

UPDATE

Banking Code of Practice

On 1 July 2019, the new Banking Code of Practice (**Code**) came into effect to enhance banking services. Details of the key changes to the Code can be found [here](#).



Following the recommendations made by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services industry, ASIC has approved an updated version of the Code, which will take effect from 1 March 2020.

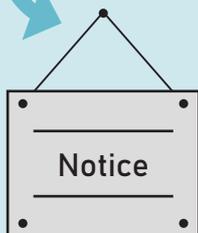
Key changes include:

- #1 Prescribing minimum requirements for 'basic accounts' referred to in Chapter 16 of the Code (including no account keeping fees, no minimum deposits, free direct debit facilities, access to a debit card and free and unlimited domestic transactions).
- #2 For eligible customers who ask for a basic account or a low or no-fee account, a bank must offer an account with the additional features of no informal overdrafts, no dishonour fees and no overdrawn fees.
- #3 Clarification of notice requirements when taking enforcement action based on a non-monetary default on small business loans.
- #4 Certain protections previously only afforded to guarantors of consumer loans will now be extended to guarantors of small business loans. Those protections include only enforcing a security given by a guarantor after first enforcing security given by the borrower, and only enforcing a judgment against a guarantor where certain criteria are met (refer to sections 113 and 114 of the Code).
- #5 Prohibition on charging default interest on any loan provided to a farmer for the purpose of a farming operation during any period that the land used in that operation is in drought or subject to natural disaster.
- #6 For deceased estates, on a bank being notified of a customer's death, it must stop charging any fees on products/services that can no longer be provided. Additionally, where probate or letters of administration have not yet been granted, banks have now agreed to provide to a person identified as a next of kin in the death certificate or other official document: (a) access to information about the deceased's account(s); and (b) the ability to make payments towards a debt owed to it by the deceased (previously such access would only be granted to a person authorised by a will or person who had applied for letters of administration).

Remedying a non-monetary default

A bank must now:

- ➔ give a notice specifying the grounds on which it considers there is a non-monetary default; and
- ➔ allow a reasonable time (not less than 30 days, unless it is reasonable to act to manage a material and immediate risk) to remedy the non-monetary default where it is able to be remedied.



STAY TUNED!
ABA to revisit the Code's definition of 'banking services' from 1 March 2021 to address concerns for small business coverage.



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