Mr Scott Tanner
Chief Executive
Bank of Melbourne
Locked Bag 20037
MELBOURNE VIC 3001

10 September 2012

Dear Mr Tanner,

DUAL CONTACTING AND THE CODE OF BANKING PRACTICE

The JMA Parties wrote to you on 4 May 2012 regarding dual contacting and have not received your or Bank of Melbourne's response. We therefore allege:

> Bank of Melbourne, together with fifteen other banks, induced customers to enter into contracts without providing any protection under the Code; and
>
> this was a deceptive arrangement, and was concealed from Bank of Melbourne's individual and small business customers; and
>
> Bank of Melbourne, together with the fifteen other banks, acted recklessly misleading its customers to believe the Code was a binding contract.

Please confirm Bank of Melbourne will comply with its duties under clauses 35.7 and 35.8 of the Code, and also complete your investigation within 21 days.

Thank you.

Yours sincerely,

JTra

Julia Travers
Per: JMA parties and Staff of the Jenolan Village
PO Box 480, Edgecliff NSW 2027

Enc. Executive Summary, Problematic Banking Code published on 6 December 2010.

Copy: JMA Parties and Rosecharm Pty Ltd

BANK OF MELBOURNE'S PROBLEMATIC CODE

EXECUTIVE SUMMARY

This paper provides an insight into nine years of problematic banking practices and will be published chapter-by-chapter over coming months.

It examines the extent to which the customers of Bank of Melbourne and other major banks are not provided fair treatment and full disclosure of facts relevant to banking practices and customer protection.

Before 1981, activities of major Australian banks, including the manner they dealt with customers, were the subject to detailed regulations imposed by the Federal Government.

Following the 1981 Campbell Committee Report, banking regulation was significantly reduced.

After the stock market crash in 1987, it was feared deregulation had gone too far. An alternative approach was sought to ensure bank customers received fair treatment, and the Government assigned responsibility for making suitable recommendations to a committee chaired by Stephen Martin.

In its 1991 Report, the Martin Committee concluded the banks should be required to establish a formal system of self-regulation based on a government approved Code of Banking Practice. It cited the high cost of resolving disputes in the courts between banks and customers as problematic, and stressed the importance of effective, low cost, complaints resolution procedures.

The first such Code was established in 1993 but was not adopted until 1996. It was subsequently revised in 2003, and further modified by the banks in 2004. Despite a review in 2005 and a further review in 2008, the 2004 Code is essentially still in force. However, its application is problematic.

Significant Issues with Code (2004)

1. The 1996 Code, written by the Australian Bankers Association precludes recommendations made by the Martin Committee which the major banks

disliked. The 2003 and 2004 (current) Codes, also based on the ABA's documents, also precluded many of the government's principles and suggestions.

2. The key body that implements the codes is the banks Code Compliance Monitoring Committee. However, an undisclosed group exists, calling itself the Code Compliance Monitoring Committee Association, which is made up of the bank CEOs. They drafted a constitution that significantly limited the independence and activities of Compliance Monitors to the disadvantage of banking customers.

3. The bank CEOs association's constitution narrowly defined circumstances in which the Code Compliance Monitors can review compliance. As a result, very few complaints ever came to the attention of the Code Monitors, or are ever investigated because the sixteen banks have intentionally removed the promises and warranties in the Code.

4. Several reviews by independent or semi-independent persons have recommended greater transparency and increased government regulation. These recommendations have not been implemented and incorporation of the original principle of a voluntary self-regulated Code, with fair and prudent banking practices and low cost dispute resolution procedures, has been seriously eroded.

5. Although voluntary codes and self-regulation could work effectively, this paper suggests this has not happened since 2003. The introduction of the unpublished bank CEOs constitution means banks can filter complaints, at their discretion, thereby limiting the independence, authority and powers of Code Compliance Monitoring Committee members.

Recommendations

There is considerable evidence suggesting the ABA, and hence Bank of Melbourne and its officers acted to retain control over the compliance procedures requiring banks to deal fairly and openly with every customer. There are a number of specific incidents, however, which do not appear to have been handled in accordance with the principles and spirit of the Code, as recommended by the Martin Committee in 1991,

and in accordance with public interest in general.

This paper recommends the Senate or the Federal Government Treasurer commission an inquiry into issues raised in this paper. This inquiry would lead to the government implementing legislation and procedures that add a truly independent element in the governance and principles involving banks in their dealings with all customers.

If the inquiry finds any bank directors or banks used the CEOs constitution or other practices for their own benefit, or to their customers' disadvantage, then the inquiry might recommend corrective action.

Senate Committee Report webpage (Sub No. 90): Click Here...

Published: 6 December 2010