+	<u>Complaints outstanding</u>
1.	SYSTEM MALFUNCTION									
	(a) ATM cash dispensing problem									
	(b) Other system malfunction (i.e. system failed to complete transaction in accordance with customer's instructions)									
	TOTAL									
2.	UNAUTHORISED TRANSACTIONS									
	(a) Card or PIN lost or stolen									
	(b) Card or PIN <u>not</u> lost or stolen									
	(c) Other									
	TOTAL									
3.	OTHER									
	(a) Confusion over merchant name and/or processing date									
	(b) Double debit transactions									
	TOTAL LIABILITY COMPLAINTS		+		=		+		+	

C.	Unauthorised transactions where customer liable for at least part of loss	<u>Number</u>
	1. Customer liability limited to \$50 (s5.5)	
	2. Customer negligent with PIN (s5.6)	
	3. Unreasonable delay in notification of loss or theft of card etc. (s5.7)	
	4. Other	
	(a) ATM deposit shortfall	
	(b) Investigation terminated (at customer's request or due to loss of contact)	
	(c) Evidence of fraud or other offence	
	TOTAL (Equals the total of "Customer liable" column in B2 above)	
D.	Unauthorised transactions where issuer liable	<u>Number</u>
	1. Settled without formal investigation	
	2. Breach of Code by institution (s11.10)	
	3. (a) Negligent conduct by employees of institution (s5.2(i))	
	(b) Fraudulent conduct by employees of institution (s5.2(i))	
	4. (a) Negligent conduct by employees/agents of merchants (s5.2(i))	
	(b) Fraudulent conduct by employees/agents of merchants (s5.2(i))	
	5. Cards forged, faulty, expired or cancelled (s5.2(ii))	
	6. Losses occurred before cardholder received card or PIN (s5.2(iii))	
	7. Losses occurred after notification of loss or theft of card etc. (s5.3)	
	8. Losses where it is clear neither the cardholder nor issuer contributed to loss (s5.4)	
	TOTAL (Equals the total of "Issuer liable" column in B2 above)	

E.	Privacy	<u>Total</u>	+	<u>Complaints held over</u>	=	<u>Complaints resolved to customer's satisfaction</u>	+	<u>Complaints not resolved to customer's satisfaction</u>	+	<u>Complaints outstanding</u>
	Complaints about privacy in EFT transactions									

**DATA ON COMPLAINTS AND DISPUTE RESOLUTION
EXPLANATORY NOTE**

Complaints about EFT transactions are defined as **all** complaints about matters falling within the EFT Code of Conduct where the issue of liability arises, or may arise, and include the following:

- . ATM cash dispensing problems;
- . other technical malfunctions resulting in failure to complete the transaction in accordance with the customer's instructions;
- . unauthorised transactions, distinguishing whether the card or PIN was/was not lost or stolen; and
- . all other complaints (excluding such matters as availability of ATMs etc.).

"Complaints" as defined are therefore wider than "disputes", i.e. those complaints which are not immediately settled.

"EFT transactions" relevant to your institution are transactions initiated through your own or others' electronic terminals (or devices) using a PIN and card and which affect the account balances of your customers. Transactions will include:

- . ATM withdrawals and deposits;
- . transfers between accounts;
- . EFTPOS (or EFTPOB) payment and cash-out transactions; and
- . cardphone transactions.

Transactions do not include:

- . account enquiries;
- . statement requests;
- . PIN sessions; and
- . those using pre-paid transaction cards.