



Law Council
OF AUSTRALIA

Office of the President

23 January 2024

Banking Code Consultation Team
Regulation & Supervision
Australian Securities and Investments Commission
GPO Box 9827
BRISBANE QLD 4001

By email: BankingCode@asic.gov.au

Dear Banking Code Consultation Team

Proposed changes to the Banking Code of Practice

The Law Council of Australia welcomes the opportunity to provide a submission to the Australian Securities and Investments Commission in relation to its consideration of proposed changes to the Banking Code of Practice.

I am pleased to enclose the Law Council's submission, to which the New South Wales Bar Association, Queensland Law Society and Law Society of South Australia contributed. The submission is also informed by the views of the Australian Consumer Law Committee of the Law Council's Legal Practice Section, and the Financial Services Committee of the Law Council's Business Law Section.

If the Law Council can be of any further assistance in the course of this consultation, please contact [REDACTED] General Manager, Policy on [REDACTED] or at [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

President

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About the Law Council of Australia

The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its Constituent Bodies on federal, national, and international issues; promotes and defends the rule of law; and promotes the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world. The Law Council was established in 1933, and represents its Constituent Bodies: 16 Australian State and Territory law societies and bar associations, and Law Firms Australia. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Law Society of the Australian Capital Territory
- New South Wales Bar Association
- Law Society of New South Wales
- Northern Territory Bar Association
- Law Society Northern Territory
- Bar Association of Queensland
- Queensland Law Society
- South Australian Bar Association
- Law Society of South Australia
- Tasmanian Bar
- Law Society of Tasmania
- The Victorian Bar Incorporated
- Law Institute of Victoria
- Western Australian Bar Association
- Law Society of Western Australia
- Law Firms Australia

Through this representation, the Law Council acts on behalf of more than 90,000 Australian lawyers.

The Law Council is governed by a Board of 23 Directors: one from each of the Constituent Bodies, and six elected Executive members. The Directors meet quarterly to set objectives, policy, and priorities for the Law Council. Between Directors' meetings, responsibility for the policies and governance of the Law Council is exercised by the Executive members, led by the President who normally serves a one-year term. The Board of Directors elects the Executive members.

The members of the Law Council Executive for 2024 are:

- ██████████ President
- ██████████ President-elect
- ██████████ Treasurer
- ██████████ Executive Member
- ██████████ Executive Member
- ██████████ Executive Member

The Chief Executive Officer of the Law Council is ██████████. The Secretariat serves the Law Council nationally and is based in Canberra.

The Law Council's website is www.lawcouncil.au.

Acknowledgements

The Law Council acknowledges the contributions of the New South Wales Bar Association, Queensland Law Society and Law Society of South Australia in the preparation of this submission.

The Law Council also appreciates input received from the Australian Consumer Law Committee of the Law Council's Legal Practice Section, and the Financial Services Committee of the Law Council's Business Law Section.

Introduction

1. The Law Council of Australia welcomes the opportunity to provide a submission to the Australian Securities and Investments Commission (**ASIC**) in response to Consultation Paper 373 *Proposed changes to the Banking Code of Practice (CP 373)*. CP 373 relates to ASIC approval of proposed changes to the Australian Banking Association (**ABA**) Banking Code of Practice (the **Code**), developed following the 2021 Independent Review of the Code by Mr Mike Callaghan AM PSM (the **2021 Review**).
2. The Law Council provided a submission to the 2021 Review which expressed broad support for the Code and the way it articulates standards of service and behaviour currently expected by individual and small business customers.¹
3. This submission includes further reflections on the Code—in some cases building on earlier submissions to the 2021 Review, and in others raising new areas for consideration. The Law Council is confident that the below feedback will be useful to deliberations on whether ASIC should approve the proposed Code, and future consideration of how the Code can be improved.
4. The New South Wales Bar Association, Queensland Law Society and Law Society of South Australia have contributed to the points raised by the Law Council below with respect to the following matters:
 - deceased estates;
 - guarantor protection;
 - principal account holder access to account information;
 - freezing orders; and
 - scams.
5. This submission also includes, in separate sections, the additional views of the Australian **Consumer Law Committee** of the Law Council's Legal Practice Section and the **Financial Services Committee** of the Law Council's Business Law Section. The Financial Services Committee has also provided responses to each of the specific questions posed by ASIC in CP 373 at **Appendix A**.

Clarifying provisions dealing with deceased estates

6. A key focus of the Law Council's submission to the 2021 Review was the identification of several gaps in Chapter 45 of the Code with respect to dealings with deceased estates. This earlier submission put forward a number of proposals to rectify these matters.²
7. In response to the Law Council's previous submission, the 2021 Review acknowledged that there was scope to consider introducing greater clarity on the deceased estate process, including in circumstances where the deceased estate has operated a business. Accordingly, Recommendation 95 of the 2021 Review provided as follows:

Chapter 45 should be amended to incorporate the Law Council's proposals to clarify the provisions dealing with deceased estates.

¹ Law Council of Australia, *2021 Independent Review of Banking Code of Practice* (16 August 2021) <<https://lawcouncil.au/resources/submissions/2021-independent-review-of-banking-code-of-practice>>.

² *Ibid*, 11–14.

The detail could be included in an industry guideline, which is referenced in the Code.

8. The ABA supported this recommendation in principle and proposed to consult further with the Law Council and the Banking Code Compliance Committee (**BCCC**) in order to undertake a targeted inquiry into the Code provisions dealing with deceased estates. The ABA committed to revisiting this recommendation once the BCCC inquiry into the Code provisions dealing with deceased estates had been completed. The Law Council notes that the completed BCCC inquiry was published in June 2023 and found instances of poor practice and non-compliance with the Code among the six banks in the study, providing further impetus for reforms to address these issues beyond the recommendations in the 2021 Review.³
9. To our knowledge, there has been no further progress on the issue of deceased estates. The Law Council would like to see the ABA take steps to implement Recommendation 95 of the 2021 Review, taking into account the subsequent BCCC inquiry findings. We look forward to the opportunity to be consulted further on these important matters.

Enhancing guarantor protections

10. Lenders play an important role in providing prospective guarantors with all key information required to properly understand the risks and to make an informed decision. A prospective guarantor understanding the risks of providing a guarantee and making an informed decision is also in the interest of the financial institution, who may seek to rely on the guarantee in the future. Fulfilling disclosure obligations to a prospective guarantor may be considered a challenging task due to the potential for conflicts of interests to arise.
11. Recommendations 73 to 79 of the 2021 Review included detailed measures that, if implemented, would enhance guarantor protections. The Law Council notes that these recommendations have not been comprehensively reflected in the proposed changes to the Code, reflecting the ABA's response to the proposals to either not support or only partially support the recommendations.
12. Instead, proposed paragraphs 106 and 107 of the Code seek to give effect to the sentiment of these recommendations by imposing an obligation for bank officers to take 'reasonable steps' to ensure that, before accepting a guarantee:
 - a meeting is held with a guarantor in person, video conference or some other means; and
 - the borrower is not, to the bank's knowledge, present at the time of such meeting. Where the meeting is not in person, this will be done by having the guarantor confirm that the borrower is not present, and if the meeting is via video conference, the bank will also ensure that the borrower is not visible on screen.
13. The Law Council submits that paragraphs 106 and 107 of the Code should clearly set out the steps bank officers should take to ensure that the guarantor understands the effect of the guarantee being given, such that their decision to enter the transaction is informed.

³ See, <<https://bankingcode.org.au/resources/more-work-to-do-a-bccc-report-on-the-management-of-deceased-estates/>>.

14. The Law Council has received feedback from its membership that the following measures could boost guarantor protections for guarantors:

- a tailored approach to disclosure may be required where there are indicators that the guarantor needs more care. Importantly, guarantors should be informed about relevant borrower information held by the lender including the transaction history of the borrower, any existing defaults that the lender is aware of and/or existing indebtedness;
- systems or policies for identifying when a prospective guarantor may be experiencing vulnerability should be put in place and effectively implemented;
- information should be available to help guarantors, including in many languages, and guarantors should have access to interpreting services; and
- information provided to guarantors should be easy to understand, upfront, accessible, and use plain language.

Enhancing principal account holder access to account information

15. In addition to the proposed Code obligations to take extra care with customers who are experiencing vulnerability, the Law Council has received feedback suggesting that the Code should clearly address how the owner of an account retains rights to information and access to accounts when an Enduring Power of Attorney (**EPOA**) or Administration Order is in place. That is, a principal should always be able to access their account details (for example the bank balance and statements) and make transactions, even if an EPOA or Administration Order is in place.

16. In terms of making financial transactions, it is acknowledged that certain risks may attend these rights. However the Law Council submits that they could be effectively managed by limiting the amounts the principal can transact. For instance, a principal may wish to arrange a direct debit to facilitate payment of aged care fees. The Law Council has received comments from its membership that:

- when an EPOA is put in place, banks have been known to remove the principal's access to information and cease sending them bank statements; and
- the principal may only want to have access to this information to ensure that payments are being made as they expect.

Freezing Orders

Customers who are affected by Freezing Orders

17. Freezing Orders (also known as 'Mareva Orders' or 'Asset Preservation Orders') are civil orders that prevent a person (the **Respondent**) from dissipating or diminishing the value of their assets pending the determination of a claim against the Respondent or after judgment is given against the Respondent.⁴ Freezing Orders are often served on the Respondent's bank, which exposes the bank to a potential contempt action if the bank allows the Respondent to move money in breach of the Freezing Order.

⁴ Federal Court of Australia Freezing Orders Practice Note (GPN-FRZG) and Supreme Court of NSW Practice Note SC GEN 14 – Freezing Orders (also known as 'Mareva orders' or 'asset preservation orders') provide further information about civil freezing orders.

18. The *Example Form of a Freezing Order (Made without Notice)* in Annexure A to Federal Court of Australia's Freezing Orders Practice Note (GPN-FRZG)⁵ contains the following paragraphs under the heading 'Persons other than the applicant and respondent':

(14) Set off by banks

This order does not prevent any bank from exercising any right of set off it has in respect of any facility which it gave you before it was notified of this order.

(15) Bank withdrawals by the respondent

No bank need inquire as to the application or proposed application of any money withdrawn by you if the withdrawal appears to be permitted by this order.

19. The *Example Form of a Freezing Order (Made without Notice)* contains exceptions in paragraph 10 to allow the Respondent to:

- pay ordinary living expenses (either with or without a weekly or monthly limit);
- pay reasonable legal expenses (either with or without a limit);
- deal with or dispose of assets in the ordinary and proper course of their business, including paying business expenses reasonably and properly incurred; and
- deal with or dispose of assets in discharging obligations bona fide and properly incurred under a contract entered into before the order was made, provided that before doing so the applicant for the order is given, if possible, at least two working days' written notice of the particulars of the obligation.

20. Ordinarily, the applicant for a Freezing Order does not assert an interest in any particular property of the Respondent⁶ and the Freezing Order is not intended to operate as a form of security granted to the applicant over the Respondent's property.⁷ The usual position is that the Respondent has an entitlement to use their assets for legitimate purposes. The purpose of the Freezing Order is to stop the Respondent spending their money in ways that are not legitimate.⁸ The reason for these exceptions is to allow the Respondent to apply their assets to legitimate purposes.

21. Despite these exceptions, and the reasons for them, the Law Council has received feedback to suggest that many banks refuse to allow the Respondent to use their bank accounts at all, or require the Respondent to attend a branch in person in order to use them. Further, often the bank officer who deals with the Respondent is unaware of what a Freezing Order is, how the exceptions are supposed to operate, or what the bank can and cannot do when notified of a Freezing Order against one of its customers. These problems often become more acute for customers whose first language is not English.

⁵ This Example Form is harmonised across jurisdictions. See, for example, Example form of ex parte Freezing Order in Supreme Court of NSW Practice Note SC GEN 14 – Freezing Orders (also known as 'Mareva orders' or 'asset preservation orders').

⁶ See *National Australia Bank Ltd v Human Group Pty Ltd* (No 2) [2020] NSWSC 1900 at [106].

⁷ *Cardile v LED Builders Pty Ltd* (1999) 198 CLR 380.

⁸ *Goumas v McIntosh* [2002] NSWSC 713 at [23].

22. The result is that Freezing Orders can at times operate in a much more intrusive and restrictive way and can have a far harsher effect on the Respondent than was intended by the court. In particular, the Law Council understands that some Respondents have been unable to access their own funds for legitimate purposes, including for payment of ordinary living expenses, reasonable legal expenses, ordinary and proper business expenses, and to discharge pre-existing contractual obligations.
23. In other cases, the conduct of a bank served with a Freezing Order against one of its customers can lead to discharge of the order unless the applicant can convince the bank to act in accordance with the Freezing Order (especially its exceptions). In these situations, the applicant loses the benefit of a Freezing Order to which it would otherwise be entitled.
24. In response to these concerns, the Law Council suggests that Part D of the Code could be amended to include advice to customers about what they can do if a Freezing Order is made against them, and what the bank may do in such circumstances. Drawing on the existing material under the sub-heading 'Contact us if you are experiencing Financial Difficulty' section,⁹ the Code could include the following:

If a Freezing Order is made against you or a company you are a director of, then you, or your solicitor in the relevant court proceedings, should contact us as soon as possible. We will put you in contact with a person with training in Freezing Orders to discuss your situation and the options available to help you. The sooner you or your solicitor contacts us, the sooner we can try to help.

When you or your solicitor contacts us, or is thinking about contacting us, it is important for you to be open, and as realistic as you can be, about your financial position, the impact of the Freezing Order on you or your company, how you wish to operate your, or your company's, accounts consistently with the Freezing Order (including any exceptions it contains) and the co-operation you seek from us. In turn, we will be constructive in trying to understand your situation and provide information about options, and action we can take, that may help you.

With your co-operation, we will work with you or your solicitor to help you find a solution that complies with the Freezing Order and allows you to operate your, or your company's, accounts consistently with the Freezing Order and any exceptions it contains. Any help we can give will depend on your, or your company's, individual circumstances and may include communicating with the applicant for the Freezing Order or their solicitor.

We will tell you in writing what arrangements we have decided to put in place as a consequence of a Freezing Order, and the reasons for our decision, within a reasonable time of being informed of the Freezing Order.

25. The inclusion of further material to encourage affected customers to contact their bank and obtain access to information on their rights under the Code, as well as information on the steps the bank can take to assist Respondents would reflect both the Code's Guiding Principles and the commitment of banks to take extra care with customers

⁹ Banking Code of Practice, Chapter 39.

who are experiencing vulnerability,¹⁰ as well as recommendations of the 2021 Review directed at banks providing more guidance to customers experiencing financial hardship (see, in particular, Recommendations 86–88).

Scams

26. The Law Council acknowledges Australia's banking sector's commitment to safeguarding the public against criminal scam activity.
27. The Law Council supports the industry led Scam-Safe Accord initiative announced in November 2023,¹¹ and acknowledges the banking and financial service industry's commitment to protecting customers from these forms of unscrupulous activities. Although the Code is an important component of the protective measures that will be required to respond to scams, the Law Council notes the triennial (and proposed five-yearly) review of the Code will provide further opportunities to integrate additional protective mechanisms developed as part of the Scam-Safe Accord initiative in due course.
28. While acknowledging and supporting these efforts, the Law Council highlights the need to ensure the right scam reporting processes are in place to enable accessible and timely reporting of scam activities by affected customers.

Additional views of the Consumer Law Committee

Care and skill of a diligent and prudent banker

29. The Consumer Law Committee has raised concerns about the removal of the obligation to exercise the care and skill of a diligent and prudent banker in providing a new loan or an increase in a loan limit to an individual borrower that is not a business.
30. The reasoning for the removal is that it is considered by the ABA to be duplicative of responsible lending obligations under Chapter 3 of the *National Consumer Credit Protection Act 2009* (Cth). The Consumer Law Committee queries whether this justification is consistent with the decision in *Securities and Investments Commission v Westpac Banking Corporation* [2020] FCAFC 111, where it was acknowledged that a lender could be required to go beyond the express Chapter 3 obligations to satisfy the requirement to conduct an unsuitability assessment.
31. The Consumer Law Committee also cautions that the removal of the 'diligent and prudent banker' obligation may result in the removal of certain consumer protections in relation to guarantees. While guarantors do not currently have suitability assessment protections under the National Credit Code, the Victorian Court of Appeal found in *Doggett v Commonwealth Bank of Australia* [2015] VSCA 351; 47 VR 302 that the diligent and prudent banker obligation provided a benefit to guarantors.

Extension of review period

32. A further concern raised by the Consumer Law Committee is the proposed change of the Code review to every five years, instead of every three years. This concern is based on the need for the Code to respond to regulatory gaps and address emerging harm—particularly in light of rapidly changing technology and market offerings.

¹⁰ Proposed cl 49 of the Code lists a range of characteristics which may increase a customer's risk of experiencing vulnerability. These characteristics include financial difficulty (see proposed cl 49(i)).

¹¹ See, <<https://www.ausbanking.org.au/new-scam-safe-accord/>>.

33. The Consumer Law Committee highlights the role of the Code in promoting and building best industry practice in areas of innovation, especially in areas not yet covered by legislation.¹² Examples of emerging areas that the Code is well placed to address includes Buy Now Pay Later products, Consumer Data Right and cryptocurrency exchanges and transactions.

Handling complaints

34. The Consumer Law Committee has expressed concern about the proposed removal of certain complaint handling provisions currently in Chapter 48 of the Code, commenting that it would result in the diminution or withdrawal of some key opportunities for engagement with consumers that are not expressly articulated in ASIC Regulatory Guide 271, including:

- the obligation to keep customers informed on the progress of their complaint (current clause 201);
- the obligation to provide a named contact (current Clause 202); and
- the obligation to provide a date of expected response (current Clause 206).¹³

35. The Consumer Law Committee considers that these existing obligations offer key protections to consumers who are vulnerable and experiencing disadvantage. Without the ability to enforce these protections, the Consumer Law Committee says that such consumers may be further disadvantaged and excluded from the banking industry.

Additional views of the Financial Services Committee

36. The Financial Services Committee monitors developments in the laws and regulations governing financial services, actively contributing to public consultation on changes to these laws. These include, for example, laws relating to financial services and credit licensing, anti-money laundering, personal property securities and related matters.

37. The Financial Services Committee's membership consists of legal practitioners from private practice, corporates, financial institutions and banks. Members of the Financial Services Committee currently include external legal advisers and senior in-house counsel for a number of Australian banks who have practical experience with the operation of the current Code.

38. While the views of the Financial Services Committee differ to some extent from those of the Law Council more broadly as expressed above in this submission, the Financial Services Committee respects those other views and considers that the matters raised by the Law Council could be further considered when the Code is next reviewed.

39. In the Financial Services Committee's opinion, overall:

- the 2021 Review was thorough;
- the principles upon which the ABA based its response to the 2021 Review, which are referred to in paragraph 19 of CP 373, were sound and well-considered;
- the ABA's responses to the 2021 Review recommendations, as set out in the *ABA response to the Code review* document, were appropriate; and

¹² See Australian Securities and Investment s Commission, *RG 183 Approval of financial services sector codes of conduct*, 183.32.

¹³ Australian Securities and Investment s Commission, *RG 271 Internal dispute resolution* (2 September 2021).

- the proposed (amended) Code is appropriate, fit for purpose, and ought to be approved by ASIC.
40. The Financial Services Committee considers that an industry code should aim to only impose obligations on subscribers (which benefit consumers) where the new obligations would either:
- create discrete, additional compliance requirements which would:
 - resolve matters the current law does not address; and
 - be unambiguously beneficial to a material number of customers; or
 - (in effect) extend the application of legal obligations to transactions to which they would not otherwise apply.
41. The Financial Services Committee considers relatively trivial ‘tweaks’ to existing legal obligations make the law more difficult to apply, not only for institutions but also for consumers, dispute resolution schemes and courts.
42. The Financial Services Committee notes that the laws applying to subscribers to the Code are already extremely voluminous and complex, and almost constantly changing. The Financial Services Committee believes that it would be unhelpful for the Code to add to this complexity.
43. In the Financial Services Committee’s view, the proposed Code reasonably achieves the aim described in the preceding paragraph, and addresses only key potential consumer harms that are not addressed by applicable laws or (in effect) extends them to transactions to which they would not otherwise apply.
44. The Financial Services Committee welcomes the proposed simplification of the Code and considers that this is likely to assist consumers to better understand their rights under the Code.
45. In the Financial Services Committee’s opinion, the obligations imposed by the proposed Code will be capable of being enforced (both contractually, by consumers, and by the BCCC).
46. The Financial Services Committee has responded to the specific questions canvassed by ASIC in CP 373 in [Appendix A](#).

Appendix A

Response to consultation questions (prepared by the Financial Services Committee of the Business Law Section)

Topic and ASIC questions	Response
Addressing consumer harm	
C1 Do you think the proposed Code contains an appropriate range of commitments by the banks to prevent consumer harm that go beyond what is required by law?	Yes.
C2 Are there any other areas of potential consumer harm that the Code should address?	No.
C3 Do you think any of the consumer protection provisions in the current Code intended to prevent harm have been reduced in the proposed Code?	No.
C4 Are there any commitments in the proposed Code relating to the prevention of consumer harm that would benefit from further clarity or robustness to facilitate their enforceability?	No.
Code provisions removed as restatements of the law	
C5 Are there areas of the proposed Code that, if removed would result in the removal of protections that are not otherwise contained in the legislation? If Yes, please provide examples.	No.
C6 Do you have any concerns with Code commitments being subject to the qualification of consistency with regulatory guidance?	The Financial Services Committee considers that expressing Code commitments to be subject to consistency with regulatory guidance is appropriate, given the risks that a subscriber faces in acting inconsistently with regulatory

Topic and ASIC questions	Response
Does this qualification raise uncertainty about whether Code commitments are actually capable of being enforced?	guidance, and that in practice this is rarely likely to raise uncertainty as to whether Code commitments are capable of being enforced.
C7 Do you have any concerns about the removal of provisions limiting the BCCC compliance reporting? If so, please explain your concerns.	No
C8 In your view how would the proposed removal of provisions from the Code affects its utility and readability?	No
C9 Is the proposed Customer Guide likely to be useful in assisting customers to understand their rights? Why or why not?	The proposed Customer Guide may assist some consumers to understand their rights. However, the fact that it will be in addition to a considerable volume of other information that must be provided to consumers to satisfy other obligations may result in many consumers not taking the time to read it.
Supporting an approach to Code compliance	
C10 Do you think a commitment to take all reasonable steps to have in place appropriate systems, processes and programs to support an integrated approach to compliance would result in meaningfully improved customer protections? Why or why not?	No. Subscribers to the Code are already subject to other obligations (e.g., as financial services and credit licensees) that should be adequate to ensure that an integrated approach to compliance exists.
C11 Would the removal of any provisions of the current Code reduce the scope of the BCCC's oversight of key areas of banking that are higher standards than those set out under existing laws?	No.

Topic and ASIC questions	Response
C12 Would a reduction in the level of provisions that are subject to the BCCC's oversight reduce the operational benefits that are likely to arise through the Compliance Statement reporting process to the BCCC (as noted in Chapter 6 of the final report of the BCCC review)?	No.
C13 Based on the proposed Charter, does the BCCC have the right powers and responsibilities and is it adequately resourced to achieve the objective prescribed in the legislation—that is, effective administration systems for monitoring compliance with the Code and making information obtained as a result of monitoring publicly available?	Yes, based on the proposed Charter.
C14 Do you have any other feedback on the ABA's response to the recommendations relating to enforceable code provisions?	The Financial Services Committee considers that the ABA's response is reasonable.
Clarifying the role of industry guidelines	
C15 How accessible and well known are the Industry Guidelines? Should anything be done to make the Industry Guidelines more accessible?	The Industry Guidelines are well known to, and accessible by, subscribers. They are unlikely to be well known to, consumers. However, in the Financial Services Committee's view they are likely to be well known to, and accessible by, those who advise consumers of financial services. The Financial Services Committee considers that making the Industry Guidelines more accessible to individual consumers is unlikely to provide material benefits.
C16 Are there any parts of the Industry Guidelines that would be best placed in the Code? Or is simply including a reference sufficient?	No.

Topic and ASIC questions	Response
Please explain which parts of the Industry Guidelines and the rationale for this.	
C17 Should any of the Industry Guidelines be treated as Code-related documents? Please explain which Industry Guidelines and the rationale for this.	No.
Enhancing guarantor protections	
C18 Does Part B6 of the proposed Code provide an appropriate balance between protecting vulnerable guarantors and not impeding the role of guarantees in the flow of credit?	Yes.
C19 If you consider that an appropriate balance has not been achieved in the proposed Code, how could a better balance be achieved?	Not applicable.
Inclusive and accessible banking and customers experiencing vulnerability	
C20 Do you have concerns with how the ABA has addressed any of the Code reviewer's recommendations as they relate to customers who are experiencing vulnerability?	No.
C21 Do you have any concerns with how the ABA has addressed any of the Code reviewer's recommendations as they relate to inclusive and accessible banking services?	No.
C22 Do you think it provides appropriate balance for the ABA to rely on reporting required to be provided to the ACCC (in relation to making eligible customers aware of basic accounts) when addressing recommendation 39?	Yes.

Topic and ASIC questions	Response
C23 What are the benefits and limitations of subscribing banks proactively identifying and transitioning eligible customers to basic bank accounts?	The potential benefit is that, unless subscribers are proactive, eligible customers may remain unaware of their eligibility. The limitation is that despite a subscriber being proactive it may still not be possible to identify all eligible customers—e.g., because a customer withholds information.
Handling complaints	
C24 Does the proposed Code provide sufficient detail for bank staff to understand their complaints handling obligations?	Yes.
C25 Do the proposed Code and proposed Customer Guide provide sufficient information that is clear and accessible to all banking customers to understand their rights if they are unsatisfied with a bank or its service?	Yes.