



01 November 2021

Mr Phil Khoury
BCCC Independent Reviewer
Cameron Ralph Khoury
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Dear Mr Khoury

Submission to BCCC Review – Interim report

The ABA welcomes the opportunity to provide input into this important review of the BCCC and thanks the review team for their work to date.

Overview

Role and purpose of the BCCC

The importance and enduring relevance of industry codes was noted by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services. Though it recommended some adjustments to the legislative regime for industry codes, the Royal Commission favoured the preservation of its essential character as an industry generated and voluntary concept.

Importantly, the role of code monitoring entities in such regimes should not be mistaken for that of regulators. Rather, these entities are creations of code subscribers and have the ultimate purpose of improving customer outcomes by assisting industry to achieve best practice compliance.

Consistent with this rationale for code monitoring entities, the BCCC Charter begins with the statement:

“The purpose and function of the Banking Code Compliance Committee (BCCC) is to monitor and drive best practice Code compliance”.

This reflects that the role should be balanced between monitoring and promoting best practice, rather than focussing on one of those functions at the expense of the other. Too heavy a focus on monitoring compliance, for example, could distract the BCCC from its role in promoting best practice.

While the compliance monitoring function of the BCCC is important to ensure public trust and confidence in the sector and the Banking Code of Practice (the Code), the role it has in promoting best practice is equally important. This approach is consistent with comments made in the Interim Report (and in the previous review of the CCMC):

48. The BCCC should not however, be solely focused on whether minimum levels of compliance are met. As we recommended in our last review, the BCCC should also play an important role in promoting higher (above minimum) practice across the industry. This role is particularly important in relation to principles-based Code obligations, where interpretations, practices and customer outcomes across industry may otherwise differ quite markedly.

49. The issue for the BCCC is not about whether its focus should be compliance or best practice, but rather whether it is achieving the optimal balance in carrying out both roles.

Understanding the need for balance in the BCCC's role should, in our view, underpin the appropriate response to many of the issues raised in the Interim Report.



Rationalisation of BCCC data collection

Given this review coincides with radical reforms to the breach reporting framework under the Corporations Act, it presents an opportunity to consider a rationalisation of the breach reporting and data collection processes of the BCCC. For example, the introduction of a materiality threshold, along the lines of that which applies under the Corporations Act (ie 'significance'), should be considered. This would remove the need for banks to collect and report, and the BCCC to record and analyse, vast amounts of information which does not ultimately result in improved consumer outcomes.

Rationalisation of the breach reporting process should also free up BCCC resources to focus more on exercises such as inquiries and report writing - processes which are very useful in identifying best practice, promoting compliance and directly impacting the experience of customers.

At present there is often a significant lag between collection of data from banks and the provision of analysis and reports from the BCCC. The industry believes significantly more value could be gained from the work of the BCCC if the output of this work could be provided to banks more quickly.

Relationship with regulatory agencies

Another issue related to breach reporting is the need to eliminate duplication or the potential for duplication with other reporting regimes. This goes to a broader issue of how the Code in general relates to existing law. There are occasions when it can be helpful and relevant for the Code to refer to existing law, but in general, this should be done in a way that doesn't duplicate other obligations and in the process give the BCCC a role that duplicates that of a regulator like ASIC or the Privacy Commissioner. Structuring the Code in this way should reduce the potential for duplication.

To the extent that there is such duplication, the BCCC should not seek to replicate the role of other regulators covering the same subject matter.

Representation on the BCCC

We note that the Interim Report questions the effectiveness of the BCCC's Small Business and Agribusiness Advisory Panel, and canvasses the need for a dedicated small business representative on the BCCC. In our view, the Panel is a relatively new entity and sufficient time has not passed to allow proper assessment of its effectiveness.

If the Panel was ultimately deemed to be ineffective, the ABA would not necessarily object to a small business representative being added to the BCCC. In selecting any such representative, we note that independence should be a key criterion. While the Charter makes provision for representatives to be appointed in respect of consumer and banking sectors, it should be remembered that the BCCC is ultimately an independent body. Accordingly, representatives from particular sectors are appointed for the expertise and insights they bring to an independent committee – not as partisan advocates for the appointing sector.

Sanctions powers

The ABA believes the BCCC's sanctions, expanded following the last Code review, are adequate. In particular, we don't see a case for adding a power to impose financial sanctions. To give the BCCC a financial sanctioning power would be inconsistent with the nature of the BCCC's role as outlined above, skewing it more toward that of a regulator.

In addition, the enforceable code provisions regime introduced following the Royal Commission contains provision for civil penalties to be imposed for certain code breaches. Pursuing such penalties would be a function for ASIC, not for entities such as the BCCC.

Our detailed answers to questions set outlined in the Interim Report appear in the [Annexure](#).

Please do not hesitate to contact us further if you would like to discuss any of the matters addressed.



Australian Banking
Association

Yours sincerely

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Annexure: Answers to questions in the Interim Report

No.	Question	ABA comments
1.	a) Would the BCCC's role and purpose be clearer if the Code and the Charter were amended to describe this as "monitoring Code compliance and promoting best practice Code implementation"?	As we have noted above, the BCCC's role, as monitor of a voluntary industry code, should not be skewed toward monitoring compliance, at the expense of its role in promoting best practice implementation. Adjustments to the Code and Charter that make this clearer would be a positive step.
	b) What more should the BCCC do to build a shared understanding of its role and how it fits into the regulatory and quasi-regulatory landscape	<p>More engagement by the BCCC to assist banks in understanding the purpose of its data collection would be useful. Understanding the BCCC's intentions and priorities better would help banks support its work.</p> <p>Ongoing engagement with member banks could occur via the ABA in the form of information sessions and forums to discuss key issues.</p>
	c) Would there be benefit in the BCCC consulting more transparently about its proposed priority areas each year?	<p>Yes. Enhanced consultation would give banks the opportunity to inform the BCCC of work already completed or underway to drive improvement in compliance.</p> <p>In addition, we note that greater consultation with other stakeholders would also potentially be of benefit. For example, consulting the Australian Small Business and Family Enterprise Ombudsman and other small business stakeholders might help the BCCC be more inclusive in terms of the areas it prioritises for investigation and analysis. Consultation with entities like ASIC might help avoid any duplication of work by the BCCC.</p> <p>Other benefits could include:</p> <ul style="list-style-type: none"> • Member banks have the benefit of seeing/experiencing first-hand issues and emerging risks which can be shared with the BCCC (these issues may not otherwise be visible to the BCCC or may only come to its attention at a later date). • Increased engagement by member banks, potentially utilising forums managed by the ABA such as the Consumer Outcomes Group, in the identification of priority areas for the BCCC. • enabling financial institutions to assess the priority areas and thoroughly prepare the requisite information. Should the BCCC later request information about these areas, it is likely to result in better quality information being provided as some initial assessment may have already been undertaken; • reducing the likelihood of the BCCC conducting an inquiry or investigation into an area well-covered by an inquiry carried out by a regulator; and • Banks may be able to plan their assurance and audit activities to overlap with the BCCC's priority areas and requests.



No.	Question	ABA comments
2.	a) Does the Small Business Panel provide a sufficient means for small business input into the BCCC's work?	<p>The ABA notes that the BCCC's Small Business and Agribusiness Advisory Panel is a fairly recent creation. We note the Interim Report's comment that:</p> <p><i>"the Panel is still in the process of settling into its role and finding its rhythm and that the pandemic has in large part delayed this from happening".¹</i></p> <p>The ABA believes that the Panel is capable of providing the necessary input into the BCCC's work if it is given sufficient opportunity to do so. We consider it premature to abandon the Panel model when it seems it hasn't yet been fully tested.</p> <p>Additionally, it should be remembered that the BCCC is first an independent entity, whose members are selected for their background knowledge or expertise in matters relevant to the BCCC's work. Members are not selected as partisan advocates for the interests of any particular group, as to do so would compromise the BCCC's independence. Any additional representative should be appointed with this principle in mind.</p> <p>The effectiveness of the panel could be enhanced by greater and more frequent engagement with the BCCC.</p>
	b) Should a person with small business expertise be a member of the BCCC and if so, how should the composition or processes be changed to maintain an appropriate balance between those with banking industry expertise and those with customer expertise?	
	c) Are there ways in which the effectiveness of the Small Business Panel could be enhanced?	
3.	Are there ways in which the governance framework established by the Charter can be strengthened? Views are sought as to whether:	
	a) An alternate member should only be able to be appointed where a BCCC member is absent or unable to participate for a prolonged period – and that in this case the appointing body should appoint the alternate rather than the BCCC member?	We agree that the appointing body should appoint the alternate member in the case where a BCCC member is absent or unable to participate for a prolonged period.
	b) There should be tighter provisions to deal with conflicts in the interests of maintaining the confidence of stakeholders?	As we note above, the independence of Committee members is important. Minimising potential for conflicts of interest is critical to preserving the independence and transparency of the BCCC. The proposed adjustment to the conflict of interest provisions in the BCCC Charter would be one way to enhance confidence in this regard.

¹ Phil Khoury, *Review of Banking Code Compliance Committee – Interim Report*, September 2021, paragraph 65.



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4.	<p>Views are sought about the cost/ benefits of BCCC Compliance Statements and what changes should be made in light of the enhanced breach and complaints reporting to ASIC that will begin in October 2021.</p> <p>Please comment on:</p> <p>a) The purposes served by the Compliance Statement process and BCCC reporting as to the data it collates from these</p>	<p>As noted above, it is important that the BCCC's role not be unduly skewed toward compliance monitoring, at the expense of its role in promoting best practice.</p> <p>The purpose for which the BCCC requires data (and what it uses it for) as part of the Compliance Statement process is not clearly defined.</p> <p>The BCCC's requirements for compliance reporting should be based on a clear process of analysis by the committee as to the purpose for which it is collecting information. Such a process would likely improve the quality of information collected and reduce the burden on subscribers of complying with information requests the purpose of which is unclear.</p> <p>A more rationalised reporting regime could help eliminate the 'noise' in the data and would help the BCCC and banks better identify scope for improvement in compliance.</p>
	<p>b) What data and insights in the BCCC's Compliance Statement reports are most useful?</p> <p>Least useful? Please point to specific examples in recent reports.</p>	<p>The BCCC's feedback on banks' breach reporting relates mainly to the breakdown of breach numbers across the Code and industry; and how banks identify and report Code breaches rather than how compliance statements are interpreted by the BCCC and how they contribute to its priorities and next steps.</p> <p>The feedback provided is based primarily on percentages – e.g. a bank's number of breaches of a chapter as a percentage of the bank's total breaches, or the percentage of a bank's breaches attributed to human error, or identified by a particular means.</p> <p>This approach first compares a bank's breaches to the same bank's other breaches, then compares the resulting ratio to other banks' ratios. In our view, it is not a statistically meaningful way to compare banks; nor does it reliably measure trends across reporting periods. We note that variances from an industry average do not reliably indicate deficiencies or room for improvement. For example, one bank's variance from an industry average could arise from another bank experiencing a major incident, such as a significant 'system' error resulting in a large number of BCOP breaches e.g. a leak of personal information, which on its own may materially affect the overall breach numbers across the industry and therefore the average. This appears to have been the case with one bank in July to December 2019.</p> <p>Most useful information</p> <ul style="list-style-type: none"> Insights that have shown one bank to be an outlier compared to the industry are generally useful and a trigger for further consideration. An example is the percentage of breaches caused by human error. Analysis per "Part", focussing on the nature, cause, impacts and rectification at an industry level, as opposed to comparing individual banks.



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		<p>Least useful information</p> <ul style="list-style-type: none"> Number of breaches per \$bn household deposits, by bank – noting this appears to have been discontinued as of the last report. The breach volume comparison information is not useful, as it doesn't indicate what the ideal target state is. For example, is the bank with the highest volume of breaches the worst offender or a good example of breach identification and reporting practices? On the other end of the spectrum, is the bank with the lowest volume the 'best' or is this more due to their smaller scale and customer base, and/or have breach identification practices that are still maturing?
	<p>c) Do you support any of the options put forward in paragraphs 110 and 111 of this Interim Report to streamline Compliance Statement reporting? Are there better options?</p>	<p>Part A</p> <p>110(a): Materiality threshold for reporting breach numbers and details: The ABA strongly supports this option. Many of the breaches currently reported are minor incidents, resolved quickly to customer satisfaction. The value of identifying, analysing, and reporting these as numbers next to a chapter title is unclear, and in our view does not provide an accurate account of where banks' or the BCCC's Code priorities should lie. Banks have systems and processes outside of the BCCC compliance statement context to identify and respond to issues of a systemic nature.</p> <p>Setting a clear materiality threshold would also help to make the data reported more consistent across banks.</p> <p>110(b): No or limited detailed reporting (and no materiality threshold): We do not support this option, as it would leave the BCCC without descriptions of breaches and thus in a poor position to identify any trends within or across banks. Further, it would not materially streamline the reporting process for banks, as the identification of all Code breaches is itself a very resource-intensive process.</p> <p>110(c): Confine breach reporting to a subset of Code obligations</p> <p>This option is worthy of further consideration. For example, reporting to the BCCC on the following parts of the Code may be of little value.</p> <p>Duplicate reporting obligations</p> <p>Where banks are already reporting matters to a regulator, the benefit of an additional reporting obligation to the BCCC (often requiring a greater level of detail and not subject to a materiality threshold) is unclear. Where Code reporting overlaps with regulatory reporting, the BCCC could either exclude such chapters from its reporting requirements and take comfort that regulators are providing appropriate oversight; or agree to receive reporting information in a format consistent with the regulator's and subject to thresholds. This would allow the BCCC to focus its</p>



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		<p>resources on monitoring aspects of the Code which are not otherwise the subject of independent oversight.</p> <p>In this regard we welcome the BCCC's six month suspension of the reporting requirement under paragraphs 26 to 28 of BCCC Guidance Note No. 1, and we expect the BCCC will find itself able to fulfil its monitoring function without receiving these reports on a permanent basis. Given the recent changes to ASIC's RG 78, the volume of such reports to the BCCC would have increased substantially in the absence of the suspension, and would likely contribute to a possible trend of the BCCC receiving more information than it can reasonably use for its purposes.</p> <p>Clauses rarely breached Some chapters of the Code are breached very rarely or not at all, and, while banks take their commitments under such chapters seriously, reporting on them is unlikely to reveal trends or focus areas for the BCCC. Examples include chapters 7, 21, 22, 29, 46, and 49. In the absence of a reporting requirement for such chapters, the BCCC would still be able to request information on how banks comply with them if considered necessary.</p> <p>110(e): Annual compliance statements Moving to annual compliance statements may assist in streamlining the process. However, other factors such as the materiality threshold issue outlined above are of considerably more significance.</p> <p>Importantly, if annual compliance reporting is adopted, there will be larger amount of data being provided at the same time which may impact on trend analysis, BCCC initiatives, timing of BCCC's issuing of reports and timing of implementation of identified improvement opportunities. This would mean a reconsideration of timelines is required in relation to the preparation, delivery and review of the compliance statement.</p> <p>Part B 111(a): No reporting of complaints information: 111(b): Reduced collection of information about compliance monitoring: 111(c): Reduced collection of information about financial difficulty assistance: 111(d): Dispense with all or most of the other information collected:</p> <p>General comments: As noted above, the BCCC should base its data collection requirements on a clear and coherent assessment of the purpose for such collection, and the how the data will be used. Banks are generally unclear as to the purpose for the collection of data for Part B of the compliance statement, for example.</p>



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		<p>In the absence of a clear rationale for collection of such data, the resources expended by both banks and the BCCC on its collection are not, in our view, justified by any benefit obtained.</p> <p>Banks would be willing to provide Part B type information where the use case is current and clear, for example in the context of an industry-wide inquiry requiring data to support specific comparison metrics.</p>
	<p>d) Should the BCCC have the power to report on Compliance Statement data on an identified-bank basis?</p>	<p>The ABA does not support the BCCC having the power to report on Compliance Statement data on an identified bank basis.</p> <p>The Interim Report points to the fact that AFCA and ASIC will report some data on a bank identified basis. While this is true, it is important to remember that such reporting is likely to be based on data sets that are collected and reported on in a more consistent and precise way. This is true for AFCA because what is being reported is simple complaints data. ASIC has done extensive work on consistency and will soon operationalise its 'data dictionary' which should help achieve a high level of consistency.</p> <p>Consistency of reporting under the Code remains a work in progress. The ABA and members are working with the BCCC to develop the approaches by both towards achieving greater consistency in reporting. However, until that project is completed satisfactorily, publishing data on a bank-identified basis may be inequitable and confusing.</p> <p>In the meantime, ASIC's new breach reporting regime will provide customers and the community with greater visibility on individual banks' broader breach performance.</p> <p>The BCCC already has the power to sanction any bank and publish the bank's name and a notice of sanction on its website where there is a serious and systematic issue.</p>
5.	<p>What, if any, ASIC reportable situation reports do you think the BCCC should ask banks to provide to it contemporaneously with ASIC lodgement?</p>	<p>The ABA does not see utility in banks providing the BCCC information on matters lodged with ASIC, unless those reports are directly relevant to a BCCC monitoring activity.</p> <p>This is all the more the case given the substantial increase expected in reports going to ASIC under the new regime.</p>
6.	<p>What issues need to be navigated in a documented information sharing agreement as between AFCA and the BCCC?</p>	<p>The ABA is supportive of exploring the potential for greater information sharing between AFCA and the BCCC.</p> <p>We note that the need for a formal agreement with AFCA could be complicated by the fact that the BCCC is not a legal entity in its own right.</p> <p>Separately, the BCCC should consider and potentially adopt AFCA's data analysis methodology (in addition to utilising AFCA's data), as AFCA's data analysis methodology is quite sophisticated and the industry finds the outputs generated insightful.</p>



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7.	a) How could the BCCC have sharpened the focus of its past Inquiries?	<p>At times, BCCC inquiries have tended toward a 'broad brush' and multi-faceted approach. A more targeted approach might produce more considered and useful results.</p> <p>A sharper focus would also likely result in the relevant information being provided more quickly and the BCCC's report being issued on a more timely basis.</p> <p>In addition, BCCC inquiries tend to be backwards looking. The guarantees inquiry (commenced in 2019, completed in 2021), relied mostly on data from 2018 – before the current Code was written. By the time the reports come out, the issues identified may no longer be current – some banks will have already moved to address known deficiencies.</p> <ul style="list-style-type: none"> There may be more benefit in BCCC inquiries focussing more on banks' compliance at and around the time of the inquiry. Examples of this approach include the BCCC inquiry into Part 4 of the Code, and parts of the upcoming deceased estates inquiry.
	b) How could the BCCC make more use of bank resources to gather and report data for a BCCC Inquiry?	<p>Greater consultation and visibility regarding the BCCC's areas of focus, and the timing and number of inquiries, would enable banks to better resource and plan for BCCC requests.</p> <p>The BCCC should consider what data is already available, for example information/data already shared with other regulators like ASIC. Then once analysis of this has occurred, request more specific information as needed from the banks. Additionally, we would support carefully targeted utilisation of banks internal audit functions.</p> <p>Also, the BCCC could utilise more verbal engagement rather than relying on written submissions, for example interviews with bank staff to understand practices, processes, etc and, from that, request further specific information to be provided in writing as required.</p>
	c) How could this be made to work for small banks?	<p>Best practices from larger banks could be shared as guidance for smaller banks and potentially tailored to suit their needs.</p>
	d) Are there opportunities for the BCCC to work more in partnership with Customer Advocate Offices in relation to Inquiries?	<p>The BCCC and Offices of the Customer Advocates (OCAs) share the common objective of fair outcomes for customers. The industry recognises that there may be an opportunity for more regular engagement between the OCAs and the BCCC to share focus areas, CA recommendations and insights relating to this common objective. This approach allows for ongoing flexibility in the nature of the engagement and the difference in OCA models/functions across banks.</p> <p>However, it is important for the BCCC and OCAs remain separate and independent of each other in relation to BCCC Inquiries. This will allow the BCCC to provide independent oversight and monitoring of the Code which includes consideration of the activities of the OCA in facilitating fair outcomes and minimising the likelihood of future problems for customers.</p>



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	e) What would banks need to enable BCCC requests to be incorporated into bank audit and risk monitoring plans?	<p>Banks plan their internal audit priorities up to two years in advance. For the BCCC's needs to be accommodated in such a schedule, as much advance notice as possible is appreciated.</p> <p>In addition, the detail contained in the current BCCC Business Plan is insufficient. There needs to be more granular details included in the Plan that provides greater clarity on the proposed timing of BCCC activities, rather than just "Q3 2021" for example. Also, the activities and timings in the Plan often change (noting this has happened more of late due to COVID-19 impacts) mostly without notice to banks. So, there would need to be improved engagement when any changes to the Plan are required.</p>
	f) How could the BCCC help to reduce the workload for banks in reporting, without diminishing the intelligence gathered or reducing the confidence of stakeholders?	<p>See the comments above on reporting and data collection, and on better targeting requests which would promote more expeditious reviews and enable the BCCC to consider inquiries and respond in a timely and constructive manner.</p> <p>In addition, the BCCC could consider more of a focus on qualitative data gathering. Providing qualitative responses on how banks comply with certain parts of the Code is less resource-intensive and perhaps more informative than either providing historic data on how they did not comply, or quantitative analysis.</p> <p>Increased consultation with banks on the proposed topics for inquiries, and on relevant data requirements, including common language and definitions around data and information requirements, would help reduce regulatory burden and help to make BCCC material more concise and focussed.</p> <p>Consideration should be given to timeframes of activities in the Business Plan. For example, in March 2022, the BCCC has indicated that it will require banks to provide information on progress following the Guarantee Inquiry and potentially also the Direct Debit Mystery Shop. Also, banks will be required to submit their Part A response for the Compliance Statement. This places unnecessary pressure on both banks and the BCCC.</p> <p>Finally, we reiterate that the timing and focus of BCCC inquiries mean their findings may no longer reflect the current state of affairs in the industry. As examples, the guarantees report relates largely to data from 2018, before the current Code was written; and the Part 4 inquiry report will be released over a year after banks' responses were provided. During that time, some banks will have carried out significant work to improve and uplift compliance with Part 4 of the Code.</p>
8.	a) Does the Charter unduly restrict the BCCC's discretion to investigate an allegation of a Code breach?	No. The Charter provides a broad discretion to investigate code breach allegations.



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	b) Should the BCCC be able to investigate an allegation that is made to the BCCC more than 2 years after the person making the allegation became aware of the event (subject to the application of the Guiding Principles in clause 3.1 of the Charter)?	<p>The time limit in which the BCCC can investigate code breaches was extended from 1 to 2 years following the last major review of the Code in 2017. The question of potentially aligning the BCCC limit with that of AFCA was raised in the context of the last review of the Code. We agree with the observation made in that review:²</p> <p><i>While I can see the practicality and simplicity of alignment [with FOS's 6 year limit], the CCMC should be focused on monitoring current effectiveness and on continuous improvement of process. It would be a waste in my view, for energy to be spent on determining breaches and improving processes that were up to 6 years old and almost certainly no longer current. I think the ABA suggestion of two years strikes a reasonable balance.</i></p> <p>We note that the current review reconsiders this issue, stating among other things:</p> <p><i>"We think that the 2 year timeframe in clause 5.3b) needs to be considered in the context of the longevity of many customers' banking arrangements. For example, the impact of a non compliant loan or guarantee – and sense of grievance and desire for BCCC to investigate – may not be felt until many years after the person first became aware of the relevant events."³</i></p> <p>However, extending the time in which customers can make complaints to the BCCC will not do anything to enable such customers to obtain redress. Customers seeking remedy for grievance or loss should be approaching bodies like AFCA or the courts. The BCCC is not in a position to make orders or determinations on remedies for particular customers as that is not its function.</p> <p>While timely customer complaints could serve to alert the BCCC to broader issues with a bank's code compliance, in our view it is not an efficient use of the BCCC's time for it to pursue dated complaints that could be better addressed by another tribunal.</p>
	c) Would there be problems if clause 5.3d) is reworded to clarify that the BCCC can investigate a Code breach allegation if another forum has considered the allegation but not made a finding as to whether or not the Code has been breached?	<p>If no finding has been made regarding a code breach, then the BCCC should be able to consider the allegation. However, this would need to be qualified to make clear that the BCCC does not have power to overrule findings of fact by another forum.</p>

² Phil Khoury, *Independent Review – Code of Banking Practice*, January 2017, section 20.8.1.

³ Interim Report, para 170.



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	d) Does clause 5.4 of the Charter narrow in any respect the power of the BCCC to investigate alleged breaches of the Code, noting that the Code is clear that the law takes precedence? Is clause 5.4 unnecessary?	No. Section 5.4 appropriately notes that the BCCC must consider the relevant provisions of the Code and any applicable sections of the laws when conducting an investigation.
9.	Information is sought from those who have referred a breach allegation to the BCCC as to whether they have felt sufficiently informed of the outcome, including whether they have been given the opportunity to provide any additional relevant information.	The ABA has no comments on this question.
10.	<p>Views about the preliminary positions we have set out in paragraphs 195 to 203 are requested.</p> <p>Potential expansion of BCCC's sanction powers:</p> <ul style="list-style-type: none"> • Para 195: suspension or termination of status as Code signatory: • Para 196: Power to require a compliance review of breach rectification actions (not just remediation) • Para 197: Power to report any serious or systemic non-compliance with the Code to ASIC (this power exists in the Insurance Code Governance Committee and AFCA) • Para 198-199: Strengthen the naming sanction regime by requiring publication on the bank's website including information about its corrective action. App is not practical and unsure re publishing on ABA's website. • Para 200-202: Where there is a need for remediation, whether 	<p>195: Suspension of a bank from the Code: The ABA agrees with the position stated in paragraph 195.</p> <p>196: Review of breach rectification actions: We are not opposed to the position stated in paragraph 196 where a serious breach has been found and where the need for, and customer benefit of, such a sanction has been clearly established. We note this proposal would require an amendment to the Code.</p> <p>197: Reporting serious or systemic non-compliance to ASIC: This sanction power was added to those of the BCCC following the last code review. See clause 7.2(f) of the Charter and clause 215(f) of the Code.</p> <p>198: BCCC retain power to name a bank: The ABA supports retention of this power in respect of the more serious Code breaches where exacerbating factors are present. The BCCC has used this power in two findings, both of which gained senior-level attention within banks and prompted internal reviews in some.</p> <p>199: Requirement for a bank to publish its naming sanction: We are not opposed to this proposal where a serious breach has been found, where exacerbating factors are present, and where the existing naming sanction is considered insufficient. If it were adopted, we would, of course, need to clarify matters such as the prominence and length of publication. We confirm, however, that the existing naming sanction is taken very seriously within banks. We note this proposal would require an amendment to the Code.</p> <p>200 and 201: BCCC's role in relation to remediation: In many cases, by the time an incident is considered by the BCCC, any customer remediation or compensation will have been completed. More broadly, we refer to comments earlier in this document around the BCCC's role and purpose.</p> <p>202: Remediation referral to AFCA: We agree generally with the comments in paragraph 202. We note also that many banks have</p>



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	<p>this should be passed to AFCA's Systemic Issues Team.</p> <ul style="list-style-type: none"> • Para 203: Power to require a community payment of up to \$100,000 (as per General Insurance Code of Practice) but whether this will make any real impact? 	<p>their own systemic issues teams adept at considering remediation efforts, which may be able to provide a proposal satisfactory to the BCCC.</p> <p>203: Proposed payment sanction: The ABA does not support this proposal. With the advent of the enforceable codes regime, there will be a statutory process by which code provisions can be given the status of law and be subject to civil penalties for breach. The pursuit of such penalties would be a matter for ASIC.</p> <p>Adding a financial sanctioning power to the BCCC's repertoire at this stage would be odd considering the enforceability regime and is, in any event, not consistent with the role of the BCCC, as monitor of a voluntary industry code.</p>
11.	<p>Views about the adequacy of BCCC resourcing are welcomed. In particular:</p> <p>a) Whether there is a sound strategic basis for determining BCCC resourcing?</p> <p>b) Whether resourcing is keeping pace with the expanded scope and expectations of the 2019 Code?</p> <p>c) Whether extended delivery times would be improved by a modest increase in appropriately skilled resourcing?</p>	<p>The BCCC effectively sets its own budget. The ABA is offered an opportunity to comment, but does not have veto power, and has not in the past objected to increases in the BCCC's budget. Accordingly, if the BCCC makes the case for a modest increase in its skilled resourcing, the ABA is unlikely to object.</p> <p>As noted above, there are gains to be made in the efficiency of the BCCC's operations. Such gains in efficiency might address some of the resourcing issues discussed in the Interim Report.</p>