



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (Approval of Variation of March 2020 Banking Code of Practice) Instrument 2020/602

I, Sean Hughes, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date

25 June 2020

A handwritten signature in black ink, appearing to be 'S. Hughes'.

Sean Hughes

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Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (Approval of Variation of March 2020 Banking Code of Practice) Instrument 2020/602*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under subsection 1101A(2) of the *Corporations Act 2001 (Act)*.

4 Definitions

In this instrument:

COVID-19 Special Note means the words set out in Schedule 1 to this instrument, regardless of their formatting.

March 2020 Banking Code of Practice means the *Banking Code of Practice*, published on 12 December 2019 by the Australian Banking Association Incorporated (ABN 60 117 262 978) and approved under subsection 1101A(1) of the Act by *ASIC Corporations (Approval of March 2020 Banking Code of Practice) Instrument 2019/1255*.

Note: The March 2020 Banking Code of Practice, under its terms, took effect from 1 March 2020.

Part 2—Approval of variation

5 Approval of variation of the March 2020 Banking Code of Practice

The insertion of the COVID-19 Special Note before the table of contents in the March 2020 Banking Code of Practice is approved.

Schedule 1 – COVID-19 Special Note

COVID-19 SPECIAL NOTE

COVID-19 has changed the way we live, work and conduct business

Added to The Banking Code in June 2020

This Special Note is part of the Banking Code of Practice (1 March 2020 Release) and applies in relation to the coronavirus known as COVID-19.

This Special Note commences on 1 July 2020 and applies until 1 March 2021 in relation to banking services and guarantees during that time.

COVID-19 has changed the way we live, work and conduct business.

It continues to have a significant impact on the Australian economy. The financial sector has a key role to play in supporting our customers and helping build a bridge to recovery.

Like the key Government and regulatory agencies, the banking industry acknowledges the importance of the continued flow of credit to affected customers and industries in the current environment.

We note that the Council of Financial Regulators, which includes the Australian Treasury, The Reserve Bank of Australia, the Australian Securities and Investments Commission (ASIC), and the Australian Prudential Regulation Authority (APRA), have committed to take account of the circumstances in which lenders are currently operating when administering their respective laws and regulations.

Other agencies with an important role in enforcing this Code, such as the Australian Financial Complaints Authority (AFCA), and the Banking Code Compliance Committee (BCCC), have issued similar statements recognising the effect of COVID-19 on the industry.

In this environment, and in keeping with the commitments made by the agencies outlined above, it is important that banks have regard to both their obligations under this Code and the broader critical need to preserve and restore the functioning of the economy when making decisions on the provision of banking services during this period.

These extraordinary circumstances may affect our internal resources and capacity, and the types of problems confronting our customers.

Consequently, the effects of COVID-19 may mean we are unable to fully comply with strict timing requirements for notices and communications under the Code.

While this special note applies, where we do not meet, but have made good faith efforts to comply with, the timing requirements in following paragraphs, we do not breach the Code: 101(b)&(c), 102, 148, 164, 205, and 206.

The substantive obligations in those paragraphs, along with all other requirements in other parts of this Code, continue to apply as usual.

During the period for which this Special Note operates:

1. On acknowledging your complaint, we will advise you of the possibility of delays to the usual required notifications during the complaints process.
2. Despite anything in this Special Note, we will inform you, within 45 days of your complaint (or such other time as specified for the relevant dispute in ASIC's Regulatory Guide 165), of your rights to apply for external dispute resolution if we have not resolved your complaint.

The effects of COVID-19 may also be relevant to our obligations under the Code when considering providing new or increased loans to your small business.

These effects include the inherent difficulties in making predictions for matters such as the pace of economic recovery, and in assessing your ability to service such loans.

In these circumstances, our obligation to engage with you in a fair, reasonable and ethical manner, and to exercise the care and skill of a diligent and prudent banker, will necessarily be informed by these matters and the effects of COVID-19 generally.