



Dear Mr Khoury,

Your review of the Code of Banking Practice

Further to our earlier correspondence (28 August 2016) on this subject we are now pleased to provide additional submission detail in the form of the attached documents identified as Code of Banking Practice Independent Review 2016 Part A, B and C. We are also providing under separate cover the various supporting documents referred to in the submission in order that these documents are readily available to you.

Our submission is representative of the concerns of the many hundreds of thousands of Australian small businesses and primary producers that have expressed discontent with their inability to be adequately and in their words "fairly" heard under the provisions of the Code of Banking Practice.

Should the content or implications of any of the submission material be unclear to you the Tasmanian Small Business Council will be happy to arrange for appearance before you so that you may be able to ask questions for clarification and hear personal testimony.

Yours truly,

Geoff Fader

Chairman

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Copy: Council of Small Business of Australia (COSBOA)

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Cameron Ralph Navigator

Code of Banking Practice Independent Review 2016

Terms of Reference

Independent Review of the Code of Banking Practice

This is Part A of the Tasmanian Small Business Council's submission to the 2016 Review of the Code of Banking Practice. It is presented on behalf of small business councils, as our organisations understand the review is a central part of the banks developing an improved relationship with customers.

The TSBC submission outlines the small business councils' willingness to have a positive long-term relationship with banks, and has provided a response to the TOR on behalf of our members. Part B and the recommendations will follow.

Part A

Following the Terms of Reference we note the following:

Terms of Reference

The Code of Banking Practice (**the Code**) is the banking industry's code of conduct, which sets standards of good banking practice for banks to follow when dealing with their individual and small business customers and their guarantors.

The latest version for the Code is known as the Code of Banking Practice (2013).

The Code provides for a review of the Code every five years or earlier if the member banks of the Australian Bankers' Association (**ABA**) request the ABA to do so.

As part of the industry initiatives announced on 21 April 2016, the ABA's member banks have requested the ABA to commission an independent review of the Code and to complete this review by 31 December 2016¹.

Response 1

It is noted that the 2016 code reviewer is Phil Khoury, Cameron Ralph Pty Ltd (the reviewer). There have been four codes since 1991. The 1993 Code, adopted in 1996, ("Annexure A"), 2003 Code, 2004 Code ("Annexure B") and the 2013 Code ("Annexure C"). Each has outlined practices that the review will be required to investigate. This will allow the expert appointed by the ABA, Mr Ian McPhee, to systematically oversee the progress of commitments made by the banks, which will be considered in the 2016 review (the review).

Objectives

The banking industry recognises that customers and the wider community expect banks to make sure they have the right culture, the right practices, and the right behaviours.

The Code review will make sure the offer of banking products and services is done in a way that further lifts standards, accessibility and transparency across banking and bolsters the existing strength of the regulatory framework.

Banks are committed to improving their practices and continuing to meet customer needs and community expectations. We want to make sure our Code of Banking Practice is effective in enhancing banks' capacity to serve consumer interests and to building trust and confidence in banks.

Response 2

These paragraphs state small businesses and individuals (customers) expect the terms of reference (the TOR) to confirm the importance of the review, which recognises customers' rights. The customers expect code subscribing banks (the banks) to adopt the high standards set out in the codes.

The code review will identify important banking standards, and require banks to accept the importance of both banking services and banking practices. The latter have been identified in *Recommendation 34 Financial System Inquiry Recommendations* under the heading Unfair contract term provisions. ("Annexure D")

To achieve this, the independent review will:

- Consider the effectiveness of the Code and identify the relevance and operation of the Code and changes which have occurred in the legal and regulatory environment, including self-regulation, and changes anticipated in banking services.

Noted, in Response 1

- Understand and collate views about banking practices to ensure the Code continues to set standards for good banking practices building on banks' legal obligations and other relevant industry codes, standards and guidelines and reflecting consumer needs and behaviour and community expectations.

Response 3

An improved 2016 code should identify problematic conduct by banks in the earlier codes, which are not consistent with practices recommended by the independent reviewer in the 2016 recommendations.

- Make recommendations on how the banking industry can strengthen the operation of the Code and promote informed and effective relationships between banks and their individual and small business customers

Noted, this point will be dealt with in the Tasmanian Small Business Councils recommendations (the TSBC recommendations) set out below.

- Give attention to the initiatives contained in the industry announcement on 21 April 2016 and other recent initiatives and the extent to which these commitments should be contained in the Code, and

Noted

- Ensure banks and consumers are clear about their rights and responsibilities and that the Code articulates the standards of behaviour expected of banks, including promotion of the Code.

Response 4

The Code Compliance Monitoring Committee contests this point in 2008. The submission of 11 March 2008 in parts A, B and G, (“Annexure E”) suggests the practices, when banks published the 2004 code, were problematic.

Scope

The review will cover all provisions of the Code and any additional matters considered relevant to be included in the Code.

The code reviewer will give specific attention to assessing and considering:

- a. Purpose and role of the Code in setting the standards for good banking practices and the benefits that the Code provides to banks and their individual and small business customers.

Noted

- b. Structure of the Code and clarity in communicating the standards for good banking practices to banks and their individual and small business customers.

Noted, this will be determined by the reviewer's recommendations in the key commitments (the key commitments) noted in Response 2.

- c. The extent to which the Code demonstrates banks' commitment to putting their individual and small business customers first.

Noted, refer b. above and the importance of the key commitments.

- d. The effectiveness of the key commitments of banks and whether these commitments meet consumer and community expectations to:
- i. Promote better informed decisions about banking services
 - ii. Provide information about the rights and obligations of banks and their individual and small business customers in relation to banking services, including raising awareness of the legal and regulatory frameworks governing banks.
 - iii. Act fairly and reasonably towards individual and small business customers in a consistent and ethical manner.
 - iv. Comply with all relevant laws and regulations relating to banking services.
 - v. Take reasonable measures to provide relevant information and enhance accessibility for people in remote Indigenous communities, older persons and customers with a disability.
 - vi. Provide hardship assistance to individual and small business customers experiencing financial difficulties.
 - vii. Resolve complaints and disputes between banks and their individual and small business customers.
 - viii. Provide appropriate staff training, including on discharging their functions, providing banking services and knowledge of the Code.
 - ix. Promote the existence of the Code.

Response 5

The small businesses understand the review will consider the foundations of codes that were introduced following "*The House of Representatives Standing Committee on Finance and Public Administration, titled 'A POCKET FULL OF CHANGE' Banking and Deregulation, November 1991*". ("Annexure F")

- e. The role and mandate of the Code Compliance Monitoring Committee (CCMC), the appropriateness of the differences between the CCMC mandate

and clause 36 of the Code, and incentives for compliance by banks with the code.

Response 6

The review will consider the involvement of the Financial Ombudsman Services (FOS), in the evolution of the code since 1993. In particular, the relationship between FOS and the banks, when the ABA published, and the banks adopted, the 2004 Code following the decision by the banks to introduce the CCMC's constitution. ("Annexure G")

- f. The operation of the Branch Closure Protocol, taking into account the recent review and changes made to ensure the effective operation of the Protocol.

Noted

In addition, the Code reviewer will have regard to the following:

- g. Definitions, including practical definitions of banking services and small business.

Noted, this point will be dealt with in the TSBC recommendations.

- h. Recognition of the needs of communities in remote, rural and regional areas.

Noted

- i. Dealing with the particular needs of agricultural small businesses with respects to banking services.

Noted, this point will be dealt with in the TSBC recommendations.

- j. Direct debits and recurring payments made using a debit or credit card.

Noted, this point will be dealt with in the TSBC recommendations.

- k. Notice provided by banks with regards to any changes with a banking service.

Noted, this point relates to both banking practices and banking services and is dealt with in the TSBC recommendations.

- l. Guarantees provided by a person for the purpose of securing finance or a facility for another individual or small business customer and joint debts.

Noted

- m. Laws and regulations covering banking services to individual and small business customers and the extent to which new legal obligations to act in the client's best interest and responsible lending principles are addressed or require any amendment to the Code.

Noted, this point relates to both practices and services and is dealt with in the TSBC recommendations.

- n. Treatment of disclosures and communications between banks and their individual and small business customers about products, services, and the costs of these products and services and the evolving technological developments in banking services and electronic communications, including the provision of bank statements to customers.

Noted, refer m. above

- o. Sales and distribution and advertising and marketing practices of banks.

Noted, refer m. above

- p. The extent the Code covers the practices and qualifications of intermediaries and others banks use in the course of providing banking services.

Noted

- q. Commitments to accessibility and financial inclusion, including account suitability and basic accounts, financial literacy and the implications of technology developments on banking services.

Noted, refer m. above

- r. The desirability for the Code to provide for banks to develop standards for communicating and dealing with vulnerable customers including older persons, customers with a disability and Indigenous customers.

Noted

- s. The desirability of the Code to include minimum standards for working with small business customers in financial distress. For example, customer communication; notice period for enforcement actions; on request by the customer, disclosing independent valuation reports of its small business customer obtained by the bank and paid for by their customer; and ethical standards of receivers/ managers (particularly for rural properties with livestock).

Noted, refer m. above

- t. The desirability of the Code to set a reasonable compliance timeframe for a small business customer to comply with a bank's notice of demand and circumstances in which a minimum timeframe should not apply having regard to the provisions of clause 28 of the Code for the bank to work with the customer to try and help their customer overcome its financial difficulties with its credit facility.

Noted

- u. The desirability of the Code to include minimum standards for the offer of credit cards, and specifically whether minimum repayment requirements or alternatives should be prescribed.

Noted

In addition, the Code reviewer is asked to consider whether the Code ought to comply, and whether it does comply with, ASIC's *Regulatory Guide 183: Approval of financial sector codes of conduct [RG 183]*².

Noted, and is referred to in TSBC recommendations.

Clause 14.3 of the CCMC mandate requires the CCMC to arrange a periodic review of its activities to coincide with a review of the Code. The Code reviewer is also asked to conduct a review of the activities of the CCMC concurrently with this review. This separate and independent review is given under instructions from the CCMC. More information about this review can be found at www.ccmcreview.cameronralph.com.au.

Independent Reviewer

The ABA has appointed Mr Phil Khoury, Managing Director, Cameron Ralph Pty Ltd, an independent person with relevant qualifications and experience to conduct this review.

In commissioning this Code review and identifying the Terms of Reference, the ABA has sought the views of the ABA's Consumer Stakeholder Forum and a number of other stakeholders.

Response 7

The independent review should require the process to be transparent. The TSBC submission suggests all applicants identify whether they or their associates have received funds or benefits from subscribing banks or the ABA since 2013, when the mandate was introduced.

Consultation

The Code reviewer will conduct the review publicly in consultation with:

- i. consumer and small business organisations
- ii. financial services industry representatives
- iii. Finance Sector Union and employees of banks
- iv. relevant regulatory bodies
- v. member banks, and
- vi. other interested stakeholders.

Response 8

The ABA commitment to appoint an independent reviewer to conduct a transparent review in consultation with consumer organisations and relevant regulatory bodies provides a forum for discussion with all stakeholders. The TSBC Submission Part C provides an opportunity for debate on the small business recommendations.

Submissions

Submissions to the review are invited on any of the matters covered by the Terms of Reference.

The Code reviewer prefers submissions to be provided in Microsoft Word (docx) files or in PDF format. Submissions should be lodged by email to the Code reviewer at this address:

Email: banking.code.review@cameronralph.com.au

Final report

Mr Phil Khoury will assess submissions received on the Terms of Reference and feedback provided and prepares a report. A draft report will be used to facilitate further consultations.

A final report will be published with findings and options about changes to improve the operation and performance of the Code. The findings and options presented by the report will take into account the submissions of all interested parties but will be determined and framed according to the independent judgement of the Code reviewer.

Noted, this point will be commented on in the TSBC recommendations.

The findings and options will be those of the Code reviewer. The ABA and its member banks will need to consider the report and determine their response and any next steps. The banks are committed to meaningful change that is supported by independent advice and a transparent and public process, and they will have regard to the findings and options identified by the report in determining and implementing appropriate changes to the Code, consistent with their obligations including under the competition law.

Noted, this point will be commented on in the TSBC recommendations.

Timing

The independent review is to be conducted in a timely, transparent and accountable manner. A final report will be published by the end of December 2016.

Noted, the TSBC recommendations in relation to this point are referred to above in the section titled 'Independent Reviewer'.

The implementation of the independent review final report's recommendations will require assessment by the banking industry and changes to be determined. Commencement and transitional arrangements for the new Code will reflect the nature of the changes made.

The banking industry is committed to ensuring that the time taken in responding to the recommendations, making any changes to the Code, and implementing the changes by banks is completed in as timely a fashion as possible.

Noted, refer TSBC recommendations

Independence

The ABA will appoint the Code reviewer. While the banking industry will fund the review, the banking industry will not have any influence over the findings and options identified by the Code reviewer beyond our input as a participant in the review, and the Code reviewer and secretariat will act independently and not in the interests of, or on behalf of, the ABA or its members.

Mr Ian McPhee, the independent expert appointed by the ABA to oversee the progress of the commitments announced by the banking industry, will monitor the process, progress and findings of the review.

Response 9

This submission suggests Mr McPhee's role as an independent expert places an unreasonable responsibility on him to represent two million small business members. TSBC submits it is essential for this important review to obtain the community's support. Therefore, it might benefit from oversight by three experts: the independent reviewer, a representative of industry and a member of small business councils.

Confidentiality

It will be assumed that submissions are not confidential. Submissions may be published on the Code review website established for this review at www.cobpreview.cameronralph.com.au and be publicly available.

If a submitter wants their submission, or any part of it, to be treated as "confidential" please indicate this clearly.

The Code reviewer reserves the right to not publish submissions or other material received by the Code reviewer in the course of this review that is offensive, potentially defamatory, or clearly falling outside the scope of the review.

Footnotes:

1. <http://www.bankers.asn.au/media-releases/media-release-2016/banks-act-to-strengthen-community-trust>
2. <http://download.asic.gov.au/media/1241015/rg183-published-1-march-2013.pdf>

ENDS

Part B of this submission will be forwarded to the reviewer under separate cover.

**Cameron Ralph Navigator
Code of Banking Practice and Code of Compliance Monitoring Committee
Independent Review 2016**

Review of the Code Compliance Monitoring Committee

This is Part B of the Tasmania Small Business Council's submission to the CCMC review. Part A has been responded to the Code Review 2016, and recommendations in relation to both would be set out in Part C.

The TSBC presents this information to the independent code reviewer to highlight structural problems and improve governance standards, which will, in turn, improve the bank customer relationship.

Part B

Introduction

The Code Compliance Monitoring Committee (CCMC) is an independent compliance monitoring body established under clause 36 of the 2013 Code of Banking Practice (the Code).

Response 10

Tasmania Small Business Council's (TSBC) Part A submission identified four codes of practice that require comment in the Code Compliance Monitoring Committee's Review (the CCMC Review). TSBC identified practices that limit the rights of small businesses in the 2004 and 2013 Codes. The expert appointed by the ABA, Mr Ian McPhee (the expert) should determine whether the CCMC is an independent body.

The CCMC's purpose is to monitor compliance with the Code, thereby contributing to the improvement of standards of practice and service by code-subscribing banks.

The CCMC's Mandate (the Mandate), together with the Code, sets out the terms that govern the functions and operations of the CCMC, to which the Code Subscribers have agreed. The Mandate is published with the Code by the Australian Bankers Association (ABA).

The Code and Mandate state that the CCMC has the following functions:

- To investigate, and to determine, an allegation from any person that a code-subscribing bank has breached the Code.
- To monitor code-subscribing banks' compliance with the Code's obligations.

- To monitor any aspects of the Code that are referred to the CCMC by the ABA.

Response 11

The TSBC submission suggests standards of practice have not been strictly followed by subscribing banks, as noted in the CCMC's submission of 11 March 2008 (Annexure E). It states practices of banks in 2004 were problematic. The CCMC submission identified practices by banks that were not consistent with the codes (Annexures A, B and C). The 1993 Code preamble, dated 3 November 1993, set out objectives, which would require banks to resolve the disputes outside the court.

On 20 April 2016, the ABA announced that a review of the Code would be conducted in 2016. Clause 14.3 of the Mandate requires the CCMC to arrange a periodic review of its activities, to coincide with the periodic review of the Code by the ABA.

This review of the CCMC is, therefore, being undertaken in accordance with that requirement.

Independent Reviewer

In commissioning this review of its activities, and after consultation with the ABA and other stakeholders, the CCMC has appointed Philip Khoury, of Cameron Ralph Navigator, an independent person with relevant qualifications and experience to conduct this review.

Mr Khoury will also conduct the review of the Code. The CCMC considers that this represents a prudent and efficient course of action and does not create a conflict of interest.

Scope of the Review

The Scope of this review is to assess the CCMC's performance of its functions and operations in respect to the requirements set out in its mandate.

In doing so the review will consider:

- The Committee's performance of its investigations role
- The Committee's performance of its monitoring role
- The Committee's performance of its role of monitoring aspects of the Code referred by the ABA
- The Committee's external relationships
- The Governance arrangements put in place by the Committee.

The review will also consider the performance of the CCMC taking into account good practice standards such as:

- Those parts of ASIC's Regulatory Guide 183: Approval of financial services sector codes of conduct that relate to the operation of the CCMC.
- The principles of the 'Benchmarks for industry-based Customer Dispute Resolution Schemes' that relate to the operation of the CCMC.
- The Australian Privacy Principles, published by the Office of the Australian Information Commissioner.

In completing this review, the recommendations, which will improve the CCMC's functions and operations, should be made where appropriate.

Response 12

The TSBC accepts that amendments to the code requires community support, which means full disclosure and transparency are essential. Response 11 suggests this did not occur in 2003 or 2004 and was not remedied by the banks in 2013. This will be included in the TSBC's recommendations.

CCMC Review 2016 – TOR

Further Terms of Reference are provided below.

Terms of Reference

In completing this review, reference will be made to the further terms listed below. As noted in the Scope, this review will assess the CCMC's performance of its functions and operations, and, where appropriate, make recommendations for improvements.

1. The CCMC's performance of its monitoring and investigation role
 - a. The extent to which the CCMC achieves its purpose of creating a better banking experience by monitoring compliance with the Code, and thereby contributing to the improvement of standards of practice and service by code-subscribing banks.
 - b. The extent to which the CCMC is properly interpreting its role under the Code and Mandate.
 - c. Consideration of whether the CCMC has adopted an appropriate and effective approach to compliance monitoring and compliance investigations.
 - d. The appropriateness of the sanctions available to the CCMC with respect to its role.
 - e. The extent the CCMC's performance of its role has provided credibility to the Code as a self-regulatory scheme.
 - f. The extent to which the CCMC responds appropriately to the concerns of customers who raise allegations of breaches of the Code.

Response 13

The TSBC submission notes that the above points are specific and require the Australian Securities and Investments Commission (ASIC) to provide oversight. Otherwise it would prove difficult for the review to improve standards of practice and service for the “purpose of creating a better banking experience by monitoring compliance with the Code”.

2. The CCMC’s External Relationships

- a. The appropriateness of the CCMC’s public profile.
- b. The effectiveness of the relationships the CCMC has developed with its stakeholders.
- c. The adequacy of the CCMC’s access to necessary information from stakeholders to enable it to assess bank’s compliance with the Code.

Response 14

The CCMC review might be coloured by stakeholders who, with their associates, have received work or funding from the subscribing banks during the past three years. In order that the review makes a fitting statement in relation to this point, all submissions should be asked to disclose any conflict of interests.

3. The practical application of the CCMC’s role

- a. How well the CCMC has prioritised the various compliance monitoring activities it is required to undertake.
- b. Whether fair, efficient and transparent procedures for dealing with alleged breaches of the Code have been put in place and the extent to which these procedures are being followed.
- c. Whether, and to what extent, the CCMC has acted in accordance with the principles of the ‘Benchmarks for industry-based Customer Dispute Resolution Schemes’ when dealing with alleged breaches of the Code.
- d. The extent to which the CCMC fulfils its functions in accordance with the guidance related to code administration set out in ASIC’s Regulatory Guide 183: Approval of financial services sector codes of conduct.

Response 15

The small business councils suggest this review treats this point as being very important. There were overriding principles of good practice and service, full disclosure of information and procedures for resolving disputes in the Martin

Committee's 'A Pocket Full of Change' paper (Annexure F). This submission suggests this review determines whether subscribing banks, since 2004, have required the CCMC to have "efficient and transparent procedures for dealing with alleged breaches of the code".

4. Governance requirements

- a. The extent to which the CCMC has met its reporting requirements.
- b. Whether the CCMC has acted fairly, independently and appropriately with respect to its role under the Code and its Mandate.
- c. Whether the CCMC has put in place procedures which ensure it acts fairly, efficiently and transparently in all its dealings and the extent to which these procedures are being followed.
- d. The appropriateness of the current structure of the CCMC and its support staff, in particular whether it has sufficient resources to fulfil its role.
- e. The extent, if any, to which the CCMC has been prevented from fulfilling its functions because of the requirements and restrictions of its Mandate and clause 36 of the Code.

Response 16

The small business councils suggest this review also treats this point as being very important. An objective assessment as to "whether the CCMC has acted fairly independently and appropriately with respect to its role under the [earlier codes and the 2013] mandate" have been the subject of issues referred to the industry by the CCMC in part G of the CCMC submission of 11 March 2008 (Annexure E). The TSBC submission recommends banks and customers develop a culture of mutual respect. This provides an opportunity for the 2016 review to address practices that, since 2003, resulted in the ABA and subscribing banks amending codes of practice that were problematic and without full disclosure.

ENDS

Part C of this submission sets out the Tasmania Small Business Council's recommendations under separate cover.

**Cameron Ralph Navigator
Code of Banking Practice and Code of Compliance Monitoring Committee
Independent Review 2016**

Tasmania Small Business Council's Recommendations

Part C

On 27 August 2016, Tasmania Small Business Council made preliminary comments in relation to the Cameron Ralph Independent Reviews of the Code and CCMC. The comments noted:

“The Code is both comprehensive and detailed in the undertakings that participating banks make to their customers. The Code relates to the standard form lending agreement that underpins the bank/customer relationship and comprises part of the defined legal component of that relationship.

TSBC's preliminary comments to the reviewer states the Revised Code needs to be aligned with the recommendations for dispute settlement by the Parliamentary Joint Committee on Corporations and Financial Services. To achieve this, requires a truly independent authority.

Point 1

Following the House of Representatives Standing Committee on Finance and Public Administration's Review of 1991, titled 'A Pocket Full of Change', the 1993 Code of Banking Practice Preamble (Annexure A) stated objectives of the Code are to:

- (i) Describe standards of good practice and service.
- (ii) Promote disclosure of information relevant and useful to Customers.
- (iii) Promote informed and effective relationships between Banks and Customers.
- (iv) Require banks to have procedures for resolution of disputes between Banks and Customers.

Recommendation 1

The Code Review 2016 describes the meaning of (a) good service and of (b) good banking practices, with effective disclosure of the definition to individual and small business bank customers. The review re-introduces effective dispute resolution procedures that avoid allowing banks to commence actions in the court prior to investigating unresolved complaints and code breaches.

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Point 2

The 2003 and 2004 codes removed the requirement for banks to investigate allegations they breached good 'banking practices identified in the code (refer to Annexure B page 25, under clause 40, Definition).

The 2004 code required banks to investigate all alleged code breaches, using words to the effect that the CCMC will investigate breaches and name banks. However, the Constitution of the CCMC dated 20 February 2004 (Annexure G) – did not provide customers a copy of the constitution that subverted the wording of the code. Bank customers were not provided a copy of this constitution.

Subsequently, the 2004 and 2013 codes did not make reference to this intricate arrangement, whereby the CCMC did not have to investigate code breaches and name banks. (Annexure G; page 2 defines Forum and page 14 outlines how banks at their discretion, refer breaches and complaints to courts). Customers could not allege banks acted in any way untoward when code breaches were directed to the courts without being investigated by the CCMC.

Recommendation 2

The Code Review 2016 considers the utility of provisions whereby codes of practice and self-regulation are not compatible, and require legislation to protect customers, in order to enhance the bank / customer relationship.

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Point 3

Whilst it is alleged the ABA will appoint an independent Code reviewer and fund the review. The small business councils do not suggest the reviewer and the secretariat are not independent however there is a considerable body of information that suggests banking practices in recent years have been problematic, and contracts have been entered into without full disclosure to bank customers.

TSBC Recommendation 3

Code Review 2016 must be seen as independent. It is important that Mr McPhee does not allow misconceptions to undermine the integrity of the review. TSBC recommends the review comprise three experts; Mr McPhee, a second from industry and a third representing small business councils.

Point 4

Effective regulation requires transparent mediation procedures and practices with judicial powers and oversight to resolve disputes. The process therefore requires an ability to resolve code breaches and complaints by an institution that is State of the Art, with effective judicial oversight.

Recommendation 4

Code Review 2016 recommends the appointment of an independent person like Professor Tania Sourdin, recent Professor of Law and Dispute Resolution at Monash University, and now Dean and Head of the Newcastle Law School to ensure that there is an appropriate structure with judicial oversight that is able to resolve disputes between banks and customers, whereby the former has considerable resources.

Point 5

There have been a number of Parliamentary Inquiries into allegations of malpractice and maladministration by banks since 2003. This suggests that the present structure is inadequate to deal with banks that are self-regulated and have responsibility for oversight of the CCMC. There is a need for the review to accept that there are real failings, which has allowed the relationship between banks and their customers to deteriorate.

Recommendation 5

The CCMC Review 2016 might consider structural issues that can only be addressed with legislation, such as the proposed Wilkie Bill (2012) ("Annexure H"). ANZ's Press Release of 16 February 2010 noting it received 40,000 complaints per year ("Annexure I") outlines damages caused to the reputation and long-term community acceptance of banking practices since 2003.

Point 6

The Code of Banking Practice 2007-2008 Review ("Annexure E") includes the CCMC submission, which was not dealt with by the banks in 2013.

In March 2008, the CCMC strongly “suggests the Code reviewer consider the need to clarify what action can be taken in the event of serial and serious non compliance post naming. In this context, the CCMC notes by way of an example that the UK’s Banking Code Standards Board is empowered to unsubscribe a subscribing bank and make any such action public.

Recommendation 6

That the Code Review 2016 includes provisions similar to those introduced by the UK’s Banking Code Standards Board to unsubscribe a subscribing bank in the event that they fail to rectify serial and serious non compliance.

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Conclusion

The small business councils suggests there is a need for extensive debate in order to achieve community support for banking practices and services that benefit from this review, and legislative and governance oversight.

ENDS