



Overview

This submission is provided on behalf of the five independent Code Compliance Committees that receive secretariat support from the Code Group, an independent business unit within the Australian Financial Complaints Authority (AFCA).

Each Committee independently monitors financial firms' compliance with their respective industry codes of practice, aiming to improve industry standards, promote good practice, and support better outcomes for consumers.

Through their monitoring and enforcement work, the Committees provide an important layer of accountability and transparency in the financial services sector, complementing formal regulatory frameworks.

This submission draws on the Committees' collective experience and insights.

Committee	Code of Practice
<u>Banking Code Compliance Committee (BCCC)</u>	Banking
<u>Customer Owned Banking Code Compliance Committee (COBCCC)</u>	Customer Owned Banking
<u>General Insurance Code Governance Committee (GICGC)</u>	General Insurance
<u>Insurance Brokers Code Compliance Committee (IBCCC)</u>	Insurance Brokers
<u>Life Code Compliance Committee (Life CCC)</u>	Life Insurance

Currently the only industry code of practice to have received ASIC approval under Regulatory Guide 183 is the Banking Code. However, we anticipate this will change, with other sectors moving towards approval – a direction that we support.

The standards required for ASIC approval are important because they ensure the Code meets a high benchmark and they require independence and effectiveness from the body responsible for monitoring compliance with the Code. This dual focus strengthens both the commitments financial firms make to consumers and the credibility of the oversight that monitors and holds industry accountable.

We welcome ASIC's review of RG183 and many of the changes to strengthen and improve the guidance. Our submission highlights areas in which we believe there is opportunity to enhance clarity, support effective implementation, and ensure the guidance is as practical and accessible as possible for all stakeholders.

The role of codes

Financial industry codes of conduct are vital to promoting high standards and protecting consumers.

Effective codes often go beyond legal requirements – they complement legislation, fill gaps, and clarify how obligations apply in practice. These functions are essential to strong codes as well as consistent, high-quality outcomes for consumers and industry.

We see an opportunity to improve the framing in RG183.4, which currently defines a code's primary role only as "complementing existing legislative requirements." This is too narrow and does not reflect the broader functions that codes serve.

RG183.5 rightly identifies three functions of an effective code: addressing legislative gaps, elaborating on legislation to deliver additional consumer benefits, and clarifying how legislative requirements apply in practice. But these functions are not mutually exclusive; strong codes usually incorporate a combination of them.

This aligns with the [Explanatory Memorandum](#) (paragraph 1.34):

"It is expected that subscribers to a code of conduct will aim to set and deliver standards that exceed what is required by the law, fill gaps or provide additional protections about matters not covered by the law. In addition, codes of conduct can provide greater clarity or specificity about matters covered by the law."

In our experience, there is a growing tendency for industry to focus narrowly on codes addressing matters not covered by legislation. While important, this risks a "strip back" effect, removing provisions that clarify or complement legal requirements. Such provisions are critical to embedding complex obligations into daily practice and deliver real benefits for consumers and industry.

Similarly, if a code were limited to simply clarifying how legislative requirements apply in practice, its impact would likely be limited. While such guidance is valuable for ensuring compliance, it may not go far enough to drive higher standards or foster more progressive conduct.

To achieve their objectives, strong industry codes will often combine all three functions in RG183.5 to enhance consumer protection and accountability. We see great value in having an effective code that can address industry issues and consume problems, deliver additional benefits to consumers and clarifies the role of legislation where it is ambiguous. ASIC should consider all factors when considering whether an industry code will achieve its objective of raising industry standards and delivering consumer benefits.

Recommendation 1 – RG 183.4

Broaden RG 183.4 to state that codes should raise industry standards and deliver consumer benefits by complementing, extending, and clarifying legislative requirements.

Recommendation 2 – RG 183.5

Amend RG 183.5 to note that codes may do a combination of the listed functions, and together these functions should achieve the objective of raising industry standards and delivering consumer benefits.

Code enforcement by ASIC

We recognise important connections between code obligations and ASIC's regulatory jurisdiction. We also agree that ASIC-approved codes represent the apex of self-regulation, inspiring confidence in both the code and the independence of its monitoring.

However, RG183.29 notes that ASIC will monitor approved codes "from time to time." This guidance could be strengthened by clarifying the scope of ASIC's jurisdiction to monitor self-regulatory codes beyond any Enforceable Code Provisions (ECPs), and the circumstances or triggers for such monitoring. It would also be beneficial to include a commitment to consult with the code administrator to avoid duplication.

RG183.64 requires arrangements for systemic and serious code breaches to be reported to ASIC. Given there is a pathway to report systemic and serious code breaches to ASIC, it would be useful for ASIC to explain what prompts it to monitor an approved code in practice, and how this complements existing reporting mechanisms.

Consistent with ASIC's risk-based approach, the guidance should also clarify how the 'apex' status of an approved code shapes ASIC's monitoring priorities. For example, how does ASIC balance its efforts between approved codes with independent oversight and non-approved codes with different arrangements.

Finally, ASIC's broader compliance and surveillance guidance could signal that participation in an ASIC-approved code – while not exempting code subscribers from surveillance – is a positive indicator of strong self-regulation. Recognising this explicitly would improve transparency about how code participation factors into ASIC's risk assessments and would reinforce the value of achieving ASIC approval as a marker of quality, accountability, and high standards.

Recommendation 3 – RG 183.29

Clarify how the 'apex' status of ASIC-approved codes informs its monitoring priorities and jurisdiction including the triggers for monitoring activities, and how this approach aligns with its risk-based framework and overall approach to regulation.

Recommendation 4 – ASIC to consult with code administrators when monitoring codes

ASIC guidance should state that, when monitoring codes, ASIC will consult with the relevant code administrator to avoid duplication (where possible).

Enforceable Code Provisions (ECPs)

We consider that RG183.14 could provide greater clarity on the process and triggers for determining ECPs. While the guidance currently makes clear that ECPs must be agreed between the applicant and ASIC, it should also emphasise that it is the applicant's role to identify and nominate provisions for potential enforceability. This is an important safeguard to preserve the self-regulatory nature of industry codes.

Without this clarification, there is a risk that industry associations may hesitate to seek ASIC approval for their codes, or that the codes presented for approval will be less progressive and ambitious. To maintain the integrity of the self-regulatory model, industry should be

empowered to nominate provisions and explain why those provisions should be enforceable, with ASIC then working with industry to settle an agreed approach.

We understand this reflects the approach adopted in the recent approval of the Banking Code, where ASIC invited the Australian Banking Association (ABA) to nominate ECPs. We consider this model preferable as it reinforces strong industry ownership while still ensuring the necessary agreement between industry and ASIC.

Recommendation 5 - RG183.14

Clarify that the code applicant is responsible for identifying and nominating provisions for potential enforceability, with supporting rationale, to preserve the self-regulatory nature of industry codes and reinforce industry ownership.

ECPs and guidance on the approval process

We see scope for ASIC to provide more consistent messaging on the role of ECPs in the approval process.

On one hand, RG183.38 and RG183.39 highlight ECPs as a “central consideration” and state that codes with a “robust mechanism for enforceability” carry added credibility. On the other, RG183.59 clarifies that “the absence of enforceable code provisions from a code will not, of itself, typically result in ASIC declining to approve a code.”

We support ASIC’s position that an industry association’s decision not to nominate ECPs should not, on its own, lead to not approving a code.. However, the current guidance appears to send mixed messages about the weight ASIC places on ECPs in the approval process. Clearer articulation of how these provisions are balanced would provide greater certainty for industry associations developing or revising codes.

Recommendation 6 – Clarification of ECPs

Clarify the role and weight of ECPs in the code approval process to provide clearer, more consistent guidance and help applicants understand ASIC’s expectations.

Contractual enforceability of codes

We consider RG183.40-183.41 could be improved by giving greater prominence to ASIC’s preference for codes to be enforceable by contract with consumers. Currently, this point comes at the end of RG183.41.

Enforceability through independent code committees is a fundamental element of the self-regulatory model because it provides an impartial mechanism to monitor compliance and hold industry participants accountable. But enforceability by contract – incorporated as part of product terms and conditions with consumers – can add an important layer of accountability in appropriate circumstances and industries. It reinforces industry’s direct responsibility to consumers and demonstrates a tangible commitment to upholding the standards set out in the code.

Recommendation 7 - RG183.40–183.41

RG183.40–183.41 should lead with ASIC’s preference for codes to be enforceable by contract with consumers to provide a clear message of support to greater accountability in industry and enhanced consumer confidence.

Supporting documents

We know from experiences how critical effective code administrator arrangements are to achieving the objectives of a code: holding industry accountable to its promises, driving improved practice, and delivering better outcomes for consumers. This includes the scope of functions and powers available to a Code Compliance Committee.

To ensure confidence in these arrangements, we recommend that key documents relevant to the administration and practical operation of a code, such as a Code Compliance Committee Charter, also be subject to independent review. This could occur as part of the broader code review process, or through a separate review mechanism. Independent scrutiny will help ensure that the governance or operational arrangements remain contemporary and effective, supporting the overall credibility and effectiveness of a code.

In addition, unless there are compelling and clearly articulated reasons for confidentiality, documents relating to the administration and operation of a Code should be made publicly available. RG 183.72 currently states that ASIC “*will consider if any of these code-related documents should be made publicly available, and may request their publication.*” We believe that publication should be the expectation, not the exception. Code Committee Charters and related materials provide essential context about governance, monitoring, reporting, investigations, and sanctions powers – elements that are central to stakeholder trust and confidence in the model.

Recommendation 8 – Supporting Documents

Making key code administration documents, such as Code Compliance Committee Charters, publicly available should be a requirement, with non-disclosure permitted only where compelling reasons are demonstrated to ASIC.

Recommendation 9 – Administration documents subject to independent review

Key code administration documents, such as a Code Compliance Committee Charters, should also be subject to independent review.

Stages of approval

We recommend enhancing RG183.74 and the process map to better reflect the importance of independent review in developing and updating codes.

Stage 1 should explicitly recognise that an independent review is strongly encouraged when drafting a new code or updating an existing one, consistent with RG183.80.

Currently, the process map places independent review only after ASIC approval, which misrepresents ASIC’s expectations and falls short of best practice. Repositioning Stage 5 – Independent Review – as the first step would ensure codes are robust, transparent, and accountable from the outset.

Early independent review would signal ASIC’s emphasis on the reviewer’s critical role in shaping and validating code content and allow ASIC to engage throughout development to ensure proper consultation and review.

Recommendation 10 – RG183.74

Revise RG183.74 and the process map to make independent review the first step in code

development and updates, reinforcing its importance in ensuring transparency, accountability, and effective stakeholder engagement.

Consultation

We strongly recommend strengthening RG183.83 to clearly expect code owners to conduct public consultation on draft codes. Current language merely “encourages” consultation and risks insufficient engagement.

Public consultation is essential to gather diverse, meaningful input, enhance transparency and accountability, and produce stronger, more credible codes that reflect community needs.

Early and robust consultation can also reduce the need for ASIC to run separate, resource-intensive processes later, streamlining approval and saving time and cost for industry, regulators, and stakeholders.

Recommendation 11 – RG183.83

Strengthen RG183.83 to make public consultation a clear expectation during code development and updates. For example, it can be reworded as follows:

We expect industry to consult publicly on the draft code.

List of recommendations

Recommendation 1 – RG 183.4

Broaden RG 183.4 to state that codes should raise industry standards and deliver consumer benefits by complementing, extending, and clarifying legislative requirements.

Recommendation 2 – RG 183.5

Amend RG 183.5 to note that codes may do a combination of the listed functions, and together these functions should achieve the objective of raising industry standards and delivering consumer benefits.

Recommendation 3 – RG 183.29

Clarify how the ‘apex’ status of ASIC-approved codes informs its monitoring priorities and jurisdiction including the triggers for monitoring activities, and how this approach aligns with its risk-based framework and overall approach to regulation.

Recommendation 4 – ASIC to consult with code administrators when monitoring codes

ASIC guidance should state that, when monitoring codes, ASIC will consult with the relevant code administrator to avoid duplication (where possible).

Recommendation 5 - RG183.14

Clarify that the code applicant is responsible for identifying and nominating provisions for potential enforceability, with supporting rationale, to preserve the self-regulatory nature of industry codes and reinforce industry ownership.

Recommendation 6 – Clarification of ECPs

Clarify the role and weight of ECPs in the code approval process to provide clearer, more consistent guidance and help applicants understand ASIC’s expectations.

Recommendation 7 - RG183.40–183.41

RG183.40–183.41 should lead with ASIC’s preference for codes to be enforceable by contract with consumers, to provide a clear message of support to greater accountability in industry and enhanced consumer confidence.

Recommendation 8 – Supporting Documents

Making key code administration documents, such as Code Compliance Committee Charters, publicly available should be a requirement, with non-disclosure permitted only where compelling reasons are demonstrated to ASIC.

Recommendation 9 – Administration documents subject to independent review

Key code administration documents, such as a Code Compliance Committee Charters, should also be subject to independent review.

Recommendation 10 – RG183.74

Revise RG183.74 and the process map to make independent review the first step in code development and updates, reinforcing its importance in ensuring transparency, accountability, and effective stakeholder engagement.

Recommendation 11 – RG183.83

Strengthen RG183.83 to make public consultation a clear expectation during code development and updates. For example, it can be reworded as follows:

We expect industry to consult publicly on the draft code.