



## **Terms of Reference for the Second Review of the Code Compliance Monitoring Committee**

### Preamble

The Code of Banking Practice (“the Code”) is an instrument of banking self regulation. It was first published in November 1993. With the agreement of the Federal Treasurer, the Code became fully operative from 1 November 1996. The first review of the Code commenced in 2000. The final reviewed version of the Code was published in May 2004.

The Code sets standards of good banking practice for banks to follow when dealing with individual and small business customers and their guarantors and forms part of the bank’s contractual commitment with customers.

The Code Compliance Monitoring Committee (“CCMC”) was established on 1 April 2004 in accordance with Clause 34 of the Code of Banking Practice 2003 (“Code”), to monitor bank compliance with the Code and make determinations of breach.

Clause 34(g) of the Code states that adopting banks “...require the CCMC to arrange a regular independent review of its activities and to ensure a report of that review is lodged with ASIC which review is to be initially held after first year in which the CCMC operates after which it is to coincide with periodic reviews of this Code...”

The first independent review of the CCMC was conducted by Foundation for Effective Markets and Governance (FEMAG) in 2005. The Code is to be reviewed every three years in accordance with the provisions of Clause 5. The Code was due to be reviewed in 2006. As the process has now commenced, in accordance with Clause 34(g), it is time for the second review of the CCMC.

## Issues for the Review

### Committee's performance of monitoring role

- Is the CCMC properly interpreting its role under the Code?
- Has the CCMC adopted an appropriate approach to monitoring compliance with the Code?
- How effective are the CCMC's compliance monitoring activities and techniques?
- Are the CCMC's human resources adequate for the CCMC to fulfil its role?
- Are the CCMC's sanctions appropriate to its role?
- Has the CCMC's performance of its role lent credibility to the Code as a self regulatory scheme?
- Should the CCMC have played a more educative and administrative role (e.g. in promoting itself and therefore the Code's role in relation to the Code?)

### Committee's external relationships

- Does the CCMC have an appropriate public profile?
- How well has the CCMC developed effective relationships with its stakeholders?
- Has the CCMC established an appropriate and beneficial relationship with the Banking and Financial Services Ombudsman ("BFSO")?
- Does the CCMC have adequate access to necessary information from stakeholders to assess bank compliance with the Code?
- Has the CCMC been appropriately accessible to stakeholders?

### Practical application of CCMC role

- How well has the CCMC prioritised the various compliance monitoring activities it is required to undertake?
- Have fair and transparent procedures for dealing with alleged breaches been put in place? Are these procedures being adhered to?
- Does the CCMC have adequate systems for the collection, recording and processing of information about Code compliance and alleged breaches?

### Governance requirements

- Has the CCMC met its reporting requirements?
- Has the CCMC acted independently and appropriately with respect to its role under the Code and its constitution?
- Has the Committee appropriately responded to the recommendations made in the first CCMC review?