



**ASIC**

Australian Securities & Investments Commission

**REPORT 13**

# **Compliance with the Payments System Codes of Practice and the EFT Code of Conduct (April 2000 to March 2001)**

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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 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. It also contains information about implementation of the EFT security guidelines.

As a result of the recent review of the Code of Banking Practice, responsibility for monitoring that Code is likely to move to a new body once the revised code is in effect.

## 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 changes occurred after the reporting period covered in this report. They were passed by the Federal Parliament late in 2001.

In our view, the codes remain an important part 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.

Both the Code of Banking Practice and the EFT Code have recently been reviewed. Those reviews have taken account of the FSR reforms. The Credit Union Code is currently being reviewed. Changes to it and the Building Society Code of Practice are likely to be required in light of the FSR reforms.

### **Code membership**

Membership of each of the payments system codes and the EFT Code remains high. To the best of our knowledge, all relevant financial institutions have adopted, or are in the process of adopting, the Code of Banking Practice. However, we are disappointed that neither the Building Society Code nor the Credit Union Code has full industry coverage. Only one of the five building societies based in Queensland have chosen to adopt take up the Building Society Code or another code of similar standards. In addition, there are three credit unions that have chosen not to adopt the Credit Union Code or another code of similar standards.

### **Code compliance**

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 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**

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.

Most, but not all, institutions reported that they had established an internal assessment system for monitoring compliance with the code. A small number of credit unions indicated that they did not have an internal compliance system, mainly because of small membership and staff numbers. 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**

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.

Again, the training methods varied between institutions, however, 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 schemes. Other external dispute resolution arrangements are used only by a small number of credit unions.

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.

## **Implementation of the EFT Security Guidelines**

The former Australian Payments System Council released the EFT Security Guidelines in 1992. They address:

- the positioning of EFT devices where PIN entry is required;
- EFT customer education;
- management of cryptographic keys to protect transactions; and
- communications security.

Information from members of the EFT Code shows that the level of adoption and implementation of the security guidelines remains high.

## **Complaints and disputes**

Between April 2000 and March 2001, banks reported 12,668 disputes under the Code of Banking Practice. This was a marked increase on the number of disputes in the previous period (10,357). Further, the number of transactions increased only marginally. There was, therefore, a concomitant increase in the incidence of disputes per million transactions from 2.79 disputes per million transactions in 1999/2000 to 3.28 disputes per million transactions in 2000/2001.

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

As for the previous monitoring period, in the case of both the Building Society Code, and the Credit Union Code, the largest number of disputes also related to PIN based EFT transactions. For both groups of institutions, over half of the disputes recorded related to these types of transactions. Complaints per million transactions for credit unions increased from 1999/2000 to 2000/2001, however, they decreased for building societies.

The overall number of complaints under the EFT Code has significantly increased. Card issuers reported a total of 121,434 complaints in 2000/2001, compared with a total of 106,719 complaints in 1999/2000. This represents an increase from 64 complaints per million transactions in the previous monitoring period to 81 complaints per million transactions in the current reporting period.

Just under two-thirds of these EFT complaints (78,909) in 2000/2001 related to system malfunctions, and most of these were resolved in favour of the consumer.

Pleasingly, complaints about unauthorised transactions have decreased from the previous reporting period. Twenty-one per cent of EFT complaints (25,545) involved unauthorised ATM and EFTPOS transactions. However, trends varied between banks, building societies and credit unions. While major banks experienced a small decrease in the rate of complaints per million transactions in this category, credit unions and building societies all experienced medium-sized decreases, and minor banks almost halved their rate from last to the current monitoring period.

As was true for the for the last monitoring period, the majority of these complaints were resolved in favour of the card-issuer in the current monitoring period; the most common reason being cardholder negligence with their PIN.

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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 third 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 1998 to March 1999, April 1999 to March 2000 and April 2000 to March 2001. Each of these reports is available on the ASIC website ([www.asic.gov.au](http://www.asic.gov.au)). 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 2000 to March 2001 inclusive.

# Section 2

## The role of the codes and some recent reforms.

Before looking at the 2000/2001 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. A review of the Credit Union Code is underway. At the time of writing (February 2002) an announcement had yet to be made about the 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. ASIC is firmly of the view that they 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.

The contents of the codes monitored in this report remained stable during the reporting period. As noted though, the years 2000 and 2001 were significant in

terms of reviews of both the Code of Banking Practice and the EFT Code. Those reviews resulted in proposals to significantly amend both codes. The amendments would see both codes continuing to have as their primary purpose the first of the roles just identified along with an element of the third function.

Dick Viney reviewed the Banking Code of Practices during this period. His report was released in late 2001 and recommended a number of important changes to the code which are likely to be adopted. (The release of the final revised code is expected shortly after the release of this monitoring report). Important reforms recommended in the review included:

- incorporating the principle of fairness into the code;
- extending the code to cover small business;
- incorporating an improved monitoring mechanism and sanctions into the code;
- measures designed to assist those on low incomes, older people and those with a disability;
- removal of most provisions which overlapped with the FSR reforms or the Uniform Consumer Credit Code; and
- reforms dealing with such problematic areas as direct debits, guarantees, informing consumers about charge back rights and debt collection procedures.

During the same period, the EFT Code was reviewed. The revised code was released in April 2001 and will come into operation from 1 April 2002. The most important function of the revised code will continue to be spelling out rules for allocating liability in the event of a dispute about an unauthorised transaction. Without the EFT Code, the normal law of contract would govern these arrangements. These rules could be unfairly weighted against consumers, as was the case before the development of the EFT Code. The revised code has altered the old code's liability allocation rules to make it clear that the onus of proof is on account institutions.

The version of the EFT code monitored in this report only applies to ATM and EFTPOS transactions. The revised code is drafted in a technology neutral fashion and will apply to all forms of electronic banking, including internet banking and telephone banking. It also includes a specific part dealing with stored value facilities, such as prepaid telephone cards. Membership of the code will not be restricted to financial institutions.

# Section 3

## Monitoring compliance

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### 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 Code of Banking Practice 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.<sup>1</sup>

Clause 12 of the EFT Code 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.<sup>2</sup>

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

ASIC's responsibilities in this area are likely to change once the reforms recommended in the 2001 review of the Code of Banking Practice become fully operational. That review recommended that a Code Compliance Monitoring Committee (CCMC) be established within the Australian Banking Industry Ombudsman scheme. Under the recommendation, which is likely to be adopted, banks would continue to prepare their own annual compliance reports and lodge

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<sup>1</sup> 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.

<sup>2</sup> A similar provision is contained in clause 23 of the revised EFT Code.

them with the CCMC. The CCMC would be required to report annually upon compliance. Importantly, the CCMC would have the power to compare banks' annual reporting of compliance with the CCMC's own experience gained through "shadow shopping" and the incidence of complaints from customers about banks' non-compliance.).

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.

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## The monitoring process

The current reporting period for compliance with the payments system codes and the EFT Code is 1 April 2000 to 31 March 2001 ("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.<sup>3</sup>

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;
- a report on the number and nature of any disputes that arose during the reporting period; and
- for the EFT Code, an assessment of how the institution has implemented the EFT Security Guidelines.

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 2001, with completed returns to be forwarded to ASIC by 12 May.<sup>4</sup>

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<sup>3</sup> The revised EFT Code is due to come into effect from 1 April 2002. This date was selected to fit with the monitoring timetable.

## 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

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<sup>4</sup> 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.

- 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" (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.

## Implementation assessment – EFT Security Guidelines

In the case of the EFT Code, members must also report on how they have implemented the Guidelines for EFT Security ("the Security Guidelines").

The Security Guidelines were released in 1992 by the APSC. They address:

- the positioning of EFT devices where PIN entry is required;
- EFT customer education;
- management of cryptographic keys to protect transactions; and
- communications security.

Card issuers were asked to incorporate the security guidelines into their EFT procedures and control systems and to report to the APSC on their implementation and suitability. ASIC has adopted the implementation assessment document devised by the APSC for the original reporting period.

For each of the guidelines, card issuers are asked to report on whether:

- the Guideline has been adopted as policy;
- the Guideline has been incorporated in procedures and processes; and
- further action on the Guideline is proposed.

Statistics on compliance with the EFT Security Guidelines will not be collected in the next 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.

## Review of the monitoring process

As mentioned in our previous report on code compliance, we saw a need to review the monitoring process to ensure that it is effective and efficient, and does 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.

Existing members have now been notified of the questions that will be asked when the revised code is monitored. Anyone else wanting a copy of the revised monitoring questions can obtain them by contacting ASIC's Infoline on 1300 300 630. While the first monitoring of the revised code will not take place until April 2003, it is important that account institutions begin collecting the relevant data from 1 April 2002.

In addition, ASIC is presently developing electronic systems for the collection of the annual monitoring data for each of the codes. This should result in time savings for both institutions and ASIC.

ASIC has put on hold reviewing the data collected for monitoring the payments system codes until the present round of code reviews is completed.

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## Consistency of the data

The information in this report is based on the compliance and complaints data provided by institutions. However, in a small number of cases, institutions provided complaints data that was internally inconsistent.

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), however, for some institutions this was not the case. However, the inconsistencies were relatively minor and the overall trends discussed in this report still apply.

# Section 4

## The Code of Banking Practice

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### 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 applies to retail transactions in which a bank provides a "banking service"<sup>5</sup> 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.<sup>6</sup>

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 Banking Code has recently been reviewed. Some of the amendments proposed to the code are discussed in section 2 of this report. A revised code is expected to be available in the first half of 2002.<sup>7</sup>

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### 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:

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<sup>5</sup> 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).

<sup>6</sup> See s. 1.1 Code of Banking Practice.

<sup>7</sup> See <http://www.reviewbankcode.com/index.htm>.

- 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 2000/2001 reporting period was identical to that used for 1999/2000.

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## 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-six branches of foreign banks operating in Australia.<sup>8</sup> 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 has formally adopted the Code. All submitted a Banking Code monitoring statement for the 2000/2001 reporting period.

Two institutional mergers occurred during the monitoring period. The Trust Bank and Colonial State bank merged and Colonial submitted a Banking Code of Practice Compliance statement incorporating responses for both banks. There was also a merger between the Colonial State Bank and the Commonwealth Bank, however for the 2000/2001 reporting period the Commonwealth Bank has submitted separate returns for the two institutions.

Table 5 shows the membership of the Code of Banking Practice as at 31 March 2001.

### 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, which has only recently adopted the code, reported five instances of non-compliance.

The bank stated that they were looking at drafting procedures in order to be compliant with the code. Further, during the last reporting period, this institution reported not being compliant with the requirement for a system of internal assessment for monitoring compliance. They have now rectified this.

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.

Three banks reported cases of recurrent non-compliance with the Code during this reporting period: see Table 1 below. In each case, the failure was either rectified or procedures were put in place during the reporting period to rectify the non-compliance. However, it should be noted that the institution reporting deficiencies

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<sup>8</sup> See <http://www.apra.gov.au/adi/ADIList.cfm#AOBC> (downloaded 12/11/01).

in Code-regulated stationary, did so also for the 1999/2000 reporting period. The action taken at that time was to reinforce random check monthly returns. Clearly this is a continuing issue that this bank is attempting to rectify using new approaches.

**Table 1 – Recurrent non-compliance with the Banking Code**

| Instance of non-compliance   | Action taken to rectify   |
|--|---|
| During an audit in April 2000, deficiencies were identified in the availability and currency of Code-regulated stationery at a number of customer service centres.   | Matter raised at the following meeting of district managers. As a result, a self-assessment questionnaire including coverage of stationary currency and availability, and electronic record of brochures, leaflets, etc is maintained, with their latest print dates.   |
| Reviews of compliance in centres dealing with private banking services did highlight that on occasion formal records of customer feedback were insufficient or inappropriate.<br><br>Also, reviews within the centres that provided financial services to businesses highlighted deficiencies in Privacy Act provisions regarding customer consent forms.                | Action plans were instigated by management to increase staff awareness and correction of practices through training.<br><br>Plans were implemented to specifically address and subsequent enhancements to the Risk Management framework within the segment have been made.  |
| Instances were discovered in which loan documentation for a mortgage product contained interest rate information contrary to the actual rates being charged to customers.<br><br>Also, reviews within services for business and private customers also highlighted that the customer feedback/dispute process was not always being adhered to for legitimate complaints. | Interest refunds were made and system changes have been implemented to enhance control of the application of non-standard rates. The requirement for a full process review is acknowledged and is to be prioritised.<br><br>The issue has now been addressed by completion of a Bank wide strategic initiative covering end to end processes for the collection and escalation of customer complaints/disputes. |
| In relation to the provision of documents upon new account establishment.  | Non-compliance is reported in the Internal Audit Department's report and staff training is instigated to remedy.  |

## 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:

**Example**

The Bank currently has in place a formal internal reporting structure that requires issues of compliance to be reported directly to the Board via the Audit and Compliance committee. This structure is aligned to the Terms of Reference for compliance programmes which are based on the Australian Compliance Standard AS3806.

Within the current structure, the bank adopts a number of approaches to identify, analyse and report on compliance with the provisions of the code. Some of these means include:

- (a) operational procedures and compliance manuals;
- (b) incorporation of compliance into internal processes;
- (c) use of checklists (self-assessment process);
- (d) internal complaint resolution process (Customer Relations);
- (e) training of staff in relation to the code.

Group Audit is primarily concerned with, and will periodically review, the process of compliance risk management throughout the Group. This includes the means by which the business units assess themselves as to the adequacy or otherwise of compliance (in general and not code specific). However, this review cannot and should not be relied upon as a control mechanism in itself.

## 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:

- videos and on-line training packages;
- self-paced workbooks;
- regular repeat training;
- face-to-face formal training;
- mentoring systems; and
- group discussions about the implications of the Code to reinforce what has been learnt during training.

Here are some specific examples of training methods..

#### **Example A**

A combination of 'face to face' and paper based self study modules are the methods used in training staff about the code and its requirements. Human Resources Department provide staff within Private Bank, Retail Bank and our Branch Network with the Code of Banking Practice Booklet for training purposes. New lenders undergo classroom study on the Code and are required to complete and pass a government legislation self study pack.

#### **Example B**

All newly recruited branch staff attend a five day induction training programme. Whilst the training focus is generally upon the bank's procedures and personal conduct it includes references to the need to comply with the code of Banking Practice. Specific training is delivered to branch staff in relation to the Consumer Credit Code and Code of Banking Practice. Branches and head office departments all have copies of the bank's Branch Operations Manual, which includes a section on the Code. Additionally, the bank's Compliance Manual contains a section on the Code of Banking Practice learnt in formal training.

## 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.

One bank also reported that they used the Financial Industry Complaints Service (FICS) for a new managed investment product.

## General comments

Three banks commented on the Code. Two banks raised the issue of overlaps with other codes of practice. One felt this made compliance onerous and therefore meant increased cost to the consumer. The second believed that where the Code of Banking practice overlapped with the Uniform Consumer Credit Code, the latter should prevail because it is legislation and contains a complex civil and criminal penalty regime whereas the Code of Banking Practice is voluntary. This issue was addressed in the recent review of the Banking Code. This same Bank also raised an issue regarding notification of changes in interest rates and money market investment products. The return from this Bank includes a comment that these deposits can come within the Code of Banking Practice if the service is to be wholly or exclusively for private or domestic use. The Bank's concern is that these

products follow the change in interest rates in the market, and as such, interest rate change may not be known until the date on which the change takes effect. Therefore the Bank cannot comply with section 9.3 of the code, which requires they notify affected customers by advertising or in writing no later than the day on which the variation takes effect. The Bank would like to see the Code reviewed to provide an exclusion from section 9.3 for money market deposits. As this matter had previously been raised with ASIC, we addressed it in our submissions to the review of the Banking Code. The review addressed this issue.

Another bank gave a detailed description of concerns relating to the code and the new FSR and Privacy Act legislation. In the case of the former, the bank was concerned that where the code and FSR overlapped, care should be taken to ensure consistency in requirements. Again, this issue was addressed in the recent review. In respect to the latter, the bank commented that, "...there is a provision in the Act that the National Privacy Principles can be incorporated into an industry Code as a standard if the Privacy Commissioner is agreeable. It would be easier from the Bank's perspective if they were to be incorporated into the Code of Banking Practice and that this should be considered as part of the review process of the Code".

## 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 2000/2001 period, banks reported:

- 12,668 disputes resolved internally;
- 41,866,333 personal accounts open as at 31 March 2000; and

- 3,865,375,740 transactions conducted through those accounts.

This equates to 3.28 disputes per million transactions.

In the previous reporting period from 1 April 1999 to 31 March 2000 banks reported 10,357 disputes and a rate of disputes per million transactions of 2.79. Note that this differs from the figure of 2.72 published in the 1999/2000 report. A recalculation was performed subsequent to one institution reporting that they had overestimated their number of accounts and transactions.

**Table 2 – Trend in Banking Code disputes resolved internally**

| Year      | Number of disputes (incl those held over from 99/00) | Number of accounts | Number of transactions | Disputes per million transactions |
|-----------|--|--------------------|------------------------|-----------------------------------|
| 2000/2001 | 12668  | 41,866,333         | 3,865,375,740          | 3.28 <sup>9</sup>                 |
| 1999/2000 | 10,357   | 39,969,702         | 3,699,315,524          | 2.79 <sup>10</sup>                |
| 1998/1999 | 8,551  | 40,012,410         | 2,922,670,655          | 2.92                              |

The overall number of disputes reported is markedly higher than the previous reporting period. The increase in internally resolved disputes rose by 22.3% on the previous reporting period whereas the number of transactions increased by just over 4%. Therefore the rate per million transactions is considerably higher than that for the preceding monitoring period. By way of explanation, it should be noted that in 1999/2000 one institution accounted for 30% of the transactions and 34% of the disputes. During 2000/2001, however, although its share of transactions had not changed, the proportion of disputes attributable to this institution had increased to 55%. ASIC will be seeking an explanation from the institution for the increase in complaints. Without this institution, the number of disputes per million transactions for the remainder of the reporting institutions drops to 2.12. Table 3 shows that of the 12,668 disputes considered internally, the majority of disputes were resolved either in favour of the customer (40.7%) or by mutual agreement (20.8%), similar to the previous monitoring period (42.2% and 20.7% respectively). Where there does appear to be some notable change, is the proportion of disputes outstanding at the end of the period. For 1999/2000, this was 15% of disputes, whereas for 2000/2001, the figure was 24%.

The largest single cause of disputes during the 2000/2001 reporting period was EFT(PIN based) transactions (25.6%).<sup>11</sup> This is up from approximately 14.4%

<sup>9</sup> 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.

<sup>10</sup> Recalculation from 2.72 previously reported.

<sup>11</sup> 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.



during 1999/2000. Of these disputes, 39.2% were resolved in favour of the customer, while 15.2% were resolved by mutual agreement and 20.2% were resolved in favour of the bank.<sup>12</sup> In keeping with the overall trend, there was a large number of disputes in this category outstanding at the end of the period (25.3%).

Other areas in which there were large numbers of disputes were disclosure of fees and charges (14.9%) and account debiting and crediting (15.3%).

It appears that again, one institution accounted for a large number of the disputes in the most populous categories outlined above. For example, in disputes regarding account debiting and crediting, in 1999/2000, this institution account for approximately 41% (574) of these, but 71% (1381) in the current monitoring period. Similarly, with disputes relating to fees and charges, 46% (834) came from this institution in 1999/2000, but 74% in 2000/2001 (1398). However, interestingly, the proportion of disputes about EFT (PIN based) transactions attributable to this institution were comparable over the two reporting periods (1999/2000, 51% and 2000/2001, 52%).

A lower proportion of disputes (8.2%) fell into the "catch-all" category of "Other aspects of service delivery" this year compared with last year (14.5%). 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 dispute 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.

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<sup>12</sup> This category does not include disputes relating to the existence, application or the level of fees and charges.

**Table 3 – Banking Code Disputes resolved internally, 2000-2001**

Personal Accounts open as at 31 March, 2001: 41,866,333

Transactions Conducted During the Reporting Period: 3,865,375,740

| Dispute Category                             | Total Disputes<br>(incl those held<br>over from 99/00) | Resolution           |                     |                  |                         |
|--|--|----------------------|---------------------|------------------|-------------------------|
|  |  | Customer's<br>Favour | Mutual<br>Agreement | Bank's<br>Favour | Disputes<br>Outstanding |
| <b>Disclosure</b>                            |  |                      |                     |                  |                         |
| Terms & Conditions                           | 242  | 87                   | 38                  | 31               | 87                      |
| General Information                          | 313  | 114                  | 50                  | 30               | 119                     |
| Fees & Charges                               | 1893   | 757                  | 293                 | 185              | 662                     |
| Cost of Credit                               | 141  | 52                   | 19                  | 10               | 57                      |
| Foreign Currency Transactions                | 139  | 72                   | 27                  | 15               | 26                      |
| <i>Total Disclosure</i>                      | 2728   | 1082                 | 427                 | 271              | 951                     |
| <b>Variations to Terms &amp; Conditions</b>  | 97   | 24                   | 18                  | 18               | 41                      |
| <b>Banking Service Delivery</b>              |  |                      |                     |                  |                         |
| Statements                                   | 196  | 107                  | 31                  | 26               | 29                      |
| Account Combination/Closure                  | 158  | 70                   | 40                  | 25               | 21                      |
| Account Debiting/Crediting                   | 1938   | 966                  | 326                 | 224              | 431                     |
| Proper Interest Rate, Fee, Charge            | 1086   | 227                  | 649                 | 147              | 63                      |
| Instructions                                 | 1045   | 578                  | 157                 | 93               | 220                     |
| EFT (PIN based)                              | 3240   | 1272                 | 494                 | 656              | 821                     |
| Other Service Delivery                       | 1039   | 414                  | 357                 | 202              | 70                      |
| <i>Total Banking Service</i>                 | 8692   | 3631                 | 2049                | 1372             | 1654                    |
| <b>Advertising</b>                           | 32   | 13                   | 3                   | 7                | 9                       |
| <b>Privacy &amp; Confidentiality</b>         |  |                      |                     |                  |                         |
| Disclosure to Related Entities               | 22   | 6                    | 10                  | 4                | 2                       |
| Other Aspects of Privacy/<br>Confidentiality | 344  | 137                  | 60                  | 42               | 105                     |
| <i>Total Privacy &amp; Confidentiality</i>   | 366  | 143                  | 70                  | 46               | 107                     |
| <b>Provision of Credit</b>                   | 715  | 258                  | 49                  | 11               | 289                     |
| <b>Guarantees</b>                            | 14   | 1                    | 5                   | 5                | 3                       |
| <b>Dispute Resolution Process</b>            | 14   | 6                    | 5                   | 1                | 2                       |
| <b>Total of All Disputes</b>                 | 12668  | 5161                 | 2631                | 1828             | 3057                    |

Notes to table:

Note that where total number of disputes does not reconcile with the breakdown of resolution, this is due to discrepancies in the data provided by the institutions.

## 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 2000/2001 reporting period, the ABIO reported 3352 disputes about alleged Code breaches (including disputes that had been carried over from the previous reporting period). Just under a quarter of these disputes have been carried over from the preceding reporting period.

As reported in 1999/2000, the total number of disputes reported by the ABIO in the current reporting period has increased from the previous reporting period (up 25%). However, unlike the previous reporting period, the number of relevant transactions did not keep pace with the number of disputes, and the rate per million transactions rose from .70 to .87.

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 (924, 27.6%). This was almost identical to the figure reported for the 1999/2000 period (27.4%).

As was the case with the banks' internal dispute resolution processes discussed above, PIN-based EFT transactions (16.3%), account crediting and debiting (12.3%) and the catchall category "Other aspects of service delivery" (19.8%) accounted for a significant proportion of disputes referred to the ABIO. Unlike internally resolved disputes however, failure to act in accordance with the customers' instructions attracted the majority of externally resolved disputes (27.6%), and fees and charges were disputed in only 3.4% of externally resolved cases. This pattern of matters of disputes reflects that of the previous reporting period.

The ABIO resolved 23.6% of the disputes reported which translated to 29.8% of matters closed for the period. Just over 13% were resolved in favour of the customer and 18.1% were resolved in favour of the bank.<sup>13</sup>

Over half of all disputes referred to the ABIO (55.6%) 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.

In the last report, we speculated on whether the Banking Ombudsman's observation that banks' internal dispute mechanisms appear to be working with greater efficiency would be reflected in the coming year's (that is, 2000/2001) figures. Unfortunately, it appears that this is not the case as although the number

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<sup>13</sup> It is not possible to compare these figures with the previous reporting period because during 1999/2001 the manner of resolution was recorded for complex matters only (n=37).

of disputes resolved internally has increased, the rate of referral per million transactions to the ABIO has also increased.

**Table 4 – Banking Code Disputes resolved externally, 2000-2001**

Personal Accounts open as at 31 March, 2001: 41,866,333

Transactions Conducted During the Reporting Period: 3,865,375,740

| Dispute Category                            | Total Disputes | Resolution  |                               |                                 |                           |                       |                                     |                      |
|---|----------------|---|-------------------------------|---------------------------------|---------------------------|-----------------------|-------------------------------------|----------------------|
|   |                | Disputes referred back to bank for resolution <sup>14</sup> | Resolved in Customer's Favour | Dispute benefiting both parties | Resolved in Bank's Favour | Discontinued disputes | Disputes outside terms of reference | Disputes Outstanding |
| <b>Disclosure</b>                           |                |   |                               |                                 |                           |                       |                                     |                      |
| Terms & Conditions                          | 65             | 32  | 0                             | 7                               | 1                         | 8                     | 3                                   | 14                   |
| General Information                         | 79             | 30  | 2                             | 3                               | 3                         | 9                     | 7                                   | 25                   |
| Fees & Charges                              | 117            | 73  | 1                             | 2                               | 1                         | 14                    | 7                                   | 21                   |
| Cost of Credit                              | 15             | 10  | 0                             | 1                               | 1                         | 0                     | 1                                   | 2                    |
| Foreign Currency Transactions               | 5              | 2   | 0                             | 0                               | 0                         | 0                     | 2                                   | 1                    |
| <i>Total Disclosure</i>                     | 281            | 147   | 3                             | 13                              | 5                         | 31                    | 20                                  | 63                   |
| <b>Variations to Terms &amp; Conditions</b> |                |   |                               |                                 |                           |                       |                                     |                      |
| <b>Banking Service Delivery</b>             |                |   |                               |                                 |                           |                       |                                     |                      |
| Statements                                  | 40             | 20  | 0                             | 1                               | 0                         | 7                     | 2                                   | 11                   |
| Account Combination/Closure                 | 57             | 25  | 1                             | 0                               | 4                         | 6                     | 1                                   | 22                   |
| Account Debiting/Crediting                  | 409            | 249   | 8                             | 9                               | 14                        | 34                    | 12                                  | 92                   |
| Proper Interest Rate, Fee, Charge           | 198            | 123   | 4                             | 3                               | 6                         | 17                    | 12                                  | 41                   |
| Instructions                                | 924            | 516   | 30                            | 27                              | 31                        | 74                    | 41                                  | 214                  |
| EFT (PIN based)                             | 546            | 317   | 30                            | 26                              | 49                        | 38                    | 4                                   | 99                   |
| Other Service Delivery                      | 646            | 366   | 15                            | 21                              | 27                        | 64                    | 34                                  | 135                  |
| <i>Total Banking Service</i>                | 2820           | 1616  | 88                            | 87                              | 131                       | 240                   | 106                                 | 614                  |
| <b>Advertising</b>                          |                |   |                               |                                 |                           |                       |                                     |                      |
| <b>Privacy &amp; Confidentiality</b>        |                |   |                               |                                 |                           |                       |                                     |                      |
| Disclosure to Related Entities              | 10             | 3   | 0                             | 2                               | 0                         | 0                     | 2                                   | 3                    |
| Other Aspects of Privacy/Confidentiality    | 47             | 20  | 4                             | 4                               | 1                         | 2                     | 1                                   | 15                   |
| <i>Total Privacy &amp; Confidentiality</i>  | 57             | 23  | 4                             | 6                               | 1                         | 2                     | 3                                   | 18                   |
| <b>Provision of Credit</b>                  |                |   |                               |                                 |                           |                       |                                     |                      |
| <b>Guarantees</b>                           |                |   |                               |                                 |                           |                       |                                     |                      |
| Guarantees                                  | 24             | 6   | 3                             | 1                               | 1                         | 1                     | 3                                   | 9                    |
| <b>Dispute Resolution Process</b>           |                |   |                               |                                 |                           |                       |                                     |                      |
| Dispute Resolution Process                  | 6              | 4   | 0                             | 0                               | 0                         | 0                     | 1                                   | 1                    |
| <b>Total of All Disputes</b>                | <b>3352</b>    | <b>1863</b>   | <b>104</b>                    | <b>117</b>                      | <b>144</b>                | <b>286</b>            | <b>142</b>                          | <b>760</b>           |

<sup>14</sup> 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**

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

# Section 5

## The Building Society Code of Practice

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### 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"<sup>15</sup> 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 2002.

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### 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.

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<sup>15</sup> 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 2000/2001 reporting period was identical to the 1999/2000 statement.

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## Monitoring results

### Code membership and responses

There are sixteen building societies operating in Australia,<sup>16</sup> and ten of these have adopted and implemented the Building Society Code.

The Territory Mutual Building Society was previously a member of the Code, but ceased operations from July 2000.

Of the remaining building societies:

Maitland Mutual Building Society has advised us that it has formally adopted the Building Society Code and will be submitting its first Statement of Compliance in 2002. Wide Bay Capricorn Building Society has also indicated that it intends to formally adopt the Code on the 1<sup>st</sup> of April 2002, and is working towards bringing its procedures and practices in line with the code.

However, four building societies in Queensland have still not adopted the Building Society Code, nor have they adopted another code of similar scope.<sup>17</sup> These are the Heritage Building Society, Mackay Permanent Building Society, Pioneer Permanent Building Society and The Rock Building Society. It is disappointing that some building societies in Queensland continue to choose not to adopt the Building Society Code. As has been noted in previous monitoring reports, the absence of a code or other formal standards makes it difficult for consumers to assert their rights in the case of a dispute. In addition, the absence of a code means that there is no guidance on standards for any dispute resolution arrangements. We understand the four remaining non-member building societies are members of the Australian Finance Conference, and therefore participate in the Finance Industry Customer Service dispute handling arrangement established by the AFC. However, this is not a formal dispute resolution scheme, and would not meet the standards required for an ASIC approved dispute resolution scheme.

This situation will, however, soon have to change since, as part of the FSR reforms, all building societies will need to belong to external dispute resolution scheme that has been approved by ASIC by 11 March 2004 if they are an existing Building Society or immediately they commence operations if they come into being after the 11<sup>th</sup> of March 2002.

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 at least soon receive the benefits of the FSR

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<sup>16</sup> See <http://www.apra.gov.au/adi/ADIList.cfm> (accessed 12/12/01).

<sup>17</sup> They are, however, all members of the EFT Code.

amendments to the Corporations Act 2002. These will provide them with a number of important protections 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.

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.

None of the building societies reported instances of one-off non-compliance or recurrent non-compliance with the Code during the reporting period April 2000 to March 2001.

## 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**

A complete audit of all documentation, processes, training etc was undertaken prior to the adoption of the code, and any required changes were implemented at that time. Additionally, all subsequent changes to any documents or procedures that occur are assessed with regard to the code prior to the change. Ongoing staff training and monitoring of systems/procedures also occurs.



## 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**

All new staff that are employed do training that is self paced. They receive a copy of the Training Manual Building Society Code of Practice with a questionnaire consisting of 10 questions. Head office staff are required to answer questions 1 to 7 and Branch staff need to complete all 10 questions. They are required to return the questionnaire within 2 weeks, which is then scored and retained on the Personnel File. If the questionnaire scores less than 75%, the staff are advised of the questions that need to be reviewed

## 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.

As noted above, all building societies will soon be required to be members of an ASIC approved external dispute resolution scheme.

## General comments

Building societies were asked whether they wished to raise any concerns about the operation of the Building Society Code. However, no comments or concerns 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:

- 80 disputes resolved internally;
- 1,277,273 personal accounts open as at 31 March 2001; and
- 67,218,374 transactions conducted through those accounts.

Although the number of personal accounts increased by nearly 80,000, the number of transactions dropped by over 4.5 million from 1999/2000 to 2000/2001. Encouragingly, the rate of disputes per million transactions for 2000/2001 (1.2) was almost half that in the 1999/2000 monitoring period (2.3). However, the small overall number of disputes makes it difficult to draw any conclusions about the decrease.

**Table 6 – Trend in Building Society Code disputes resolved internally**

| Year      | Number of disputes (incl those held over from 99/00) | Number of accounts | Number of transactions | Disputes per million transactions |
|-----------|--|--------------------|------------------------|-----------------------------------|
| 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 80 disputes considered internally, nearly half (47%) were resolved in the customer's favour, almost double than during the previous monitoring period (26%). A further 40% were resolved in the Building Society's favour. However, care should be taken in interpreting these changes, as a

reasonable degree of variation between categories would be expected given the small number of disputes overall for each period.

As with the previous reporting period, the most common area for dispute was PIN-based EFT transactions. However, the proportion of disputes relating to this area increased from 20.8% in 1999/2000 to 54% for 2000/2001. The majority of these were resolved in favour of the customer, (62.7%).

The catch-all category of "other aspects of service delivery dropped dramatically from 32.1% of internally resolved disputes in 1999/2000 to 7.5% for the current reporting period. None of the other categories had more than ten disputes during 2000/2001. Again, however, the volatility observed in these figures may be, at least in part, attributable to the small number of disputes occurring among the Building Societies.

### **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 16 disputes resolved externally. Just under half (7) of these were for EFT (PIN-based) transactions, and four (of the 7) were resolved in the Building Society's favour.

**Table 7 – Building Society Code Disputes resolved internally, 2000-2001**

Personal Accounts open as at 31 March, 2001: 1,277,273

Transactions Conducted During the Reporting Period: 67,218,374

| Dispute Category                            | Total Disputes Received (incl those held over from 99/00) | Resolution        |                  |                           |                      |
|---|---|-------------------|------------------|---------------------------|----------------------|
|   |   | Customer's Favour | Mutual Agreement | Building Society's Favour | Disputes Outstanding |
| <b>Disclosure</b>                           |   |                   |                  |                           |                      |
| Terms & Conditions                          | 0   | 0                 | 0                | 0                         | 0                    |
| General Information                         | 5   | 1                 | 1                | 3                         | 0                    |
| Fees & Charges                              | 5   | 0                 | 0                | 5                         | 0                    |
| Cost of Credit                              | 0   | 0                 | 0                | 0                         | 0                    |
| <i>Total Disclosure</i>                     | 10  | 1                 | 1                | 8                         | 0                    |
| <b>Variations to Terms &amp; Conditions</b> | 0   | 0                 | 0                | 0                         | 0                    |
| <b>Banking Service Delivery</b>             |   |                   |                  |                           |                      |
| Statements                                  | 1   | 0                 | 0                | 1                         | 0                    |
| Account Combination/Closure                 | 0   | 0                 | 0                | 0                         | 0                    |
| Account Debiting/Crediting                  | 9   | 3                 | 1                | 5                         | 0                    |
| Proper Interest Rate, Fee, Charge           | 8   | 4                 | 0                | 4                         | 0                    |
| Instructions                                | 1   | 0                 | 0                | 1                         | 0                    |
| EFT (PIN based)                             | 43  | 27                | 6                | 9                         | 1                    |
| Other Service Delivery                      | 6   | 3                 | 1                | 2                         | 0                    |
| <i>Total Banking Service</i>                | 68  | 37                | 8                | 22                        | 1                    |
| <b>Advertising</b>                          | 0   | 0                 | 0                | 0                         | 0                    |
| <b>Privacy &amp; Confidentiality</b>        |   |                   |                  |                           |                      |
| Disclosure to Related Entities              | 1   | 0                 | 0                | 1                         | 0                    |
| Other Aspects of Privacy/Confidentiality    | 0   | 0                 | 0                | 0                         | 0                    |
| <i>Total Privacy &amp; Confidentiality</i>  | 1   | 0                 | 0                | 1                         | 0                    |
| <b>Provision of Credit</b>                  | 1   | 0                 | 0                | 1                         | 0                    |
| <b>Guarantees</b>                           | 0   | 0                 | 0                | 0                         | 0                    |
| <b>Dispute Resolution Process</b>           | 0   | 0                 | 0                | 0                         | 0                    |
| <b>Total of All Disputes</b>                | <b>80</b>   | <b>38</b>         | <b>9</b>         | <b>32</b>                 | <b>1</b>             |

**Table 8 – Membership of the Building Society Code of Practice**

| <b>Building Societies that have adopted the Building Society Code of Practice</b>   | <b>Building Societies intending to adopt the Building Society Code of Practice</b> | <b>Building Societies that report under another payments system code</b>    | <b>Building Societies that have not adopted a payments system code</b>  |
|---|--|---|---|
| Armidale Building Society Limited<br><br>Australian Unity Building Society Limited<br><br>Bass & Equitable Building Society Limited<br><br>GIO Building Society Limited<br><br>Greater Building Society Limited<br><br>Home Building Society Limited<br><br>Hume Building Society Limited<br><br>Illawarra Mutual Building Society Limited<br><br>Newcastle Permanent Building Society Limited<br><br>NRMA Building Society Limited<br><br>Maitland Mutual Building Society Limited | Wide Bay Capricorn Building Society Limited  | Lifeplan Australia Building Society Limited (Credit Union Code of Practice) | Heritage Building Society Limited<br><br>Mackay Permanent Building Society Limited<br><br>Pioneer Permanent Building Society Limited<br><br>The Rock Building Society Limited |

# Section 6

## The Credit Union Code of Practice

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### 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 services<sup>18</sup> 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.

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### 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:

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<sup>18</sup> 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).

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

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## Monitoring results

### Code membership and responses

Based on responses to last year's returns, we wrote to the 214 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 2001, there were 208 members of the Credit Union Code. The Muslim Community Credit union was the most recent to join the code, and submitted their first compliance monitoring statement.

This includes one building society, Lifeplan Australia Building Society, which has amalgamated with a credit union and reports under the Credit Union Code.

To our knowledge, there are only three credit unions that have not adopted the Credit Union Code. They are the Bardon Parish Credit Union, Broadway Credit Union, and Queensland Professional Credit Union. ASIC is very pleased with the high level of adoption of the Credit Union Code. Bardon Parish Credit did inform us that it is unlikely that they will become a subscriber to the code as they expect to be merging with a larger credit union (subject to members and regulatory approval) in the first half of 2002.

However, we remain disappointed that a small number of 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 at least soon receive the benefits of the FSR amendments to the Corporations Act 2002. These will provide them with a number of important protections in terms of disclosure and dispute resolution.

At the time of preparing this report, all but eight current Code subscribers had returned monitoring statements. Those not providing a statement were:

- Albury-Murray Credit Union
- Horizon Credit Union
- Hoverla-Ukranian Credit Co-operative
- Melbourne University Credit Co-operative
- Money Wise Credit Union
- Newcastle City Council Employees Credit Union

- Newcom Collieries Credit Union
- Resources Credit Union

After the initial letter sent to all Code members, each of these credit unions was recontacted at least twice to remind them to complete and return a monitoring statement<sup>19</sup>.

## Compliance with the Credit Union Code

The vast majority of credit unions (96%) reported full compliance with all provisions of the Code (excluding any provisions not applicable).

Eight credit unions reported between them a total of 47 instances of non-compliance with the Credit Union Code during the reporting period. Of these instances:

- 10 instances involved a failure to provide documents and/or information complying with a provision of the Code;
- 18 instances involved a failure to have procedures in place to enable compliance with a provision of the Code; and
- 19 instances involved failure to train appropriate staff in a provision of the Code.

However, for any one clause of the Code, there were no more than three credit unions that reported a negative response.

One credit union reported 38 instances of non-compliance, and noted that these problems are essentially the same as those noted in the previous year's return. Their explanation for reporting such a high rate of non-compliance was that:

- Terms and Conditions for a number of products need to be updated since their change of computer systems in 1999
- As a precautionary measure they have declared themselves to be non-compliant in a number areas because loss of staff have left them with some doubts about documentation and procedures

This credit union also advised that they had no internal system of compliance in place. However, they have indicated that they are undertaking the following in order to rectify these issues.

- All product terms and conditions are under review and they expect to be compliant by July 31<sup>st</sup> 2001
- Will be conducting training and establishing internal procedures in order to become compliant

ASIC is following up with them to ensure that these changes have been put in place. Only two other credit unions reported more than one instance of non-compliance (two instances each).

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<sup>19</sup> There was no telephone, facsimile or email contact details for Newcom Collieries Credit Union, including from a search on the on-line white and yellow pages. This credit union also did not submit a statement for the 1999/2000 period.



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.

Ten 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  |
|---|---|
| The Credit Union's offset account and interest free credit limit were not specifically mentioned in the 'Savings and Term deposit - specific terms & conditions' brochure.  | This was brought to the Marketing department's attention, and corrective action has since been taken.   |
| Statements  | Disclosure on statements to be introduced.  |
| Terms and conditions  | Reviews and liaison with solicitors has us re-doing all terms and conditions and opening procedures to comply with our changes under Corporation Law. |
| Loan auditing uncovers occasional breaches of internal policies   | Corrective action includes following up and additional training (if considered necessary) for the officer concerned.                                  |
| Because of the rapid turnover of staff in the early part of 2001 it was discovered that some members had not received all required disclosure documents (mostly fees & charges) on each occasion they applied for a new services. | This was rectified through training.  |
| When an existing member purchases an additional product not all "code of practice" paraphernalia is given [as] members will state "I've already got that information".  | Currently reviewing our account opening procedures in light of the National Privacy Principles  |
| If there has been a change then for some reason an old brochure is given out for a short time. This is then realised when the monthly check is completed. In the past 12 months there has been two incidences.                    | Extra care is now taken when forms etc are changed and old stock is destroyed   |

A number of credit unions stated that although they had no recurrent areas of non-compliance during the 2000/2001 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.

Eight credit unions had no system or procedures or did not respond to this question (<5% of the group). ASIC will be writing to these credit unions to express our concern about the lack of compliance assessment and stressing the importance that we place on this. In future years we will consider naming organisations that have no means of assessing compliance. The Muslim Community Credit Union only became fully operational in December 2000 so reported that their internal audit function was not established at this time. However, since the end of the monitoring period, this credit union has instituted both an internal means of assessment and an external audit facility for monitoring compliance.

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**

A number of areas check compliance with both the application and documentation. These include:

- Audit (both internal and external)
- Regular reviews of documentation.
- Secret shopper activity to check on application.
- Reviews based on complaints

## 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

Currently credit unions use five schemes or arrangements to meet their obligations under section 20.4 of the Credit Union Code. These are:

- Credit Union Dispute Resolution Centre (CUSCAL);
- Credit Union Ombudsman (National Credit Union Association);
- Endispute;
- Dispute Resolution Scheme (managed by a CUSCAL representative in Tasmania)<sup>20</sup>; and
- Alternative Dispute Resolution Service, Queensland Department of Justice.

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 ADR schemes**

| ADR scheme / process                   | Number of credit union members |
|--|--------------------------------|
| Credit Union Dispute Resolution Centre | 163                            |
| Credit Union Ombudsman                 | 22                             |
| Endispute                              | 6                              |
| Both CUDRC and CUO                     | 2                              |
| Other                                  | 5                              |
| None                                   | 1                              |
| No response                            | 1                              |
| <b>Total</b>                           | <b>200</b>                     |

Five credit unions did not identify which ADR scheme they used. However, we examined the list of memberships for the different schemes, and were able to fill in the gaps.

Five Code members have not joined one of the schemes:

- Westax have developed their own external dispute resolution scheme which has been endorsed by the External Disputes Committee of the RBA;
- Latvian-Australian Credit Co-operative Society advised that it has appointed a well known and respected person from the relevant ethnic community to look at disputes that cannot be resolved internally;
- Manly Vale Credit Union and Westax Credit Society advised that they have established their own schemes or processes for external dispute resolution;

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<sup>20</sup> This dispute resolution scheme is no longer operational

- As they reported in their previous monitoring statement, the Lithuanian Co-operative Credit Society Talka advised that it was developing its own process, and
- Although it is a member of the Credit Union Code, Lifeplan Australia Building Society, as a building society, is not eligible for membership of the CUDRC. It advised that it refers unresolved disputes to the Australian Commercial Disputes Centre.

There were no credit unions reporting that they were members of either the Tasmanian Dispute Resolution Scheme (see footnote 20 above), or the Alternative Dispute Resolution Service of the QLD Department of Justice.

Even with this reduction in the number of schemes used, we remain concerned about the proliferation of, and variation between, the external dispute resolution processes used by credit unions. As noted, the financial services reforms incorporated in the Corporations Act 2001 will require all licensed credit union to belong to an external dispute resolution scheme that is approved by ASIC. Under the FSR Act, all licensed credit unions that deal with retail clients must belong to an external dispute resolution (EDR) scheme that is approved by ASIC. They must also have internal dispute resolution (IDR) procedures that meet the requirements we set down in our policy. The general criteria for approval of EDR schemes are set out in ASIC Policy Statement 139.

There is further information about EDR and IDR under the FSR Act in ASIC Policy Statement 165. We are currently assessing applications from two credit union EDR schemes for approval under PS 139 for the purposes of the FSR Act. Generally speaking, the ASIC criteria for approval of EDR schemes are more rigorous than the dispute resolution requirements set out in the Code. Because the existence of multiple EDR schemes operating within a particular sector raises concerns about consistency of decision-making and scheme coverage, we are considering these applications concurrently with the participation of relevant credit union and consumer representatives.

### **General comments**

Only five credit unions commented on the operation of the Credit Union Code. The main concern raised was the high cost of compliance with the Code, including the cost of changing documentation. This was highlighted by two credit unions in the context of such small operations.

Another commented that they understand that the code is in place to protect consumers, but felt that the detail to which this is done is excessive. Finally, staff of one institution felt that the credit union should not be responsible for members lack of PIN protection and access.

## **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 each of the various external alternative dispute resolution (ADR) schemes and processes to provide information about disputes referred to them. We received a response from each of those schemes and processes. We also received information about the disputes referred to the four external dispute processes that were established by individual credit unions for use by the establishing credit union only.

### **Disputes resolved internally**

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

- 1,761 disputes<sup>21</sup>;
- 5,972,783 personal accounts open at 31 March 2001; and
- 46,560,430 transactions conducted during the year.

This equates to 3.8 disputes per million transactions, up from 3.1 per million last year.<sup>22</sup>

Table 11 shows the types of disputes credit unions recorded during the reporting period. The major area of dispute was EFT (PIN based) transactions (67.7%) and the majority of these disputes (68%) were resolved in favour of the customer.

Other significant areas of dispute were:

- account debiting/crediting (9%).
- disclosure of fees and charges (4.5%); and

Note that the proportion of disputes relating to disputes over disclosure of fees and charges has almost doubled from the previous reporting period (from 4.7% to 9%).

The catchall category – other aspects of service delivery – accounted for 6.2% of disputes.

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<sup>21</sup> This figure may include some complaints that were resolved internally as well as internally resolved disputes.

<sup>22</sup> The figures for total number of accounts and total number of transactions should be regarded as an estimate only. Eleven credit unions that provided a monitoring statement did not respond to one or both of these questions.

**Table 11 – Credit Union Code Disputes resolved internally, 2000-2001**

Personal Accounts open at 31 March, 2001: 5,972,783  
 Transactions Conducted During the Year: 467,560,430

| Dispute Category                            | Total Disputes (incl those held over from 99/00) | Resolution        |                  |                       | Disputes Outstanding |
|---|--|-------------------|------------------|-----------------------|----------------------|
|   |  | Customer's Favour | Mutual Agreement | Credit Union's Favour |                      |
| <b><u>Disclosure</u></b>                    |  |                   |                  |                       |                      |
| Terms & Conditions                          | 18   | 7                 | 6                | 5                     | 0                    |
| General Info                                | 16   | 9                 | 4                | 2                     | 1                    |
| Fees & Charges                              | 80   | 30                | 27               | 22                    | 1                    |
| Cost of Credit                              | 7  | 0                 | 4                | 3                     | 0                    |
| Foreign Currency Transactions               | 10   | 2                 | 3                | 2                     | 3                    |
| <i>Total Disclosure</i>                     | 131  | 48                | 44               | 34                    | 5                    |
| <b>Variations to Terms &amp; Conditions</b> | 1  | 1                 | 0                | 0                     | 0                    |
| <b><u>Banking Service Delivery</u></b>      |  |                   |                  |                       |                      |
| Statements                                  | 23   | 6                 | 9                | 3                     | 0                    |
| Account Combination                         | 9  | 5                 | 1                | 3                     | 0                    |
| Account Debiting/Crediting                  | 160  | 77                | 34               | 39                    | 14                   |
| Proper Interest Rate, Fee, Charge           | 44   | 19                | 10               | 13                    | 3                    |
| Instructions                                | 27   | 17                | 6                | 4                     | 0                    |
| EFT (PIN based)                             | 1193   | 815               | 80               | 235                   | 70                   |
| Other Service Delivery                      | 109  | 29                | 49               | 26                    | 10                   |
| <i>Total Banking Service</i>                | 1565   | 968               | 189              | 323                   | 97                   |
| <b>Advertising</b>                          | 3  | 1                 | 2                | 0                     | 0                    |
| <b><u>Privacy &amp; Confidentiality</u></b> |  |                   |                  |                       |                      |
| Disclosure to Related Entities              | 7  | 2                 | 2                | 2                     | 1                    |
| Other Aspects of Privacy/Confidentiality    | 9  | 2                 | 5                | 1                     | 1                    |
| <i>Total Privacy &amp; Confidentiality</i>  | 16   | 4                 | 7                | 3                     | 2                    |
| <b>Provision of Credit</b>                  | 28   | 5                 | 9                | 11                    | 3                    |
| <b>Guarantees</b>                           | 1  | 0                 | 1                | 0                     | 0                    |
| <b>Dispute Resolution Process</b>           | 16   | 3                 | 7                | 5                     | 1                    |
| <b>Total of All Disputes</b>                | 1761   | 1030              | 259              | 376                   | 108                  |

Notes to table:

Note that where total number of disputes does not reconcile with the breakdown of resolution, this is due to discrepancies in the data provided by the institutions.

## Disputes resolved externally

Table 12 shows the number and type of disputes considered by each of the external ADR processes in Table 10. It also includes the external dispute statistics reported by the four credit unions that have established their own external process.<sup>23</sup>

The total number of disputes considered by these schemes during the reporting period was 135. This is close to the number of disputes reported for the 1999/2000 reporting period (115).

As with those complaints resolved internally, most disputes involved EFT (PIN based) services (40.7%). The figure for the current reporting period is approximately 10 percent higher than for the previous period. Other common areas of dispute were:

- other service delivery (including incorrect cash given, bank error, loss of documents, failure to reply to correspondence, etc) (16.3%).
- account crediting/debiting (10.4%);

It is difficult to make comparisons with the previous year's results as the overall number of disputes is reasonably small, and therefore you would expect there to be a considerable degree of variation between the years.

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<sup>23</sup> The four credit unions concerned did not refer any matters to their external dispute resolution process during the reporting period.



**Table 12 – Credit Union Code disputes resolved externally, 2000-2001**

| Dispute Category                            | Total Disputes<br>(incl those held<br>over from 99/00) | Resolution           |                     |                             | Disputes<br>Outstanding |
|---|--|----------------------|---------------------|-----------------------------|-------------------------|
|   |  | Customer's<br>Favour | Mutual<br>Agreement | Credit<br>Union's<br>Favour |                         |
| <b>Disclosure</b>                           |  |                      |                     |                             |                         |
| Terms & Conditions                          | 7  | 1                    | 0                   | 2                           | 3                       |
| General Info                                | 2  | 0                    | 0                   | 2                           | 0                       |
| Fees & Charges                              | 7  | 4                    | 1                   | 0                           | 1                       |
| Cost of Credit                              | 7  | 0                    | 0                   | 0                           | 0                       |
| Foreign Currency Transactions               | 0  | 2                    | 0                   | 0                           | 0                       |
| <i>Total Disclosure</i>                     | 2  | 8                    | 1                   | 4                           | 4                       |
| <b>Variations to Terms &amp; Conditions</b> | 18   | 1                    | 0                   | 0                           | 0                       |
| <b>Service Delivery</b>                     |  |                      |                     |                             |                         |
| Statements                                  | 0  | 0                    | 0                   | 0                           | 0                       |
| Account Combination/Closure                 | 1  | 1                    | 0                   | 0                           | 0                       |
| Account Debiting/Crediting                  | 14   | 7                    | 2                   | 3                           | 3                       |
| Proper Interest Rate, Fee, Charge           | 8  | 4                    | 0                   | 2                           | 0                       |
| Instructions                                | 9  | 1                    | 0                   | 3                           | 4                       |
| EFT (PIN based)                             | 55   | 21                   | 5                   | 16                          | 15                      |
| Other Service Delivery                      | 22   | 8                    | 1                   | 4                           | 3                       |
| <i>Total Service Delivery</i>               | 109  | 42                   | 8                   | 28                          | 25                      |
| <b>Advertising</b>                          | 1  | 1                    | 0                   | 0                           | 0                       |
| <b>Privacy &amp; Confidentiality</b>        |  |                      |                     |                             |                         |
| Disclosure to Related Entities              | 1  | 0                    | 0                   | 1                           | 0                       |
| Other Aspects of Privacy/ Confidentiality   | 2  | 0                    | 0                   | 1                           | 0                       |
| <i>Total Privacy &amp; Confidentiality</i>  | 3  | 0                    | 0                   | 2                           | 0                       |
| <b>Provision of Credit</b>                  | 2  | 0                    | 0                   | 1                           | 1                       |
| <b>Guarantees</b>                           | 0  | 0                    | 0                   | 0                           | 0                       |
| <b>Dispute Resolution Process</b>           | 1  | 1                    | 0                   | 0                           | 0                       |
| <b>Total of All Complaints</b>              | 135  | 53                   | 9                   | 35                          | 30                      |

Notes to table:

Note that where total number of disputes does not reconcile with the breakdown of resolution, this is due to discrepancies in the data provided by the schemes.

**Table 13 – Membership of the Credit Union Code of Practice**

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

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

|  |   |  |  |
|--|---|--|--|
| Uni Credit Union Ltd<br>Unicom Credit Union Ltd<br>United Credit Union Ltd<br>Upper Hunter Credit Union Ltd<br>Victoria Teachers Credit Union Ltd  | Wagga Mutual Credit Union Ltd<br>Warwick Credit Union Ltd<br>Waverley Credit Union Co-operative Ltd | WAW Credit Union Co-operative Ltd<br>Westax Credit Society Ltd<br>Western City Credit Union Ltd<br>Woolworths/Safeway Employees' Credit Co-operative Ltd | Wyong Council Credit Union Ltd<br>Yarrawonga Credit Union Co-operative Ltd<br>Yennora Credit Union Ltd |
| <b>Other institutions that have adopted the Credit Union Code of Practice</b>  |   |  |  |
| Lifeplan Australia Building Society Limited  |   |  |  |
| <b>Credit unions adopting the Credit Union Code of Practice mid-way through the reporting period</b>   |   |  |  |
| Muslim Community Credit Union Limited  |   |  |  |
| <b>Credit unions that have not adopted the Credit Union Code of Practice or another payments system code</b>   |   |  |  |
| Bardon Parish Credit Union Ltd<br>Broadway Credit Union Ltd<br>Queensland Professional Credit Union Ltd  |   |  |  |
| <b>Credit Unions that have merged/been taken over/changed names since previous report</b>  |   |  |  |
| Auburn Municipal Council Employees' Credit Union taken over by Prospect Credit Union<br>Australian Credit Union Co-operative merged with Herald Credit Union<br>BTR Employees' Credit Union renamed Spicer Employees Credit Union Ltd<br>Geelong Refinery Club Co-operative Credit Society taken over by Scallop Credit Union<br>Grand United Credit Union Limited has been renamed Community First Credit union<br>Hardie Employees' Credit Union Ltd merged with Power Credit Union<br>Manning Local Government Employees' Credit Union Ltd merged with Holiday Coast Credit Union<br>Rothville Credit Union Limited renamed MembersFirst Credit Union<br>Waverley Bus Depot Employees' Credit Union transferred to Encompass Credit Union |   |  |  |

# Section 7

## Electronic Funds Transfer Code of Conduct

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### Scope of the EFT Code

The Electronic Funds Transfer Code of Conduct (EFT Code) has operated since 1989. It currently covers consumer transactions intended to be initiated through use of a card and a personal identification number (PIN). This includes 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 will apply to all forms of electronic funds transfers including, for the first time, to internet and telephone banking. It will also have a special section dealing with stored value facilities such as prepaid telephone cards.

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### 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;
- an Implementation Assessment for the EFT Security Guidelines; and

- complaint statistics.

The statement used to monitor compliance for the 2000/2001 reporting period is almost identical to the 1999/2000 statement. The only addition is an additional question in Part B on the implementation of EFT Security Guidelines regarding communications security.

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## Monitoring results

### Code membership and responses

There are 53 individual companies that have advised either the former APSC or ASIC that they have subscribed to the EFT Code. The overall number of individual Code members has decreased by three in this reporting period from the last. The Colonial Trust Bank was taken over by Colonial First State Bank, the Territory Mutual Building Society advised it went into liquidation on 1<sup>st</sup> July 2000 and Macquarie Bank does not issue cards.

The majority of individual Code members are financial institutions, and they include banks, building societies, credit unions, finance companies, and charge card issuers. Two companies providing EFT services to financial institutions (First Data Resources and Cashcard) are 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 (163 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 Code subscribers<sup>24</sup>.

To the best of our knowledge, all financial institutions that currently provide retail EFT transactions (as defined by the EFT Code) comply 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 current Code members 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 that 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.

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<sup>24</sup> 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, and a small number who did not complete a return for 2000/2001 for a variety of reasons.

## 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,<sup>25</sup> 23 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. One recent adopter of the Code reported 21 instances of non-compliance.

In total there were 316<sup>26</sup> instances of non-compliance with Code provisions reported to ASIC. This compares with 330 instances of non-compliance reported in the previous year<sup>27</sup>.

We speculated in last year's report that the reason for the degree of non-compliance may be due to a delay in 1999/2000 by some institutions in implementing the 1998 amendments to the Code, especially since almost one-third of the reports of non-compliance in that period related to Code provisions that were amended. However, a year on, compliance remains at a similar level.

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 197 individual institutions (52 individual Code subscribers, and 145 credit unions represented by CUSCAL who returned a questionnaire).

As in 1999/2000, the provision that had the highest rate of non-compliance was annually provide a clear and prominent and self-contained statement of card and PIN security requirements (19%). This is a real concern to ASIC given that a breach of PIN security requirements can expose a consumer to vastly increased liability for unauthorised transactions. ASIC will be following up these instances of non-compliance, and some of the others listed below, with the institutions concerned. One institution did indicate that they were developing procedures to ensure the incorporation of a statement regarding card and PIN security into account statement processes, and expected to have this to be completed by the end of 2001.

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

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<sup>25</sup> 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.

<sup>26</sup> 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.

<sup>27</sup> The comparable figure for 1999/2000 without the responses for questions 9.1, 9.2, and 9.3 is 324.

**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 <sup>28</sup> | Additional comments   |
|------------------------------------|---|--|---|
| 2.2#                               | Publish the availability of the institution's terms and conditions.   | 30   | For Redinet affiliates (n=20), CUSCAL advises that the terms and conditions detail availability, and documents are also displayed on branch counters.                       |
| 2.3(ii)                            | Before EFT card is first used, provide information about the nature of any restrictions imposed by the institution on the use of an EFT card. | 9  | One respondent noted that information was given verbally.   |
| 2.3(ii)                            | Before EFT card is first used, provide information that merchants and other institutions may impose additional restrictions.                  | 26   | All negative responses except one were from Redinet affiliates. Information is provided in CUSCAL's Visa conditions of use, but not in CUSCAL's Redicard conditions of use. |

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<sup>28</sup> These figures include the individual credit union responses provided by CUSCAL.



| Clause No (# 1998 Code amendments) | Clause requirement  | Subscribers reporting non-compliance <sup>28</sup> | Additional comments  |
|------------------------------------|---|--|--|
| 2.3(iv)                            | Provide information describing any credit facilities that may be accessed through an electronic terminal.   | 12   |  |
| 3.5#                               | At the time of advising of an increase in periodic transaction limits, advise that this may increase cardholder liability in the event of unauthorised transactions.  | 8  |  |
| 4.2                                | Give cardholders the option to receive statements more frequently than 6 monthly.   | 18   | CUSCAL members (n=12) 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.  |
| 4.2                                | Advise new cardholders of their options regarding statement frequency.  | 10   |  |
| 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.   |
| 4.4                                | Include on account statements:<br><br>a suggestion that cardholders should check all entries and promptly notify of apparent errors or possible unauthorised transactions.<br><br>An address or phone number to be used for enquiries concerning the account or to report any errors on the statement | 27<br><br>5  | The majority of negative responses were from Redinet affiliates (n=22). 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.<br><br>All statements now show credit union address and phone number. The terms and conditions give hotline numbers. |
| 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.  | 8  |  |
| 11.5                               | Unless there are exceptional circumstances, complete complaint investigations within 45 days.   | 7  |  |

It is pleasing to note that compliance 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 has improved since the last report. For the 1999/2000 monitoring period, 12 subscribers reported not being compliant with this requirement, but only two did so for the current period. This provision was one that was amended in 1998.

According to this inventory of compliance, only one institution reported receiving a complaint regarding privacy. The subscriber notes that in order to avoid recurrence of this situation (where there was disclosure by staff to a third party) any staff member involved is severely reprimanded and demoted or dismissed. It will be interesting to see whether there will be any increase in this figure in the next

monitoring period now that the amendments to the Privacy Act 1988 (Privacy Amendment (Private Sector) Act 2000) have come into force

## 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 (188 out of 197) had a procedures manual on EFT requirements that was available to all relevant staff. Other frequently used methods included:

- on the job training, both passive (162) and active (158);
- external training (11)<sup>29</sup>
- special handouts (75); and
- computer based training (69). Again, this method was particularly popular with credit unions, with 53 of the 69 subscribers who reported using this method being CUSCAL members.

## Implementation of the EFT Security Guidelines

Code subscribers are also asked to report on the implementation of the EFT Security Guidelines, released in 1992 by the APSC.

In contrast to the previous reporting period, institutions were asked to report on all of the four guidelines (last year they only had to report on the first three):

- the positioning of EFT devices where PIN entry is required (eg EFT devices should be designed and constructed to provide for PIN privacy);
- EFT customer education (eg on the potential risks surrounding the use of cards, and on the importance of PIN security); and
- management of cryptographic keys to protect transactions (eg guidelines to ensure that cryptographic keys are generated, transmitted and exchanged in a secure manner).
- Communications security (eg, all institutions should ensure the integrity of messages on remote links between an ATM or other EFT device and the authorising entity).

Table 15 summarises the results.<sup>30</sup>

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<sup>29</sup> 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.

<sup>30</sup> In this table, one response is provided by CUSCAL on behalf of all Redinet affiliates.

**Table 15 – Implementation of EFT Security Guidelines, 2000-2001**

| Responses  | Yes | No | Not Applicable |
|--|-----|----|----------------|
| <b>Positioning of EFT devices where PIN entry required</b>                                   |     |    |                |
| Adoption of guideline as policy  | 40  | 1  | 11             |
| Incorporation of guideline into procedures, controls and internal audit/assessment processes | 41  | 1  | 11             |
| Is any further action proposed?  | 5   | 36 | 11             |
| <b>EFT Customer Information</b>  |     |    |                |
| Adoption of guideline as policy  | 46  | 1  | 5              |
| Incorporation of guideline into procedures, controls and internal audit/assessment processes | 47  | 0  | 5              |
| Is any further action proposed?  | 7   | 40 | 5              |
| <b>Management of Cryptographic Keys</b>  |     |    |                |
| Adoption of guideline as policy  | 47  | 1  | 4              |
| Incorporation of guideline into procedures, controls and internal audit/assessment processes | 47  | 1  | 4              |
| Is any further action proposed?  | 3   | 45 | 4              |
| <b>Communications Security</b>   |     |    |                |
| Adoption of guideline as policy  | 44  | 4  | 4              |
| Incorporation of guideline into procedures, controls and internal audit/assessment processes | 46  | 2  | 4              |
| Is any further action proposed?  | 7   | 41 | 4              |

Notes to table:

One bank failed to complete Part B, therefore totals equal 52 including the single response on behalf of all CUSCAL affiliates by CUSCAL.

As this table shows, the level of adoption and implementation of the security guidelines remains high. Although a number of respondents noted some areas in which compliance with EFT security was still being addressed:

- First Data Resources, who manages many of the security of the EFT devices for Code subscribers, noted that, as a result of DIS 56 BIT keys being cracked, FDRA is working towards implementing solutions being proposed by industry bodies such as APGA.
- One subscriber reported that the annual reminder to customers of the importance of PIN security was only partially implemented. An action proposal was submitted regarding this in August 2001.
- One subscriber has advised they will be adopting the recommended guideline to display a sign on their PIN pads that will say "protect your pin, it is your electronic signature". This will be completed by end 2001.

- Two subscribers indicated that they did not change Interchange Master Keys annually, as is required by the guideline on management of cryptographic keys. One has recently introduced this requirement and procedural documentation is being drafted.
- With respect to communications security, one subscriber noted that the institution still retained some hardware that was non-compliant and that this is being replaced as circumstances permitted.

A sizeable minority of subscribers reported that one or more of the guidelines were not applicable to their business. Reasons for non-applicability included:

- subscribers do not own or operate ATM or EFTPOS devices themselves; and/or
- some subscribers do not have direct contractual relationships with EFT customers, but provide technical services to financial institutions.

In terms of further action planned, a number of subscribers reported that they planned further reviews and development on one or more of the guidelines. Others mentioned re-issuing or updating of guidelines/procedural documents, and distributing new inserts about EFT security to customers.

## Complaints

As for the payments system codes, subscribers to the EFT Code must provide information about complaints.<sup>31</sup>

All Code subscribers' returns included the required information on complaints considered under the Code. As advised during the last monitoring period, Diners Club have updated its data collection system to provide complaints information in the manner requested.

Code subscribers reported approximately 1,499 million EFT transactions in the year to March 2001. The number of transactions reported has decreased in comparison with the year to March 2000 (1,650 million). One possible explanation for this change might be that some consumers are switching to technologies not yet covered by the EFT Code (eg telephone banking and internet banking) for some or all of their electronic banking transactions.

Table 16 shows that 121,434 complaints were considered during the reporting period. This figure includes complaints held over from the previous reporting period.

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<sup>31</sup> 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 16 – Trend in EFT Code complaints

| Year      | Number of complaints (incl those held over from 99/00) | Number of transactions | Complaints per million transactions |
|-----------|--|------------------------|-------------------------------------|
| 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 number of complaints has increased significantly since the previous reporting period, even though the number of transactions has decreased slightly. Overall there has been an increase of over one-quarter (26.6%) in the rate of complaints per million transactions. The reason for this increase is not clear.

Table 17 shows that:

- 78,909 complaints related to system malfunction;
- 25,545 complaints related to unauthorised transactions; and
- 16,980 complaints were other complaints (double debits or confusion about merchant name or processing date).

Table 17 – EFT Code complaints, 2000-2001

| Complaint Type                                      | Total complaints (incl those held over from 99/00) | Resolution     |                  |                        |                 |
|---|--|----------------|------------------|------------------------|-----------------|
|   |  | Issuer Liabile | Customer Liabile | Complaints outstanding | Unaccounted for |
| System Malfunction                                  | 78909  | 64499          | 11166            | 3235                   | 9               |
| Unauthorised transaction                            | 25545  | 9313           | 14158            | 2073                   | 1               |
| Other (confusion over merchant name, double debits) | 16980  | 3148           | 13770            | 56                     | 6               |
| <b>TOTALS</b>                                       | 121,434  | 76960          | 39094            | 5364                   |                 |

The total number of complaints has risen by just under 13.8% on the previous monitoring period. However, the increase was not uniform across the three complaint types. While complaints relating to system malfunction rose by 17.4%, those pertaining to unauthorised transactions actually fell by 16%. "Other" complaints, such as confusion over merchant/processing date and double debit, increased by 85% on last year (although this was from a smaller base than the other two categories).

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. As in 1999/2000, complaints about system malfunction were generally resolved in favour of the cardholder (81%), while those about unauthorised transactions and other complaints were generally resolved in favour of the card-issuer (55% and 81% 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 29%, increasing from 41 to 53 complaints. This is a rather concerning continuation of the increase reported for the last monitoring period, where complaints per million transactions in this category had doubled the previous year's. The "Other" category of complaints, which includes those where there is confusion over merchant name/processing date and double debits, also had a large increase from 6 per million transactions in 1999/2000 to 11 per million transactions in 2000/2001.

**Table 18 – EFT Code complaints (per million transactions) 2000-2001**

| Complaint Type  | Total rec'd (incl those held over from 99/00) | Resolution    |                 |             | Total 99-00 |
|---|---|---------------|-----------------|-------------|-------------|
|   |   | Issuer Liable | Customer Liable | Outstanding |             |
| System Malfunction                                      | 53  | 43            | 7               | 2           | (41)        |
| Unauthorised Transactions                               | 17  | 6             | 9               | 1           | (18)        |
| Other (confusion over merchant name etc, double debits) | 11  | 2             | 9               | <1          | (6)         |

Finally, despite the 16% decrease in the number of complaints regarding unauthorised transactions mentioned previously, once this was put into the context of the number of transactions, the number of complaints per million transactions was only one point 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, compared with the previous reporting period, there has been a small reduction in the number of complaints made to building societies and credit unions about unauthorised transactions. The number of complaints made to major banks has decreased slightly, from 18 to 17 complaints per million transactions, but minor banks had a decrease from 20 to 11 complaints per million

transactions from the previous to the present reporting period. With major banks contributing 68% of the total transactions and 78% of total complaints, the encouraging reductions in the rates for the other three types of institutions are somewhat overwhelmed when the figures are viewed at the aggregate level. However, we would hope that the downward trend for complaints among the smaller institutions continues and it will be interesting to see whether there is a similar change in trend for the major banks in the next monitoring period.

It is also interesting to note that 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 to have a more even distribution of liability.

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

| Institution               | Total rec'd & considered <sup>1</sup> | Resolution    |                 |             | Total 99-00 |
|---------------------------|---------------------------------------|---------------|-----------------|-------------|-------------|
|                           |                                       | Issuer liable | Customer liable | Outstanding |             |
| <b>Banks</b>              |                                       |               |                 |             |             |
| Major                     | 17                                    | 7             | 10              | 2           | (18)        |
| Minor                     | 11                                    | 3             | 8               | 0           | (20)        |
| <b>Building Societies</b> |                                       |               |                 |             |             |
|                           | 10                                    | 2             | 8               | 0           | (14)        |
| <b>Credit Unions</b>      |                                       |               |                 |             |             |
|                           | 11                                    | 6             | 5               | 3           | (14)        |
| Total all institutions    | 15                                    | 6             | 9               | 1           | (18)        |

Notes to table:

<sup>1</sup> 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.

During the 1999/2000 monitoring period, in almost half of the cases where the cardholder was considered liable, liability was a result of negligence with the PIN (45.2%). Unfortunately this has increased by almost 10% for the most recent period (54.9%). The other common reason in 1999/2000 for cardholder liability was where the cardholder was liable for only \$50 because it was unclear whether or not they had contributed to the loss (16.0%). The proportion of complaints falling in this category has almost halved to 8.2% for 2000/2001.<sup>32</sup>

<sup>32</sup> It was the view of the working party that reviewed the EFT Code that the low use of this provision was proof that it was not working as intended. This year's figures would seem to reinforce this conclusion. Under the revised code there will be a clearer requirement for account institutions to prove a consumer was in breach of their requirements under the code.

In a slight change from last year, just under a third of cases where the cardholder was found liable, liability was imposed because the investigation was terminated (29.4%). In last year's report, we stated that the reason for an increase in terminations of investigations of complaints from the previous year (from 5% to 24%) was not immediately clear, but that it may partly be because card issuers recorded complaints due to confusion over merchant name or processing date in this category, instead of in the new category introduced this year. As proposed, to minimise the chance of this occurring for the current reporting period, we emphasised the changes to the complaints monitoring form when the 2000/2001 statements were distributed. Despite such a clarification, this level of termination has continued.

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 (62.1%);
- the matter was settled without formal investigation (25.8%);

We also asked card issuers for information about any complaints that they had received relating to the privacy provisions of the EFT Code. As noted earlier only one institution reported a complaint regarding privacy.



**Table 20 – Liability for Unauthorised Transactions, 2000-2001**

| <b>Customer's Liability (for at least part of the loss)</b>                              | <b>Number of complaints</b> | <b>% of Customer Liabile</b> | <b>Total 99-00</b> |
|--|-----------------------------|------------------------------|--------------------|
| 1. Customer Liability limited to \$50 (s.5.5)  | 1167                        | 8.2                          | 2506               |
| 2. Customer Negligent with PIN (s.5.6)   | 7781                        | 54.9                         | 7569               |
| 3. Unreasonable delay in notification of loss or theft of card, etc. (s.5.7)             | 605                         | 4.3                          | 433                |
| 4. a. Other  | 0                           | 0                            | 19                 |
| b. ATM deposit shortfall   | 135                         | .9                           | 571                |
| c. Investigation terminated  | 4173                        | 29.4                         | 3762               |
| d. Evidence of fraud or other offence  | 319                         | 2.2                          | 788                |
| <b>Total of all Types of Consumer Liability</b>  | <b>14180</b>                |                              | <b>15648</b>       |
| <b>Issuer Liabile</b>  | <b>Number of complaints</b> | <b>% of Issuer Liabile</b>   |                    |
| 1. Settled without formal investigation  | 2491                        | 25.8                         | 2652               |
| 2. Breach of Code by Institution (s.11.10)   | 119                         | 1.2                          | 281                |
| 3. Conduct by Employees of Institution   |                             |                              |                    |
| a) Negligent conduct by employees of institution (s.5.2(I))                              | 75                          | .8                           | 46                 |
| b) Fraudulent conduct by employees of institution (s.5.2(I))                             | 2                           | <.1                          | 17                 |
| 4. Conduct by employees / agents of merchants  |                             |                              |                    |
| a) Negligent conduct by employees / agents of merchants (s.5.2(I))                       | 137                         | 1.4                          | 90                 |
| b) Fraudulent conduct by employees / agents of merchants (s.5.2(I))                      | 131                         | 1.4                          | 159                |
| 5. Cards forged, faulty, expired or cancelled (s.5.2(ii))                                | 33                          | .3                           | 5                  |
| 6. Losses occurred before cardholder received card or PIN (s.5.2(iii))                   | 556                         | 5.8                          | 1273               |
| 7. Losses occurred after notification of loss or theft of card (s.5.3)                   | 118                         | 1.2                          | 183                |
| 8. Losses where it is clear neither the cardholder or issuer contributed to loss (s.5.4) | 5990                        | 62.1                         | 6504               |
| <b>Total of All Types of Issuer Liability</b>  | <b>9652</b>                 |                              | <b>11210</b>       |

**Table 21 – Membership of the EFT Code of Conduct**

| <b>Institutions that have adopted the EFT Code</b>   |  |
|--|--|
| Adelaide Bank  | Herald Credit Co-operative Limited   |
| Australian Guarantee Corporation Limited   | Heritage Building Society Limited  |
| American Express International Inc   | Home Building Society Ltd  |
| AMP Bank Limited   | HSBC Bank Australia Limited (formerly Hong Kong Bank)                            |
| Avco Access  | Hume Building Society Ltd  |
| Australia and New Zealand Banking Group Limited (incorporating Town & Country Bank)                  | Hunter United Employees' Credit Union Ltd  |
| Armidale Building Society Ltd  | Illawarra Mutual Building Society Ltd  |
| Bananacoast Community Credit Union Ltd   | ING Bank (Australia) Ltd   |
| Bank of China  | Mackay Permanent Building Society Ltd  |
| Bank of New Zealand  |  |
| Bank of Queensland Limited   | Maitland Mutual Building Society Limited   |
| Bank of Western Australia Ltd  | National Australia Bank Limited  |
| Bass & Equitable Building Society Ltd  | Newcastle Permanent Building Society Ltd   |
| Bendigo Bank   | NRMA Building Society  |
| Capricornia Credit Union Ltd   | Phoenix (NSW) Credit Union Limited   |
| Cashcard Australia Limited   | Pioneer Permanent Building Society Ltd   |
| Citibank Limited   | Police Association Credit Co-operative Limited                                   |
| Coastline Credit Union Ltd   | Qantas Staff Credit Union  |
| Coles Myer Ltd   | Queensland Country Credit Union Ltd  |
| Colonial Ltd   | Queensland Police Credit Union Limited   |
| Commonwealth Bank of Australia   | Queensland Professional Credit Union   |
| Credit Union Services Corporation (Australia) Ltd (representing 153 credit union Redinet affiliates) | St George Bank Limited   |
| Diners Club International  | Suncorp-Metway Ltd   |
| First Australian Building Society Limited  | The Rock Building Society Limited  |
| First Data Resources (Part B only applicable)  | Upper Hunter Credit Union Ltd  |
| Greater Building Society 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 2000 - March 2001

**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:

Nicola Howell  
Office of Consumer Protection  
Australian Securities and Investments Commission  
GPO Box 4866  
SYDNEY NSW 1042

by **18 May 2001**.

## Part 1

For each product/service covered by the Code:<sup>33</sup>

### Code of Banking Practice - Relevant Section

| Code of Banking Practice - Relevant Section | Does your institution have <b>DOCUMENTS &amp;/or INFORMATION</b> which comply with the Code in relation to:<br>(Yes/No/NA) |  | Does your institution have <b>PROCEDURES</b> in place to enable compliance with the Code in relation to:<br>(Yes/No/NA) |  | Does your institution have <b>TRAIN</b> appropriate staff in the requirements of the Code in relation to:<br>(Yes/No/NA) |  |
|---|--|--|---|--|--|--|
|   | 1.1  |  | 1.2   |  | 1.3  |  |
| <b>Part A - Disclosures</b>                 |  |  |   |  |  |  |
| 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 |  |
|---------------------------|------|--|------|--|------|--|

<sup>33</sup> 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/Nominee<sup>34</sup>.

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

---

<sup>34</sup> Nominee should be an appropriate, senior officer; please indicate position held.

**CODE OF BANKING PRACTICE - STATISTICAL RETURN**

Period: April 2000 - March 2001

| PART A<br><br>NUMBER OF DISPUTES<br><br>Concerning: | MANNER OF HANDLING DISPUTES "RESOLVED"<br>INTERNALLY |                              |                          |   |                      |                              |
|---|--|------------------------------|--------------------------|---|----------------------|------------------------------|
|   | Outstanding<br>from prior<br>period                  | Received<br>during<br>period | In favour of<br>Customer | Mutual<br>Agreement -<br>including<br>goodwill<br>decisions | In favour<br>of Bank | Outstanding at<br>end period |
|   | A  | B                            | C                        | D   | E                    | F                            |
| <b>Disclosure:-</b>                                 |  |                              |                          |   |                      |                              |
| 1 Terms & Conditions                                |  |                              |                          |   |                      |                              |
| 2 General Information                               |  |                              |                          |   |                      |                              |
| 3 Fees & Charges                                    |  |                              |                          |   |                      |                              |
| 4 Cost of Credit                                    |  |                              |                          |   |                      |                              |
| 5 Foreign Exchange Services                         |  |                              |                          |   |                      |                              |
| 6 <b>Variation to Terms &amp; Conditions</b>        |  |                              |                          |   |                      |                              |
| <b>Banking Service Delivery:-</b>                   |  |                              |                          |   |                      |                              |
| 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<br>delivery      |  |                              |                          |   |                      |                              |
| 14 Advertising                                      |  |                              |                          |   |                      |                              |
| <b>Privacy &amp; Confidentiality:-</b>              |  |                              |                          |   |                      |                              |
| 15 Disclosure to Related Entities                   |  |                              |                          |   |                      |                              |
| 16 Other aspects -<br>privacy/confidentiality       |  |                              |                          |   |                      |                              |
| 17 Provision of Credit                              |  |                              |                          |   |                      |                              |
| 18 Guarantees                                       |  |                              |                          |   |                      |                              |
| 19 Dispute Resolution Process                       |  |                              |                          |   |                      |                              |

|                         |   |
|-------------------------|---|
| <b>PART B</b>           |   |
| <b>DENOMINATOR DATA</b> |   |
| Number of:-             |   |
| <b>20</b>               | Personal accounts _____ At end period (March 2001)                  |
| <b>21</b>               | Personal transactions _____ During period (April 2000 - March 2001) |



# Appendix B

## ELECTRONIC FUNDS TRANSFER CODE OF CONDUCT MONITORING STATEMENTS

INSTITUTION: \_\_\_\_\_

For period: April 2000 - March 2001

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 Guidelines for EFT Security, Implementation assessment  
Part C 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  
GUIDELINES FOR E.F.T. SECURITY  
IMPLEMENTATION ASSESSMENT

**PART C**  
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?   | _____      | _____     |
|       |  | <b>Yes</b> | <b>No</b> |
| 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?  | _____      | _____     |
|       | <b>Paper records of EFT transactions</b>   |            |           |
| 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?  | _____      | _____     |
|       |  | <b>Yes</b> | <b>No</b> |
|       | . 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

### GUIDELINES FOR E.F.T. SECURITY IMPLEMENTATION ASSESSMENT

| Guideline  | Yes/No  | Comments <sup>35</sup>   |
|--|---|--|
| <p>1. Siting of EFT devices where customer PIN entry is required:</p> <p>(a) Have you adopted this Guideline as policy?</p> <p>(b) Have you incorporated this Guideline into your procedures, controls and internal audit/assessment processes?</p> <p>(c) Are there any aspects of this Guideline where further action is proposed?</p> | <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> | <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> |
| <p>2. EFT customer education:</p> <p>(a) Have you adopted this Guideline as policy?</p> <p>(b) Have you incorporated this Guideline into your procedures, controls and internal audit/assessment processes?</p> <p>(c) Are there any aspects of this Guideline where further action is proposed?</p>                                     | <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> | <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> |

<sup>35</sup> Comments from institutions will assist ASIC in identifying any areas of difficulty in the implementation of the Guidelines and in assessing their on-going suitability.

| Guideline  | Yes/No                       | Comments <sup>36</sup>       |
|--|------------------------------|------------------------------|
| 3. Management of cryptographic keys for the protection of transactions:<br>(a) Have you adopted this Guideline as policy?<br><br>(b) Have you incorporated this Guideline into your procedures, controls and internal audit/assessment processes?<br><br>(c) Are there any aspects of this Guideline where further action is proposed? | <br><br><br><br><br><br><br> | <br><br><br><br><br><br><br> |
| 4. Communications security:<br>(a) Have you adopted this Guideline as policy?<br><br>(b) Have you incorporated this Guideline into your procedures, controls and internal audit/assessment processes?<br><br>(c) Are there any aspects of this Guideline where further action is proposed?   | <br><br><br><br><br><br><br> | <br><br><br><br><br><br><br> |

<sup>36</sup> Comments from institutions will assist the Council in identifying any areas of difficulty in the implementation of the Guideline and in assessing their on-going suitability.

## PART C

### COMPLAINT RESOLUTION ASSESSMENT

**INSTITUTION:** ..... **PERIOD:** 1/4/2000 - 31/3/2001

|    |  |              |   |                             |   |                      |   |                        |   |                               |
|----|--|--------------|---|-----------------------------|---|----------------------|---|------------------------|---|-------------------------------|
| 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.