



**ASIC**

Australian Securities & Investments Commission

**REPORT 27**

# **Compliance with the Payments System Codes of Practice and the EFT Code of Conduct (April 2002 to March 2003)**

December 2003



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# Executive Summary

This report details the results of the annual monitoring of the Banking, Credit Union and Building Society Codes of Conduct ("payments system codes"). The monitoring period ran from 1 April 2002 until 31 March 2003.

Data was also collected for monitoring of the revised Electronic Funds Transfers (EFT) Code of Conduct ("EFT Code"), which came into effect on 1 April 2002. However, the scope of the revised EFT Code has been significantly extended. This has generated some difficulties in data collection and also makes comparison with reports from previous years relatively difficult. As a result we will need to undertake further work in this area. Publication of this year's EFT Code results will therefore take place in the 2004 report.

This report contains information on:

- what is happening with each of the payments systems codes and their role in the regulatory system;
- Code membership;
- Code compliance;
- Code administration;
- arrangements for external dispute resolution; and
- Code-related complaints and disputes.

Coverage of the Banking Code of Practice ("Banking Code") and the Credit Union Code of Practice ("Credit Union Code") remained positive, with only one of the retail banks and two of the credit unions not subscribing to their respective Codes.

However only eight of the 14 building societies belong to the Building Society Code of Practice ("Building Society Code"). This lower level of subscription means that reports about disputes and other compliance issues are relatively understated.

Compliance levels were generally high and, where instances of non-compliance were reported, these were normally quickly remedied. Two subscribing banks self-reported non-compliance with the requirements to advise consumers about their right to take an unresolved complaint to the external Banking and Financial Services Ombudsman. Access to dispute resolution is an important consumer protection measure, and ASIC will continue to monitor these disclosures across the finance sector, as well as educating consumers about their rights.

In terms of complaints about breaches of the payments system codes there was a notable increase in the number of complaints under the Banking Code, with 11,164 complaints recorded during the reporting period (9,445 last period). In the context of the number of transactions taking place each year (4,639,911,805 this period), however, this is still a small number of complaints. It translated to 2.41 complaints per million transactions (a rise from 2.17 per million transactions in the last period). During the reporting period, 40.2% of Banking Code disputes resolved internally were resolved in favour of the customer.

In terms of the subject matter, the largest single cause of disputes reported under the Banking Code during the period was fees and charges (16.6%). There was a percentage decrease in complaints about EFT (PIN based) transactions, with these amounting to 14.0% of total disputes. Other areas giving rise to large numbers of Banking Code complaints included disclosure of account crediting and debiting (12.7%), instructions (9.4%) and the provision of credit (6.2%).

Pleasingly, the number of complaints per million under the Credit Union Code dropped significantly, from 5.8 disputes per million to 3.1 disputes in this monitoring period. The actual number of disputes resolved internally, including those carried over from the previous year, remained small compared to the overall number of transactions (2,057 complaints from 672,566,053 transactions). The main (but declining) cause of disputes was PIN based EFT transactions (59.6%). There were 1,226 of these, 70.9% of which were resolved in favour of the consumer. The other main areas of dispute were account crediting and debiting (12.3%) and interest rates, fees or charges (4.2%).

Building Societies continued to report only a very small number of disputes with less than one dispute per million transactions. Of the 78 disputes reported, the biggest category related to PIN based EFT complaints (30.8%), followed by account debiting and crediting (25.6%).

This monitoring report will be the last conducted by ASIC on the Banking Code. A revised Banking Code commenced operation in August 2003 (outside this monitoring period) which establishes new independent monitoring procedures. ASIC welcomes these new arrangements and also encourages those banks that have not yet signed up to the revised Banking Code to do so as soon as possible.

<b>EXECUTIVE SUMMARY.....</b>	<b>3</b>
<b>INTRODUCTION.....</b>	<b>7</b>
<b>THE ROLE OF THE CODES AND SOME RECENT REFORMS. ....</b>	<b>8</b>
<b>MONITORING COMPLIANCE.....</b>	<b>11</b>
<b>ASIC's role.....</b>	<b>11</b>
<b>The monitoring process.....</b>	<b>12</b>
Statement of compliance .....	13
EFT Code of Conduct checklist .....	13
Complaints and disputes.....	14
Review of the monitoring process.....	14
<b>Consistency of the data .....</b>	<b>15</b>
<b>THE CODE OF BANKING PRACTICE.....</b>	<b>16</b>
<b>Scope of the Code.....</b>	<b>16</b>
<b>Methodology .....</b>	<b>17</b>
<b>Monitoring results .....</b>	<b>17</b>
Code membership and responses .....	17
Compliance with the Banking Code .....	17
Internal compliance assessment.....	19
Staff training.....	20
External dispute resolution arrangements .....	21
General comments.....	21
Complaints and disputes.....	21
<b>THE BUILDING SOCIETY CODE OF PRACTICE .....</b>	<b>28</b>
<b>Scope of the Code.....</b>	<b>28</b>
<b>Methodology .....</b>	<b>28</b>
<b>Monitoring results .....</b>	<b>29</b>
Code membership and responses .....	29
Compliance with the Building Society Code .....	29
Internal compliance assessment.....	29
Staff training.....	30
External dispute resolution arrangements .....	31
General comments.....	31
Complaints and disputes.....	31

<b>THE CREDIT UNION CODE OF PRACTICE.....</b>	<b>36</b>
<b>Scope of the Code .....</b>	<b>36</b>
<b>Methodology .....</b>	<b>37</b>
<b>Monitoring results .....</b>	<b>37</b>
Code membership and responses .....	37
Compliance with the Credit Union Code .....	38
Internal compliance assessment.....	39
Staff training.....	40
External dispute resolution arrangements .....	41
General comments.....	42
Complaints and disputes.....	42
<b>APPENDIX A: BANKING CODE RETURN .....</b>	<b>50</b>

# 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 ("Banking Code");
- Building Society Code of Practice ("Building Society Code"); and
- Credit Union Code of Practice ("Credit Union Code").

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 ("EFT Code"). While usually covered in these monitoring reports, the EFT Code results from this monitoring report will be covered in next year's report. This will enable us to provide a more meaningful analysis of the revised EFT Code results.

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 fifth report on compliance with the Banking Code, the Building Society Code, and the Credit Union Code. As mentioned above, the EFT Code analysis will be held over until next year's report. Our reports cover the period April to March annually. Our first report covered April 1998 to March 1999. Each of these reports is available on the ASIC website ([www.fido.asic.gov.au](http://www.fido.asic.gov.au)).<sup>1</sup> 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 provides compliance results for the period 1 April 2002 to 31 March 2003 inclusive.

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<sup>1</sup> <http://fido.asic.gov.au/fido/fido.nsf/byheadline/compliance+with+financial+industry+codes+of+practice+FIDOv?openDocument>



# Section 2

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

Before looking at the 2002/2003 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 (FSR) 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. 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 somewhat.

These two pieces of legislation provide a new consumer protection regime in relation to disclosure, dispute resolution and privacy. The impact of these reforms is greater on the payments systems codes, rather than the EFT Code, however we note that many of the changes arising out of the FSR process do not directly apply to credit products. They continue to be primarily regulated under the Uniform Consumer Credit Code and subject to the ASIC Act prohibitions against misleading and deceptive conduct and the like.

Over the same period, both the Banking Code and the EFT Code have been independently reviewed. These reviews have resulted in stronger codes that more accurately reflect modern practices and address specific consumer issues, and demonstrate that the need to regularly review codes arises not only in response to law reform but also to changes in the way that products and services are designed and sold. The Credit Union Code has also very recently been reviewed by a code Task Force (see below).

As the government noted in the explanatory memorandum to the financial services reforms:

It is expected that new and revised codes will be developed by industry in consultation with ASIC and with consumer associations. The Government considers that existing industry codes including those relating to practices in the areas of banking, deposit-taking and

general insurance will continue to play an important role in fleshing out best practice standards for compliance with the proposed new regime . . . <sup>2</sup>

As stated in the last monitoring report, ASIC is firmly of the view that codes, if robustly designed and supported by industry, can continue to have an important role to play in the regulatory matrix protecting financial services consumers. We see such codes as serving one or more of three main purposes. They can:

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

In the last monitoring report we provided some details about the review of the Code of Banking Practice. That review has now been completed and the revised Code commenced in August 2003. The amendments arising from the Review see the Code continuing to focus on consumer protection issues not otherwise covered by legislation. Some of the key amendments include:

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

At the time of writing (December 2003), the following institutions have adopted the Code of Banking Practice 2003:

- Adelaide Bank Limited
- Australia and New Zealand Banking Group Limited
- Bank SA (A division of St.George Bank Limited)
- Commonwealth Bank of Australia
- National Australia Bank Limited
- St.George Bank Limited

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<sup>2</sup> Para 17.17, Revised Explanatory Memorandum to the Financial Services Reform Bill 2001 – Senate 42243.

- ING Bank (Australia) Limited.

The revised EFT Code commenced operating on 1 April 2002, the first day of the current monitoring period. In all, 220 institutions have so far adopted the revised EFT Code.

A review of the Credit Union Code was completed just prior to the release of this report. The Credit Union Code of Practice Task Force provided final recommendations and its report to the CUSCAL Board. ASIC has been told by CUSCAL that:

The CUSCAL Industry Association Advisory Committee, made up of elected credit union representatives, will consider the Task Force's recommendations and assist in the revision of the industry Code. The credit union sector has endorsed in principle a revised Credit Union Code of Practice which is member-focused and avoids regulatory overlap, while matching common standards in the banking sector.

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

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

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

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

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

Clause 23.5 of the EFT Code requires Code subscribers, or their representative associations, to report to the Commonwealth Government annually on compliance with that Code.

The contents of the codes monitored in this report remained stable during the reporting period.

This report will be the last produced by ASIC looking at the Banking Code. In the future, an independent body established under the new Code will review that Code. ASIC is waiting to see the revised Credit Union Code to see what monitoring procedures are proposed. We recommend that the credit unions also establish new independent monitoring procedures, rather than rely on ASIC monitoring. Once

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<sup>3</sup> These provisions at the time of the review 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.

the results of that review are known ASIC will be in a position to say more about the future shape of our codes monitoring report.

Regardless of the outcomes of any payments system code reviews, ASIC will continue to monitor compliance with the EFT Code. This reflects the fact that the EFT Code is a functional code whose coverage extends beyond a defined industry or sector. This reporting period was the first to monitor the revised EFT Code. As mentioned earlier, the analysis of the 2002-2003 results will be presented with next year's results.

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. ASIC issued a discussion document on how we intend to exercise that approval role in June 2001. A final policy statement on our codes approval role will be issued in early 2004.

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 2002 to 31 March 2003 ("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>4</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; and
- a report on the number and nature of any disputes that arose during the reporting period.

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

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<sup>4</sup> The revised EFT Code came into effect from 1 April 2002. This date was selected to fit with the monitoring timetable.

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

Monitoring statements were sent to all code subscribers between 4 April and 11 April 2003, with completed returns to be forwarded to ASIC by 30 May 2003.

## Statement of compliance

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

The statement requires institutions to report separately on whether:

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

Each institution must also report on:

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

## EFT Code of Conduct checklist

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

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

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

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

## Complaints and disputes

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

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

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

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

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

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

## Review of the monitoring process

As mentioned in our previous reports on code compliance, there was/is a need to review the monitoring processes to ensure that they are effective and efficient, and do not impose unnecessary burdens on code members. A review has now taken place for the EFT Code. All current members of the Code were consulted about how the monitoring questionnaire should be amended to take account of the changes made to the revised Code and simplify it. An amended draft was circulated and the feedback received taken into account when finalising the information that was collected for this period. An important reform incorporated into the new monitoring procedures is that the collection of data on unauthorised transactions is 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. Although they have been collected, these statistics (i.e. those reported in the April 2002 to March 2003 returns) will be withheld for publication with next year's report.

As already noted, one outcome of the review of the Banking Code of Conduct is the establishment of the independent Code Compliance Monitoring Committee (CCMC). The CCMC is responsible for monitoring compliance with, and considering complaints about, the Code. The CCMC also has powers to name banks where there is a serious or systemic breach of the Code. ASIC recommended such a change and welcomes this reform.

As noted above, a decision on the need to review the monitoring procedures for the Credit Union Code and Building Society Code will be made once these codes have been reviewed. We strongly recommend that if these sectors are to commit to reviewing and subscribing to their codes in the future, then they should also establish independent monitoring procedures.

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## Consistency of the data

The information in this report is based on the compliance and complaints data provided by institutions.

As can be seen from the monitoring statements in Appendixes A, 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).



# Section 4

## The Code of Banking Practice

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### Scope of the Code

The Code of Banking Practice ("Banking Code") was released in 1993 and became fully operational on 1 November 1996. The Banking Code as it was at the time applicable to this monitoring applies to retail transactions in which a bank provides a "banking service"<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 revised Code of Banking Practice, which came into effect in August 2003, also applies to small business transactions.<sup>7</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 Code of Banking Practice has recently been revised. As a result of that revision new monitoring procedures have been put in place and this will be ASIC's last monitoring report on that Code.

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

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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:

- 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 2002/2003 reporting period was the same as that used for 2001/2002.

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## Monitoring results

### Code membership and responses

At the time of writing this report, there were 14 Australian owned banks, 11 foreign subsidiary banks, and 28 branches of foreign banks operating in Australia.<sup>8</sup> However, the Code applies only to banks with retail operations. In all, 19 banks operating in Australia at present have significant retail operations, however one of the 19, Members Equity, announced in January 2003 that they would no longer subscribe to the Code of Banking Practice. The remaining 18 banks all submitted a Banking Code monitoring statement for the 2002/2003 reporting period. Of the 18 banks that submitted monitoring statements, only 17 have formally adopted the Code. The 18<sup>th</sup> is still working on achieving full compliance before adopting the Code.

Table 5 shows the membership of the Code of Banking Practice as at 31 March 2003.

### 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.

In the last reporting period, 2001/2002, there were six instances of non-compliance in total, all of which were reported by one bank.

For this reporting period, 2002/2003, four banks reported a total of eight instances of non-compliance. Four of these instances were attributed to one bank, which also reported the same areas of non-compliance in the 2001/2002 reporting period. These included not having documents or information that comply with the Code in relation to Terms and Conditions (s2); not having procedures in place to enable compliance with the Code in relation to Terms and Conditions (s2); not having

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<sup>8</sup> See <http://www.apra.gov.au/adi/ADIList.cfm#AOBC> (downloaded 01/12/03 and current at 20/11/03).

procedures in place to enable compliance with the Code in relation to Operation of Accounts (s6); and not having procedures in place to enable compliance with the Code in relation to Pre-contractual conduct (s7). This bank is still in the process of formally adopting the Code of Banking Practice. Once the Code is fully adopted, they will have an area dedicated to rectifying the areas of non-compliance.

One bank reported two instances of non-compliance whereby the institution did not have procedures in place to enable compliance with the Code in relation to advertising (s18), as well as not having documents and or information that comply with the Code in relation to advertising (s18).

Another bank reported one instance of non-compliance whereby the institution had not put in place procedures to enable compliance with the Code in relation to Dispute Resolution (s20). In a statement received from the bank:

"Corrective action has been undertaken and appropriate notification is now included in written correspondence to clients regarding further action they can take if they are not satisfied with the outcome of the dispute."

Having procedures in place to enable compliance with the Code in relation to foreign currency services (s11) was the final instance of non-compliance reported by one bank. Corrective action has now been taken to achieve compliance.

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.

During the 2002/2003 monitoring period only two instances of recurrent non-compliance were reported.

In the first instance the bank identified deficiencies in the availability and currency of Code-regulated stationery.

The bank has now established a "Compliance Pack", which covers the matter of stationery being current and available. Each Customer Service Centre and their Call Centre is required to use the Compliance Pack as a checking tool.

The same bank also now maintains an electronic Stationery Code of Practice list, access to which is available throughout the bank network. This is used to maintain a list of brochures, leaflets, and so on that contain Code-related matters, and their latest print dates. Accordingly, staff are able to refer to the list to check against the stationery held.

The second instance of recurrent non-compliance reported pertained to section 20.3(ii) of the Code, which requires a bank to, at the time they respond to a dispute, advise clients of further action they can take. Although this information was clearly outlined in the bank's terms and conditions it had not been reiterated in writing along with the bank's proposed outcome of a dispute.

Corrective action has being undertaken and appropriate notification is now included in written correspondence to clients about further action they can take if they are not satisfied with the outcome of the dispute.

## 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:

- regular reviews of risk compliance frameworks;
- the incorporation of compliance into banking procedures, manuals and codes; and
- training of staff in the Code.

The Code members indicated that compliance was managed by:

- internal audit and compliance committee;
- general counsel;
- general manager; or
- senior management.

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

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

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

At the Bank, our risk and compliance framework drives a routine process and organisational culture, which identifies, assesses, responds and monitors risk. This is supported by strong leadership sponsorship of the importance of compliance and risk management, appropriate roles and structure of risk and compliance model, regular reporting to the Board Audit and Compliance Committee on compliance incidents and key risks, and training to staff on obligations arising from laws and regulations (codes etc.) as well as the impact of any changes in laws and regulations. In addition, all changes to processes or new project (such as new products or changes in terms and conditions) require sign-off from the risk and compliance manager. Where possible and appropriate, requirements under the Code are embedded within normal operating procedures.

## Staff training

All banks advised that they conduct Code training for staff, 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:

- online training;
- manuals;
- on the job training;
- externally sourced facilitator training;
- update training;
- internal presentations by key staff; and
- training videos.

**Here are some specific examples of training methods:**

### **Example A**

Staff training is conducted using a combination of computer based, self-paced paper modules, manuals, briefings and facilitator led sessions. All staff undertake general awareness training.

Functional specific training (e.g. opening accounts, customer complaints/resolution etc) is undertaken as required for the individual's role.

### **Example B**

All staff are required to complete an online training module on the Code of Banking Practice. This training includes a quiz that all staff are required to complete and pass. The Bank's policy is that no staff are able to assist customers until all Compliance training is completed (this includes Code of Banking Practice).

Specific training is delivered to the Bank's Branch staff in relation [to the] Code of Banking Practice.

The Bank's Branch Operations Manual which includes a section on the Code of Banking Practice is available online for all Branches and Head Office departments. Additionally, the Bank's Compliance Manual contains a section on the Code of Banking Practice.

## External dispute resolution arrangements

All banks reported that they used the Australian Banking Industry Ombudsman (ABIO), now known as the Banking and Financial Services Ombudsman (BFSO)<sup>9</sup>, to meet their obligations under section 20.4 of the Banking Code. A few banks also reported that they also used the Financial Industry Complaints Service (FICS) to meet their obligations.

## General comments

All banks were offered the opportunity to provide any comments on the Code. One bank commented that it had been closely following the Code of Banking Practice review and it was actively involved, through the ABA, in finalising amendments to the Code. The Bank stressed the importance of compliance requirements being communicated to the Bank as soon as possible to allow monitoring systems and processes to be developed in a timely manner.

## 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 BFSO, 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 BFSO. Individual banks, the BFSO and ASIC can all help to promote the availability of the BFSO to consumers.

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

### Disputes resolved internally

Table 2 shows that during the 2002/2003 period, banks reported:

- 11,164 disputes resolved internally;

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<sup>9</sup> The BFSO came into effect on 19 August 2003, after the reported monitoring period.

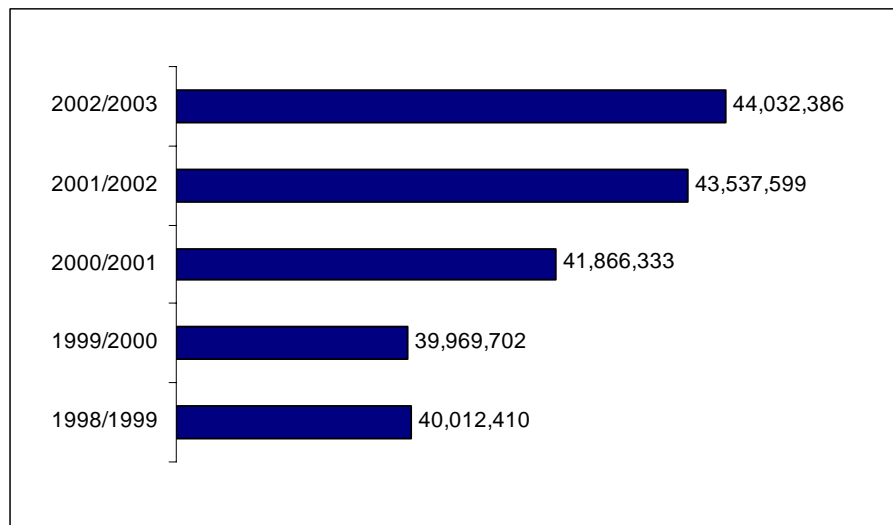
- 44,032,386 personal accounts open as at 31 March 2003; and
- 4,639,911,805 transactions conducted through those accounts.

This equates to 2.41 disputes resolved internally per million transactions, a moderate rise on the previous reporting period, which recorded 2.17 disputes per million transactions.

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

Year	Number of disputes	Number of accounts	Number of transactions	Disputes per million transactions
2002/2003	11,164	44,032,386	4,639,911,805	2.41
2001/2002	9,445	43,537,599	4,334,650,348	2.17
2000/2001	12,668	41,866,333	3,865,375,740	3.28 <sup>10</sup>
1999/2000	10,357	39,969,702	3,699,315,524	2.79 <sup>11</sup>
1998/1999	8,551	40,012,410	2,922,670,655	2.92

**Chart 1 – Number of accounts**



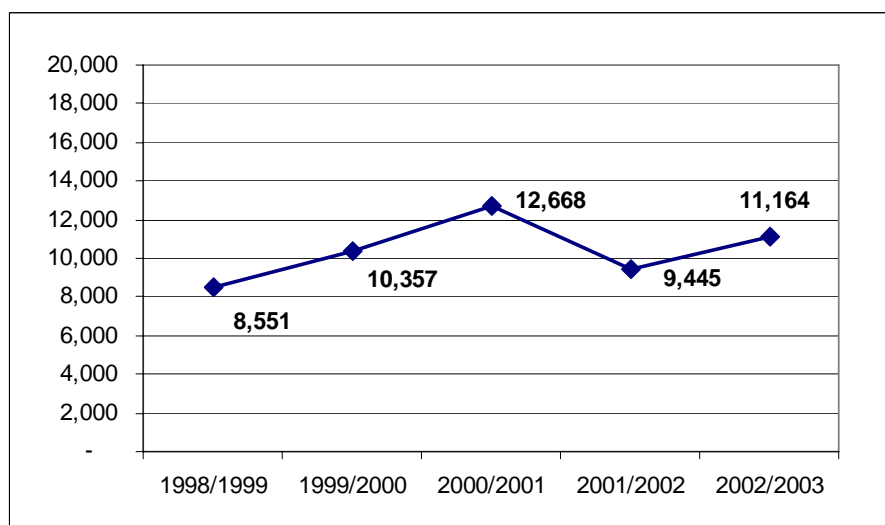
The total number of transactions and total number of accounts reported by the banks for period ending March 2003 indicated small increases of 7.0% and 1.1% respectively. As Chart 2 reveals, the overall number of disputes increased more

<sup>10</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>11</sup> Recalculation from 2.72 previously reported.

significantly, from 9,445 to 11,164 (an 18.2% increase). However, as noted above, the number of disputes relative to the number of transactions rose less significantly (11.1%).

**Chart 2 – Number of disputes**



It is worth noting that, of the 11,164 disputes considered internally, 40.2% were resolved in favour of the customer (refer to Table 3). A further 24.3% of disputes were resolved by mutual agreement and 25.6% were resolved in favour of the bank. Disputes outstanding at the end of the period fell from 33.2% last period to just 9.9% this period, a significant fall.

Complaints about EFT (PIN based) transactions continued to fall this period, accounting for 14.0% of total disputes. This figure had been 21.1% in 2001/2002 and 25.6% during 2000/2001. The largest single cause of disputes during the 2002/2003 reporting period was fees and charges (16.6%). Also high was account debiting and crediting (12.7%), an increase from 11.7% in 2001/2002.

Other areas that both experienced a percentage increase and held a significant number of disputes were instructions (9.4%) and the provision of credit (6.2%). This was also true of disputes that fell into the catch-all category of "other aspects of service delivery" (16.3%), which includes all other disputes concerning aspects of banking service delivery that are not elsewhere included, and are not a matter of commercial judgment. Banks do not identify the types of disputes included in this category, however, they may include disputes about matters such as fraudulent transactions, incorrect cash given, bank error leading to dishonour or fault in funds transfer, loss of documents, or failure to reply to correspondence.



**Table 3 – Banking Code Disputes resolved internally, 2002-2003**

Personal Accounts open as at 31 March, 2003: 44,032,386

Transactions Conducted During the Reporting Period: 4,639,911,805

Dispute Category	Total Disputes (incl those held over from 01/02)	Resolution			
		Customer's Favour	Mutual Agreement	Bank's Favour	Disputes Outstanding
<b>Disclosure</b>					
Terms & Conditions	287	95	64	100	28
General Information	368	132	113	90	33
Fees & Charges	1,856	590	536	492	238
Cost of Credit	131	36	30	48	17
Foreign Exchange Services	84	36	21	19	8
<i>Total Disclosure</i>	2,726	889	764	749	324
<b>Variations to Terms &amp; Conditions</b>	134	50	33	38	13
<b>Banking Service Delivery</b>					
Statements	174	80	48	29	17
Account Combination/Closure	379	73	47	209	50
Account Debiting/Crediting	1,421	642	325	281	173
Proper Interest Rate, Fee, Charge	527	206	118	160	43
Instructions	1,050	591	239	151	69
EFT (PIN based)	1,565	661	257	519	128
Other Aspects of Service Delivery	1,821	921	427	291	182
<i>Total Banking Service</i>	6,937	3,174	1,461	1,640	662
<b>Advertising</b>	73	11	42	14	6
<b>Privacy &amp; Confidentiality</b>					
Disclosure to Related Entities	18	5	6	6	1
Other Aspects of Privacy/Confidentiality	465	133	174	142	16
<i>Total Privacy &amp; Confidentiality</i>	483	138	180	148	17
<b>Provision of Credit</b>	690	193	177	240	80
<b>Guarantees</b>	28	7	6	11	4
<b>Dispute Resolution Process</b>	93	21	50	20	2
<b>Total of All Disputes</b>	11,164	4,483	2,713	2,860	1,108

## Disputes resolved externally

Where disputes are not resolved through the bank's internal process, the consumer can refer them to the Banking and Financial Services Ombudsman (BFSO), formally known as the Australian Banking Industry Ombudsman (ABIO).<sup>12</sup>

During the 2002/2003 reporting period, the ABIO/BFSO reported 5,031 disputes about alleged Code breaches, including disputes that had been carried over from the previous reporting period (just over 20% had been carried over from the prior period).

The total number of disputes reported by the ABIO/BFSO this period has increased only 3.1% when compared with disputes recorded in the previous period. However, as mentioned above, there was a large increase in the number of internally resolved disputes, which may explain the smaller increase in the complaints being referred to the ABIO/BFSO for external resolution.

Externally resolved disputes in the areas of disclosure and banking services decreased this period, however these were the areas that experienced increases in the number of internally resolved disputes.

Table 4 shows that the largest single number of Code-related disputes referred to the ABIO/BFSO 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 (25.3%).

PIN-based EFT transactions (13.8%), account crediting and debiting (12.6%) and the catch-all category "other aspects of service delivery" (23.1%) accounted for a significant proportion of disputes referred to the ABIO/BFSO. Unlike internally resolved disputes, however, fees and charges were disputed in only 3.6% of externally resolved cases.

The ABIO/BFSO resolved 28.2% of the disputes reported, which translated to 32.5% of matters closed for the period. Of those resolved by the ABIO/BFSO, 8.3% disputes were resolved in favour of the customer and 11.6% were resolved in favour of the bank.

More than half of all disputes referred to the ABIO/BFSO (58.7%) were referred by the ABIO/BFSO back to the bank, and were resolved at that level. It is pleasing that most disputes are resolved early in the ABIO's/BFSO'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/BFSO. If this were the case, it might suggest that the bank's internal dispute resolution processes may not be operating as effectively as is desirable.

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<sup>12</sup> The BFSO came into effect on 19 August 2003, after the reported monitoring period. Therefore, this data was received under the ABIO.

**Table 4 – Banking Code Disputes resolved externally, 2002-2003**

Personal Accounts open as at 31 March, 2003: 44,032,386

Transactions Conducted During the Reporting Period: 4,639,911,805

Dispute Category	Total Disputes <sup>13</sup>	Resolution						
		Disputes Referred Back to Bank for Resolution <sup>14</sup>	Resolved in Customer's Favour	Resolved in Bank's Favour	Dispute Benefiting Both Parties	Discontinued Disputes	Disputes Outside Terms of Reference	Disputes Outstanding <sup>15</sup>
<b>Disclosure</b>								
Terms & Conditions	98	64	2	7	3	6	7	11
General Information	115	63	3	3	3	6	14	23
Fees & Charges	181	116	2	2	3	33	7	22
Cost of Credit	12	7	0	1	0	0	1	3
Foreign Currency Transactions	14	9	0	0	0	3	1	1
<i>Total Disclosure</i>	420	259	7	13	9	48	30	60
<b>Variations to Terms &amp; Conditions</b>	49	26	1	1	2	7	4	10
<b>Banking Service Delivery</b>								
Statements	41	23	2	0	1	9	2	6
Account Combination/Closure	89	58	0	2	0	14	6	9
Account Debiting/Crediting	634	425	13	20	9	74	25	78
Proper Interest Rate, Fee, Charge	365	190	4	12	4	57	35	61
Instructions	1,275	778	33	28	34	167	82	173
EFT (PIN based)	692	411	11	52	31	68	7	121
Other Service Delivery	1,163	634	29	31	23	191	111	158
<i>Total Banking Service</i>	4,259	2,519	92	145	102	580	268	606
<b>Advertising</b>	18	9	0	0	0	2	3	4
<b>Privacy &amp; Confidentiality</b>								
Disclosure to Related Entities	6	3	0	0	0	2	0	1
Other Aspects of Privacy/Confidentiality	75	39	3	1	2	15	7	11
<i>Total Privacy &amp; Confidentiality</i>	81	42	3	1	2	17	7	12
<b>Provision of Credit</b>	165	78	11	4	10	17	17	35
<b>Guarantees</b>	16	3	2	0	2	3	2	4
<b>Dispute Resolution Process</b>	23	15	1	0	0	4	1	2
<b>Total of All Disputes</b>	<b>5,031</b>	<b>2,951</b>	<b>117</b>	<b>164</b>	<b>127</b>	<b>678</b>	<b>332</b>	<b>733</b>

<sup>13</sup> This column combines ABIO/BFSO complaint records for "Outstanding from prior period" and "Received during period".

<sup>14</sup> These disputes were referred back to the bank by the ABIO/BFSO for further consideration. They still met the ABIO/BFSO criteria for external disputes and are counted as such.

<sup>15</sup> The ABIO/BFSO notes that the number of complaints outstanding at the end of the period does not equate exactly to the info it labels as "Outstanding from prior period" *plus* "Received during period" *minus* "Closed during period". Reasons given for this are: cases closed during previous reporting period reopened; cases deleted (e.g. where duplicated in error); and amendments to Codes between initial processing of the complaint and closure.

**Table 5 – Membership of the Code of Banking Practice as at 31 March 2003.**

<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 <sup>16</sup>
Bank of Queensland Limited
Bank of Western Australia Ltd (Bankwest)
Bendigo Bank Limited
Citibank Limited
Commonwealth Bank of Australia
HSBC Bank Australia Limited
ING Mercantile Mutual Bank (Australia) Ltd
Macquarie Bank Limited
National Australia Bank Limited
Rabobank Australia (formally: Primary Industry Bank of Australia Limited)
St. George Bank Limited
Suncorp-Metway Limited
Westpac Banking Corporation

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<sup>16</sup> Bank of China submitted a monitoring statement under the Code of Banking Practice, however, they have not yet formally subscribed to the Code.

# Section 5

## The Building Society Code of Practice

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### Scope of the Code

The Building Society Code of Practice ("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>17</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.

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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.

The statement used to monitor compliance with the Building Society Code for the 2002/2003 reporting period was identical to the 2001/2002 statement.

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<sup>17</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).

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## Monitoring results

### Code membership and responses

There are 14 building societies operating in Australia,<sup>18</sup> and eight of these have adopted and implemented the Building Society Code. One building society reports under the Credit Union Code of Practice.

As indicated in the last report, the Heritage Building Society, Mackay Permanent Building Society, Pioneer Permanent Building Society, The Rock Building Society and Wide Bay Capricorn Building Society have not adopted the Building Society Code.<sup>19</sup>

After contacting these building societies it was indicated that there is no intention on their behalf to adopt the Building Society Code. Generally, their reasoning was that because building societies are regulated by APRA, will be regulated by ASIC under FSRA, and are also members of the Financial Co-operative Dispute Resolution Scheme (FCDRS), it is unnecessary to also be bound and regulated by a code of conduct.

Building society customers will soon receive the benefits of the FSR amendments to the Corporations Act 2001, if they have not already done so. These will provide them with a number of important protections, especially in terms of disclosure and dispute resolution.

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

### Compliance with the Building Society Code

Monitoring statements were received from seven of the eight 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.

As with the previous monitoring period, none of the building societies reported instances of non-compliance or recurrent non-compliance with the Code during the reporting period April 2002 to March 2003.

### Internal compliance assessment

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

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<sup>18</sup> See <http://www.apra.gov.au/adi/ADIList.cfm> (downloaded 01/12/03 and current at 20/11/03).

<sup>19</sup> They were, however, all members of the EFT Code at the time this report monitors.

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, at least one reported appointing a full-time Quality Assurance Officer and Legal & Compliance Manager 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**

Our internal systems have been designed to comply with the Code. These systems produce regular reports, which allow us to monitor compliance with each of the Code's provisions. These reports also allow us to identify any areas of non-compliance.

## 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**

Training is compiled and conducted by dedicated Training Officers at our Head Office and "On-The-Job" training is also provided.

Our Training Material is based on our various procedural and training manuals. These manuals are produced as hard copy format or on our system in our Internal Internet. The information contained in these manuals is readily accessible to our staff. In addition we also provided regular on-going via Training Questionnaires which are accessed by our staff via our Internal Internet system.

## External dispute resolution arrangements

Building societies are able to join the FCDRS as their approved EDR scheme. The FCDRS was set up as a joint initiative of the NCUA (National Credit Union Association) and the AAPBS (Australian Association of Permanent Building Societies) and has been able to accept both building society and credit union members since early 2003. At the time of writing this report, there are 14 building society members of the FCDRS. All building societies listed in Table 8 are members of FCDRS. All building societies will need to be member of an approved EDR scheme by no later than 11 March 2004.

## General comments

As part of the monitoring questionnaire, building societies were asked whether they wished to raise any concerns about the operation of the Building Society Code. 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:

- 78 disputes resolved internally;
- 1,183,657 personal accounts open as at 31 March 2003; and
- 94,955,841 transactions conducted through those accounts.

As with the last monitoring period, the number of personal accounts has fallen and yet the number of transactions has increased. The number of personal accounts decreased by just over 74,000 and the number of transactions increased by almost 9.8 million between the 2001/2002 period and the current 2002/2003 period. The total number of disputes for the 2002/2003 reporting period (78) is almost half of the total number in 2001/2002 (145). The rate of disputes per million transactions for 2002/2003 is less than one dispute per million transactions, the lowest rate recorded in any of the five monitoring reports completed since 1998-1999. However, it is worth noting that the number of building societies included in each monitoring period has declined over time. This current period covers only eight institutions.

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

Year	Number of disputes (includes those held over from 01/02)	Number of accounts	Number of transactions	Disputes per million transactions
2002/2003	78	1,183,657	94,955,841	0.8
2001/2002	145	1,257,770	85,171,951	1.7
2000/2001	80	1,277,273	67,218,374	1.2
1999/2000	168	1,197,706	71,806,463	2.3
1998/1999	84	973,244	55,430,950	1.5

Table 7 shows that, of the 78 disputes considered internally, 42.3% were resolved by mutual agreement. A further 30.8% were resolved in the building societies' favour and the remaining 21.8% were resolved in the customers' favour. Four disputes remained outstanding at the end of the period (5.1%).

PIN-based EFT transactions continued to account for a large proportion of the total disputes (30.8%) and disputes relating to account debiting and crediting (25.6%) were also high.

Disputes that fell into the catch-all category of “other aspects of service delivery” dropped dramatically from 26 instances in 2001/2002 to six in this period. This figure is the same as the number reported in the 2000/2001 monitoring period.

### **Disputes resolved externally**

Where disputes regarding alleged breaches of the Code fail to be resolved internally, they can be referred to an external dispute resolution process. As noted above, the approved EDR scheme, the FCDRS, has been able to accept both building society and credit union members since early 2003. This represents only a small part of the full monitoring period.

There were two disputes resolved externally in this monitoring period. The figure in the last monitoring period was four disputes resolved externally. Account debiting and crediting accounted for one dispute, which was resolved by mutual agreement, and the other dispute related to an EFT (PIN based) transaction. This dispute was resolved in favour of the building society.

**Table 7 – Building Society Code Disputes resolved internally, 2002-2003**

Personal Accounts open as at 31 March, 2003: 1,183,657

Transactions Conducted During the Reporting Period: 94,955,841

Dispute Category	Total Disputes Received (incl those held over from 01/02)	Resolution			
		Customer's Favour	Mutual Agreement	Building Society's Favour	Disputes Outstanding
<b>Disclosure</b>					
Terms & Conditions	2	0	1	1	0
General Information	5	3	2	0	0
Fees & Charges	7	1	4	2	0
Cost of Credit	3	1	1	1	0
<i>Total Disclosure</i>	17	5	8	4	0
<b>Variations to Terms &amp; Conditions</b>	0	0	0	0	0
<b>Banking Service Delivery</b>					
Statements	1	0	1	0	0
Account Combination/Closure	1	0	1	0	0
Account Debiting/Crediting	20	3	6	8	3
Proper Interest Rate, Fee, Charge	7	0	6	1	0
Instructions	1	0	0	1	0
EFT (PIN based)	24	9	7	8	0
Other Service Delivery	6	0	4	2	0
<i>Total Banking Service</i>	60	12	25	20	3
<b>Advertising</b>	0	0	0	0	0
<b>Privacy &amp; Confidentiality</b>					
Disclosure to Related Entities	0	0	0	0	0
Other Aspects of Privacy/Confidentiality	1	0	0	0	1
<i>Total Privacy &amp; Confidentiality</i>	1	0	0	0	1
<b>Provision of Credit</b>	0	0	0	0	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>78</b>	<b>17</b>	<b>33</b>	<b>24</b>	<b>4</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 that report under another payments system code</b>	<b>Building Societies that have not adopted a payments system code*</b>
<p>ABS Building Society Ltd (Armidale Building Society Limited)</p> <p>B&amp;E Ltd (Bass &amp; Equitable Building Society Ltd)</p> <p>Greater Building Society Limited</p> <p>Home Building Society Limited</p> <p>Hume Building Society Limited</p> <p>IMB Building Society Limited (Illawarra Mutual Building Society Limited)</p> <p>Newcastle Permanent Building Society Limited</p> <p>Maitland Mutual Building Society Limited</p>	<p>Lifepan Australia Building Society Limited (Credit Union Code of Practice)</p>	<p>Heritage Building Society Limited</p> <p>Mackay Permanent Building Society Limited</p> <p>Pioneer Permanent Building Society Limited</p> <p>The Rock Building Society Limited</p> <p>Wide Bay Capricorn Building Society</p> <p>*Submitted an EFT Code return during 2002-2003 period.</p>

# Section 6

## The Credit Union Code of Practice

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### Scope of the Code

The Credit Union Code of Practice ("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>20</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 has been under review.

The Credit Union Code of Practice Task Force provided final recommendations and its report to the CUSCAL Board on 5 December 2003. ASIC has been told by CUSCAL that:

The CUSCAL Industry Association Advisory Committee, made up of elected credit union representatives, will consider the Task Force's recommendations and assist in the revision of the industry Code. The credit

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<sup>20</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).

union sector has endorsed in principle a revised Credit Union Code of Practice which is member-focused and avoids regulatory overlap, while matching common standards in the banking sector..

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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:

- 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 197 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 the members of the Credit Union Code during the period monitored.

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

At the time of preparing this report, most Code subscribers had returned monitoring statements.

## Compliance with the Credit Union Code

In total, 95% of credit unions reported full compliance with all provisions of the Code (excluding any provisions not applicable) in the 2002/2003 reporting period, compared with 97% in the last reporting period.

There were 38 instances of non-compliance with the Credit Union Code during the reporting period, reported by 14 institutions. Examples of non-compliance included:

- five instances of failure to have procedures in place to enable compliance with the Code in relation to advertising;
- five instances of failure to have procedures in place to enable compliance with the Code in relation to account combination;
- four instances of failure to have documents &/ or information which comply with the Code in relation to foreign currency transactions; and
- three instances of failure to train appropriate staff in the requirements of the Code in relation to account combination.

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

Only three credit unions reported instances of recurrent non-compliance with the provisions of the Credit Union Code. Each of these credit unions noted the corrective action they are taking to rectify non-compliance. Table 9 gives details of the areas of recurrent non-compliance as described by the credit unions.

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

Explanation of non-compliance	Steps taken to rectify
Account combination rarely practiced	Policies and procedures to be adopted to reflect practices
Only in areas of procedural matters	Re-training and follow-up is undertaken
Tax file numbers have not been deleted from all New Member Applications, a breakdown in procedures, which has been identified by the audit process	This issue has been resolved, in the short term by refreshing account opening procedures with all staff members, to ensure that the TFN is removed from any documentation prior to filing. In the long term, the audit process will continue to monitor this action

## Internal compliance assessment

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

Credit unions vary considerably in size, with the smallest operating perhaps with one or two part-time staff only. Given the differences in size, there was considerable variation in the means by which compliance was assessed by credit unions. For example, while some credit unions described multiple means of assessment, others mentioned only one or two. A small number of the smaller credit unions do not have a formal compliance assessment system in place, and instead, responsibility for compliance rests with the manager, and staff are trained on the provisions of the Credit Union Code to ensure compliance in the day-to-day conduct of the business.

In the last monitoring period we reported five credit unions that had no system or procedures to ensure internal compliance or did not respond to this question. In this period, four credit unions reported that they had no systems of compliance in place.

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. Approximately half of the credit unions mentioned this method specifically. Here are two examples of compliance systems implemented by credit unions:

#### **Example A**

a) Divisional Managers are responsible for compliance within their areas. If an instance of non-compliance or possible non-compliance arises, the manager must correct the problem and prepare a "Compliance Deficiency Report". This report is to be submitted to the Senior Audit and Compliance Officer. The report details the issue and what action has been taken to rectify the problem.

b) Our system requires periodic Compliance Certification from Divisional Managers with annexed checklists, which they must complete. Such checklists list all issues of compliance and include all the sections of the Credit Union Code of Practice (the Code) relevant to all divisions.

c) Checklists have been developed for the introduction of new fees and the variation of existing fees. These checklists provide for the requirements of the Code. The relevant manager is to complete the checklist and have it "Compliance Checked" by the Senior Audit and Compliance Officer.

d) Required disclosures (eg. General Information (S6)) are contained in relevant brochures/forms. Procedures provide for the relevant brochure/form to be provided to, and/or discussed with, the member at the appropriate time. Mini checklists are contained on forms to record whether the brochures/forms were provided and/or discussed with the member.

#### **Example B**

Each month every business unit within the Credit Union completes a Compliance Statement, which is signed off by the unit Manager and Supervisor. The Compliance Statements highlights any potential or actual non-compliance with Code provisions. A summary of all Compliance Statements is prepared by the Chief Executive and submitted to the Board each month.

## 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 induction programs and external training provided by CUSCAL.

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

## External dispute resolution arrangements

At the time of the monitoring period under consideration credit unions belonged to a number of different schemes. There was a rationalisation of these schemes during the reporting period. Schemes reported to have been used at one time or another during the monitoring period were:

- Credit Union Dispute Resolution Centre (CUSCAL);
- Credit Union Ombudsman (National Credit Union Association);
- Financial Co-operative Dispute Resolution Scheme Inc (FCDRS);
- Endispute; and
- Australian Commercial Disputes Centre (ACDC).

**Table 10 – Credit union membership of EDR schemes/processes**

ADR scheme / process	Number of credit union 's who reported use during this period
Australian Commercial Disputes Centre (ACDC)	1
Credit Union Dispute Resolution Centre (CUDRC)	156
Endispute	3
Financial Co-operative Dispute Resolution Scheme (FCDRS)	16
National Credit Union Association (NCUA)	6
Other arrangement	2
<b>Total</b>	<b>184</b>

Two credit unions did not belong to an external scheme. One used an independent external person who spoke the language of the majority of their members to resolve the disputes that could not be resolved internally. The other reported that it was developing its own process for dispute resolution. Both credit unions will need to belong to an ASIC approved scheme by 11 March 2004.

Under the Financial Services Reform Act, which commenced on 11 March 2002 with a two-year transitional period, all financial services licensees who do business with retail clients (which will include credit unions) will need to belong to an EDR scheme that has been approved by ASIC. During 2002/2003, ASIC approved two external dispute resolution schemes in the credit union sector. The Credit Union Dispute Resolution Centre, to which the majority of credit unions belong, was approved on 1 September 2002. The Financial Co-operative Dispute Resolution Scheme was approved on 30 January 2003. This scheme covers a smaller number of credit unions and building societies. ASIC does not expect to approve any further EDR schemes in the credit union sector. Any credit union remaining outside these two schemes will therefore need to ensure they are members before the end of the transition period on 11 March 2004.

## General comments

In this monitoring period, 10 credit unions commented on the operation of the Credit Union Code. Some of these institutions were concerned that compliance with the Code was costly and created excessive paperwork, while others questioned how the Code of Practice requirements will be integrated with the new Financial Services Reform legislation. However, other institutions offered positive comments, for example one remarked on the efficiency and effectiveness of the current system and another felt that the Code requirements complimented the new Financial Services Reforms. One credit union stated their interest in a reviewed Code.

## Complaints and disputes

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

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

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

## **Disputes resolved internally**

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

- 2,057 disputes;
- 5,383,988 personal accounts open at 31 March 2003; and
- 672,566,053 transactions conducted during the year.

This equates to 3.1 disputes per million transactions, a significant drop in disputes from the 5.8 disputes per million transactions reported during the 2001/2002 reporting period.

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

Although down on the 2001/2002 monitoring period, banking services attracted the largest percentage of total complaints (89.6%). A pleasing result is the downturn in the number of disputes reported on EFT (PIN based) transactions since the last reporting period (1,971 disputes in 2001/2002 and 1,226 disputes in 2002/2003). During this period, 70.9% of EFT (PIN based) disputes were resolved in favour of the customer.

Other significant areas of dispute were:

- account debiting/crediting (12.3%);
- proper interest rate, fee or charge (4.2%);
- total disclosure issues (up on last period at 6%); and
- the catch-all category "other aspects of service delivery" (11.2%).

**Table 11 – Credit Union Code Disputes resolved internally, 2002-2003**

Personal Accounts open at 31 March, 2003: 5,383,988

Transactions Conducted During the Year: 672,566,053

Dispute Category	Total Disputes (incl those held over from 00/01)	Resolution			
		Customer's Favour	Mutual Agreement	Credit Union's Favour	Disputes Outstanding
<b><u>Disclosure</u></b>					
Terms & Conditions	8	0	3	4	1
General Info	17	3	12	1	1
Fees & Charges	83	22	37	23	1
Cost of Credit	6	0	1	5	0
Foreign Currency Transactions	10	5	5	0	0
<i>Total Disclosure</i>	124	30	58	33	3
<b>Variations to Terms &amp; Conditions</b>	0	0	0	0	0
<b><u>Banking Service Delivery</u></b>					
Statements	16	5	9	0	2
Account Combination	5	3	1	1	0
Account Debiting/Crediting	254	191	29	29	5
Proper Interest Rate, Fee, Charge	87	24	45	17	1
Instructions	26	17	4	4	1
EFT (PIN based)	1,226	869	63	237	57
Other Service Delivery	230	107	86	35	2
<i>Total Banking Service</i>	1,844	1,216	237	323	68
<b><u>Advertising</u></b>	7	4	2	1	0
<b><u>Privacy &amp; Confidentiality</u></b>					
Disclosure to Related Entities	5	2	1	2	0
Other Aspects of Privacy/Confidentiality	29	10	7	11	1
<i>Total Privacy &amp; Confidentiality</i>	34	12	8	13	1
<b><u>Provision of Credit</u></b>	41	5	15	20	1
<b>Guarantees</b>	0	0	0	0	0
<b>Dispute Resolution Process</b>	7	4	2	0	1
<b>Total of All Disputes</b>	<b>2,057</b>	<b>1,271</b>	<b>322</b>	<b>390</b>	<b>74</b>

## Disputes resolved externally

Table 12 shows the number and type of disputes considered by external dispute resolution scheme CUDRC, as reported by the ABIO/BFSO.<sup>21</sup> However, readers should note that CUDRC were used by 156 (85%) of the credit unions that submitted a Codes return (see Table 10). External disputes generated by the remaining 28 credit unions that submitted a return are therefore not included in this report.

The total number of disputes received during the period was 136, not including those outstanding from the prior period.<sup>22</sup> The number of disputes closed for the period was 93.<sup>23</sup> Of those closed for the period, almost half (47.3%) involved EFT (PIN-based) disputes. Other notable areas included account debiting/crediting (14.0%) and fees and charges (6.5%). The catch-all category "other aspects of service delivery" recorded 14% of disputes closed for the period.

As Table 12 indicates, a sizable number of disputes (38.7% of closed cases) were referred back to the credit union for resolution. In all, 6.5% of closed cases were resolved in favour of the customer and 8.6% were resolved in favour of the credit union. Disputes resolved in favour of both parties accounted for 10.8%.

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<sup>21</sup> Readers should take note of changes in the way this section of the monitoring report is analysed: ADR services to members of CUSCAL were provided by ABIO/BFSO from 1 September 2002 onwards. Because of the transition in data processing, the data quoted in the Total Disputes column of Table 12 is incomplete - it contains only those disputes "Received during period", i.e. it does not include those "Outstanding from prior" period as well. Also note that this column does not represent those disputes "Closed during period". The Total Disputes column aside, the level of detail in the table this year is greater than in previous years (for example it includes Discontinued Disputes and Disputes Outside Terms of Reference).

<sup>22</sup> See above footnote for explanation.

<sup>23</sup> Referring to Table 12, you can calculate the "Closed during period" figures by adding across all the columns in between (but not including) the first column, Total Disputes, and the final column, Disputes Outstanding.

**Table 12 – Credit Union disputes resolves externally, 2002-2003<sup>24</sup>**

Dispute Category	Total Disputes <sup>25</sup>	Resolution						
		Disputes Referred Back to Credit Union for Resolution <sup>26</sup>	Resolved in Customer's Favour	Resolved in Credit Union's Favour	Dispute Benefiting Both Parties	Discontinued Disputes	Disputes Outside Terms of Reference	Disputes Outstanding <sup>27</sup>
<b>Disclosure</b>								
Terms & Conditions	1	1	0	0	0	0	0	0
General Information	0	0	0	0	0	0	0	0
Fees & Charges	6	2	0	0	0	0	4	0
Cost of Credit	0	0	0	0	0	0	0	0
Foreign Currency Transactions	1	0	0	0	1	0	0	0
<i>Total Disclosure</i>	8	3	0	0	1	0	4	0
<b>Variations to Terms &amp; Conditions</b>	0	0	0	0	0	0	0	0
<b>Banking Service Delivery</b>								
Statements	1	0	0	0	0	0	0	1
Account Combination/Closure	0	0	0	0	0	0	0	0
Account Debiting/Crediting	20	6	3	1	0	2	1	8
Proper Interest Rate, Fee, Charge	9	0	0	0	0	5	0	4
Instructions	8	4	0	0	0	0	0	4
EFT (PIN based)	62	17	3	7	9	7	1	18
Other Service Delivery	20	4	0	0	0	4	5	7
<i>Total Banking Service</i>	120	31	6	8	9	18	7	42
<b>Advertising</b>	0	0	0	0	0	0	0	0
<b>Privacy &amp; Confidentiality</b>								
Disclosure to Related Entities	0	0	0	0	0	0	0	0
Other Aspects of Privacy/Confidentiality	3	0	0	0	0	0	1	1
<i>Total Privacy &amp; Confidentiality</i>	3	0	0	0	0	0	1	1
<b>Provision of Credit</b>	5	0	0	0	0	0	3	1
<b>Guarantees</b>	0	0	0	0	0	0	0	0
<b>Dispute Resolution Process</b>	0	0	0	0	0	0	0	0
<b>Total of All Disputes</b>	<b>136</b>	<b>36</b>	<b>6</b>	<b>8</b>	<b>10</b>	<b>18</b>	<b>15</b>	<b>44</b>

<sup>24</sup> This table differs slightly to last year's table. This is because this year the ABIO/BFSO was involved in the provision of dispute resolution services regarding credit unions (commencing 1 September 2002).

<sup>25</sup> Ordinarily, this column would combine ABIO/BFSO complaint records for "Outstanding from prior period" and "Received during period". However, because ABIO/BFSO only commenced its credit union ADR services in September 2002, the records for "Outstanding from prior period" are not known. Therefore, this column only contains those "Received during period".

<sup>26</sup> These disputes were referred back to the credit union. They still met the criteria for external disputes and are counted as such.

<sup>27</sup> The ABIO/BFSO notes that the number of complaints outstanding at the end of the period does not equate exactly to the info it labels as "Outstanding from prior period" *plus* "Received during period" *minus* "Closed during period". Reasons given for this are: cases closed during previous reporting period reopened; cases deleted (e.g. where duplicated in error); and amendments to Codes between initial processing of the complaint and closure.

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

<b>Institutions that have adopted the Credit Union Code of Practice</b>			
Advance Credit Union Ltd	Carboy Credit Union Limited	Dairy Farmers Credit Union Ltd	Gateway Credit Union Ltd
AMCOR Credit Co-operative Limited	CDH Staff Credit Union Ltd	Defence Force Credit Union Limited	Geelong and District Credit Co-operative Society Limited
AMP Employees' & Agents' Credit Union Limited	Central Murray Credit Union Limited	Discovery Credit Union Ltd	GMH (Employees) Credit Co-operative Limited
Australian Central Credit Union Ltd	Central West Credit Union Limited	Dnister Ukrainian Credit Co-operative Ltd	GoldCredit Co-operative Limited
Australian Defence Credit Union Limited	Circle Credit Co-operative Limited	ELCOM Credit Union Ltd	Goldfields Credit Union Limited
Australian National Credit Union Limited	City Coast Credit Union Ltd	Electricity Credit Union Ltd	Gosford City Credit Union Limited
AWA Credit Union Ltd	Coastline Credit Union Limited	Encompass Credit Union Limited	Goulburn Murray Credit Union Limited
Bananacoast Community Credit Union Ltd	Collie Miners Credit Union Ltd	Ericsson Credit Union Limited	Heritage Isle Credit Union Ltd
Bankstown City Credit Union Ltd	Combined Australian Petroleum Employees' Credit Union Ltd	Esso Employees' Credit Union Ltd	Hibernian Credit Union Limited
Bemboka Community Credit Union Ltd	Community First Credit Union Limited	Eurobodalla Credit Union Ltd	HMC Staff Credit Union Ltd
Berrima District Credit Union Ltd	Companion Credit Union Limited	Family First Credit Union Limited	Holiday Coast Credit Union Ltd
Big River Credit Union Ltd	Comtax Credit Union Limited	Fire Brigades Employees' Credit Union Limited	Horizon Credit Union Ltd
Big Sky Credit Union	Connect Credit Union Limited	Fire Service Credit Union Limited	Hoverla Ukrainian Credit Co-operative Ltd
Blue Mountains and Riverlands Community Credit Union Ltd	Country First Credit Union Ltd	Firefighters Credit Co-operative Limited	Hunter Coast Credit Union Ltd
BP Employees Credit Co-operative Limited	CPS Credit Union (SA) Limited	First Gas Employees Credit Union Limited	Hunter United Employees' Credit Union Limited
Breweries Union Co-operative Credit Society Limited	CPS Credit Union Co-operative (ACT) Limited	First Pacific Credit Union Ltd	IMG Credit Union Limited
Broken Hill Community Credit Union Ltd	Credit Union Australia Ltd	Fitzroy & Carlton Community Credit Co-operative Limited	Industries Mutual Credit Union
Calare Credit Union Ltd	Croatian Community Credit Union Limited	Flying Horse Credit Union Co-operative Limited	Intech Credit Union Limited
Capital Credit Union Limited	CSR Employees' Credit Union Limited	Ford Co-operative Credit Society Limited	
Capricornia Credit Union Ltd			



IIOF South Australia Credit Union Limited	Memberfirst Credit Union Limited	Police Association Credit Co-operative Limited	Security Credit Union Limited
Island State Credit Union Ltd	Members and Education Credit Union Limited	Police Credit Union Limited	Select Credit Union Limited
Karpaty Ukrainian Credit Union Limited	Money Wise Credit Union Limited	Polish Community Credit Union Ltd	Service One Credit Union
La Trobe Country Credit Co-operative Limited	MSB Credit Union Limited	Post-Tel Credit Union Ltd	SGE the Service Credit Union Ltd
La Trobe University Credit Union Co-operative Limited	Newcastle Civic Credit Union Limited	Power Credit Union Limited	Shell Employees' Credit Union Limited
Laboratories Credit Union Limited	Newcom Colliery Employees Credit Union Ltd	PowerState Credit Union Ltd	Shoalhaven Paper Mill Employees' Credit Union Ltd
Latvian Australian Credit Co-operative Society Limited	North East Credit Union Co-operative Limited	Prospect Credit Union Limited	Softwoods Credit Union Co-operative Limited
Lithuanian Co-operative Credit Society "Talka" Limited	North West Country Credit Union Co-operative Limited	Pulse Credit Union Limited	South East Community Credit Society Ltd
Lysaght Credit Union Ltd	Northern Districts Credit Union Limited	Qantas Staff Credit Union Limited	South West Slopes Credit Union Ltd
Macarthur Credit Union Ltd	Northern Inland Credit Union Limited	Queensland Community Credit Union Limited	Southern Cross Credit Union Ltd
Macaulay Community Credit Co-operative Limited	Nova Credit Union Limited	Queensland Country Credit Union Limited	South West Credit Union Co-operative Limited
Macquarie Credit Union Limited	NSW Teachers Credit Union Ltd	Queensland Police Credit Union Limited	Spicer Employees Credit Union
Maitland City Council Employees' Credit Union Ltd	Old Gold Credit Union Co-operative Limited	Queensland Teachers' Credit Union Limited	St Mary's Swan Hill Co-operative Credit Society Limited
Maleny and District Community Credit Union Limited	Orana Credit Union Ltd	Queenslanders Credit Union Limited	St Patrick's Mentone Co-operative Credit Society Limited
Manly Warringah Credit Union Limited	Orange Credit Union Limited	RACV Credit Union Limited	St Philip's Credit Co-operative Limited
Maritime Workers of Australia Credit Union Ltd	Parkes District Credit Union Ltd	Railways Credit Union Ltd	StateWest Credit Society Limited
MaroonDAH Credit Union Ltd	Peel Valley Credit Union Ltd	Randwick Credit Union Limited	Sutherland Credit Union Ltd
Media Credit Union Queensland Ltd	Phoenix (N.S.W.) Credit Union Ltd	Reliance Credit Union Ltd	Sutherland Shire Council Employees' Credit Union Ltd
Melbourne Credit Union Limited	Pinnacle Credit Union Ltd	Resources Credit Union Limited	
Melbourne University Credit Union Limited	Plenty Credit Co-operative Limited	RTA. Staff Credit Union Limited	
	Police & Nurses Credit Society Limited	Satisfac Direct Credit Union Limited	
		Savings and Loans Credit Union (S.A.) Limited	

Sydney Credit Union Ltd	The Summerland Credit Union Limited	United Credit Union Limited	WAW Credit Union Co-operative Limited
TAB Credit Union Limited	The TAFE and Community Credit Union Ltd	University Credit Society Limited	Westax Credit Society Ltd
Tartan Credit Union Limited	Traditional Credit Union Limited	Upper Hunter Credit Union Ltd	Western City Credit Union Ltd
Telstra Credit Union Ltd	Transcomm Credit Co-operative Limited	Victoria Teachers Credit Union Limited	Woolworths/Safeway Employees' Credit Co-Operative Limited
The Gympie Credit Union Ltd	Uni Credit Union Ltd	Wagga Mutual Credit Union Ltd	Wyong Council Credit Union Ltd
The Illawarra Credit Union Limited	Unicom Credit Union Limited	Warwick Credit Union Ltd	Yennora Credit Union Ltd
The Police Department Employees' Credit Union Limited			
<b>Other institutions that have adopted the Credit Union Code of Practice</b>			
Lifeplan Australia Building Society Limited			
<b>Credit unions that have not adopted the Credit Union Code of Practice or another payments system code</b>			
Broadway Credit Union Ltd			
Queensland Professional Credit Union Ltd			
<b>Credit Unions that have merged/been taken over/changed names since previous report (up to the end of the current period)</b>			
Albury Murray Credit Union Ltd merged with WAW Credit Union Co-operative Ltd			
BHP Group Employees Credit Union became Big Sky Credit Union Ltd			
B-W Albury Employees' Credit Union Ltd merged with WAW Credit Union Co-operative Ltd			
Dependable Credit Union Ltd merged with Members Australia. Subsequently, Members Australia and Education Credit Union merged to form Members & Education Credit Union			
Health Services Credit Union Society merged with StateWest Credit Society Limited			
Herald Austral Credit Cooperative became Advance Credit Union Ltd			
Manly Vale Credit Union Ltd merged with Manly Warringah Credit Union			
Waverley Credit Union Co-operative Ltd merged with Maroondah Credit Union Ltd			
Metropolitan Credit Union Ltd merged with Credit Union Australia Ltd			
Newcastle Bus Credit Union Ltd became Hunter Coast Credit Union Ltd			
Punchbowl Credit Union Ltd became Pinnacle Credit Union Ltd			
State Health Credit Union Ltd merged with Transport Industries Credit Union Ltd. This merger created a new credit union called Industries Mutual Credit Union			

# Appendix A

## Banking Code return

### CODE OF BANKING PRACTICE STATEMENT OF COMPLIANCE AND DISPUTES STATISTICS

**INSTITUTION:** (please print name) \_\_\_\_\_  
**For period:** April 2002 - March 2003

**CONTACT OFFICER:**

**Name:** \_\_\_\_\_  
**Telephone:** \_\_\_\_\_  
**Position:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Facsimile:** \_\_\_\_\_  
**E-mail:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

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

Completed returns are to be forwarded to:

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

by **18 May 2003**.

## Part 1

For each product/service covered by the Code:<sup>28</sup>

Code of Banking Practice - Relevant Section	Does your institution have <b>DOCUMENTS &amp;/or INFORMATION</b> which comply with the Code in relation to: (Yes/No/NA)		Does your institution have <b>PROCEDURES</b> in place to enable compliance with the Code in relation to: (Yes/No/NA)		Does your institution <b>TRAIN</b> appropriate staff in the requirements of the Code in relation to: (Yes/No/NA)	
<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	
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<sup>28</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>29</sup>.

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

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<sup>29</sup> Nominee should be an appropriate, senior officer; please indicate position held.

**CODE OF BANKING PRACTICE - STATISTICAL RETURN**

Period: April 2001 - March 2002

PART A  NUMBER OF DISPUTES  Concerning:	MANNER OF HANDLING DISPUTES "RESOLVED" INTERNALLY					
	Outstanding from prior period	Received during period	In favour of Customer	Mutual Agreement - including goodwill decisions	In favour of Bank	Outstanding at end period
	A	B	C	D	E	F
<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 delivery						
14 Advertising						
<b>Privacy &amp; Confidentiality:-</b>						
15 Disclosure to Related Entities						
16 Other aspects - privacy/confidentiality						
17 Provision of Credit						
18 Guarantees						
19 Dispute Resolution Process						

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