

**AUSTRALIAN  
CREDIT UNION MOVEMENT**

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**CREDIT UNION CODE OF PRACTICE**

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# CREDIT UNION CODE OF PRACTICE

## PREAMBLE

The Credit Union Code of Practice (the Code) seeks to foster good relations between Credit Unions and their Members (as defined below) and to promote fair treatment of Members by formalising standards of disclosure and conduct which Credit Unions that adopt the Code agree to observe when dealing with their Members.

## OBJECTIVES

The Code is intended to -

- (i) describe standards of good practice and service;
- (ii) promote disclosure of information relevant and useful to Members;
- (iii) promote informed and effective relationships between Credit Unions and their Members; and
- (iv) require Credit Unions to have procedures in place for the resolution of disputes with their Members.

## PRINCIPLES

These objectives are to be achieved -

- (i) consistently with the current law, in a manner that preserves certainty of contract between Credit Unions and their Members, and consistently with the Financial Institutions Legislation and the prudential standards issued by the Australian Financial Institutions Commission (AFIC); and
- (ii) having regard to the requirement for Credit Unions to act in accordance with their Rules;
- (iii) in a manner which permits flexibility in the provision and pricing of Credit Union Products and Services.

## **MONITORING**

The Reserve Bank of Australia will receive each year from each Credit Union:

- (i) a report on the operation of the Code; and
- (ii) information concerning the number of disputes referred to in Sections 20.3 and 20.4 of the Code, the categories in which those disputes fall and the manner in which each category of disputes is dealt with.

The information to be provided by Credit Unions to the Reserve Bank of Australia will be determined by the Australian Payments System Council in consultation with Credit Unions. The Australian Payments System Council may obtain from the Reserve Bank of Australia consolidated information based on reports and information provided by Credit Unions. The Australian Payments System Council will provide reports to the Treasurer of the Commonwealth, based on the information obtained from the Reserve Bank and any other relevant information available to it, on the general operation of the Code and the extent of Credit Union compliance with it.

## **REVIEW**

The Code will be reviewed at least every three years in accordance with the Objectives and the Principles set out in this Preamble. The review will be conducted by a body authorised by the Commonwealth Government to perform that task having regard to the views of all interested parties.

## **STAFF TRAINING**

Each Credit Union will endeavour to ensure that its staff are aware of the provisions of this Code relevant to their duties including the procedures for handling disputes between a Member and the Credit Union.

## THE CODE

This Code (published on 21 July 1994) is in three parts:

(i) **Part A - Disclosures**

This part describes the information which a Credit Union will provide to a Member in respect of any Credit Union Product or Service which the Credit Union offers to the Member.

(ii) **Part B - Principles of Conduct**

This part describes certain principles of conduct which a Credit Union will follow in dealing with its Members.

(iii) **Part C - Resolution of Disputes**

This part requires Credit Unions to adopt dispute handling procedures which include access by their Members to an external and impartial dispute resolution mechanism.

### 1. Definitions and Application

#### 1.1 In this Code and the Preamble:

"Account" includes, amongst other types of account, an account that can be accessed by a cheque.

"Credit Union" means a body that is registered as a society and authorised to operate as a credit union under the Financial Institutions Legislation.

"Credit Union Product or Service" means a deposit, loan or other facility provided by a Credit Union to a Member, wholly and exclusively for his or her personal, domestic or household purposes, but does not include:

- a service in relation to a bill of exchange;
- an insurance or financial planning service;
- a travel service; or
- the provision of credit to a Member (that arises from the withdrawal of more than the available funds in a Member's Account) without the prior approval of the Credit Union.

"Member" means an individual when that individual, whether alone or jointly with another individual, or individuals, either acquires a Credit Union Product or Service or seeks information from a Credit Union about a Credit Union Product or Service.

"Financial Institutions Legislation" has the same meaning given by Section 8 of the Australian Financial Institutions Code of Queensland.

"Related Entity" has the meaning set out in Section 9 of the Corporations Law.

"Rules" means the rules of a Credit Union as registered pursuant to the Financial Institutions Legislation.

"Standard Fees and Charges" means fees and charges that are normally charged by a Credit Union to its Members in respect of a Credit Union Product or Service at a particular time.

"Terms and Conditions" means those terms and conditions specifically applied by a Credit Union to a Credit Union Product or Service but does not include any other terms and conditions which may apply by operation of law.

1.2 This Code is to be read subject to any Commonwealth, State or Territory legislation.

1.3 Each Credit Union will write to the Reserve Bank and will specify the date on which this Code will take effect.

From that date:

- (a) the Credit Union will be bound by this Code in respect of any Credit Union Product or Service it commences to provide to a Member; and
- (b) the Credit Union will be bound by this Code, other than Sections 2.1, 2.2, 2.3, 7.1, and 17.1 to 17.7 inclusive, in respect of any Credit Union Product or Service it is then providing to a Member.

1.4 The Credit Union is required to comply with the Electronic Funds Transfer Code of Conduct ("EFT Code") in respect of all transactions to which it is a party and which are regulated by the EFT Code. To the extent of any inconsistency, this Code is to be read subject to the EFT Code.

## **PART A: DISCLOSURES**

### **2. Disclosure: Terms and Conditions**

2.1 A Credit Union will provide to a Member any Terms and Conditions applying to a Credit Union Product or Service provided by the Credit Union to a Member. Where practicable those Terms and Conditions will be provided in writing. The Terms and Conditions will also:

- (I) be distinguishable from marketing or promotional material;
- (ii) be in English and any other language the Credit Union considers appropriate;
- (iii) be consistent with this Code;
- (iv) be clearly expressed;
- (v) be provided at the time of or before the contract for the; Credit Union Product or Service is made except where it is impracticable to do so, in which case the Terms and Conditions will be provided as soon as practicable after the provision of the Credit Union Product or Service; and
- (vi) draw attention to the availability of the general descriptive information referred to in Sections 6.1 and 6.2 of this Code.

2.2 Any written Terms and Conditions referred to in Section 2.1 will include a statement to the effect that the relevant provisions of this Code apply to the Credit Union Product or Service but need not set out those provisions.

2.3 A Credit Union will include (where relevant) the following in its Terms and Conditions applying to a Credit Union Product or Service:

- (I) the nature of all Standard Fees and Charges that apply;
- (ii) the method by which interest, if any, is to be calculated and the frequency with which it will be credited or debited;
- (iii) the manner in which a Member will be notified of changes to the Terms and Conditions and changes to interest rates, fees and charges;
- (iv) if relevant, the fact that more than one interest rate may apply;

- (v) any minimum balance requirement or restriction on depositing money in, or withdrawing money from, an Account;
- (vi) in respect of term deposits:
  - the manner in which payment of interest and principal will be made;
  - the manner in which funds may be dealt with at maturity; and
  - the nature of any charge or variation to an interest rate resulting from a withdrawal in advance of maturity;
- (vii) in respect of a loan to a Member, the repayment details;
- (viii) the frequency with which statements of Account will be provided;
- (ix) a statement indicating that information on current interest rates and fees and charges will be available on request; and
- (x) an explanation of the manner in which a Member or a Credit Union may alter or stop a payment service.

### **3. Disclosure: Cost of Credit**

- 3.1 A Credit Union will make available, on request, to a Member or an appropriate external agency, the interest rate (or range of interest rates) and Standard Fees and Charges applicable to any Credit Union Product or Service under which credit is to be or may be provided, for use in the preparation of a comparison rate.

### **4. Disclosure: Fees and Charges**

- 4.1 A Credit Union will, before or at the time of providing a particular Credit Union Product or Service to a Member for the first time (where that occurs on or after the date referred to in Section 1.3) or otherwise on request by a Member, make available to the Member a schedule containing the Standard Fees and Charges which currently apply to the relevant Credit Union Product or Service.

### **5. Disclosure: Payment Services**

- 5.1 Where a Credit Union provides a Member with a direct debit or credit payment service, an automatic payment service or access to an account by means of instruction via telephone or personal computer, the Credit Union will make available to the Member details of any fees or charges applying to the service.

### **6. Disclosure: Operation of Accounts**

- 6.1 A Credit Union will provide to a Member, upon request, general descriptive information concerning Credit Union Products or Services including, where appropriate, information in relation to:
  - (i) Account opening procedures;
  - (ii) the Credit Union's obligations regarding the management of personal information.
  - (iii) complaint handling procedures;

- (iv) the Credit Union's right to combine accounts;
- (v) Credit Union corporate cheques;
- (vi) the advisability of a Member informing the Credit Union promptly when the Member is in financial difficulty; and
- (vii) the advisability of a Member reading the Terms and Conditions applying to the Credit Union Product or Service.

- 6.2 A Credit Union will provide to a Member who is provided with a facility which enables access to his/her account by cheque, and to other Members on request, general descriptive information on:
- (i) the time generally taken for clearing a cheque and the manner in which a cheque may be specially cleared;
  - (ii) the effect of crossing a cheque, the meaning of "not negotiable" and "account payee only" and the significance of deleting "or bearer" when any of these expressions appear on a cheque;
  - (iii) how and when a cheque may be stopped
  - (iv) how a cheque may be made out in order to reduce the risk of any unauthorised alteration; and
  - (v) the circumstances under which cheques may be dishonoured including information on post-dated and stale cheques.

## **PART B: PRINCIPLES OF CONDUCT**

### **7. Pre-Contractual Conduct**

- 7.1 A Credit Union will make readily available the Terms and Conditions of each Credit Union Product or Service it currently offers to Members.
- 7.2 A Credit Union will disclose to a Member (in relation to a Credit Union Product or Service) the existence of any application fee or charge and will indicate whether or not the fee or charge is refundable if the application is rejected or withdrawn.
- 7.3 Where a fee or charge is levied by a Credit Union for the provision of a credit union corporate cheque, a travellers cheque, a transfer of funds between institutions or other payment facility, the Credit Union will disclose such a fee or charge to a Member upon request when the service is provided or at any other time.

### **8. Opening of Accounts**

- 8.1 A Credit Union will provide to a Member, upon request, general descriptive information (which may consist of or include material made available by a Government) about the identification requirements of the Financial Transaction Reports Act 1988 (Cth) and the options available to the Member under tax file number legislation.

## **9. Variation to Terms and Conditions**

- 9.1 When, in relation to a Credit Union Product or Service, a Credit Union intends to introduce a fee or charge (other than a Government charge referred to in Section 9.2), or vary the method by which interest is calculated or the frequency with which it is debited or credited, the Credit Union will provide written notice, subject to Sub-Section 9.4, of the change to each affected Member at least 30 days before it takes effect.
- 9.2 Subject to Sub-Section 9.4, a Credit Union will notify affected Members of the introduction or variation of a Government charge payable directly or indirectly by its Members either through an advertisement in the national or local media, through a notice in a member newsletter or an account statement, or by way of direct written notice to affected Members, unless the introduction or variation is publicised by a Government, Government agency or representative body.
- 9.3 Subject to Sub-Section 9.4, a Credit Union will notify affected Members of other variations to the Terms and Conditions (including any variation to Standard Fees and Charges or interest rates) of a Credit Union Product or Service by advertisement in the national or local media, through a notice in a member newsletter or an account statement, or by way of direct written notice to affected Members, no later than the day on which the variation takes effect.
- 9.4 If a variation of a kind referred to in Sub-Sections 9.1 Ð 9.3 involves an interest rate, fees or charge, and the variation will result in a reduction in the obligations of the affected Members (e.g. a lowering of an interest rate or a reduction in fees or charges), then notice of the variation is not required to be given before the variation takes effect. However, a Credit Union will confirm that such a variation has occurred at the time that it next corresponds with the affected Members.
- 9.5 Unless otherwise agreed, a Credit Union may give any written notice to a Member at his or her mailing address that was last recorded with the Credit Union. A Credit Union may require a Member to notify the Credit Union promptly of a change to his or her name or address.
- 9.6 If a Credit Union considers there are sufficient changes to warrant doing so, it will make available a consolidation of the Terms and Conditions applying to a Credit Union Product or Service.

## **10. Account Combination**

- 10.1 On or after the date referred to in Section 1.3, a Credit Union will inform a Member promptly after exercising its right to combine Accounts held in the name (or names) of the Member.
- 10.2 In exercising its right to combine Accounts a Credit Union will comply with any applicable requirements of the Code of Operation for Social Security Direct Credit Payments.

## **11. Foreign Currency Transactions**

- 11.1 When processing foreign currency transactions, other than by credit or debit card or travellers cheque, a Credit Union will provide to a Member:

- (i) an estimation of when money sent overseas on the Member's instructions would normally arrive at the overseas destination; and
- (ii) details of the exchange rate and commission charges that will apply or, if these are not known at the time, details of the basis on which the transaction will be completed.

## **12. Privacy and Confidentiality**

12.1 A Credit Union acknowledges that, in addition to its duties under legislation, it has a general duty of confidentiality towards a Member except in the following circumstances:

- (i) where disclosure is compelled by law;
- (ii) where there is a duty to the public to disclose;
- (iii) where the interests of the Credit Union require disclosure; or
- (iv) where disclosure is made with the express or implied consent of the Member.

12.2 A Credit Union will comply with the National Privacy Principles in the Privacy Act (Cth) from 21 December 2001 and, for that purpose, a Credit Union which may otherwise be entitled, as a “small business operator” to an exemption from the definition of “organisation”, within the meaning of those terms under the Privacy Act 1988, will apply, pursuant to s6EA of that Act, to be treated as an organisation for the purpose of that Act from that date.

12.3 A Credit Union will comply with the requirements of any Credit Reporting Code of Conduct issued by the Privacy Commissioner under Section 18A(1) of the Privacy Act 1988 (Cth).

## **13. Payment Instruments**

13.1 A Credit Union will inform a Member of the advisability of safeguarding payment instruments such as credit and debit cards, cheques and pass books.

13.2 A Credit Union may require a Member to notify the Credit Union as soon as possible of the loss, theft or misuse of his or her payment instruments.

13.3 A Credit Union will inform a Member of:

- (i) the consequences arising from a failure by the Member to comply with any requirement referred to in Section 13.2 that is imposed on that Member by the Credit Union; and
- (ii) the means by which a Member can notify the loss, theft or misuse of his or her payment instruments.

## **14. Statements of Account**

14.1 At least every six months, a Credit Union will provide a Member with a record of all transactions relating to a deposit account of that Member since the previous statement unless:

- (i) a passbook is provided or it is agreed that other documentation will be the record of transactions on the deposit account;
- (ii) there has been no transaction effected by a Member on the deposit account during the past six months.

## **15. Provision of Credit**

- 15.1 In considering whether to provide a Credit Union Product or Service involving the provision of credit to a Member, a Credit Union will take into account the range of factors it considers are relevant to the Member and the Credit Union Product or Service to establish whether, in the Credit Union's view, the Member has or may have in the future the capacity to repay the credit. These factors may include:
- (i) the Member's income and expenditure;
  - (ii) the purpose for which the Credit Union Product or Service is to be used;
  - (iii) credit scoring (being a scoring method used by the Credit Union to assess whether a credit applicant is an acceptable risk); and
  - iv) the Member's assets and liabilities.

## **16. Joint Accounts and Subsidiary Cards**

- 16.1 A Credit Union will provide to a Member opening a joint Account general descriptive information on:
- (i) how funds may be withdrawn from the joint Account having regard to the instructions given by the Member;
  - (ii) the manner in which such instructions can be varied; and
  - (iii) the nature of the Member's liability for indebtedness on joint Accounts.
- 16.2 When accepting a Member's instructions to issue a subsidiary credit or debit card, a Credit Union will:
- (i) provide general descriptive information to the primary cardholder on his or her liability for debts incurred by the subsidiary cardholder through use of the card; and
  - (ii) inform the primary cardholder of the means by which a subsidiary card may be cancelled or stopped and the fact that this may not be effective until the subsidiary card is surrendered.

## **17. Guarantees**

- 17.1 This section applies to any guarantee or indemnity (called "guarantee" in this Section 17) obtained from a third party who is an individual, or more than one individual, (called "the guarantor" in this Section 17) for the purpose of securing any financial accommodation or facility provided by a Credit Union to any person or persons (called "the borrower" in this Section 17) other than:
- (i) a public corporation or any of its Related Entities;
  - (ii) a corporation of which the guarantor is a director, secretary or member or any of its Related Entities;
  - (iii) a trustee of a trust (including a discretionary trust) of which the guarantor or a corporation or a Related Entity that is referred to in paragraph (ii) is a beneficiary or one of a class of beneficiaries under the trust; and
  - (iv) a co-owner, agent, consultant or associate of any of the guarantor, a corporation or Related Entity referred to in paragraph (ii) or a trustee referred to in paragraph (iii); at the time the guarantee is obtained. The term "public corporation" has the meaning set out in Section 9 of the Corporations Law.

- 17.2 Subject to Sub-Section 17.3, a Credit Union will only accept a guarantee if the amount of the guarantor's liability is limited to, or is in respect of, a specific amount plus other liabilities (such as interest and recovery costs) that are described in the guarantee.
- 17.3 A guarantee may contain a provision that makes credit provided under a future credit contract subject to the guarantee. However, the guarantor will not be liable for any amount in relation to such a 'future credit contract' unless and until:
- (i) the Credit Union gives to the guarantor a copy of the 'future credit contract' which is proposed to be subject to the guarantee; and
  - (ii) the Credit Union obtains from the guarantor his/her written acceptance of the extension of the guarantee.
- 17.4 A Credit Union will provide to a prospective guarantor:
- (i) a written warning about the possibility of the prospective guarantor becoming liable instead of, or as well as, the borrower; and
  - (ii) a copy of the credit contract or proposed credit contract to which the guarantee is to relate.
- 17.5 A Credit Union will recommend that a prospective guarantor obtain independent legal advice.
- 17.6 Once a guarantee has been entered into a Credit Union will send to the guarantor:
- (i) a copy of any variation to the terms and conditions of the relevant credit contract,
  - (ii) a copy of any formal demand or default notice that is sent to the borrower; and
  - (iii) on request by the guarantor, a copy of the latest relevant statements of account provided to the borrower, if any.
- 17.7 A guarantor may at any time extinguish his/her liability to a Credit Union under a guarantee either by paying to the Credit Union the then outstanding liability of the borrower to the Credit Union (including any future or contingent liability) or any lesser amount to which the liability of the guarantor is limited by the terms of the guarantee or by making other arrangements satisfactory to the Credit Union for the release of the guarantee.

## **18. Advertising**

- 18.1 A Credit Union will ensure that any advertising or promotional literature that draws attention to a Credit Union Product or Service is not deceptive or misleading.
- 18.2 In any advertising in the print-media or any promotional literature that draws attention to a Credit Union Product or Service and includes a reference to an interest rate, the Credit Union will also indicate whether other fees and charges will apply and will disclose that full details of the relevant Terms and Conditions are available on application.

## **19. Closure of Accounts**

- 19.1 Subject to the Terms and Conditions of any relevant Credit Union Product or Service, a Credit Union:
- (i) will, upon request by a Member, close an Account of that Member that is in credit;

- (ii) may close an Account of a Member that is in credit by giving that Member notice that is reasonable in all the relevant circumstances and repaying the Member the amount of the credit balance; and
- (iii) may charge a Member an amount that is a reasonable estimate by the Credit Union of the costs of closure.

#### **19A. Compliance with Contract and Law**

A Credit Union will adhere to its Terms and Conditions as they may be varied in accordance with the Terms and Conditions and this Code.

A Credit Union will comply with all requirements of the law in the provision of a Credit Union Product or Service to its Members.

## **PART C: RESOLUTION OF DISPUTES**

### **20. Dispute Resolution**

- 20.1 A Credit Union will have an internal process for handling a dispute with its Members and this process will be readily accessible by Members without charge upon them by the Credit Union. A dispute arises where a Credit Union's response to a complaint by a Member about a Credit Union Product or Service provided to that Member is not accepted by that Member.
- 20.2 A Credit Union will make available in its branches general descriptive information on:
- (i) the procedures for handling a dispute referred to in Section 20.1;
  - (ii) the time within which such a dispute will normally be dealt with by the Credit Union; and
  - (iii) the fact that such a dispute will be dealt with by an officer of the Credit Union with appropriate powers to resolve the dispute.
- 20.3 Where a request for resolution of a dispute referred to in Section 20.1 is made in writing or a Member requests a response from the Credit Union in writing, the Credit Union will promptly inform that Member in writing of the outcome and, if the dispute is not resolved in a manner acceptable to the Member, then the Credit Union will explain:
- (i) the reasons for the outcome; and
  - (ii) the further action the Member can take, such as pursuing the process for resolution of disputes referred to in Section 20.4.
- 20.4 A Credit Union will make available to its Members free of charge an external and impartial process (not being an arbitration), having jurisdiction to hear and resolve any dispute which is not resolved in a manner acceptable to a Member by the internal process referred to in Section 20.1, and which concerns an alleged contravention of this Code.
- 20.5 The external and impartial process will apply the law and this Code and also may take into account what is fair in all the circumstances to both a Member and the Credit Union.

## **FOR FURTHER INFORMATION**

For further information on the Credit Union Movement's Code of Practice, contact:

Credit Union Services Corporation (Australia) Limited,

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