



**CUSTOMER OWNED BANKING  
CODE COMPLIANCE COMMITTEE**

## **Submission to the Independent Review Interim Report**

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<b>Prepared by</b>	Customer Owned Banking Code Compliance Committee
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## 1. Introduction

We welcome the opportunity to provide feedback on the Independent Reviewer’s Interim Report on the Customer Owned Banking Code of Practice (Code) and the operations of the Customer Owned Banking Code Compliance Committee (COBCCC).

We acknowledge the significant work undertaken through the review process and appreciate the engagement with stakeholders in developing the Interim Report.

Overall, we consider the Interim Report contains a number of strong and practical recommendations that have the potential to strengthen the Code, improve practices in the industry and deliver better outcomes for customers.

This submission focuses primarily on the areas where we see opportunity for the Code to go further to strengthen customer protections and support stronger compliance outcomes.

Where relevant, we also identify recommendations that may require refinement to ensure the Code remains practical, proportionate and capable of consistent implementation across customer owned banks (COBs).

Our views are guided by the importance of ensuring Code commitments remain clear, capable of consistent implementation across institutions of different scale and complexity, and sufficiently precise to enable effective monitoring and enforcement.

## 2. Code structure and coverage

We are not persuaded that introducing a formal layered structure of commitments, minimum standards, expectations and guidance would improve the effectiveness of the Code.

In our view, this proposed model risks creating unnecessary complexity, reducing enforceability and compromising customer outcomes.

Importantly, implementing this recommendation would require substantial re-drafting and restructuring of the Code, which we consider to be unnecessary.

The current Code provides a strong and workable foundation. The opportunity presented by this review is to update and strengthen it, so it continues to reflect contemporary practice and evolving expectations, rather than fundamentally redesigning its structure.

Our principal concern is that a layered model risks creating uncertainty about the status and operation of different Code commitments. Creating categories such as “commitments”, “minimum standards” and “expectations” may unintentionally suggest that some elements carry greater weight than others, or that certain commitments are more aspirational than enforceable. This may undermine expectations, create challenges for implementation, and make compliance more difficult to monitor and enforce.

Furthermore, we consider the distinction that the recommendation seeks to introduce already exists in practice.

Modern codes and regulatory frameworks commonly include a mix of prescriptive obligations and principles-based commitments. Some provisions are necessarily specific and measurable, such as requirements relating to timeframes or disclosures. Others appropriately focus on outcomes and

require judgement in implementation depending on the nature, scale and circumstances. Provided the obligation itself is clear, this does not create ambiguity.

This is particularly important in relation to Recommendation 4 and the proposed use of mandatory language and objective criteria across priority areas.

We agree that certain areas warrant careful consideration and, in many cases, stronger commitments: financial hardship, vulnerability, domestic and family violence, First Nations banking, complaints handling, service continuity and emerging issues such as digital service delivery. However, we do not think the Code should address these areas exclusively through a specific layer of minimum standards.

Many of these areas involve complex customer circumstances and benefit from a combination of both prescriptive and principles-based obligations. While objective requirements can provide clarity and consistency, overly prescriptive obligations risk encouraging technical compliance rather than achieving the intended customer outcomes.

We prefer that the Code clearly articulates the outcomes expected of COBs and applies the most appropriate mix of prescriptive and principles-based commitments to support those outcomes.

Accordingly, we prefer a simpler and clearer framework that:

- maintains all substantive obligations within the Code and makes them enforceable through our oversight
- recognises that the prescriptiveness and specificity of obligations will differ, and
- uses guidance to support implementation and promote better practice rather than multiple formal layers of obligations.

This approach better supports clarity, accountability, implementation and enforceability.

We agree that guidance can play an important role in supporting implementation of the Code, particularly in areas of uncertainty, complexity or emerging practice. However, we do not support an approach that assumes guidance is required as a layer beneath Code obligations.

A well-designed Code should be sufficiently clear and workable on its own. Guidance should be used selectively to assist interpretation, support implementation and promote better practice, rather than be necessary to understand or operationalise core obligations.

The Code should clearly distinguish between enforceable commitments and supporting guidance. Guidance issued separately from the Code should assist interpretation and implementation but should not create new substantive obligations unless those obligations are incorporated into the Code through the proper review and approval process.

Too much reliance on guidance outside the Code may make it unclear what obligations COBs are required to meet. Over time, expectations may develop through guidance material rather than through the Code itself. This could weaken accountability and make independent compliance monitoring harder because the enforceable commitments would be less visible and less certain. Guidance should help explain and support the Code, not substitute for clear obligations in the Code.

We support a targeted and proportionate approach to guidance, prioritising areas with demonstrated need and developed in consultation with stakeholders.

### 3. Clear application of the Code for representatives and third parties

We support Recommendation 1 from the Interim Report to make the Code more accessible and ensure it is written in plain language directed to customers and prospective customers.

However, we see an opportunity for the Code to go further in making clear that COBs remain accountable for compliance with the Code regardless of how they deliver services.

Increasingly, banking services are delivered through third parties, outsourced arrangements, digital channels and agent models. This means customers may interact with representatives of a bank without understanding the distinction or knowing the service arrangements.

This issue has become important in the context of shared service delivery models, including Bank@Post arrangements, where customers access banking services through third-party channels but reasonably expect the same standards of service and protection to apply.

By adopting language consistent with the [Banking Code of Practice](#), the Code should make clear that COBs remain responsible for ensuring compliance with Code commitments when they use agents, representatives, outsourced providers or other third parties to deliver banking services.

This approach would strengthen accountability, reduce ambiguity and provide greater confidence to customers that Code protections apply consistently regardless of the delivery channel.

### 4. Key promises and their relationship to enforceable obligations

We support retaining a set of high-level commitments or “key promises” at the beginning of the Code that articulate the distinctive purpose of customer-owned banking and help customers understand what they should expect from COBs.

However, these commitments should not operate solely as aspirational statements or expressions of intent. We prefer the key promises to be an enforceable part of the Code.

If the Code presents key promises to customers as commitments they can rely on, there should be a mechanism to hold COBs accountable for them. This is particularly important given the proposed role of the key promises in anchoring and framing the remainder of the Code.

We acknowledge that not every key promise will lend itself to a prescriptive obligation. Despite this, they can still be enforceable. Modern codes commonly include enforceable provisions that are focused on outcomes or based on principles, where the expected outcome is sufficiently clear.

At a minimum, each key promise should:

- establish a clear commitment that COBs are expected to meet
- be subject to our consideration when assessing conduct under the Code
- be directly supported by more detailed obligations elsewhere in the Code that explain how the promise will be delivered in practice.

If the Reviewer’s intention is that the key promises are not independently enforceable, the Code should at least make an explicit connection between each key promise and the enforceable obligations that give effect to it. This will avoid creating expectations among customers that cannot be meaningfully assessed or enforced.

We have considered the Reviewer’s proposed draft key promises and support the use of clear thematic commitments to help customers understand what they can expect from their COB. However, the final key promises should preserve existing customer protections and make clear how each promise is delivered through enforceable Code obligations.

In particular, we do not support removing the existing key promise that COBs will deliver services with reasonable care and skill. This is an important customer-facing commitment because it sets a clear standard that can apply across banking products, services and lending decisions.

The commitment also provides a foundation for lending-related obligations in the Code. This includes the existing expectation that COBs exercise the care and skill of a diligent and prudent banker, as well as proposed stronger protections for small business and agribusiness customers. We recommend that the commitment be retained as a key promise, applying to all lending covered by the Code, consistent with the approach in the Banking Code.

We also consider that any key promise intended to distinguish COBs from other banks, such as Key Commitment #7, should explain how that distinction is given practical effect. If the Code states that customers can expect a different or better experience because they bank with a customer owned institution, the Code should identify the commitments, governance rights, service standards or accountability mechanisms that support that promise. This will help ensure the promise is meaningful to customers and can be assessed in practice.

## 5. Dedicated section on customer rights under the Code

We partially agree with Recommendation 5.

We support making customer rights under the Code more visible and easier to understand through a dedicated section. However, the Code should accurately reflect how concerns and complaints are addressed in practice.

Customers should be encouraged to raise complaints with their COB in the first instance through its internal dispute resolution process. While the Australian Financial Complaints Authority (AFCA) plays an important role when complaints remain unresolved, the Code should not create an expectation that customers enforce the Code directly through AFCA.

Any explanation of customer rights and pathways should also clearly explain our role as the independent body responsible for monitoring compliance with the Code. We hold COBs accountable to their commitments, including allowing customers to raise concerns with us to assist in identifying broader issues of non-compliance in the industry and improving practice.

We support retaining information about the customer owned banking model and customers’ governance rights as members.

## 6. ASIC approval

We strongly disagree with Recommendation 48 from the Interim Report to not seek approval of the Code from the Australian Securities and Investments Commission (ASIC).

The Interim Report takes too narrow a view of the role of an approved industry code. While [Regulatory Guide 183 \(RG 183\)](#) recognises that codes should deliver protections that go beyond the law, this is only one aspect of an effective code.

A strong code should perform a combination of functions. It should strengthen standards beyond legal minimums where appropriate, but also clarify obligations, complement the law and provide greater certainty and consistency in how expectations are applied in practice.

The Code has performed these functions and should continue to do so as it evolves to reflect contemporary practice and changing customer and business expectations.

We also note the reference in the Interim Report to “defined readiness criteria” for ASIC approval. However, we are not aware of any such concept. Rather, ASIC has published evaluation criteria to assess whether a code is appropriate for approval.

Provided the Code continues to develop through this review process and is aligned to contemporary expectations of conduct, it would be well placed for ASIC approval.

This Code has been in operation for four years (effective 31 October 2022), is already contractually enforceable and is supported by an established independent compliance monitoring model. The industry has had a code in place for 17 years. As such, deferring consideration of ASIC approval would be a missed opportunity to strengthen confidence in the COB sector and demonstrate its ongoing commitment to accountability and high standards of conduct.

Importantly, ASIC approval would provide an additional level of trust and confidence in the Code as well as the broader governance arrangements that support it, including the effectiveness, independence and resourcing of the compliance monitoring model.

ASIC approval would also promote a more level playing field across the banking sector. Customers should be able to trust that equivalent customer protection obligations apply regardless of which sector they bank with. While COBs often emphasise that their model delivers better customer outcomes, that position is strengthened by being subject to the same level of independent scrutiny and external assurance expected of other banks. Seeking ASIC approval would reinforce confidence in the sector’s commitment to accountability, transparency and robust customer protections.

For these reasons, we recommend that the Customer Owned Banking Association (COBA) seek ASIC approval of the Code following completion of this review.

## **7. Financial difficulty**

We welcome the focus in the Interim Report on strengthening the Code’s approach to financial difficulty. This is an important opportunity to improve customer outcomes through timely and more effective assistance.

We support introducing a plain-English definition of financial difficulty that reflects customer experience and recognises both current and anticipated difficulty in meeting obligations (Recommendation 8). We also support recognising financial difficulty as a form of vulnerability that attracts an obligation to take extra care (Recommendation 11) and welcome the stronger focus on supporting customers experiencing domestic and family violence, including through clearer protections and safer approaches to engagement (Recommendation 12).

We consider these recommendations to align with contemporary expectations and have the potential to improve both customer experience and consistency of practice across the sector.

We also support the broader intent of Recommendations 9 and 10, but they should be refined to focus on clear, practical obligations that support early identification and appropriate assistance

without being overly prescriptive. The Code should provide greater clarity about the support customers can expect, including timely responses, accessible pathways to assistance and clearer communication of available options.

### **Proactive identification and support**

We support strengthening expectations that COBs take steps to identify and support customers experiencing financial difficulty as early as possible.

However, we do not support an obligation framed as ‘requiring’ proactive identification of financial difficulty. In practice, this will not always be possible and risks creating unrealistic expectations.

Instead, the Code should require COBs to have effective systems, processes and staff capability to support the proactive identification of indicators of financial difficulty where possible and to respond appropriately.

Failure to identify hardship and respond appropriately in any particular case *may* be evidence of an ineffective system, depending on the circumstances. Repeated failures would *very likely* be evidence of an ineffective system.

Care should be taken in framing obligations for proactive engagement. Unsolicited contact with customers about potential financial difficulty can be sensitive and should be undertaken in a way that supports customer dignity, privacy and choice. Importantly, the objective should be meaningful engagement and good consumer outcomes, rather than contact and referral as ends in themselves. COBs should be encouraged to adopt a continuous evaluation and improvement mindset; to experiment and review the experience of other institutions with a view to identifying the systems and procedures that work most effectively to facilitate early and constructive engagement with customers in financial difficulty.

We agree that requiring customers to complete a formal hardship application should not be a prerequisite to receiving support.

However, rather than focusing on referral to a particular internal support function, the Code commitment should focus on outcomes. COBs should commit to taking extra care, considering the customer’s circumstances, ensuring staff are appropriately trained to engage on financial difficulty issues and making support available through arrangements that reflect their operating models. This recognises that, for some COBs, support may not sit within a dedicated internal hardship function.

### **Timeframes and process protections**

We support introducing clearer expectations and timeframes for responding to customers experiencing financial difficulty.

Clearer and more consistent timeframes have the potential to improve customer experience and reduce uncertainty during periods of stress.

However, the recommendation could go further than requiring accommodations consistent with the Australian Standard.

The Code should provide clearer and more practical commitments about what customers can expect when seeking support for financial difficulty. This could include clearer explanations of available assistance, communication expectations and examples of adjustments that may be made.

Providing greater clarity within the Code would support improved practice and empower customers to better understand and hold COBs accountable to their commitments.

### Debt collection

Ensuring customers experiencing severe and ongoing financial hardship receive appropriate and meaningful support is important. However, prescribing when and how debt waivers should be applied (Recommendation 14) is not appropriate for the Code. Decisions on waiving debt involve significant judgement and should reflect individual customer circumstances as well as broader financial and prudential considerations.

Rather than prescribing specific outcomes or trigger points for assistance, the Code should provide clearer commitments about the support customers can expect, including transparent information about available assistance options, which may include debt waiver where appropriate. This approach would support transparency and accountability while maintaining flexibility to respond to individual circumstances.

While we do not support prescriptive requirements for debt waiver outcomes, the Interim Report does not sufficiently address risks associated with debt collection and debt sale, particularly where customer vulnerability or financial difficulty is ongoing.

Debt collection activity and debt sale can be key points of heightened customer detriment. Importantly, customer vulnerability does not necessarily end when formal hardship arrangements conclude and may continue beyond, or sit outside of, financial difficulty processes.

The Code should more clearly recognise that vulnerability can be enduring and that appropriate safeguards should extend beyond periods of active hardship assistance.

In particular, decisions to sell debt or escalate collection activity should consider the customer's circumstances at the point of externalisation, including indicators of ongoing vulnerability and whether financial difficulty arrangements are in place or under consideration.

The Code should also make clear that debt sale or escalation to external collection should not be used merely to defer responsibility for resolving a customer's circumstances or to transfer risk away from the bank. Before selling debt, escalating collection activity or requiring a customer to refinance, COBs should consider whether the proposed approach is consistent with fair treatment, the customer's circumstances and the objective of achieving an appropriate customer outcome. This is particularly important where customers are experiencing vulnerability, financial difficulty or limited bargaining power.

We recommend that the Code includes stronger commitments to:

- restrict debt sale and escalation of collection activity where vulnerability is ongoing or financial difficulty arrangements are active or under consideration (unless there is a clear and reasonable basis to proceed), and
- ensure COBs maintain appropriate oversight and accountability for third-party debt purchasers so that customer protections continue following the sale.

The Banking Code provides a useful reference point through stronger safeguards relating to debt sale, collection escalation and third-party oversight.

Strengthening the Code in this way would better align with its broader commitments to fair treatment and help ensure protections for customers continue beyond the hardship process itself.

### **Flexible and responsive hardship support**

We also acknowledge that financial difficulty can arise in a wide range of circumstances and COBs may need flexibility to respond appropriately to different situations, including hardship associated with natural disasters and other significant life events.

Well-designed hardship provisions should be broad and flexible enough to support customers across varied circumstances through clear commitments, practical support options and appropriate protections, rather than relying on issue-specific provisions whenever a new circumstance emerges.

Despite this, we would consider additional targeted commitments where there is evidence that they would strengthen customer outcomes or address gaps in current practice.

### **Recovery of debts from social security payments**

We support Recommendation 56 to remove the reference to the expired [Code of Operation: Recovery of Debts](#) from paragraph 151.

However, this should not result in customers losing protections that were previously incorporated by reference.

The Code should set out the relevant debt-recovery commitment directly, including that when a relevant social security payment is paid into an overdrawn account, the COB will not retain more than 10% of that payment towards the debt unless the customer chooses to repay a higher amount.

At a minimum, the Code should preserve protections equivalent to those in the expired Code of Operation, particularly given their importance for customers experiencing vulnerability or barriers to accessing assistance.

## **8. Customers experiencing vulnerability**

We strongly support strengthening protections for customers experiencing vulnerability and welcome the Reviewer's focus on improving how the Code recognises and responds to customer circumstances.

Our monitoring, breach reporting and inquiry work has consistently demonstrated that vulnerability is often complex, dynamic and difficult to reduce to a fixed list of characteristics or prescribed responses. Effective Code obligations should support earlier identification, more tailored responses and stronger organisational capability while maintaining flexibility for COBs to respond appropriately to individual circumstances.

The Code should set clear expectations for how COBs identify and respond to customers experiencing vulnerability, supported by strong systems, staff capability and customer-centred design. This is preferable to adding increasingly prescriptive obligations for particular customer groups.

A broader framework would better recognise that customers may experience multiple and overlapping forms of vulnerability and would allow COBs to respond to the customer's circumstances as a whole rather than by reference to separate groups or triggers.

### **Contemporary definition of vulnerability**

We strongly support adopting a more contemporary definition of vulnerability that recognises it as:

- dynamic and capable of changing
- arising from personal circumstances, life events or interactions with banking products and services, and
- capable of being influenced or amplified by the conduct of a bank.

We also support including an expanded list of circumstances to support implementation while avoiding an unduly narrow interpretation.

Aligning the definition with the Banking Code will support consistency across the sector and clearer expectations for customers.

We also support updating the phrase “elder abuse” to “abuse of older people” in the Code.

### **Incarcerated customers and access to banking**

We support recognising incarcerated customers as a group that may experience heightened vulnerability (Recommendation 19), and we support including this group in the broader vulnerability framework.

We also support the intent of creating a specific commitment requiring COBs to maintain banking access for incarcerated customers in all circumstances. However, it will be critical that any such commitment provides sufficient flexibility – noting there may be legal requirements to close an account.

COBs operate with broader legal and regulatory obligations and there may be circumstances where keeping the account open would be in conflict with other legal obligations.

We support:

- consideration of alternative identification approaches where appropriate, including AUSTRAC guidance
- hardship responses appropriate to customer circumstances, and
- protections to ensure account closure decisions are not automatic.

Importantly, decisions to close an account should involve a considered assessment of customer circumstances, available alternatives and relevant legal obligations.

### **Domestic and family violence and financial abuse**

We support Recommendation 17 and welcome the Reviewer’s recognition that domestic and family violence (DFV) and financial abuse warrant distinct attention in the Code.

DFV remains a significant and complex issue and can involve the misuse or weaponisation of banking products and services to facilitate control, coercion and financial harm. Banking arrangements, including joint accounts, digital channels, lending products and transaction controls, can unintentionally create or amplify opportunities for financial abuse where appropriate safeguards are not in place.

We support strengthening Code commitments to better prevent, identify and respond to financial abuse, and welcome greater recognition of concepts such as coercive control and customer safety.

The Code should introduce a clear commitment requiring COBs to adopt safety-by-design principles when designing, reviewing and operating products and services. This would represent a meaningful uplift while allowing COBs flexibility to implement solutions appropriate to their size, operations and customer base.

This should be supported by clear expectations that COBs:

- maintain systems and processes to support the proactive identification of indicators of financial abuse
- ensure staff are appropriately trained and supported to respond safely and effectively
- establish governance arrangements that support continuous improvement, and
- provide clear pathways for customers to seek assistance and support.

This approach is more likely to drive meaningful and lasting improvements.

### **Cognitive decline and abuse of older people**

We support the intent of Recommendation 18 and welcome stronger recognition of the risks experienced by customers affected by cognitive decline and financial abuse of older people.

Consistent with findings from our inquiry with the [BCCC into financial abuse of older people](#), the Code should strengthen expectations for identifying, supporting and responding to customers experiencing financial abuse.

That inquiry identified opportunities to improve public information and customer awareness to support earlier intervention and reduce barriers to seeking help.

Rather than creating a separate set of detailed obligations for this customer group, the broader framework proposed at Recommendation 17 provides a more effective and sustainable approach.

This should include stronger and clearer commitments requiring COBs to:

- provide accessible public information that helps customers, carers and support people recognise and seek help for financial abuse
- take extra care where they identify indicators of vulnerability or financial abuse
- maintain systems and processes to support early identification and escalation of concerns, and
- ensure staff are appropriately trained and equipped to provide safe and appropriate responses.

This approach better reflects the intersectional nature of vulnerability. Older customers experiencing abuse may also experience cognitive decline, accessibility barriers or financial difficulty.

A broader framework focused on clear information, capability, customer support and appropriate responses is more likely to deliver consistent outcomes than creating increasingly detailed obligations for individual customer groups.

We do not support Recommendation 20 because we are concerned that introducing an explicit provision allowing COBs to decline support based on suspected misuse could have unintended consequences, including increasing stigma for customers already experiencing vulnerability.

The Code is a public, consumer-facing document. It should give customers clear information about the support they can expect and help build confidence to seek assistance when they need it. Customers experiencing hardship or vulnerability often already face significant barriers to engaging with their bank, including fear of being judged or not believed, concern about possible consequences, and uncertainty about whether they qualify for assistance.

Including an express exception in the Code allowing support to be withheld on the basis of suspected misuse risks sending an unintended message that customers seeking assistance may be viewed with suspicion or required to justify their circumstances before receiving support.

Customers experiencing difficulty should be encouraged to contact their COB early, as early engagement is more likely to support effective intervention and better outcomes. Code commitments or messaging that discourages customers from seeking help early would be inconsistent with a customer-centred approach and the objective of putting customers first.

Existing frameworks already provide sufficient flexibility for COBs to exercise judgement based on clear evidence of fraud, misuse or inappropriate conduct.

COBs should continue to retain the ability to take reasonable and proportionate action where support would not be appropriate. However, this does not require a specific exception in the Code.

The Code should remain focused on creating a supportive and accessible framework that encourages engagement, while allowing COBs to manage misuse through existing operational and legal mechanisms.

## **9. First Nations customers**

We strongly support strengthening the Code's commitments to First Nations customers and welcome the Reviewer's call for formal recognition in the Code that structural and systemic barriers continue to affect access to safe, accessible and culturally appropriate banking services.

Our own recommendations to the review sought stronger commitments in this area, recognising that improvements are needed across customer identification, communication, accessibility, cultural capability and access to support.

Overall, the Code should have a stronger and more visible framework for First Nations customers, supported by practical implementation measures that improve customer experience and outcomes.

### **Standalone First Nations section**

We support the inclusion of a standalone section in the Code addressing banking services for First Nations customers.

Currently, the Code does not adequately recognise or respond to the structural barriers First Nations customers may face in accessing and using banking services. A dedicated section would provide greater visibility, clarity and accountability for addressing these barriers in practice.

Meaningful consultation and engagement with First Nations customers and representatives should be central to the review process and to the development of implementation approaches and guidance. First Nations customers' experiences are critical to ensuring commitments are practical, culturally safe and responsive to the barriers they face in accessing banking services.

However, we do not support the proposal for shared authority over the content of the Code. The Code remains an industry code and should reflect commitments made by COBs through established arrangements. While co-design and consultation are critical to informing the Code, accountability for those commitments must remain clearly with COBs.

We also do not support differentiated obligations based on the size or composition of a COB's First Nations customer base.

The same baseline Code commitments should apply to all COBs. A customer's protections should not depend on whether a COB serves a small or large number of First Nations customers.

Implementation may differ depending on a COB's size, operations and customer profile, but the standards customers can expect should remain consistent. However, COBs with significant numbers or proportions of First Nations customers should be expected to be appropriately accessible and responsive to the needs of their customer base.

Guidance may assist implementation and improve industry practice, particularly when it supports regional and remote service delivery and broader accessibility considerations. However, it should remain supplementary and should not create substantive obligations outside the Code itself.

### **Alternative identification and verification**

We support Recommendation 22, as flexible identification processes are an important way to improve equitable access to banking services.

The Code should include a clear commitment requiring COBs to accept alternative forms of identification, consistent with AUSTRAC guidance, and to apply those processes in a way that reflects customer circumstances and appropriate risk management.

### **Cultural awareness and cultural safety training**

We support Recommendation 23, as training plays an important role in ensuring commitments translate into improved customer outcomes.

That training should be informed by First Nations expertise, trauma-informed and subject to ongoing review. It should not be limited to staff who "regularly" engage with First Nations customers, as this could create ambiguity and inconsistent application.

A clearer approach would require baseline cultural awareness and cultural safety capability for all customer-facing staff, supported by additional role-specific training where engagement with First Nations customers is more frequent or complex.

We support stronger commitments regarding access to interpreters, including that interpreter services should be provided to customers free of charge.

The Code should require COBs to provide interpreter services where they are reasonably available. If they cannot reasonably be accessed, COBs should support culturally appropriate alternative communication approaches.

This would strengthen customer protections while recognising the practical limits on interpreter availability in some First Nations languages.

We support Recommendation 25 and recognise the important role financial counsellors and community workers play in helping customers navigate banking services and overcome barriers to engagement.

The Code should set clearer expectations for engaging with authorised representatives, including:

- timely acceptance and verification of authorities
- accessible engagement pathways, and
- reduced documentation requirements where appropriate and lawful.

These expectations are particularly important where support is provided through outreach in remote communities or correctional settings. In these environments, authorised representatives may have limited or one-off opportunities to assist a customer, connectivity may be unreliable and customers may have limited access to identification or supporting documents.

The Code should therefore support responsive and flexible engagement, including practical approaches to authority verification, reduced documentation requirements where appropriate and lawful, and timely decision-making that enables immediate solutions where possible.

Clearer service expectations or indicative timeframes would also support consistent implementation and reduce unnecessary barriers to assistance. These commitments are not limited to financial counsellors and community workers assisting First Nations customers. Therefore, to ensure this is clear, they should sit in a general section of the Code rather than in the section regarding First Nations customers.

We support Recommendation 27 and the framework for voluntary self-identification based on free, prior and informed consent.

Self-identification should not become a compliance or data collection exercise. Handled appropriately, it can help COBs better understand customer needs and provide more culturally responsive service.

Approaches should encourage culturally safe, appropriate and genuinely voluntary self-identification and ensure that staff are equipped to support these conversations respectfully and effectively.

## **10. Small business and agribusiness customers**

We strongly support the overall direction of the Interim Report in strengthening protections for small business and agribusiness customers.

The recommendations respond to several important issues and represent an important step towards creating clearer and more consistent expectations for COBs.

We support Recommendation 29 and the proposed alignment with the Banking Code definition of small business. A consistent definition across industry codes would improve customer understanding and support clearer implementation, application and monitoring.

The proposal in Recommendation 30 to introduce a clear commitment to act with the care and skill of a diligent and prudent banker would be an important reform. Establishing a consistent standard would strengthen accountability and provide a clearer framework for assessing lending and customer outcomes. The Code should make clear that this commitment would apply to all customers afforded protection by the Code.

We support Recommendation 31 to strengthen commitments relating to lending, default and enforcement practices. We encourage further refinement to ensure the commitments are clear, customer-facing and subject to consistent oversight and enforcement.

These protections are particularly important for small business and agribusiness customers, where enforcement action, debt sale or pressure to refinance may expose customers to less favourable terms, including through unregulated providers, and may significantly affect the viability of the business.

Recommendations 32 and 33 would strengthen protections for co-borrowers and guarantors, including by recognising the risks associated with financial abuse and third-party influence. These reforms should be implemented early and supported by stronger expectations regarding informed engagement and fair enforcement practices.

Recommendation 28 is an important strengthening of protections for farming customers. Given the importance of agriculture to many COBs, and the variability of current arrangements across jurisdictions, clearer and more consistent expectations would improve certainty and customer outcomes.

Across this section, obligations should remain clear and enforceable. Proportionality should inform how COBs implement Code commitments, rather than alter the standards customers can expect under the Code.

## **11. AI and automated decision-making**

We support Recommendation 34 and clearer commitments for technology-enabled decision-making and customer interactions.

As banking services continue to evolve, customer trust will increasingly depend on transparency about when technology is being used in ways that affect a customer's experience, communications or outcomes.

The Code should bring stronger expectations for transparency and require COBs to make clear when technology or automated processes are used to communicate with customers or contribute to decisions that materially affect them.

The Code should also preserve appropriate human oversight for material decisions and ensure customers have clear pathways to seek clarification, review and support.

However, the Code should avoid becoming overly prescriptive or tied to specific technologies. Technology is evolving rapidly, and commitments framed narrowly around artificial intelligence may become outdated or create unintended gaps as technologies and delivery models change.

A technology-neutral approach would be more durable. The Code should focus on the outcomes customers can expect, including that customers are informed when technology materially contributes to decisions or communications affecting them, and that they can access meaningful review and support where needed.

This approach would support innovation while ensuring customer protections remain clear, relevant and durable over time.

## **12. Branch closure protocol**

We support the intent of Recommendation 35, particularly its focus on maintaining access to banking services for customers and communities, including in regional and remote Australia.

Changes to service delivery models, including branch closures, are likely to continue as customer preferences, technology and operating models evolve. The key issue is not preventing change, but ensuring customers and communities are properly supported through it.

The Code should include a clear and enforceable commitment to supporting continued access to banking services, regardless of how those services are delivered. A formal branch closure protocol should be incorporated into the Code, made publicly available and subject to consultation and our monitoring.

At a minimum, the protocol should require:

- timely and clear communication about proposed changes
- assessment of customer and community impacts
- consultation with affected communities
- practical support to help customers transition to alternative banking channels and services, and
- additional care to identify and support customers who may experience vulnerability or barriers to accessing replacement services.

This approach would strengthen transparency, accountability and customer outcomes, while preserving flexibility for COBs to evolve the delivery of banking services.

### **13. Bank@Post and service delivery risks**

We support the intent of Recommendation 36, particularly its focus on ensuring that banking services delivered through third-party arrangements remain safe, accessible and appropriate for customers.

We acknowledge concerns identified about service suitability in different communities and circumstances, including where privacy, confidentiality or cultural safety considerations are relevant.

However, the Code should not focus on a particular service provider or delivery model. Service arrangements will continue to evolve, and COBs may rely on different agents, outsourced arrangements or third-party providers to support access to banking services.

The Code should instead make clear that its commitments apply equally to services delivered directly by COBs and to services delivered on their behalf. COBs should remain accountable for ensuring customers receive Code-compliant outcomes, regardless of how or where they access banking services.

This requires COBs to have the appropriate governance, oversight and assurance mechanisms to ensure third-party service providers operate consistently with the standards and commitments in the Code.

This approach would strengthen accountability, support more effective independent oversight and give customers greater confidence that their Code protections do not depend on the delivery channel.

### **14. De-banking and account closure**

We support stronger expectations for transparency and customer communication where decisions are made to restrict or cease banking services.

Account closure and de-banking decisions can have significant impacts on customers, particularly where access to banking services is essential to participation in economic and community life.

The Code should establish clear and enduring commitments that apply regardless of the reason for the decision, rather than prescribing obligations tied to particular drivers of account closure, such as scams or specific risk events.

COBs must retain the ability to manage legal, regulatory and operational risks and make appropriate account decisions where necessary.

However, where permitted by law, customers should receive:

- timely and clear communication about decisions affecting access to their banking services
- information about available next steps
- access to review and support where appropriate, and
- additional care where indicators of vulnerability are identified.

Account closure decisions should not be automatic. COBs should take a considered approach that reflects the customer's circumstances and, where possible, minimises detriment.

This approach would support transparency and fair treatment while preserving flexibility for COBs to meet broader legal and regulatory obligations.

## **15. Low and no-fee transaction accounts**

We support Recommendation 26 and a more proactive approach to helping customers access low- and no-fee transaction accounts.

Where these accounts are offered, COBs should consider offering them from the outset where appropriate, and continue to identify customers who may benefit over time. This should include using available information to help customers move into more suitable products, rather than relying solely on customers to identify themselves or request support.

We support opt-out transfers to low- or no-fee transaction accounts. This approach avoids placing the burden on customers to identify their eligibility or request a transfer, and is particularly important for customers experiencing vulnerability, financial difficulty or barriers to engagement. Opt-out transfers should be supported by clear advance communication, a simple right to remain in the existing account, and safeguards to ensure the transfer does not reduce access, functionality or other important benefits.

The Code should not replicate Design and Distribution Obligations, which are already established in legislation. Instead, it should focus on clearer customer-facing commitments regarding affordability and accessibility.

The recommendation should also go further by setting clearer expectations about the design features and intended outcomes of low- and no-fee accounts.

Through our work, we have observed examples of products being described as “low-fee” despite continuing to attract regular account fees, or generating significant fees depending on how the customer uses the account. This risks creating confusion and limiting the effectiveness of initiatives intended to improve affordability.

To support consistency and meaningful comparison across the sector, the Code should set baseline expectations for these accounts, including consideration of:

- no account-keeping fees
- free periodic statements
- no minimum deposits
- free direct debit facilities
- debit payment methods at no cost
- free and unlimited Australian transactions
- no informal overdrafts
- no overdrawn or dishonour fees
- clear disclosure of ancillary charges, and
- free access to account balance information.

## **16. Payment allocation on credit card accounts**

We support Recommendation 55 to amend paragraph 90 to make clear that payment allocation on credit card accounts must comply with the National Consumer Credit Protection Act 2009 (Cth) and associated regulations where they apply.

However, the amendment should not reduce existing Code protections. In particular:

- customers covered by the Code but not the NCCP framework, including small business customers, should not receive a lower level of protection
- the Code should retain the principle that payments are applied first to the part of the outstanding balance attracting the highest interest rate, and
- this protection should apply to all customer accounts covered by the Code, either by applying the NCCP approach where it applies or by extending the same approach across all Code-covered accounts.

## **17. Governance, monitoring and assurance**

The Terms of Reference expressly ask the Reviewer to consider whether resourcing is adequate to support our work and enable us to fulfil our responsibilities.

We welcome the inclusion of this issue in the review. It provides an important opportunity for an independent assessment of whether the current model remains appropriate, having regard to our responsibilities and the expectations placed on us.

The Charter already requires COBA to ensure we are adequately funded to perform our functions. We have consistently raised concerns about current resourcing and the impact this has on our ability to fully deliver our monitoring, inquiry and broader oversight functions. Against this backdrop, we had expected the review to provide a clearer assessment of whether current arrangements remain sufficient and sustainable.

We are not seeking a predetermined outcome on funding levels or operating model. Rather, the review should provide a more explicit and evidence-based position on whether current resourcing enables us to perform the role contemplated by the Code and Charter. This assessment should consider not only our current activities, but the full range of expectations placed on us, including

proactive monitoring, inquiry work, stakeholder engagement, reporting and supporting implementation of any future Code reforms.

A clearer position from the Reviewer would assist both us and COBA in considering whether the existing resourcing model remains fit for purpose over time.

We also agree there is value in improving certainty, transparency and forward planning in the budgeting process. Greater clarity about timeframes and decision-making processes would be useful. However, we do not support a multi-year budgeting approach.

In practice, our operating environment includes variables that are difficult to predict over longer periods, including changes in supplier costs and shared service arrangements. Multi-year funding arrangements may also create challenges in maintaining appropriate cost allocation and avoiding unintended cross-subsidisation by AFCA.

Our preference is for annual budget approval processes supported by forward-year estimates and greater visibility of expected future funding requirements.

### **Members and tenure**

We welcome Recommendation 44 to strengthen independence requirements for Industry Members.

Industry Members should bring relevant expertise with customer-owned banking while remaining independent of current COB interests. This reflects current practice, and the current Industry Member already meets this standard.

We do not support extending tenure to allow up to three consecutive terms – nine years in total. We recognise that we have an inherent conflict in commenting on matters relating to our own composition and tenure. For that reason, any changes in this area should be informed by broader governance considerations and the views of relevant stakeholders.

Appointments are shared across multiple parties, and any change to tenure arrangements would require agreement from both AFCA and Consumer Federation Australia, reflecting their respective roles in the appointment process. We understand COBA recently consulted both organisations on extending maximum tenure, and that neither supported increasing tenure to nine years. The view expressed was that a maximum six-year tenure remains appropriate for positions of this nature and appropriately balances continuity with renewal and fresh perspectives.

This approach is also consistent with current practice across comparable Code committees. Although the BCCC Charter permits longer tenure, recent practice has continued to reflect a six-year maximum, with both the previous Chair and previous Industry Member leaving their roles at the completion of their six-year tenures.

This supports retaining the current approach, which better balances continuity, independence, succession planning and periodic renewal of membership.

### **AFCA secretariat arrangements and Charter alignment**

We support Recommendation 45 and agree that the AFCA secretariat arrangement should continue.

The current model provides important operational capability and supports consistency, governance and efficient delivery of our functions, while preserving our independence in decision-making and oversight activities.

Our work should be informed by and retain connection to the commitments and outcomes COBs make through the Code. However, we would welcome further clarity on the Reviewer's proposal to anchor the Charter more directly to the values in the Code.

In particular, it would be helpful to understand the specific issue or gap the proposed amendment is intended to address, and how it would operate alongside our existing role, Charter and independence arrangements.

Any amendments should clarify our purpose without creating ambiguity about our independent monitoring role. It should also preserve the distinction between our oversight function and the commitments made by COBs through the Code.

Overall, we support retaining the current model, provided any changes continue to preserve its independence.

### **Breach reporting and data quality**

Improving the quality, completeness and consistency of breach reporting should remain an immediate priority for the industry.

We continue to observe variation across COBs, including under-reporting and inconsistent application of breach definitions. This foundation should be strengthened before further refinements are made to the reporting framework.

We support Recommendation 46 in part. Structured consultation with COBA and COBs should continue when reporting requirements are designed or amended, consistent with our approach to date.

COBs should also be given sufficient lead time to implement changes effectively, and reporting requirements should continue to align with external frameworks, including ASIC's reportable situations regime, where appropriate. These measures support implementation, reduce duplication and improve the comparability of data.

However, breach reporting settings should not be "stabilised" in a fixed form across multi-year periods.

Reporting frameworks need to be capable of evolving in response to improvements in data quality, emerging risks, regulatory developments and opportunities to reduce unnecessary reporting burden through better alignment.

We also do not support introducing materiality thresholds for breach reporting at this time. Reporting maturity across the sector is not yet sufficiently developed to support threshold-based reporting. Introducing thresholds now risks increasing under-reporting and undermining efforts to establish a strong and transparent breach reporting culture.

Materiality thresholds may be appropriate in future, but only once there is greater confidence that reporting is comprehensive, consistent and of sufficient quality across COBs.

Consistent with our broader position on governance arrangements, breach reporting processes and operational settings should be addressed through the Charter and supporting reporting frameworks, rather than through customer-facing Code commitments.

### **Complaints data monitoring**

Complaints data can provide valuable insight into customer experience, emerging risks and areas where Code outcomes may not be operating as intended.

However, collecting complaints data directly from COBs through a separate reporting process would likely duplicate existing regulatory requirements, including reporting to ASIC, and increase reporting burden without clear additional benefit.

ASIC's complaints and internal dispute resolution reporting frameworks already provide a central and increasingly transparent source of complaints data.

A more effective approach would be to use existing regulatory and industry data sources where available, avoid unnecessary duplication for COBs, and focus our role on analysis, insight and the identification of systemic issues rather than the collection of parallel datasets.

This would direct effort to understanding customer outcomes and emerging risks, rather than creating additional reporting obligations that may add little to effective oversight.

### **Charter variation and consultation**

There may be value in clarifying what constitutes a "material" amendment to the Charter. However, consultation should not be limited only to changes assessed as material.

All Charter variations should be subject to structured consultation with us and AFCA at a minimum. The Charter establishes the governance framework for our operation, independence and ability to fulfil our responsibilities. Even changes that appear administrative or operational may have broader implications for oversight arrangements, resourcing or how we operate in practice.

This reflects the existing operating model and recognises the role both we and AFCA, as provider of secretariat services, play in supporting effective governance and implementation.

Limiting consultation to "material" changes would introduce unnecessary ambiguity and create a risk that changes with broader operational or governance consequences proceed without sufficient input.

A clearer approach is to require consultation on all Charter variations, supported by transparent processes and defined stakeholder engagement. This would better protect our independence and ensure proposed changes are informed by operational experience and oversight expertise.