# Transition to the 2022 Code

## Inquiry into how subscribers approached transition and implementation

June 2023

CUSTOMER OWNED BANKING
CODE COMPLIANCE COMMITTEE

***We acknowledge the traditional custodians of the different lands across Australia, and pay respects to elders past and present.***

*For they hold the songlines*
*The stories*
*The traditions*
*The culture*
*And the hopes of First Nations Australia.*

*This land is, was, and always will be traditional First Nations country.*

*We also acknowledge and pay respects to the traditional custodians of the lands on which we work: the Wurundjeri, Boonwurrung, Wathaurrung, Daungwurrung and Dja Wrung peoples of the Kulin nation and the Gadigal people of the Eora Nation.*

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# About the Inquiry

The 2022 Customer Owned Banking Code of Practice (the Code) came into effect on 31 October 2022, replacing the 2018 Code.

From September 2022, we conducted an Inquiry into subscribers' plans for transitioning to and implementing the 2022 Code. As subscribers were able to adopt the new Code prior to its commencement date, many had already transitioned, or begun their transition, at the time of the Inquiry.

Implementing a new Code with enhanced obligations comes with risk and it is crucial that subscribers to the Code manage their transition well.

Doing so ensures there are appropriate systems and processes in place to meet the new obligations and continue a strong focus on consumer protections and good outcomes.

To find out whether and how subscribers had prepared for the new Code and its enhanced obligations, we asked them to complete a questionnaire as part of the 2022 Annual Compliance Statement (ACS) program. We then interviewed each subscriber to supplement the responses to the questionnaire.

This gave us a picture of the industry's preparation for the 2022 Code and how it was placed to ensure compliance with the obligations in the Code.

This report presents the findings of the Inquiry, along with the Committee's observations and recommendations for where we feel subscribers may be able to improve certain aspects of their transition to and compliance with the new Code.

## Summary of the Inquiry's findings

Most subscribers began their transition to the new Code in early to mid-2022. Many reported using the months leading up to the beginning of the new Code to assign responsibilities, identify accountabilities and complete action plans to ensure compliance.

In transitioning to the new Code, subscribers reported a range of activities, including updates to websites, documents, policies, processes, procedures and systems.

Training staff to understand the new Code and its potential impact was also an important feature of transition for many subscribers.

Acknowledging that many subscribers have worked towards a successful Code transition, it remains crucial that this effort continues. Subscribers should persist in uplifting their Code compliance frameworks through assessing the outcomes of their post implementation reviews and proactively addressing any potential areas for improvement.

A snapshot of subscribers' transition activities is presented on the following pages, along with more in-depth coverage of the Inquiry's key findings.

# Transition – a snapshot

Note: The data reflects the information as at 30 September 2022.

## 51 SUBSCRIBERS

transitioned to the 2022 Code on 31 October 2022

**4 SUBSCRIBERS WERE GRANTED AN EXTENSION:**

- **Greater Bank** (will subscribe by 31 October 2023)
- **Hume Bank** (will subscribe by 31 October 2023)
- **Heritage Bank** (will subscribe by 31 December 2023)
- **People's Choice Credit Union** (will subscribe by 31 December 2023)

* Three extensions were granted because of mergers, and one was due to circumstances with the subscriber's operations. All four subscribers are subscribed to the 2018 Code and will transition to the 2022 on the dates listed above.

**80% OF SUBSCRIBERS**

reported updating or revising training programs as the biggest change to business

**78% OF SUBSCRIBERS**

reported making changes to their website content to include references to the 2022 Code

## POST IMPLEMENTATION REVIEWS

were underway or planned for 82% of subscribers.

Transition activities included system changes or updates for only

**38% OF SUBSCRIBERS**

Communicating directly with members about new Code obligations occurred in only

**49% OF SUBSCRIBERS**

# Key findings

## Preparation for Code transition

We asked subscribers about their preparation to get an insight into their general readiness for the new Code as well as the work involved in transition.

While most subscribers undertook some activities to prepare for the new Code, some reported holding back because of the changes being made to the new Code in the lead-up to its introduction.

Consequently, approaches varied considerably among subscribers, with some more prepared than others by the time the Code came into effect.

Some reported using the draft Code as a guide and others reported the comparison table from COBA to be a useful resource.

Most subscribers confirmed that they had allocated significant resources to plan and execute transition and implementation projects, including several that redirected resources from other business areas to these projects.

Category E subscribers, the smallest in size, reported significantly fewer transition and implementation activities than their larger counterparts. For smaller subscribers, limited staff resourcing posed the greatest challenge.

Most subscribers (67%) reported not being able to determine the time or resources they needed for transition and implementation. For most, this was because the staff involved in the projects worked across departments and it was difficult to accurately track resources.

One quarter of subscribers reported being unable to confirm resource figures because they were still completing transition and implementation projects at the time of our inquiry.

**Committee observations and recommendations**

Subscriber assessments of the work involved in transition and implementation suggest a need for better planning, scoping, and costing.

We acknowledge the challenge smaller subscribers face with smaller workforces and fewer resources. However, signing up to the new Code is a commitment to meet certain standards, and we expect subscribers of all sizes to have prepared for its implementation.

## Staff training as the main focus

Subscribers reported a range of training as part of transition activities. Most (42 out of 55) reported using online training programs from GRC Solutions, an external training provider with a course specific to the new Code. This was particularly important for smaller subscribers that could not conduct in-house training.

A similar number (41 out of 55 subscribers) reported some form of in-house staff training, which focused predominantly on the obligations for inclusive banking services, particularly the treatment of customers experiencing vulnerability.

Just over a third of subscribers (21 out of 55) reported running other forms of external training, which in many cases was provided by COBA and included a webinar, awareness sessions, and training on vulnerability.

Some subscribers reported engaging financial and legal specialists to provide workshops, webinars, templates and other resources.

Subscribers reported significant changes to their training programs to incorporate new provisions in the Code for lending, inclusive banking and vulnerability.

Subscribers generally reported an emphasis on improving the competency of sales and credit staff on Code obligations, noting the importance of understanding lending obligations and guarantor protections for their roles.

The new Code's obligations for vulnerability were also a focus of in-house training programs to ensure staff can identify and respond to customers who are experiencing or at risk of vulnerability.

**Committee observations and recommendations**

Given the new Code's focus on providing more inclusive banking products and responding to customers experiencing vulnerability, it is positive to note that subscribers' staff training focuses on these areas.

A workforce that understands the Code and its purpose and is encouraged to identify and report instances of non-compliance helps create a good company culture and ensure it is delivering good outcomes for customers.

However, training is just one element of a good compliance framework. To support and underpin the training, subscribers must have strong systems and processes. Without them, breaches of the Code may go undetected.

## Updates to procedures, policies, processes and systems

***Procedures, policies and processes***

Subscribers reported various changes and updates to their internal procedures, policies and processes as part of transition activities.

Just over two-thirds of subscribers (69%) reported updating their procedures. These included management procedures and measures for working with customers experiencing vulnerability.

Most subscribers (62%) reported updating their policies. Commonly, internal communications policies were updated to reflect the 'timely, clear and effective communication' obligations in the Code.

Two-thirds of subscribers (67%) reported updating processes, in particular processes related to lending to bring them into line with the expanded lending obligations and guarantor protections of the 2022 Code.

***Systems***

System changes were reported by 38% (21 out of 55) of subscribers, with 10 of these being from larger size categories (over $1b in assets).

For some subscribers, system updates involved upgrading IT systems to allow for better identification of customers experiencing vulnerability. Examples included the roll-out of a new fraud system that uses data to identify customers experiencing vulnerability or financial difficulties, and upgrades of complaints management systems to help identify and respond to customers experiencing vulnerability.

Other subscribers reported updating the systems and methods they use to monitor and report breaches to ensure the categories against which breaches and complaints are logged align with the new Code.

**Committee observations and recommendations**

The mechanisms that enable a bank to meet its Code obligations – i.e. the systems, controls, processes and procedures – are an integral part of an effective compliance framework.

Systems and controls should ensure that Code breaches can be mapped to specific Code provisions and capture sufficient data for subscribers to understand how and why a breach occurred. Policies, procedures and processes should reflect the Code's requirements and make it easy for staff to comply with their obligations.

Now, with the new Code in effect, we strongly encourage all subscribers to take the opportunity to closely examine these mechanisms as part of post implementation reviews.

## Interpreting obligations

While most subscribers reported that the new Code is an improvement on the previous version, some reported challenges interpreting the new obligations.

We heard from subscribers that cited definitions of 'inclusive banking' and 'vulnerability' as points of contention, while expressing uncertainty about ideas of 'best practice' given there were no comparable obligations in the previous Code.

Other subscribers reported being challenged by the enhanced lending obligations and the interpretation of greater requirements for guarantors.

**Committee observations and recommendations**

Difficulties interpreting specific aspects of Code obligations may increase the risk of poor practices, breaches of the Code, inconsistent reporting and poor outcomes for consumers. It is therefore important that all subscribers work individually and collectively to ensure they have a clear and consistent view about what the Code requires, and flag any aspects that require clarification by COBA, the Code owner.

In any new area, best practice will inevitably evolve – but it is reasonable for Code provisions to challenge providers, otherwise performance will never be enhanced. Subscribers should think hard about what these provisions mean for their business and to look at what other businesses and sectors have done. In other codes and sectors, for example, there has been a focus on vulnerability for some years.

The obligations in the Code are the foundation on which consumer protections and good outcomes are built. And it is a base requirement that subscribers understand the obligations that come with subscribing to the Code.

Reaching out to clarify interpretation of the Code is an important part of overall compliance frameworks. We were pleased to see some subscribers make the effort to do so in the lead-up to the new Code and we welcome further clarification as subscribers embed new processes and procedures.

## Lack of communication with customers about the new Code

While 78% of subscribers reported updating their website to include reference to the 2022 Code, only 49% (27 out of 55) reported using some other form of communication to advise their members of the new Code and its updated and enhanced obligations. These included a range of different communication methods, from member newsletters to social media platforms.

**Committee observations and recommendations**

One subscriber described a comprehensive communications campaign that included social media posts, web banners, staff email signature blocks, animated videos and print materials. The subscriber also planned to display information about the new Code on television screens in branches.

We consider this approach to be good practice, as it meets the new Code's obligation for banks to "publicise this Code and promote our adoption of it – including in our branches" (clause 173). We encourage other subscribers to think more broadly about how they promote the new Code to customers beyond publishing it on their website, using the above example as inspiration.

## Post implementation reviews (PIR)

Many subscribers said they believed conducting a post implementation review (PIR) was a valuable way to measure the effectiveness of new compliance arrangements and ensure staff were meeting their obligations.

***Timeframes***

At the time of reporting, 82% of subscribers reported either conducting or planning to conduct a PIR of their Code transition project within 12 months, with timeframes ranging between 6 months and 12 months.

Four subscribers reported their review would take two years. Several subscribers were unable to pinpoint an end date for their PIR – often because the review process would be ongoing or open ended.

***Scope***

Some subscribers noted that the scope of their PIR would be comprehensive and wide-ranging, including a requirement to demonstrate compliance with each Code provision. Other subscribers reported their PIR would focus on specific areas of the Code, such as areas that emerge as high risk through ongoing monitoring activities.

Nearly one-third (31%) of subscribers reported that their PIR would cover compliance with the 2022 Code in full, including a comprehensive gap analysis.

Fewer subscribers (27%) reported that their PIR would focus solely on compliance with the Code's new obligations. Most of these subscribers were Category C and Category D.

A minority of subscribers (16%) reported that their PIR would focus on a selection of specific obligations relevant to the risk appetite of their business.

Some subscribers pointed out that their PIR was just one milestone in the journey to achieving Code compliance, and that further reviews would be required over time.

Ten subscribers advised that they would not conduct a PIR or an alternative. The most common reason cited was insufficient staff or resources.

***Responsibility***

More than three-quarters of subscribers (76%) reported that their compliance department was responsible for conducting the PIR, with some advising that an internal audit function would conduct a secondary review.

Several smaller subscribers that do not have a dedicated compliance team reported that their PIR would be undertaken by senior management and operational staff, including internal auditors.

**Committee observations and recommendations**

Conducting a PIR is an opportunity for a subscriber to evaluate its transition and identify areas of success and areas that require more work. It helps mitigate the risk that important issues are not left unaddressed or overlooked.

# Transition reminders

Important reminders for subscribers to help ensure successful transition to the 2022 Code and continued compliance with its enhanced obligations.

- ☐ Make sure the new Code is easy to find on your website and any other information about the Code is accessible and easy to understand.
- ☐ Check that the 2022 Code is embedded in your compliance and risk management frameworks – map all Code provisions to your frameworks.
- ☐ Your Audit and Risk Committee should assure itself that you have the systems, processes and resources in place to comply with the new Code.
- ☐ Update and deliver training to ensure staff understand the new Code and the important role they play in identifying and reporting breaches.
- ☐ Check that your systems for monitoring compliance are set up to detect all breaches and capture all the information you need.
- ☐ Promote a broad interpretation of Code obligations to ensure good outcomes and transparency for customers.
- ☐ Undertake a post implementation review (PIR), as part of either an internal audit or an external audit program, to help identify opportunities for further improvement.
- ☐ Review your Code compliance frameworks regularly, including evaluation of any corrective measures you implemented.
- ☐ Ensure there is ongoing oversight by Senior Executives and the Board.

# Appendix 1: Data

The following tables present the responses we received from subscribers via a questionnaire about Code transition and implementation.

*Code subscribers by category and state as at 30 September 2022*

| *Category (assets in $)* | *NSW* | *NT* | *Qld* | *SA* | *Tas* | *Vic* | *WA* | *Total* |
|---|---|---|---|---|---|---|---|---|
| **Category AA (assets over $5b)** | 3 | - | 2 | 2 | - | 1 | 1 | **9** |
| **Category A (assets $2b – $5b)** | 2 | - | 2 | - | - | 2 | - | **6** |
| **Category B (assets $1b – $2b)** | 6 | - | - | 2 | 1 | 2 | - | **11** |
| **Category C (assets $500m – $1b)** | 6 | - | 2 | - | - | 1 | - | **9** |
| **Category D (assets $200m – $500m)** | 7 | - | 2 | - | - | 2 | - | **11** |
| **Category E (assets under $200m)** | 4 | 1 | - | 1 | - | 3 | - | **9** |
| **Total** | **28** | **1** | **8** | **5** | **1** | **11** | **1** | **55** |

*Question F.1.1 – Which activities have you initiated/scheduled to be undertaken to transition to the new Code?*

| Activities | AA | A | B | C | D | E | Total |
|---|---|---|---|---|---|---|---|
| **Website changes** | 8 | 4 | 10 | 7 | 9 | 5 | 43 |
| **GRC training** | 6 | 5 | 9 | 6 | 9 | 7 | 42 |
| **Inhouse training** | 7 | 3 | 11 | 7 | 7 | 6 | 41 |
| **Changes to product documents** | 7 | 4 | 8 | 7 | 8 | 7 | 41 |
| **Updated procedures** | 7 | 4 | 11 | 5 | 7 | 4 | 38 |
| **Updated processes** | 8 | 5 | 11 | 4 | 5 | 4 | 37 |
| **Updated policies** | 8 | 2 | 9 | 6 | 6 | 3 | 34 |
| **Member communication** | 5 | 3 | 7 | 3 | 6 | 3 | 27 |
| **Changes to templates** | 4 | 3 | 7 | 4 | 3 | 3 | 24 |
| **System(s) changes** | 7 | 3 | 4 | 3 | 3 | 1 | 21 |
| **Other external training** | 2 | 2 | 4 | 5 | 5 | 3 | 21 |
| **Other** | 2 | 2 | 1 | 2 | 2 | 1 | 10 |

### Question F.1.2 – What were the main areas that required change?

| Areas | AA | A | B | C | D | E | Total |
|---|---|---|---|---|---|---|---|
| Training | 7 | 4 | 9 | 7 | 10 | 7 | 44 |
| Lending Products | 7 | 2 | 4 | 5 | 4 | 5 | 27 |
| Inclusive Banking | 7 | 3 | 4 | 4 | 5 | 2 | 25 |
| Small Business obligations | 5 | 1 | 6 | 2 | 2 | 2 | 18 |
| Deposit Products | 1 | 2 | 1 | 3 | 2 | 2 | 11 |
| Fees and Commissions | 1 | - | - | 3 | 2 | 3 | 9 |
| Other | 4 | 1 | 3 | 3 | 1 | 4 | 16 |

### Question F.2.1 – Have you or are you planning to conduct any post implementation reviews of your projects and/or arrangements to transition to the new Code

| Post implementation reviews | AA | A | B | C | D | E | Total |
|---|---|---|---|---|---|---|---|
| Yes | 6 | 5 | 9 | 8 | 10 | 7 | 45 |
| No | - | 1 | 1 | 1 | 1 | 1 | 5 |
| Other | 3 | - | 1 | - | - | 1 | 5 |

### Question F.2.2 – Provide information: who will undertake the review

| Reviews undertaken by | AA | A | B | C | D | E | Total |
|---|---|---|---|---|---|---|---|
| Compliance department | 5 | 5 | 10 | 8 | 9 | 5 | 42 |
| Internal audit | 1 | - | 2 | 3 | 5 | 4 | 15 |
| External audit | - | - | - | 1 | 2 | - | 3 |
| Other external party | 1 | - | - | 2 | 2 | 3 | 8 |
| Other | 4 | 2 | 2 | - | - | 2 | 10 |

### Question F.2.3 – Provide information: specific matters the review will cover

| Matters of the reviews | AA | A | B | C | D | E | Total |
|---|---|---|---|---|---|---|---|
| The full Code | 2 | - | 4 | 2 | 5 | 4 | 17 |
| New obligations only | 1 | 2 | 2 | 5 | 4 | 1 | 15 |
| Focus on specific obligations | 1 | 3 | 1 | 1 | 1 | 2 | 9 |
| Other | 5 | 1 | 4 | 1 | 1 | 2 | 14 |

### Question F.2.4 – Provide information regarding the timeframes for conducting reviews

| Timeframe of the reviews | AA | A | B | C | D | E | Total |
|---|---|---|---|---|---|---|---|
| 6 months | 1 | - | 1 | 6 | 4 | 5 | 17 |
| 12 months | 2 | 3 | 6 | 2 | 4 | 3 | 20 |
| 2 years | 1 | 1 | 1 | - | 1 | - | 4 |
| Other | 5 | 2 | 3 | 1 | 2 | 1 | 14 |

# Appendix 2: About the Code

## The 2022 Code

The Customer Owned Banking Code of Practice (the Code) sets standards of good practice. Subscribers to the Code voluntarily commit to complying with its provisions when dealing with current and prospective customers. The Code is an important part of the broader national consumer protection framework and financial services regulatory system.

The Code is owned and published by the industry advocate for Australia's customer owned banking sector: the Customer Owned Banking Association (COBA).

Following a review, a new version of the Code came into effect on 31 October 2022.

The new 2022 Code consists of three parts:

- Part A – seven Key Promises
- Part B – specific obligations when delivering the Key Promises, and
- Part C – how the Code is administered.

The 2022 Code has more stringent obligations for inclusive banking services, expanded lending obligations and guarantor protections, and greater support for customers experiencing vulnerability.

## The Committee

The Code is monitored and enforced by the independent Customer Owned Banking Code Compliance Committee (the Committee). The Committee works with stakeholders to improve compliance with the Code and promote good practice.

The Committee offers regular guidance to help subscribers understand and meet their Code obligations.

The Australian Financial Complaints Authority (AFCA) provides the Committee with monitoring and administration services by agreement. AFCA has appointed a dedicated staff within its office (the Code team) to undertake these duties.

For more information about the Code, the Committee or the Code Team, please visit cobccc.org.au .

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