

# Customer Owned Banking Code of Practice – Independent Review

Finance Sector Union Submission

**Finance Sector Union**

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# Background and Introduction

The Finance Sector Union of Australia (FSU) is the trade union representing employees working in the banking, finance and insurance sector. This includes the customer owned banking sector.

In January 2019 the FSU received an invitation to make a submission to the review of the Customer Owned Banking Code of Practice. Upon receipt of this invitation the FSU issues an open invitation to FSU members to participate in working groups that were to take place in February in FSU offices in Brisbane, Sydney, Melbourne, Adelaide and Melbourne. The FSU also issued invitations to employers who are members of COBA where we have formal relationships.

These working groups were attending by workers representing the following members of COBA:

Teachers Mutual Bank

RACQ

CUA

Horizon Credit Union

Illawarra Credit Union

Police Bank

Bank Australia

Endeavour Mutual Bank

G & C Mutual Bank

The workers who attended the sessions represented workers who perform a wide variety of functions. There were representatives of frontline workers including in branches and call centres as well worker representatives of those performing back office duties. Those in attendance were representing people performing functions that include: loans, collections, treasury, credit officers, business improvement officers and managers of both contact centres and regional branch networks. There was well over 100 years of experience represented across the face to face sessions held at FSU offices.

This submission reflects the views of these workers as well as those of FSU officials familiar with the customer owned banking sector.

Should the review committee be interested, the FSU would be willing to bring together a representative group of workers in our Sydney office to meet with you to discuss further any sections of this submission that you want to explore in more detail.

If you would like further information on this submission, please contact Angela Budai, National Industrial Officer by e-mail: [Angela.Budai@fsunion.org.au](mailto:Angela.Budai@fsunion.org.au).

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# Structure of this submission

The FSU submission is structured in line with the Terms of Reference as follows:

1. Executive Summary.
  2. Purpose and role of The Code in setting the standards for good banking practices and the benefits that The Code provides to customer owned banking institutions and their customers.
  3. Structure of The Code and clarity in communicating the standards for good banking practices to customer owned banking institutions and their customers.
  4. The extent to which The Code demonstrates customer owned banking institutions commitment to putting their customers first.
  5. The effectiveness of the key commitments of customer owned banking institutions and whether these commitments meet consumer and community expectations.
  6. The role and mandate of The Code Compliance Committee and the incentives for compliance by customer owned banking institutions with The Code.
  7. The effectiveness of the enforcement provisions within The Code.
  8. The extent The Code covers the practices and qualifications of intermediaries and others that customer owned banking institutions use in the course of providing banking services.
  9. The desirability for The Code to provide for customer owned banking institutions to develop standards for communicating and dealing with vulnerable customers including (but not limited to) older persons, customers with a disability, indigenous customers, customers with mental health issues, customers in financial difficulty, customers experiencing family violence, and customers with language and cultural barriers.
  10. Summary of Recommendations.
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## Executive Summary

The FSU engaged with workers from 9 different enterprises affiliated with the Customer Owned Banking Association in February 2019 and this submission includes feedback from workers covered by The Code of Practice.

The Customer Owned Banking Code of Practice (The Code) sets high quality standards for good banking practices that should, in practice, deliver the best possible service to members. Unfortunately it was evident from the feedback that The Code is not explained to workers in any level of detail and no worker who participated in the FSU feedback session had been taken through The Code in any level of detail by their employer. This included workers who had been working in this sector, some across a number of different employers for over 30 years. Most of the criticism of The Code is directly related to the inability of workers to implement The Code as they are unaware of the content or their obligations under The Code.

COBA enterprises are governed by the same regulatory authorities as the for-profit banks which is problematic as the level of risk is significantly lower, as is the need to generate operating profit. It would be appropriate for The Code to include an obligation that COBA lobby for a separate set of regulations better suited to the not-for-profit sector of the industry.

Finally, the review committee sought feedback on the enforcement of The Code. The FSU reiterates our concern about enforcement of a code that is not well understood by workers and we would assume this lack of understanding would extend to members of customer owned banks. It is difficult to know whether the small number of complaints received by the committee is due to the lack of knowledge of the complaint's procedure by members or if it is due to high levels of compliance. The FSU also highlights the lack of a worker representative on the investigative committee, and we recommend that the committee be reconstituted to include a worker representative, appointed by the Finance Sector Union. We also draw to the review's attention the recommendation of the Hayne Royal Commission that Codes of Practice be legally enforceable. Should this recommendation be adopted The Code will need to stand up to a much more rigorous standard.

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Purpose and role of The Code in setting the standards for good banking practices and the benefits that The Code provides to customer owned banking institutions and their customers.

Feedback from FSU members is that the breadth of The Code is good and that the key promises are 'great' and align with the organizational values.

Structure of The Code and clarity in communicating the standards for good banking practices to customer owned banking institutions and their customers<sup>1</sup>

Our members provided the following feedback on the key promises:

Promise 1: Definition of Fair and Ethical needed.

Promise 2: Questionable re how this promise is met, particularly in relation to financial literacy and third-party guarantors.

Promise 3: Information about minimising fees and charges is not always there and promotional material, although not misleading in content, does end up angering some customers where changes to their accounts happen. Clarity in terms of names of products needed. Need vs KPIs – what is actually driving sales. Training on products is not always sufficient.

Promise 5: The training is inconsistent and a lot of it is hit and miss. Depending on the workplace it can comprise of 'here's the manual and then go do it'. There is too heavy a reliance on e-modules.

Promise 6: Complaints process is not fore-fronted for customers.

Promise 8: There should be different regulation for the mutual sector. Adherence to APRA standards is overly difficult for smaller mutuals (for example the obligation to employ people in certain roles that attract market rated salaries of approximately \$200K is overly onerous). There should be a key promise that the mutual will be a "voice that lobbies regulators to establish different standards for the mutual sector that is not run to benefit stakeholders and may therefore have lower levels of risk or different types of risk that need to be mitigated against".

Promise 9: "Responsible lending" – "responsible lender" – needs definition

Promise 10: Customer Owned Banking Code of Practice is not well promoted and it is on some websites but not others. Staff training is haphazard and monitoring and effectiveness is questionable. Members are unaware of how they do this at the Branch or enterprise level.

Implementation of more comprehensive education for all staff, with particular emphasis on the differentiation of working in the mutual sector as compared to the for-profit sector is required. Cultural differences are not coming through to staff who transfer over from the for-profit retail banking sector, particularly those in management roles.

Some of the enterprises have systems that include sales targets. This is not in alignment with the core values and it would be better if they were discontinued. It is unclear how The Code relates to fin tech organisations that are subsidiaries of the mutual that is a member.

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<sup>1</sup> The numbers refer to the numbered promises set out in The Code.

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There should be an obligation to display the 10 Key Promises in prominent places in all retail branches and on the front page of websites. Members don't know how to complain about breaches of The Code if they don't know it exists. There were only 2 complaints lodged in the 2017/18 financial year and it is difficult to ascertain whether this is genuinely due to no issues, or if this is due to lack of knowledge about the existence of The Code and the complaints procedure. KPIs for staff should be based on fulfilling the 10 Key Promises not on sales targets or opening new accounts. E.g., KPIs around compliance or brand/name recognition.

## The extent to which The Code demonstrates customer owned banking institutions commitment to putting their customers first<sup>2</sup>

The following subsections are working effectively;

2, 3, 5.2, 6, 7.1, 8.3, 9, 12, 17, 21, 23, 24, 26, 28

During member feedback sessions the FSU received the following feedback regarding sections of The Code that are not working:

1. Loans: The headline rate vs comparison rate in advertising is misleading and dishonest. Members report that this differentiation is confusing, as are "no interest" loans that may attract an interest rate of 0% but attract both establishment fees and monthly fees. This seems like use of "technical" terms to bamboozle members and breaches of the spirit of The Code.
2. There needs to be better enforcement of the requirement to use "plain English"— as most of the PDS are long and use legalese that is not simple or straightforward for the average consumer. There should also be a recommendation to make this information available in languages other than English where mutuals operate in communities that have members from non-English speaking backgrounds (NESB).
3. Interest rates are not readily available. Default rates are not advertised. When members ask for this information they are provided with a 45-page PDS which is neither clear nor concise.
4. Terms and conditions: Member feedback was this is not enforced
5. Where there are changes introduced to products or terms and conditions there is often little or no consultation with frontline staff who work in that area about proposed changes. Frontline staff are able to provide insight into members' use and understanding of products and could provide valuable feedback on proposed changes should they be sought. There is too much ambiguity about why and how fees are applied. For example, a member has 4 transaction accounts (e.g. savings, every day, car, household expenses etc) and there is a \$5/month fee on each account unless there is \$2K de-positd into the account – why can't the fee be waived if over the whole membership (4 accounts) there is \$2K deposited each month?
10. There ought to be explanation of responsible lending in clear English. Staff report that they are not provided with sufficient training to support them advising members when loan applications have not been approved. Staff want to ensure they are able to communicate the reasons behind these decisions in a clear simple manner.
11. Co-borrower needs to be aware of the contract that they are signing and their obligations.
12. Enterprises ought to have an obligation to ensure that customers who undertake to be guarantors have a minimum level of education about their obligations and risks.

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<sup>2</sup> The numbered sections refer to the numbered subsections in Part D – Delivering on our Promise in The Code.

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## The effectiveness of the key commitments of customer owned banking institutions and whether these commitments meet consumer and community expectations.

The Code should be better publicised in retail branches and on the front page of websites. How can someone request a copy of something they are not aware exists. Training was again highlighted as insufficient. All our members who participated in the FSU feedback session said that the session was the most time they had spent (some in 30 years working in the sector) looking at The Code. There is no worker representative on the independent committee that administers The Code. This is a glaring oversight, particularly given the nature of the feedback provided by current workers to this review.

**Recommendation 1:** The FSU recommends that there should be an additional worker representative on the independent committee appointed by the Finance Sector Union.

The FSU believes that there has been an underinvestment by COBA members in the training of their staff on the content and obligations contained within The Code. Despite representatives from 9 enterprises, none reported that the training received on The Code was comprehensive, and the training, if any, was merely paying lip service to the obligation. The FSU believes that COBA or another independent organisation would be better placed to provide comprehensive training on The Code. None of the participants thought that their organisation was deliberately withholding this training, rather that none had the resourcing to spend the time required to bring their staff up to scratch.

**Recommendation 2:** COBA (or another independent organisation) should provide a single day training course 4 or 5 times a year to new entrants into the Customer Owned Banking Sector. This training should include comprehensive training on The Code and the obligations as well as the history of the mutual sector and the difference between Customer Owned Banking and “for-profit” banking values. This should extend into training on how that translates into products and services. Every person working in the sector should be required to attend this training within the first 6 months of employment.

## The role and mandate of The Code Compliance Committee and the incentives for compliance by customer owned banking institutions with The Code.

The FSU believes the role and mandate of The Code Compliance Committee will be better served by having a key stakeholder- worker- represented on the Committee.

The Hayne Royal Commission emphasized and recommended that voluntary codes of conduct should be given legal affect:

*“I consider it important that some provisions of industry codes be picked up and applied as law so the breaches of those provisions will constitute a breach of law”*

*He goes on to say:*

*“...as Treasury has recognised, self-regulation through an industry code carries with it a number of limitations and difficulties, including that:*

- 1. The standards set may not be adequate;*
- 2. Not all industry participants may subscribe to, and be bound by, The Code;*



3. *Monitoring and enforcement of compliance with The Code may be inadequate; and*

4. *Consequences for breach of The Code may not be enough to make industry participants correct and prevent systemic failures in its application.*

*As in the context of banking, I would add one further point. The range and diversity of code obligations, and some developments at common law,<sup>212</sup> may have contributed to there being some uncertainty about which provisions of industry codes may be relied upon, and enforced by, individuals. Uncertainty of this kind is highly undesirable. Participants in the financial services industry must know what rules govern their dealings.”*

If some provisions of voluntary codes become actionable then the incentives for code compliance go to another level and it is in everyone’s interest that staff are adequately trained, educated, and compensated.

### The effectiveness of the enforcement provisions within The Code.

We restate our general observation that the effectiveness of enforcement provisions relies on staff being comprehensively trained, educated and compensated.

With respect to subsection 17 of Part E – How The Code is administered, it is the view of workers that there ought to be included an obligation on the enterprise to advise members and the Independent Committee of any errors that have been made by the enterprise and both the rectification and mitigation measures that have been put in place. In addition, when the enterprise advises their members of the error and rectification measures, the members are also advised of the complaints process in the COBA Code of Practice and encouraged to follow that process if they remain dissatisfied with the outcome.

### The extent The Code covers the practices and qualifications of intermediaries and others that customer owned banking institutions use in the course of providing banking services

Staff are often unaware of the obligations that they have as agents of the mutual which may lead to inadvertently breaching The Code. For example, if a member is in arrears on a loan and calls the contact centre and speaks to one of the operators. That operator might accept an offer from the member to repay the loan at a level that the collections department would not accept – without consulting the collections department (the operator may think that they need to always operate in the member’s best interest). In accepting the offer by the member, the operator may have breached The Code.

Training on The Code is insufficient. It’s either glossed over or only focused on Part C of The Code. Sometimes training is expected to happen using online modules while staff are engaging in other work (for example, while taking member calls). Staff are not provided with dedicated time to compliance training and are expected to do it whilst in-between performing other duties.

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The desirability for The Code to provide for customer owned banking institutions to develop standards for communicating and dealing with vulnerable customers including (but not limited to) older persons, customers with a disability, indigenous customers, customers with mental health issues, customers in financial difficulty, customers experiencing family violence, and customers with language and cultural barriers.

We restate a prior observation that plain English needs to be enforced and the availability of information in languages other than English where mutuals operate in communities that have members from NESB. It is very desirable to develop standards of behaviour and communication for vulnerable customers and other powerless groups so that they are treated with dignity and respect.

**Recommendation 3:** Any one individual should be treated with the same respect and dignity and should be afforded the opportunity to be fully informed about any and all transactions that they are entering into. Minimum communication benchmarks should be set and maintained to ensure that individuals are aware of their rights, fully informed, and simply understand exactly what they are entering into before engaging in any transaction, whatever that may be.

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## Summary of Recommendations

**Recommendation 1:** The FSU recommends that there should be an additional worker representative on the independent committee appointed by the Finance Sector Union.

**Recommendation 2:** COBA (or another independent organisation) should provide a single day training course 4 or 5 times a year to new entrants into the Customer Owned Banking Sector. This training should include comprehensive training on The Code and the obligations as well as the history of the mutual sector and the difference between Customer Owned Banking and “for-profit” banking values. This should extend into training on how that translates into products and services. Every person working in the sector should be required to attend this training within the first 6 months of employment.

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