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By email: info@codecompliance.org.au

Banking Code Compliance Committee

Draft Guidance - Basic Bank Accounts

This submission is provided on behalf of Consumer Action Law Centre, Mob Strong Debt Help, Financial Rights Legal Centre, ICAN, Mortgage Stress Victoria and Financial Counselling Australia.

We thank the BCCC for the opportunity to provide feedback on its draft guidance on basic bank accounts (**BBAs**). These accounts are critically important for low- and no-income customers, ensuring access to fair and affordable everyday banking products, which are essential to financial inclusion and stability.

In summary, we recommend that the BCCC's Guidance Note make clear that:

- All banks are expected to offer a basic bank account
- Banks should proactively identify who is eligible
- Banks should communicate about and offer BBAs to both new and existing customers
- Banks' systems, processes, and staff training should ensure that all eligible customers are benefiting from BBAs, in the interests of promoting financial inclusion, reducing avoidable fees, and supporting access to fair and affordable banking products.

This advice is currently missing from the guidance note. It is critical that the BCCC sets out an expectation that banks proactively identify customers eligible for BBAs. Banks already use customer data to market products, assess loans, and manage risk. It is entirely proportionate and necessary that the same data be used to ensure eligible customers are on the accounts most suited to their needs.

ASIC's report REP 785 *Better banking for Indigenous consumers (REP785)* highlighted that there continue to be significant barriers for customers in accessing BBAs, despite being eligible under the Banking Code of Practice (**Code**), and despite the 2019 ACCC authorisation which required ABA member banks (**banks**) to implement strategies to ensure, as far as possible, customers were on the most suitable account for their circumstances.

We also note the BCCC's report, *Back to Basics: supporting access to inclusive banking (Back to Basics Report)*, identified the need for clearer product information on BBAs and greater accessibility to ensure customers are better able to understand the features and options available to them and, critically, benefit from the consumer protections they are entitled to. **The recommendations in the Back to Basics Report should be more explicitly integrated in the draft guidance to ensure it remains front and centre for banks.**

We set out our response to the BCCC's questions below.

1. *Does Guidance Note 5 provide sufficient clarity to support consistent interpretation and application of the obligations under Part B3 of the Code? In your response, please identify areas where the intent or expectations could be further clarified, or where additional examples or explanations could improve understanding and practical application.*

We recommend that an Outcomes Statement be added to the 'Introduction' section, to explicitly state the objectives of the relevant Code obligations and how they are designed to reduce access barriers to fair and affordable everyday banking products, and support financial inclusion and wellbeing for low- or no-income customers.

We think that the section titled 'Transparency and accessibility of product information' should be made clearer to drive greater consistency of interpretation across banks around BBAs.

Paragraph 16 sets out what the BCCC **expects** banks to do to meet relevant Code obligations (paras 60, 61, 10 and Guiding Principles 4a and 4c). In our experience, people who typically use BBAs face compounding disadvantage through digital and financial exclusion, resulting in increased barriers to accessing affordable banking products. First Nations people can face additional and unique barriers, some of which are the result of the enduring impacts of historical exclusion from the financial system. These can include language barriers, lower levels of financial literacy, digital exclusion, and the need to rely on alternative forms of identification. Some First Nations peoples are also geographically remote from face-to-face services which can profoundly impact access to support, especially when bank processes require attendance at a branch. Making information easy to find and understand to support informed decision making is therefore critical.

We recommend that the following **requirements** be added to paragraph 16 to provide greater clarity to banks on how to meet the relevant Code obligations:

- Product names for BBAs should clearly convey that it is a BBA
- Product information should be in plain English
- Product information should be available in multiple accessible formats and channels, including in branch and Bank@Post offices where relevant, and via other government agencies such as Centrelink where possible (it is not sufficient to simply make the information available on a bank's website)
- Product information should include listing the features required by the Code; and
- Where appropriate to support particular communities, product information on BBAs should be translated into languages other than English.

In addition, further clarity should be provided for banks in meeting the Code obligation to train staff to help them to recognise a person that may qualify for a basic, low, or no fee account (Code paragraph 66). All bank frontline teams (including for example hardship and complaints teams, and not limited to branch and contact centre teams) should be trained to know which products qualify as a BBA under the Code, the relevant eligibility processes and they should, wherever possible, proactively review a customer's eligibility for a BBA as part of an in-person interaction.

ACCC authorisation: Identifying and contacting eligible customers

We note that the ACCC is expected to shortly release its final authorisation to ABA member banks to make agreements relating to BBAs under the Code. We expressed strong support for the proposed conditions in our submission to the ACCC¹ which broadly require:

1. Banks to not charge interest or fees on informal overdrafts, or refund fees and interest where it is impossible to avoid those charges due to technological incompetencies (**overdraft condition**)
2. Banks to take reasonable steps to identify and contact eligible customers who do not hold BBAs at least once a year to advise them they are eligible for a BBA (**eligible customers condition**), and
3. The ABA to report publicly to the ACCC on BBAs available at member banks.

In relation to the eligible customers condition, we are concerned that there continues to be insufficient guidance to banks on what constitutes 'reasonable steps'. This requirement has been in place since the 2019 authorisation from the ACCC. REP 785 highlighted practices among the four participating banks to identify and contact eligible customers were inadequate to effectively convert those customers to accounts that were more suitable for their circumstances. These failures resulted in significant and avoidable fee harm for many customers, largely due to overdrawn and dishonour fees which would not have applied to a BBA.

Methods to identify eligible customers included periodic data analysis to identify customers in receipt of Centrelink payments followed by proactive communication campaigns to alert a customer to their eligibility, and the steps required to move to a BBA. For some banks this included onerous and unreasonable requirements such as needing

¹ See: [Joint-Consumer-Submission-Application-AA1000683-1.pdf](#)

to attend a branch to provide evidence of a government concession card, notwithstanding that the bank had already confirmed the customer's eligibility through its own data. These communication methods overwhelmingly had little impact, with account conversion rates remaining very low at under 2% across the participating banks.

Migration Conditions

We note that the ACCC draft determination also proposed that the authorisation conditions be expanded to include new requirements that banks (1) offer a basic, low or no fee account to new customers in the first instance (the **default condition**) and (2) migrate eligible customers to basic, low or no fee accounts from existing accounts unless the customer chooses to 'opt out' of this (the **migration condition**).

In its submission to the ACCC draft determination, ASIC acknowledged the ACCC's view that these additional conditions may improve access to and uptake of BBAs by eligible customers, as there will likely continue to be barriers to easy switching for customers, while still preserving customer autonomy and choice. ASIC also noted that the evidence gathered through its investigative work indicates that if adopted, the additional conditions would likely achieve the intent of ensuring eligible customers are on a BBA, with current opt-in approaches comprehensively proven to be ineffective. This aligns with our experience, that engagement with and switching to better 'offers' or 'products' can be challenging for consumers in hardship due to a range of barriers and competing priorities. If the ACCC determination, when finalised, includes these conditions, it will become a requirement on all banks to offer a BBA by default to all new customers, and take an 'opt out' approach to eligible customers on an ongoing basis.

The BCCC also supported the proposed additional opt out conditions in its submission to the draft determination², noting that they would remove unnecessary barriers and 'make it easier for eligible customers to access basic accounts, while preserving their right to choose to opt-out of the basic accounts, should they want to'. The submission also highlighted that opt in approaches have been shown to be largely ineffective, including targeted opt in approaches which were trialled by several participating banks as part of the Better Banking project. The BCCC stated that it believed the opt out 'should be extended to all banks to set a consistent industry standard in the interests of best practice and to improve customer outcomes'.

If the ACCC does not include the default and migration conditions as part of the authorisation, we call on the BCCC to advance its view regarding opt out and ensure that the guidance explicitly **recommends** that banks implement these approaches to BBAs. While still being voluntary, this would provide banks with a clear signal of best practice and also aligns with the views of ASIC and the ACCC. We note that a number of banks have now moved to an 'opt out' migration approach since REP785. As we have previously argued in our submission³ to the ACCC, we believe that an 'opt out' model is the right model to end fee harm.

We note that the guidance aims to 'encourage better practices that go beyond minimum Code compliance to promote fair, inclusive, and accessible banking' (paragraph 2). As we have seen from extensive regulatory action in recent years, opt out approaches have proven to be comprehensively more effective at ensuring customers are on the most suitable account for their circumstances, and we think this should be made explicit as an industry recommendation (if not yet a requirement) in the BCCC's guidance.

We therefore recommend that a new paragraph be added after paragraph 16 which aligns with the ACCC's proposed default condition and migration condition, which **recommends** that banks:

- Offer a basic, low or no fee account to new customers in the first instance, i.e. as a default with the option to opt out if they prefer another account
- Identify and migrate eligible customers to basic, low or no fee accounts from existing accounts unless the customer chooses to 'opt out'
 - o This should include communicating proactively with these customers, clearly showing potential savings or benefits if they switched to a BBA, and advising that unless the customer opts out by a given date, they will be switched to the BBA.

Make the information clear and simple

² See: [Submission by Banking Code Compliance Committee - 29.04.25 - PR - AA1000683 ABA CIT4.pdf](#)

Encourage better practices that go beyond minimum Code compliance to promote fair, inclusive, and accessible banking.³ [Joint-Consumer-Submission-Application-AA1000683-1.pdf](#) (25 August 2025)

Further, we acknowledge that many banks may continue to adopt an opt in approach to BBAs, and in the meantime, we recommend that additional guidance is provided by the BCCC in relation to proactive communication campaigns which will follow periodic eligibility reviews done by banks to meet the ACCC conditions. Specifically, we recommend that paragraph 16 be expanded to **require** these communications:

- be sent in accessible digital or printed format according to the customer's recorded preference and include contact numbers for assistance (including a bank's Indigenous Assistance Line if available, details of the National Relay Service, the bank's interpreter service, the National Debt Helpline and Mob Strong Debt Help (when explicit approval is provided by Mob Strong)); and
- ensure that active steps required by the customer to migrate to a BBA should be as minimal as possible (for example, an election may be done via digital or phone channels once the customer has been authenticated; there should be no requirement for a customer to provide evidence of eligibility whether through showing a government concession card or otherwise; and identification processes, including where flexible ID is required to be relied on by a customer⁴, should be made as easy as possible).

Incarcerated customers

We note that new provisions were added to the Code in February 2025 to clarify that incarceration, or being recently released from incarceration, is a risk factor for vulnerability. This cohort experience significant and complex barriers to accessing financial services as a result of limitations on communication and access to identification documents. This cohort are also some of the most disadvantaged people in society with higher levels of disability, mental health disorders, chronic physical health conditions and lower levels of education than the general population⁵. First Nations People are also significantly overrepresented in Australian prisons so are disproportionately impacted by this form of financial exclusion. Critically, an incarcerated person is also not an eligible customer under the Code given they do not hold a government concession card (per paragraph 57). They also do not receive government payments during their incarceration so would not be identified as part of any proactive review conducted by banks to support compliance with the eligible customers condition of the 2019 ACCC authorisation and draft 2025 ACCC authorisation.

Improving access to banking has been a priority focus for the ABA's Consumer Outcomes Group, with a Prisoner Factsheet published in 2024⁶, and work underway to develop a standard industry form to support simpler and more streamlined engagement by incarcerated customers with their bank. Longer term we will continue to advocate to banks that the form notifies an incarcerated customer that they will be moved to a BBA and provides an opportunity to opt out, as this instruction may otherwise not occur during their incarceration, resulting in inappropriate and avoidable fee harm. The form should make the benefits of the BBA clear and reassure that existing settings such as direct debits will be unaffected by the change unless otherwise instructed. While this work is ongoing, we recommend that the BCCC guidance **recommend** that, where a bank becomes aware that a customer is incarcerated (whether through an industry form or otherwise), it should take all reasonable steps to raise awareness of BBAs and migrate the customer on an opt in basis.

2. *Does Guidance Note 5 provide a clear and consistent understanding of the terms "ancillary services" and "informal overdrafts" as they apply to basic, low or no-fee accounts? If not, please describe how your organisation interprets these terms in practice, and provide examples of services or circumstances that fall within or outside these definitions.*

It is optional for banks to offer a BBA under the Code; however it is positive that most banks do this. But to properly realise the purpose of a BBA, it is critical that banks ensure all required features are offered. These include no account keeping fees, free and unlimited domestic transactions, no minimum deposit requirements, free direct debit facilities, and access to widely accepted debit payment methods (paragraph 59). For customers with an eligible concession card who are typically on low incomes, it is even more important that required features are offered to effectively support financial inclusion and avoid bank fees and charges that erode small

⁴ Banks can refer to (1) the AUSTRAC Guidance on assisting customers who don't have standard forms of identification ([Assisting customers who don't have standard forms of identification | AUSTRAC](#)) and (2) the ABA First Nations Community ID Factsheet for information about First Nations community identification cards for Know Your Customer (KYC) identification purposes: [ABA-First-Nations-Community-ID-Factsheet.pdf](#)

⁵ Australian Institute of Health and Welfare, Adults in Prison, 16 October 2025: [Adults in prison - Australian Institute of Health and Welfare](#)

⁶ [Customers in Prison Factsheet](#)

bank balances. These protections include, at minimum, that the account does not permit informal overdrafts and there should be no dishonour or overdrawn fees (paragraph 62). The Back to Basics Report highlighted that there continue to be failures across banks in ensuring these mandatory features are available.

We support the inclusion of guidance around what constitutes ancillary services, in particular clarity in paragraph 20 that in-person transactions or requests for statements should be classified as 'standard domestic transactions' and should not attract fee or charges. Older customers, customers with a disability (including their carers) and customers with limited English may be more likely to rely on in-person services (whether in branch, over the phone, via chat) given barriers to digital banking, and it is important that fees are not charged and appropriate human support is available. Similarly, customers who can only rely on Bank@Post where there are no local branches in their area should not be penalised through the imposition of transaction or other ancillary service related fees. Finally, we agree that there should be no fees for periodic payments which are an important way for low-income customers to manage limited financial resources and support financial wellbeing.

Paragraph 24 of the guidance specifies that a bank may apply interest on an overdrawn amount where it is impossible or reasonably impracticable for the bank to prevent the account from being overdrawn- this is consistent with the Code. However, the guidance also specifies that a bank may charge overdraft fees. This is incorrect. A special feature of a BBA is that it has no Overdrawn Fees, which is expressly defined in section 65 of the Code: "No Overdrawn Fees: we will not charge a fee where your account falls into debit. However, you may be charged interest on the amount in debit." The phrase at the end of paragraph 24 ("in addition to charging overdraft fees") should be deleted.

We also recommend that paragraph 26 be amended so that bullet points 1 and 2 are expressed as **expectations** as they seek to prevent an informal overdraft which only arise where it is impossible or reasonably impractical to prevent. Bullet point 3 of paragraph 26 should be retained as a **recommendation** for banks, but should only refer to interest not being charged, as it is not permitted to charge fees on overdrawn amounts. If the customer's account has been overdrawn due to circumstances beyond their control, interest should not be charged on this amount as this would undermine the purpose of the BBA, leaving the customer exposed to unintentional debt. If interest is charged, it should be reimbursed as promptly as possible. If a bank elects to not charge or reimburse interest as a matter of policy, this will ensure it takes all possible steps to avoid the overdrawn amount in the first instance. We note the Back to Basics Report identified that very few banks described the circumstances where it would be 'impossible or reasonably impractical' to prevent an informal overdraft resulting in minimal transparency around this for customers and resulting in the risk of financial hardship. We note also that the both the 2019 ACCC determination and the draft 2025 ACCC determination also includes a condition that banks not charge interest on informal overdrafts, and refund fees and interest where it is impossible to avoid those charges due to technology or system issues.

Please contact Director, Policy and Campaigns, Jean Skeat at **Consumer Action Law Centre** on 03 9670 5088 or jean@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely,

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