

1 February 2024

Scams Taskforce
Market Conduct and Digital Division
Treasury
Langton Cres
Parkes ACT 2600

Via email only: scampolicy@treasury.gov.au

Dear Treasury

BCCC Consultation response: Scams – Mandatory Industry Codes

We welcome Treasury's joint consultation with the Department of Infrastructure, Transport, Regional Development, Communications and the Arts on the future regulatory framework for scams.

The BCCC and the Banking Code of Practice

The [Banking Code Compliance Committee](#) (BCCC) is the independent body that monitors compliance with the [Banking Code of Practice](#) (the Code). Our purpose is to monitor and drive best practice code compliance, ultimately leading to better outcomes for customers and the community.

Seventeen banks, and their subsidiaries, are members of the Australian Banking Association (ABA) and subscribers to the Code. Each of these banks are an authorised deposit taking institution (ADI) and captured by the consultation and proposed legislation. These banks have existing obligations under the Code. However, there are no specific obligations relating to scams.

While the Code does not have obligations directly addressing the management of scams, there are key obligations that intersect with the risks and impacts of scams. The most relevant obligations are in Part 4 of the Code, which contains obligations regarding inclusivity, accessibility, and vulnerability. These obligations require that banks take extra care with customers experiencing vulnerability. Our view of the current Code is that the obligation to take extra care with customers experiencing vulnerability applies in the context of scams.

Through our monitoring work, including concerns raised with us from customers and their representatives, and the data we collect from banks every six months on self-reported breaches of the Code, we see issues with failure to take extra care with customers identified as at risk of being scammed. For example, delays in a customer being able to contact a

bank to report a possible scam, bank staff failing to follow internal processes to deal with a reported scam, delays in response, and internal errors affecting holds on accounts that contributed to financial loss. Many of these breaches were reportedly caused by staff 'human error'.

The Code is currently under review and the ABA has sought ASIC approval for a new version of the Code. The new version of the Code was developed following the 2021 Independent Review of the Code (the Code Review). ASIC has conducted a [public consultation \(CP373\)](#) on the proposed new version of the Code, which closed at the end of January 2024.

The Code Review identified gaps in the current Code and recommended that banks commit to training staff on suspicious transaction indicators that may constitute scams. It also recommended that banks have information on their websites and apps to inform customers on what to do if they believe they have been scammed (Recommendation 113 and 114).

The ABA has not proposed any changes to the Code in response to these recommendations. The ABA stated that it did not consider that changes were necessary given existing training and information provided by banks.

We made a submission to the ASIC consultation which has yet to be made public. Our submission highlighted our position that we recognise and welcome the ongoing work by the government and industry to address scams and we consider the Code has a role in addressing any residual concerns and supporting protections for customers who are susceptible to, or victims of, scams. We recommended that the Code should be reviewed out of cycle, following the outcome of the government's consultation on mandatory industry codes, to consider whether it needs enhanced protections for customers or to address potential gaps.

Support for regulatory reform

Scams continues to be one of, if not the most, critical cause of serious consumer harm, often with long lasting and devastating consequences. Given the significance of the issue, it is important that customers are afforded all appropriate protections as a priority.

We welcome recent initiatives to combat scams, including the new Scam Safe Accord announced by the ABA and the Customer Owned Banking Association (COBA) to improve how the banks disrupt, detect and respond to scams, as well as the National Anti-Scams Centre.

We strongly support regulatory reform to better protect consumers. A robust regulatory framework will provide clarity to industry and enhance consumer trust and confidence. The need for greater protections and assurance for customers in relation to scams is more important than ever in the current environment of increasing prevalence and sophistication of scams, and the challenging economic climate and cost of living pressures. These factors combined will see scams continue to have devastating effects on customers.

While self-regulatory models and accords play a very important role in improving industry practice and delivering better outcomes for customers, more is needed. Given the scale,

complexity and significance of the consumer harm, we strongly support regulatory reform. While we support regulatory reform, we have not advocated for a specific regulatory model. Other organisations are better placed to advise the government on this issue. However, we maintain a strong interest in the objective of delivering better outcomes for consumers.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Govey', written in a cursive style.

Ian Govey AM

Independent Chairperson

On behalf of the Banking Code Compliance Committee