

The Australian Securities and Investments Commission  
Level 5/100 Market Street  
Sydney, NSW 2000

1 September 2025

By email: [rri.consultation@asic.gov.au](mailto:rri.consultation@asic.gov.au)

Dear RRI Consultations team,

**SUBMISSION ON DRAFT UPDATED RG 183: CODES OF CONDUCT FOR THE  
FINANCIAL SERVICES AND CREDIT SECTORS**

Thank you for the opportunity to comment on ASIC's proposed updates to Regulatory Guide 183 (the Consultation).

The Mortgage & Finance Association of Australia (MFAA) supports the role of industry codes in strengthening consumer trust, raising professional standards, and complementing the broader regulatory framework.

As the peak industry body representing over 16,000 finance and mortgage brokers and industry participants that includes lenders, aggregators and industry service partners, the MFAA operates a well-established Code of Practice that is binding on all members and enforced through an independent Disciplinary Tribunal.

Our disciplinary framework includes transparent governance, enforceable sanctions, and due process protections that is underpinned by a set of ACCC approved Disciplinary Rules which has been in force since 2003.

To date, the MFAA has chosen not to pursue ASIC approval of its Code — not due to a lack of commitment to high standards or a valuable recognition of our Code, but because the bar for approval is, in our view, prohibitively high for associations like ours that represent predominantly small businesses and operate with limited resources.

We offer the following observations in the spirit of constructive engagement.

## OUR SUBMISSION

### 1. The approval threshold may discourage responsible code development

The MFAA notes ASIC's view in RG 183 that it is not mandatory for industries in the financial services or credit sectors to have a code, and where a code exists, ASIC approval is optional. However, where approval is sought and granted, it signals to consumers that the code meets the highest standard of conduct and accountability.

We support this principle, but under the revised RG 183, there's effectively a one-size-fits-all approval model — you either meet the full high bar, or you do not get approval. For example, applicants must meet strict threshold, evaluative, and additional criteria — including robust consumer enforceability, independent monitoring with public reporting, and mandatory five-yearly independent reviews. These requirements are more suited to large institutions than not-for-profit associations like the MFAA, which represent thousands of small businesses with limited resources.

In practice, this high bar may deter industries from seeking ASIC approval, or even from developing or enhancing codes, even where these would benefit consumers.

As such, we encourage ASIC to consider scalable or tiered approval pathways that may better fit the type of code for which approval is being sought. An example of this can look like:

- **Tier 1** – Full ASIC approval (current high standard) with all enforceability, public reporting, and review requirements.
- **Tier 2** – Partial approval or recognition, with lighter compliance and monitoring requirements, suited to those segments within the sector with lower regulatory risk or smaller resources.
- **Tier 3** – A basic acknowledgement or endorsement that a code meets certain good practice principles, but without the full approval obligations.

### 2. Opportunities to improve clarity and accessibility of RG 183

The MFAA supports ASIC's goal of making Regulatory Guide 183 a robust and authoritative resource for sectors seeking to develop or enhance codes of conduct. However, we believe there are opportunities to improve the clarity and accessibility of some of the guidance — particularly where technical language may act as a barrier to understanding or compliance for smaller associations or those without internal legal teams.

A specific example is in Table 3 - the explanation of circumstances where a code provision may be inconsistent with Commonwealth law but still capable of receiving ASIC approval. The current drafting is difficult to interpret due to layered legal language and conditional framing.

For instance:

*"Where code provisions are inconsistent with requirements under any relevant Commonwealth laws, the code imposes more onerous obligations on subscribers than the Commonwealth law. The code provision must deliver better outcomes for consumers, compared to the inconsistent Commonwealth law. Compliance with the code provision does not make it impossible to comply with legal requirements under the relevant Commonwealth laws."*

We believe this section could be expressed in clearer, more user-focused language. For example:

*"ASIC may approve a code that differs from Commonwealth law if the code provision:*

- places a higher standard of conduct on subscribers than the relevant legal obligation;*
- leads to better outcomes for consumers; and*
- does not prevent the subscriber from complying with the law."*

Clarifying language in this way would help code developers understand how to navigate potential overlaps between legal and self-regulatory obligations. This, in turn, could improve engagement with the RG 183 framework and reduce reliance on legal interpretation to understand ASIC's expectations.

We encourage ASIC to review other sections of RG 183 with this principle in mind and to use a plain English approach to make the guide more accessible.

### **3. Recognising the broker role in delivering consumer protection**

As noted in our submission<sup>1</sup> to ASIC's consultation on the Banking Code of Practice (Code), the MFAA supports reforms that strengthen consumer protections and promote competition. We were pleased to see a number of our recommendations reflected in the updated Code, particularly those addressing the needs of vulnerable customers, co-borrowers and guarantors.

We encourage ASIC to adopt a whole-of-ecosystem perspective when assessing and approving industry codes under RG 183. Mortgage and finance brokers now facilitate over 76% of home loans and a significant share of small business loans. As intermediaries, brokers are often the first point of contact for consumers and have a material influence on outcomes.

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<sup>1</sup> MFAA submission to ASIC Banking Code consultation dated 15 January 2024 [here](#).

However, a broker's role as an intermediary is not always recognised in lender-developed codes. This leaves key parts of the consumer journey — such as onboarding, refinancing, discharges and hardship assistance — without adequate coverage.

In our submission to the Code review, we recommended that switching home loan providers be made easier and more transparent by:

- allowing brokers to act for customers in the discharge process,
- mandating clear discharge timeframes, and
- establishing one consistent, standardised process across lenders.

These reforms were not adopted, and both brokers and their clients continue to experience confusing, delayed and inconsistent discharge practices.

We therefore recommend that ASIC ensure:

- codes seeking approval address the role of intermediaries in the end-to-end consumer experience.
- consumer protections in approved codes apply consistently, whether a customer deals directly with a lender or via a broker.
- code obligations do not shift risk or regulatory expectations onto intermediaries without proper consultation, alignment, and supporting infrastructure.

## **CLOSING REMARKS**

If you wish to discuss this submission or require further information, please contact

[REDACTED] or [REDACTED] at [REDACTED]

Yours sincerely,

[REDACTED]

Chief Executive Officer  
Mortgage and Finance Association of Australia