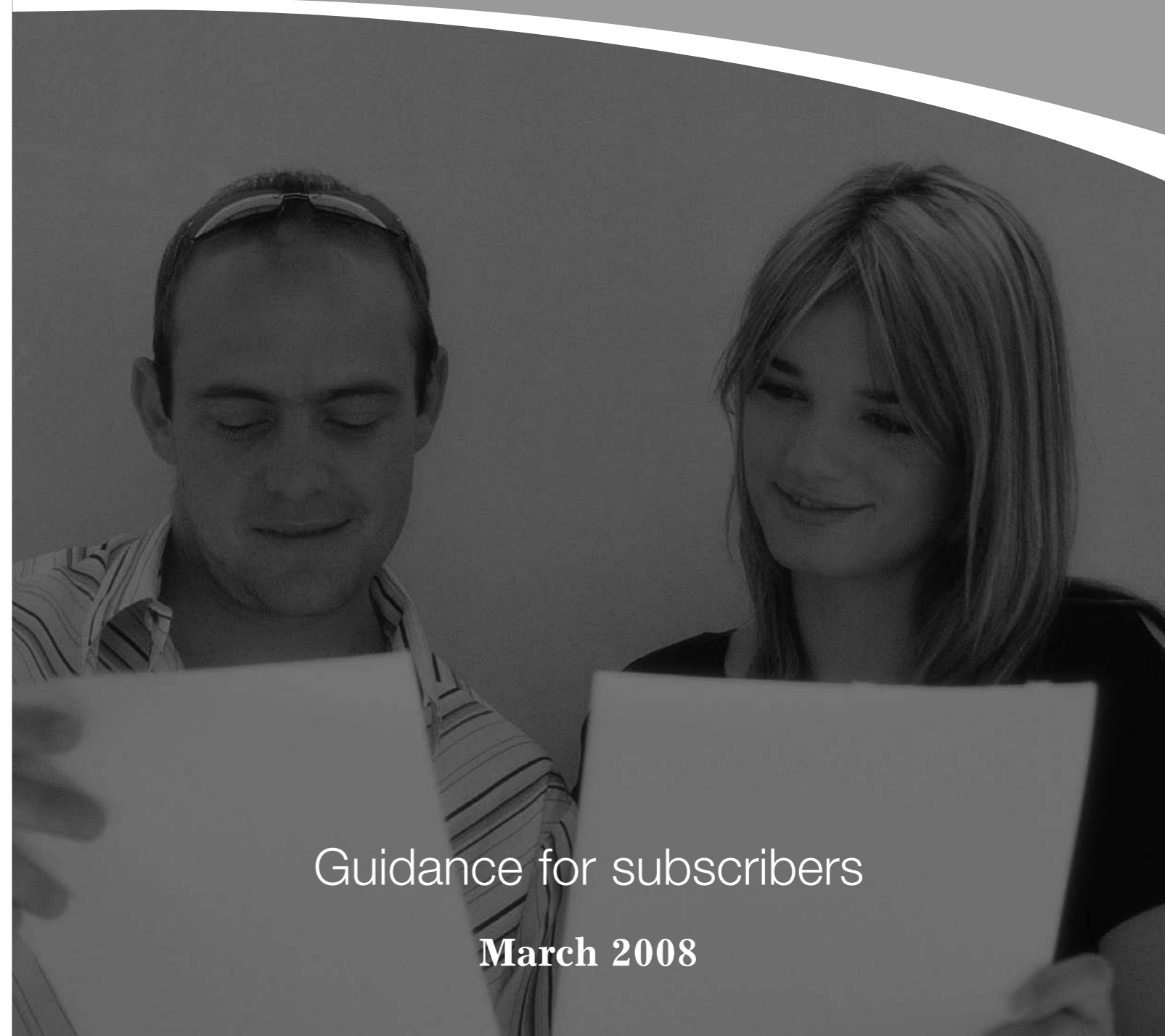


# The Banking Code

Setting standards for banks, building societies  
and other banking service providers



## The Banking Code



Guidance for subscribers

March 2008

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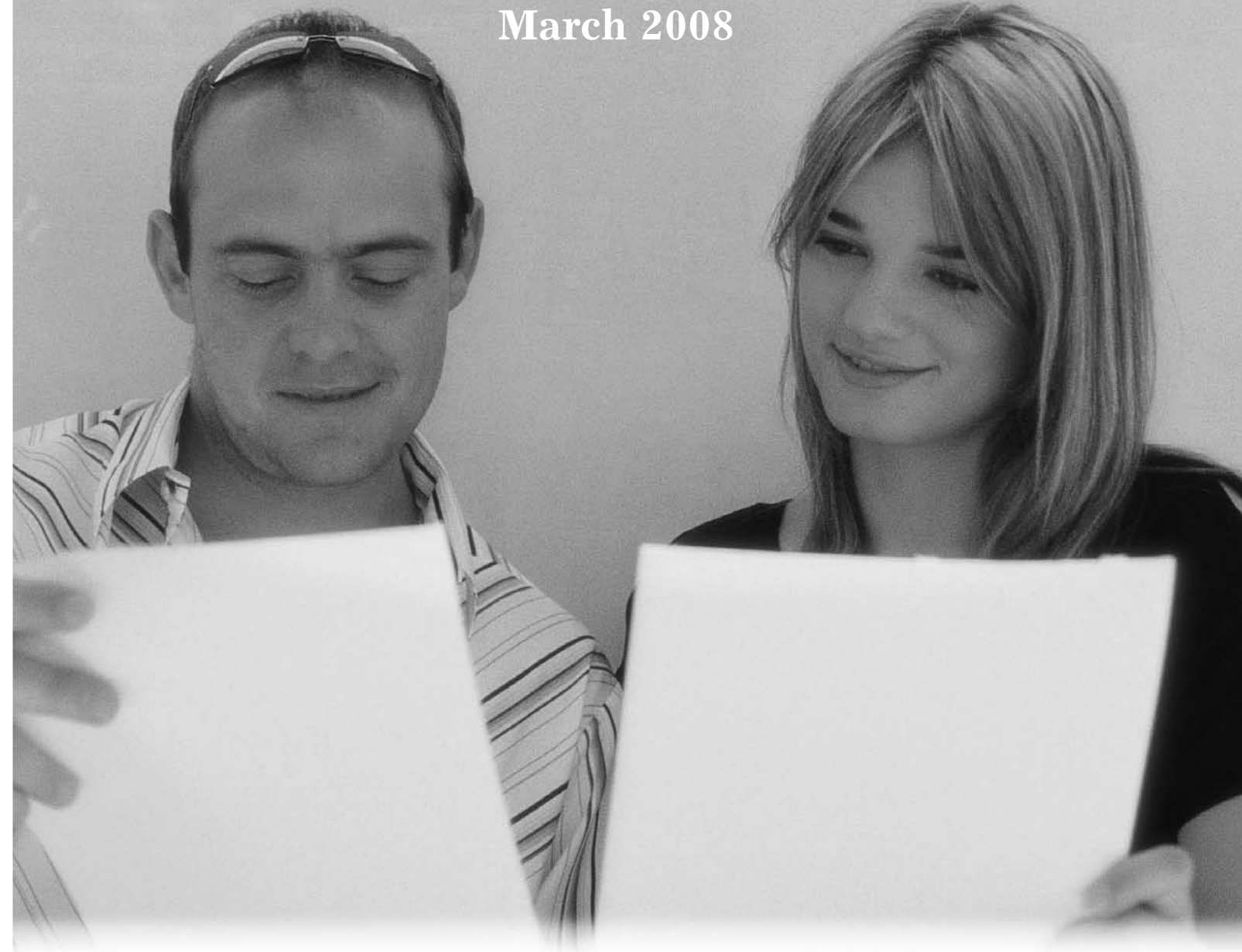
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# THE BANKING CODE

## Guidance for subscribers

### Preface

The revised Banking Code comes into force on 31st March 2008.

The Banking Code is not intended to be read as a rigorous legal document. It has been written for customers and practitioners, not for lawyers. This guidance is issued by the Code sponsors, the British Bankers' Association (BBA), the Building Societies Association (BSA) and APACS (the UK Payments Association) as an aid to understanding and implementing the Banking Code. Common sense should be used in interpreting the Code. This guidance is available on request to all interested parties, including members of the public.

This Guidance can be downloaded from the:

- BBA website at [www.bba.org.uk](http://www.bba.org.uk)
- BSA website at [www.bsa.org.uk](http://www.bsa.org.uk)
- APACS website at [www.apacs.org.uk](http://www.apacs.org.uk)

Subscribers remain free to interpret the Code, but should be aware that this guidance represents a general interpretation of the Code, which may be used by the Banking Code Standards Board (BCSB), the Financial Ombudsman Service (FOS) and others in determining industry standards.

The words 'give' and 'tell' are used frequently. The words are used almost interchangeably, but generally 'give' should be interpreted to mean that the customer should have or see something whether in writing or on-screen or displayed in a branch. 'Tell' means either orally or as for the definition of 'give'. The Code also requires that certain information be given to customers 'personally'. This means that some form of notification is given or sent to them, rather than being told by a general notice or advertisement. Such notification could be made by letter, by e-mail or by an alternative method that reflects the manner in which the product or service is normally operated. 'Notify' is also used throughout – this could mean 'give' or 'tell'.

For the avoidance of doubt, the Code is not intended to interfere with the commercial pricing decisions of subscribers.

In this guidance, the text of the Code is reproduced in full in *italics*.

**British Bankers' Association**  
**Building Societies Association**  
**APACS**

# 1 Introduction

## *What the Code covers*

- 1.1** *This is a voluntary code which sets standards of good banking practice for financial institutions to follow when they are dealing with personal customers in the United Kingdom. It provides valuable protection for you and explains how financial institutions are expected to deal with you day-to-day and whenever you have financial difficulties.*

It is open to subscribers to adopt higher standards than those set out by the Code, but once an institution has been registered as a subscriber it must adhere to Code standards as a minimum in all respects relevant to its business.

Personal customers means any natural person who is acting for purposes which are outside his trade, business or profession (this definition is the same as that used in European legislation and by the Financial Services Authority (FSA), variously, with the title 'consumer' or 'retail customer'). This definition comes from European law and is very useful because it is widely understood.

In practice, personal customers may act in a number of special capacities where we want them to have the protection of the Code and we explain this in detail in the relevant section of our Glossary.

Small business customers are covered by the Business Banking Code. These include businesses (sole traders, partnerships, limited liability partnerships, limited companies) with an annual turnover of under £1 million and clubs, charities and associations with annual income of less than £1 million.

For good reasons the Code only applies to personal customers who live in the UK. Subscribers will always aim to bring the same standards of service to UK account holders who live abroad but sometimes physical limitations preclude this. The requirements of the Distance Marketing of Financial Services Directive apply to account holders who live in the European Economic Area.

Following the Code is a mark of quality and customers should be encouraged to check if their bank, building society or credit card issuer subscribes.

The Code applies to:

- current accounts, including basic bank accounts (section 3);
- savings and deposit accounts (sections 3 and 4), including cash ISAs and cash deposit Child Trust Funds;
- payment services, including foreign-exchange services (section 9);
- cards and PINs (section 10); and
- loans and overdrafts (section 13).

*It does not cover mortgages, investments, insurance, Premium Bonds or currency accounts.*

*The Code covers secured lending not covered by the FSA's regulation. If subscribers are in any doubt as to whether a particular product or service is covered, they should consult the Code sponsors or the BCSEB.*

*Currency accounts are defined as any account held in the UK in a currency other than sterling. Whilst excluded from this Code, subscribers are not precluded from applying Code standards to currency accounts and are encouraged to do so wherever practical.*

## *About this Code*

- 1.2** *As a voluntary code, it allows competition and market forces to work to encourage higher standards for the benefit of customers.*

*Within the Code, 'you' means the customer and 'we', 'us' and 'our' means the financial institution the customer deals with.*

*You can check which financial institutions follow the Code by contacting the Banking Code Standards Board, the independent organisation which monitors how well financial institutions are meeting the Code. (You can find their contact details later in the Code – section 16.) The types of financial institutions currently include:*

- banks;

- *building societies;*
- **credit card** companies;
- *National Savings & Investments;*
- *the Post Office; and*
- *a number of credit unions.*

*The standards of the Code are covered by the eight key commitments found in section 2.*

*Not all the financial institutions covered by this Code offer all the products and services listed in section 1.1 above. Unless it says otherwise, all parts of this Code apply to all the products and services listed above, whether they are provided by branches, over the phone, by post, through interactive TV, on the internet or by any other method.*

*This revised edition applies from 31st March 2008 unless otherwise shown.*

*It is important that, when considering how the Code will affect products and services, all delivery channels are catered for. The Code applies regardless of how a product or service is delivered.*

*It is the responsibility of subscribers to ensure that any third party or agent acting on their behalf complies with the Code in relation to any products or services which are covered by section 1.1 of the Code.*

## 2 Fairness Commitment

*We promise we will treat you fairly and reasonably when providing you with products and services covered in this Code. We will keep this promise by meeting all of the key commitments shown below.*

- *We will make sure that our advertising and promotional literature is clear and not misleading and that you are given clear information about our products and services.*
- *We will give you clear information about accounts and services, how they work, their terms and conditions and the interest rates which may apply.*
- *We will help you use your account or service by sending you regular statements (where appropriate) and we will keep you informed about changes to the interest rates, charges or terms and conditions.*
- *We will help you to switch your current account between financial institutions that subscribe to this Code.*
- *We will lend responsibly.*
- *We will deal quickly and sympathetically with things that go wrong and consider all cases of financial difficulty sympathetically and positively.*
- *We will treat all your personal information as private and confidential, and provide secure and reliable banking and payment systems.*
- *We will publicise this Code, have copies available and make sure that our staff are trained to put it into practice.*

*To meet these promises, we will, as a minimum, take the steps and meet the standards set out in the rest of this Code.*

When interpreting 'fairly', subscribers should have regard to the Unfair Terms in Consumer Contracts Regulations 1999, the Consumer Protection from Unfair Trading Regulations 2007 and to the Data Protection Principles set out in Part 1 of Schedule 1 to the Data Protection Act 1998. The concepts of 'fairness' and 'reasonableness' should also be considered in accordance with other relevant legislation, case law and their normal dictionary meanings.

- *We will make sure that our advertising and promotional literature is clear and not misleading and that you are given clear information about our products and services.*

This will include –

- giving you information about them in plain English;
- explaining their financial implications; and
- helping you choose the one(s) that meets your needs.

Section 3.1 gives further information about products and services.

Section 3.3 covers information on how an account or service works once a customer has chosen it.

Sections 6.1 and 6.2 give further details on terms and conditions.

Section 8 gives further details on advertising and promotional literature.

Section 10.7 refers to providing information in a standard form on credit cards.

All products listed in the Code must comply with the Code (unless specifically exempted, in which case an explanation will be given). This includes products referred to in section 1.1 that are run or sold on a subscriber's behalf by an agent, for example, an affinity credit card or a branch agency. It therefore applies to all products which are 'badged' or 'branded' as those of the subscriber but processed by a third party. The Code also applies to products of non-subscribers which are sold by a subscriber. Specific terms and conditions of products must not seek to override or preclude the effectiveness of the Code.

The information given to customers must be clear and transparent. This commitment applies whether the information is given in writing, on screen or orally, etc. Information must be sufficiently clear and easily comprehensible so that customers can make informed choices about products.

Subscribers are required to provide assistance to customers but not specific advice. Some basic awareness of a customer's needs is required, although a formal 'fact find' need not be completed. Customers should be given a balanced view of products so that they have an accurate understanding of the financial implications. This is especially important for long-term financial commitments (for example, the costs of withdrawing early from a fixed-term loan or savings bond where this is allowed). This also links with the later Code provisions on terms and conditions, interest, charges, etc and reinforces the basic principle of transparency. Customer literature should explain how products work. Staff may need to offer help.

Compliance issues need to be considered before new products are launched. Issues of discrimination should also be considered, including race, disability, marital status, age, gender, and sexual orientation.

Subscribers should also comply, where appropriate, with various other industry codes of practice, for example:

- BBA/BSA Code of Conduct for the Advertising of Interest Bearing Accounts
- BBA Guide to Bankers' References
- BSA Code of Practice on Linking of Services
- British Code of Advertising, Sales Promotion and Direct Marketing
- Television Advertising Standards Code
- Radio Advertising Standards Code
- The Guide to Credit Scoring 2000
- BBA Guidance: Implementing Part III of the Disability Discrimination Act
- BBA/RNIB Guidance: Accessible E-Banking
- OFT Guidance on Non-Status Lending
- APACS Best Practice Guidelines

However, if the provisions of any code conflict with the Banking Code, the code with the higher standards should prevail.

With the exception of the BBA/BSA Code of Conduct for the Advertising of Interest Bearing Accounts and the APACS Best Practice Guidelines, the BCSB does not seek to monitor compliance with any of the above industry standards and codes of practice.

- *When you have chosen an account or service, we will give you clear information about how it works, the terms and conditions and the **interest** rates which apply to it.*

Section 3.3 covers information on how a product or service works.

Section 4.2 covers information about the interest rates which apply to a customer's account.

Section 5.1 sets out an obligation to give details of any charges for the day-to-day running of the account.

Sections 6.1 and 6.2 give further details on terms and conditions.

Sections 9.4, 9.5 and 9.6 cover other information to be given under this commitment.

- *We will help you use your account or service by sending you regular statements (if appropriate) and we will keep you informed about changes to the **interest** rates, charges or terms and conditions.*

Sections 4.4 – 4.8 cover changes in the interest rates.

Section 5.3 covers changes in charges.

Sections 6.3 – 6.6 cover changes in terms and conditions.

Sections 9.1 – 9.3 set out how to help with the running of accounts, particularly in relation to statements.

Section 10.11 covers monthly credit card statements.

Section 10.13 covers introductory periods on credit cards.

Regular statements will only be sent where appropriate – for example, if a customer has opted out of receiving regular statements, this commitment will not apply. Other examples of when monthly statements may not be issued include:

- where no transactions have been made on a credit card; and
- online accounts where there is a requirement to use the facility at least once in a prescribed period, e.g. every three months.

For certain accounts such as LIBOR linked accounts and dormant accounts, no statements are sent.

- *We will help you switch your current account to a financial institution that keeps to this Code.*

Sections 7.2 – 7.4 cover the switching process for current accounts.

- *We will lend money responsibly.*

Section 13 outlines the ways in which subscribers will lend responsibly.

- *We will deal quickly and sympathetically with things that go wrong and act sympathetically and positively when we consider any financial difficulties you may have.*

Section 7.4 covers cancelling bank charges in certain circumstances.

Sections 9.5 and 9.6 cover direct debits and protections given under the direct debit scheme.

Section 14 covers financial difficulties.

Section 15 covers complaints procedures.

This commitment is likely to include:

- correcting mistakes quickly;
- handling customers' complaints quickly;
- telling them how to take their complaints forward if they are still not satisfied; and
- cancelling any bank charges that have been applied because of the subscriber's mistake.

The quick, effective and positive handling of errors and complaints is an important component of good customer service. 'Quickly' means that complaints should be dealt with as soon as they arise and as swiftly as possible, in accordance with the standards set by the FSA.

- *We will treat all your personal information as private and confidential, and provide secure and reliable **banking and payment systems**.*

Sections 9.14 and 9.15 and the majority of section 12 set out the ways in which customer's can help protect their accounts.

Section 11.1 covers confidentiality of personal information.

Section 12.1 covers secure and reliable banking and payment systems.

For subscribers regulated by the FSA, the FSA Handbook 'Senior Management Arrangements, Systems and Controls' and in particular Chapter 3 deals with systems and controls.

- *We will publicise this Code, have copies available and make sure that our staff are trained to put it into practice.*

Sections 17.2 and 17.3 provide further information on making copies of the Code available.

All new customers should receive a copy of the Banking Code 'flyer' when they open their account. The flyer sets out the main features of the Banking Code and tells customers where they can obtain a copy of the Code. Copies of the flyer should be ordered from the BBA's Publications Unit, Pinners Hall, 105-108 Old Broad Street, London EC2N 1EX (phone 020 7216 8900).

A copy of the flyer should also be sent to every current account customer (e.g. as a statement insert) each time the Code is revised, within 6 months of the revised Code taking effect. It should be noted that this does not apply to interim reviews.

The flyer may be provided electronically. This must be done in a way that brings it to the customer's attention.

The need for customer-facing staff (including those dealing with customers by telephone and e-mail, etc) to be aware of

the existence and main purpose of the Code is fundamental, especially as copies of the Code should be held in branches and available on request. Individual members of staff do not necessarily need to be aware of the detail of the Code provided the Code's requirements are reflected in the procedures they follow. Those making or implementing policy must also be aware of the existence and main purpose of the Code.

#### *Interim Review*

Where an area of material consumer detriment is identified that is not covered at all in the Code, this should automatically trigger an interim review. This review could be initiated by either the Code sponsors or the BCBSB (acting on behalf of other stakeholders) and would be supervised by the independent reviewer, who would also arbitrate if there was any dispute about whether an interim review was needed.

Material consumer detriment would be seen where, for example, an event, product, process, or marketing caused significant consumer harm or damage.

## 3 *Helping you to choose products and services that meet your needs*

### *3.1 Before you become a customer, we will:*

This section requires certain information to be given to customers to help them choose a product or service. It should be given to them before they choose a particular product or service or open an account. As well as new customers, the section also applies to existing customers who enquire about a product they do not already have. For the latter, there is no need to duplicate the provision of all the information each time the customer opens a new account. The principle underlying this section is that of transparency of information.

- *give you clear information explaining the main features of the services and products you tell us you are interested in;*
- *from 1 October 2008, make important information for savings accounts and unsecured loans available in a **summary box** on pre-sale material.*

For example, if the customer wants 'a savings account', they should be given information on the range of savings products available (unless they specify a particular product – see below). This may be in the form of a summary provided in a leaflet, oral description over the phone, letter or on screen, etc. The information is important to ensure that customers can make an informed choice of which product or service best meets their needs. The emphasis is on 'informed choice' rather than advice offered by the bank or building society. Specific product information is covered in more detail in the guidance on section 3.3 below.

From 1st October 2008 subscribers should make available key product information in pre-sale material for savings accounts and unsecured loans in a summary box. The standard format will be published as an addendum to this Guidance.

- *assess whether your needs are suited to a **basic bank account** (if we offer one) and offer you this product if they are;*
- *offer you a **basic bank account** if you ask and meet the conditions for one.*

This provision only applies to subscribers who offer a basic bank account product as a result of the agreement between the Government and the industry in the wake of PAT14. If in doubt, the FSA's website carries a list of such institutions.

It requires subscribers who offer a basic bank account to inform certain customers about the account and how to open one. These are customers for whom the basic bank account would appear to be appropriate. Such customers may include those:

- who express an interest in opening a money transmission (current) account which does not allow them to go overdrawn;
- whose main source of income appears to be state benefit;
- who are content to accept the limited money transmission functionality of a basic account (e.g. no cheque book).

There is no requirement for subscribers to keep records of any assessment.

This does not preclude other products being explained where it is appropriate. If there is a history of fraud or undischarged debts, a subscriber is not bound to open an account. If the customer already holds a suitable account with the bank, a subscriber is not bound to open a basic bank account.

### Basic bank account literature

Subscribers who provide front of house literature for their current account range should ensure that such literature includes reference to the availability of the subscriber's basic bank account (if they have one), and how to get further information. This reference might take the form of a separate piece of literature or text within an existing leaflet.

This Guidance is intended to ensure that where front of house literature for current accounts is displayed, reference is made to the availability (where applicable) of a basic bank account. Such literature should also signpost where customers can get further information – although this signposting does not have to appear alongside the reference to the basic bank account, e.g. the literature may have a more general section detailing sources of further information about accounts.

### Verifying identity for basic bank account applicants

Where possible, subscribers should normally verify ID in branch for **basic bank account** applications. If a subscriber operates a central account-opening service, it should offer the option for certified copies of ID documents to be sent to the central unit rather than original documents.

This Guidance is intended to ensure that, where possible, customers are not asked to send away important documents in order for subscribers to satisfy identification requirements under Money Laundering rules.

Where subscribers have arrangements which allow a third party, such as a housing association, to open **basic bank accounts** on the subscriber's behalf, the same principles should apply wherever possible. However, it is recognised that such arrangements – which are for the benefit of the customer – might dictate that existing ID verification methods are maintained.

### Basic bank account – Opening Timescale

A basic bank account should take no longer than 10 working days to become operational. The 10 working days are counted from the date the customer's application is approved, e.g. once any necessary identification and address validation checks have been completed. 'Operational' means the ability to pay into and make withdrawals from the account (e.g. via a branch counter or an ATM).

This Guidance is intended to ensure that there are no unnecessary delays to the opening of basic bank accounts. The introduction of 10 working days for an account to be operational (following the completion of satisfactory ID checks), mirrors the Code requirement (under Section 7.3) for switched current accounts to be operational within 10 working days.

If a customer's application for a basic bank account is declined subscribers should explain the main reason why, if asked by the customer to do so.

If suspicion of fraud or money laundering is the reason for declining an application the subscriber is not obliged to inform the customer.

- *give you information on a single product or service, if you have already made up your mind; and*

To ensure that the selling of products and services covered by this Code remains simple and uncomplicated, this 'execution only' provision ensures that, if a customer knows what they want, there is no obligation for the subscriber to provide information about other products or services.

- *tell you what information we need from you to prove your identity (by law, we have to check your identity).*

Under the Money Laundering Regulations 2007, all banks, building societies and other providers of financial services have put procedures in place to prevent money laundering. Detailed procedures are contained in the Joint Money Laundering Steering Group (JMLSG) Guidance for the Financial Sector. The procedures require institutions to verify a potential customer's identity and also usually their address. More checks may be needed in the case of account opening where the customer is not physically present as, for example, with telephone and internet banking.

Customers should be told why this information is needed, what types of documents are acceptable and what checks may be carried out. Subscribers are encouraged to adopt a flexible approach (within the Regulations and the JMLSG Guidance) and put in place procedures to deal with exceptional cases where applicants may not have the usual

documents. In such cases, the customer should be asked what evidence of their identity/address they can produce and the case may be referred to a more senior person or special unit, which can decide on the acceptability of the evidence that the applicant can provide.

It should be borne in mind that an obligation to check identity can arise for other purposes – for example, section 4 of the Cheques Act 1957 as amended by the Cheques Act 1992 – where the obligations of subscribers may differ.

Subscribers may find it useful to give the BBA/BSA leaflet 'Proving Your Identity' to potential customers who query the need for these checks or who have difficulties in producing usually acceptable documents. This explains the requirements, shows that they are industry-wide and helps customers to understand what they can do to help you to verify their identity and address.

### Specific Guidance on Distance Sales (see also Section 3.5)

For distance sales of deposit-taking products under the Distance Marketing Directive information is required for certain terms of business, key features and direct offer financial promotions. Subscribers regulated by the FSA should refer to the relevant FSA Conduct of Business (COB) Rules for details of when this information should be given to customers.

- 3.2** *We will tell you if we offer products and services in more than one way (for example, on the internet, over the phone, in branches and so on) and tell you how to find out more about them. Where we offer **basic bank accounts**, we will tell you if they can be used at post offices.*

This provision is intended to ensure that customers are made aware of the existence of alternative delivery channels (for example, telephone, post, the internet, etc) used by the subscriber, where such channels are operated under the same generic brand name or where the parent brand is being used in an obvious way to sell a subsidiary brand (it is recognised that, in some cases, this will be a subjective decision).

For example, ABC plc would have to tell customers about ABC Direct – but not 123.com unless it was being advertised as '123.com from ABC plc' (e.g. where the parent brand is being used to advertise the other brand). It is not envisaged that staff would need to give information on products or the respective merits of alternative channels, but generic notices should be posted, for example, in branches and on the subscriber's website(s), and information on the existence of other channels given to customers in account opening information. It does not require notification on a product-by-product basis.

As far as affinity products or services are concerned (e.g. a credit card bearing the brand of a charity), it is recognised that the main reason customers are attracted to such products or services is that they identify with the partner brand (e.g. the football team they support), rather than the brand of the subscriber.

Accordingly, it is not necessary for customers with such products or services to be apprised of the availability of non-affinity products or services within the subscriber's product range. Nor do they need to be informed about products or services aimed at other affinity groups. Similarly, it is not necessary for non-affinity customers to be informed about any affinity products or services offered by the subscriber.

In relation to the annual summary of interest rate changes on savings accounts (sections 4.6 and 4.7 refer), it is not necessary to include non-affinity products in mailings to affinity customers, nor is it necessary to include affinity products in mailings to non-affinity product customers.

Basic bank account customers should be told if they can make cash withdrawals at post offices.

- 3.3** *Once you have chosen an account or service, we will tell you how it works.*

This provision requires information specific to the operation of a product or service to be given to customers. It may be appropriate for this type of detailed information to be included within an account opening pack or booklet given to the customer after the account has been opened. It is recommended that, wherever possible, the information should be given in writing or another durable/printable form.

Examples of information that should be provided as a minimum include the following.

### Current accounts

Product features and any other information that might be necessary to operate the account, for example:

- stopping a cheque or other type of payment (see, also, sections 9.5 and 12.10);
- how direct debits (including the Direct Debit Guarantee) and standing orders work;

- how clearing works, for cheques and automated payments, including when the customer can withdraw money after paying cash or a cheque into their account, and when the funds will start to earn interest (see 9.4 and 9.5);
- unpaid cheques;
- out-of-date cheques;
- the availability of overdrafts;
- where customers can find out information about interest rates and interest rate changes;
- why an entire balance may not be available for withdrawal (for example, due to uncleared funds or an earmarked debit card transaction);
- (if a card is provided), an explanation of recurring transactions (see guidance on section 9.5 below);
- (if a card and PIN are provided), that the PIN can be changed and how to do it;
- (when applying to open an account), whether a check will be made with credit reference agencies and what that involves. For example, customers should be told if a record of the search is kept at the credit reference agency and, if so, that this could impact on the customer's ability to obtain credit elsewhere within a short period of time (see, also, section 13.5); and
- when the subscriber may pass the customer's account details to credit reference agencies and the checks the subscriber may make with them.

### Savings accounts

- how clearing works, for cheques and automated payments, including when the customer can withdraw money after paying cash or a cheque into their account, and when the funds will start to earn interest (see 9.4 and 9.5);
- information on withdrawals (including, for example, any charges that have to be paid to withdraw early from a notice or fixed-term product);
- information on direct debits and standing orders if appropriate;
- where customers can find out information about interest rates and interest rate changes (see, also section 4.2).

### Individual savings accounts (ISAs)

Cash ISAs are subject to the Code. Special provisions apply in respect of the key features information on Cash ISAs. Before entering into a Cash ISA (unless stated otherwise), the customer must be given information as prescribed by the relevant FSA Conduct of Business rules.

Banks and building societies should also have regard to the BBA/BSA Code of Conduct for the Advertising of Interest Bearing Accounts, the ISA Regulations (SI 1998 No 1870), and HMRC's Guidance Notes for ISA Managers. In the case of a Stocks and Shares ISA, different rules may apply to the cash component. The cash component of a Stocks and Shares ISA is not covered by the Code.

### Child Trust Funds (CTF)

Subscribers should refer to the relevant FSA Conduct of Business Rules for details of the prescribed information that customers must be given on choosing a Child Trust Fund product.

### Credit cards – see section 10.8

**3.4** *When you open a joint account, we will give you extra information on your rights and responsibilities.*

Joint account holders should be properly informed of their joint rights and duties and the concept of joint and several liability. Customers should be told what this means if the relationship with the other joint account holder ends. They should be told, for example, whether or not the account would be closed or whether or not one name could be removed. They should be told what would happen in the case of an overdraft or loan and in what circumstances it might be necessary to freeze an account. (Subscribers may find it helpful to provide the information required under this section in leaflet form. A BBA leaflet, 'You and your joint account', is available and copies can be purchased from the BBA publications unit.)

Customers should be made aware that, unless the account mandate provides otherwise, in most cases one party to a joint account can withdraw the entire balance of the account alone, or, in the case of a loan or overdraft, that each account holder is themselves responsible for repayment of the entire balance, and not just a pro-rata share (e.g. they are jointly and severally liable).

Additional credit card holders are not jointly and severally liable. Please see section 10.8 for information relating to additional cardholders. Similarly in the case of credit cards, the significance of being the primary or additional cardholder should be explained to the customer, e.g. that the primary cardholder is responsible for all spending by the additional cardholder and is responsible for repayments on the card.

If requested, subscribers should ensure that statements for current accounts get sent to each party to a joint account at different addresses. (It is recognised that there may be systems constraints in providing statements on a regular basis to more than two parties.)

In the case of building societies, it is especially important that the consequences of being first or second named on an account are explained, in relation to being a representative joint shareholding/borrowing member or trustee and the additional rights that brings (such as voting rights, etc.). A concise explanation of the rights of membership and the importance of picking the order the names are put on the account could form part of the product literature or application form. It is up to subscribers to consider how best to communicate this information.

**3.5** *Personal customers are protected by the European Distance Marketing Directive (DMD) in relation to taking deposits. This gives you rights when opening **current, savings** and deposit accounts, and using these types of account to do financial services business at a distance (usually by post, over the phone or electronically). Generally, the major types of protection are:*

- *detailed information before you commit to a contract;*
- *a right to cancel the account within 14 days; and*
- *restrictions on how a financial service is supplied if you have not asked for it.*

Subscribers should refer to the relevant FSA Conduct of Business Rules for details of the rules that apply when customers choose financial services at a distance.

## 4 Interest rates

**4.1** *You can find out about our interest rates by:*

- *phoning our helpline;*
- *looking on our website;*
- *looking at the notices in our branches; or*
- *asking our staff.*

The helpline could be a dedicated telephone line, or could be as simple as an operator knowing who to put a customer through to on the main switchboard number. It could also be the telephone number of their relationship manager if this is their dedicated support. Subscribers should also consider how best to make customers aware of the telephone number and website address, for example, by notes on statements or stickers on passbooks, etc. Information on where interest rate details are available should be given to customers in an account opening or welcome pack, for example. There is no need to include details of specialist products, such as money market accounts. Only products that are generally available to customers need to be included. Similarly, it is not appropriate for the individually negotiated element of rates to be published, although customers should be able to get this information from bank staff.

**4.2** *When you become a customer, we will give you information on the interest rates which apply to your accounts, and when we will take interest or pay it to you. We will also tell you our website address, our helpline numbers and the other ways in which you can find out about changes in interest rates on your accounts.*

At account opening, customers should be told the interest rates applying to their accounts and be given information on how interest will be calculated, e.g. when calculated, compounded and charged. When quoted in the same document, debit and credit interest should also be shown on a consistent basis, (for example, monthly or annually) so as to make it easier for customers to compare and choose whether to save or to repay debts.

Customers should also be told how and where they can get up-to-date information on interest rates. If using newspapers to provide the information, subscribers should try, as far as possible, to use the same newspapers each time and ensure that the newspapers used reflect the readership of their customers. This does not mean undertaking a detailed survey, simply that subscribers should be generally confident that the newspapers are appropriate. Generally, advertisements should be carried in two newspapers as a minimum.

In relation to credit cards, see also the guidance relating to section 10.8.

**4.3** *If you ask us, we will also give you a full explanation of how we work out interest.*

This is to enable customers to check the interest charged or credited to their accounts, regardless of how difficult it may be to explain. Customers should be given a worked example or the methodology used, although this may be mathematically complex. Customers should not be charged for this explanation.

#### Changes in interest rates

- 4.4** *We will keep you informed about changes in the **interest** rates on your accounts and we will tell you about the ways we will do this.*

The requirement to 'keep you informed of changes to the interest rates on your accounts' will be fulfilled by either:

- telling customers personally within 30 days of the change (subject to the provisions of 'Interest variations on savings accounts' below); or
- within three working days of the change, put notices in our branches and in the newspapers we usually use. To help customers compare rates more easily, our newspaper notices will show clearly the old and new rates.

Subscribers should try, as far as possible, to use the same newspapers each time and ensure that the newspapers used reflect the readership of their customers. This does not mean undertaking a detailed survey, simply that subscribers should be generally confident that the newspapers are appropriate. Generally, advertisements should be carried in two newspapers as a minimum.

Subscribers should follow the BBA/BSA Code of Conduct for the Advertising of Interest Bearing Accounts in advertising the changes. Personal notifications can include:

- post, including:
  - *personalised correspondence;*
  - *a product-specific statement insert;*
  - *a statement message; and*
  - *a message to the customer accompanying the annual notification of interest rates document;*
- e-mail; and
- secure internet messaging.

The notices in branches, etc. should be clear, prominent and read easily.

It is not enough for the changes to be available on the telephone or on the website, should the customer decide to telephone or log-in to the site. To use the website for communication, customers must be sent something, for example, an e-mail, alerting them to the fact that a change has been made and advising them to check the website for the latest rates.

Secure internet messaging may be used by subscribers to communicate changes in interest rates, but only where the subscriber has a reasonable expectation that the customer will view the message. (For example, because the customer has confirmed they wish to be contacted in this way, or because the subscriber's records show that the customer frequently (e.g. at least every 30 days) accesses their account online.) The message must be prominent.

'Within 30 days' should be interpreted sensibly – if the best way of providing the information is by a message on a monthly statement, and if the statement goes out on, say, the 1st of every month and that month happened to have 31 days, it would be acceptable under the Code.

Because customers are personally notified of the changes, there is no need for this to be advertised in the press, although subscribers may of course choose to do so.

#### Interest variations on savings accounts

If a customer has a variable-rate savings account including a fixed rate account that has become variable after the fixed rate has expired (including accounts that are no longer available) with £500 or more in it and the interest rate falls by more than 0.25 percentage points on a rate change compared with the Bank of England base rate (a 'relevant rate change'), a subscriber will personally notify the customer within a reasonable period of time. The effective date for the £500 cut-off should be the same across the account range. It relates to a point in time balance, not an average balance. The £500 limit is a cost-benefit measure that takes account of the cost of personal notification to customers.

#### Bonuses and tiers

Bonuses offered for a fixed period of time, to either new or existing customers, should not be considered when deciding whether there has been a relevant rate change. This is subject to the caveat that the terms of the bonus must be clearly communicated to customers.

There will be a relevant rate change on accounts, with more than one tier of interest rates where there has been a relevant rate change on any one of the tiers.

#### Relevant rate change

The interest rate on a variable rate account is considered to have fallen relative to Base Rate in each of the following four circumstances when the interest rate:

- is reduced by more than the reduction in Base Rate;
- is increased by less than the increase in Base Rate;
- has been decreased but there has been no reduction in Base Rate;
- has not been increased following an increase in Base Rate.

This requirement applies irrespective of the channel for delivery of the account, e.g. branch, postal, telephone, Internet etc. Where it is necessary to contact customers after a relevant rate change, this should be in an appropriate form (e.g. letter, statement, e-mail etc), and not be subordinate to other material, e.g. marketing messages.

#### Reasonable period

Subscribers have up to 30 days<sup>1</sup>, from a change in Base Rate to make a decision regarding the interest payable on accounts. The 'reasonable period' of time for subscribers to notify customers of a relevant rate change should not be more than 30 days from the date the subscriber's decision is made about the interest rate that would trigger a relevant rate change notification. It would not be reasonable for a subscriber routinely to implement reductions almost immediately in relation to Base Rate reductions and delay for nearly 30 days increases following rises in Base Rate.

Exceptions where the Interest variations on savings accounts requirements do not apply are:

- current accounts, and transactional accounts (including accounts with the usual current account features, except a personal cheque book);
- if the interest rate tier relates to balances below the minimum operating balance for the account and the minimum balance requirements have been communicated clearly to the customer (e.g. in terms and conditions); or
- the customer has been told that the interest rate payable to them will be fixed or nominal (e.g. 0.5 per cent or less) whilst their balance remains below the minimum balance requirement for the account or at the level of a low-balance tier to which a fixed or nominal rate applies; or
- tracker accounts or fixed rate accounts.

- 4.5** *When we change the interest rates on your accounts, we will update the information on our phone helpline and our website within three **working days**. To help you compare rates, the old rate will also be available on our website and our helpline.*

Previous rates should be available on websites for comparison purposes and should also be available on interest rate helplines so customers can check previous rates. If an automatic telephone system is used, there should be an option for the customer to be able to get details of the previous rates, for example, by calling another number. It is suggested that the previous rates should be displayed on websites for one month as a minimum.

This section (including the provisions set out below) does not apply to interest rate movements on money market accounts (where the interest rate is linked to movements in the money markets), or on an account where the rate of interest is directly linked to another index, for example, BBA LIBOR or the subscriber's Base Rate, changes in which are already advertised and which normally track the Base Rate. However, it would apply where there was a change in the relationship between the interest rate and the underlying reference rate.

- 4.6** *To help you compare **interest** rates on all our savings accounts more easily, at least once a year we will send you a summary of these products and their current **interest** rates unless your account has less than £500 in it. This summary will also include:*
- *accounts that are no longer available; and*
  - *details of how you can find out about the current **interest** rates that apply to your accounts.*

The summary does not have to be sent to holders of fixed-rate, fixed-term accounts.

This is an additional safeguard which applies to all variable rate sterling savings accounts – even if there have been no changes in interest rates. It does not apply to current accounts, tracker accounts (see definition in 4.8) or savings accounts with less than £500 in them.

<sup>1</sup> This may be extended to take account of the decision of the following month's meeting of the Monetary Policy Committee, provided any personal notification is sent within 60 days of the change in the Base Rate.

The effective date for the £500 cut-off should be the same across the account range. It relates to a point in time balance and not an average balance.

There is no need to send the summary to holders of fixed-rate fixed-term accounts, as such accounts cannot be broken. Similarly, there is no need to include information about closed fixed-rate fixed-term account issues on the summary.

There is no need to send a summary of unavailable accounts to customers who do not hold any such accounts.

Products offered under a different brand, or through a branded channel using a different method of distribution, need not be included in the summary.

It is not necessary to include non-affinity products in mailings to customers with affinity products, nor is it necessary to include affinity products in mailings to non-affinity product customers. (See guidance on section 3.2 above.)

- 4.7** We will also tell you the different **interest** rates which have applied to your account during the year and any changes in the **Bank of England base rate** (unless we have already told you personally about these or if your account has less than £500 in it).

This information is required to be provided at least annually. It is up to subscribers to decide how to do this. For example, the information could be personalised to each account or a schedule of rates and rate tiers could be sent to customers for them to compare the schedule with their statements or passbook. There is no need to send this information to money market account customers, where changes are due solely to market movements. The effective date for the £500 cut-off should be the same across the account range. It relates to a point in time balance and not an average balance.

- 4.8** If you have a variable-rate savings account with £250 or more in it and the **interest** rate has fallen significantly compared with the **Bank of England base rate**, we will contact you within a reasonable period of time to:
- tell you that this has happened;
  - tell you about our other **savings accounts** and offer to help you to switch to one of these accounts if you want to;
  - tell you that you can withdraw all the money in your account; and
  - give you a reasonable period of time to switch to another account or withdraw the money without any notice period or any charges.

This clause applies to variable-rate savings accounts and fixed-rate accounts that have become variable after the fixed rate has expired (including accounts that are no longer available).

#### ‘£250 or more’

The effective date for the £250 cut-off should be the same across the account range. It relates to a point in time balance and not an average balance. The £250 limit is a cost-benefit measure which takes account of the cost of personal notification to customers. It should not affect the customer’s ability to withdraw or switch their funds. Accordingly, customers with balances of less than £250 who, in the circumstances covered by section 4.8, wish to withdraw funds from their account, or switch to another account, should be allowed to do so without notice or penalty in the same way as customers with higher balances.

#### ‘Fallen significantly’

Each time the interest rate on a savings account is changed or the base rate is moved, it will be necessary for subscribers to determine whether the interest rate on the account has fallen significantly relative to the base rate. ‘Fallen significantly’ is defined as a reduction of 0.5 percentage points or more relative to the base rate in the previous twelve months (the ‘reference period’). The 0.5 percentage points fall could occur in a single change or a series of changes, which cumulate to 0.5 percentage points or more.

The interest rate on a variable rate savings account is considered to have fallen relative to the base rate in each of the following four circumstances when the interest rate:

- is reduced by more than the reduction in the base rate;
- is increased by less than an increase in the base rate;
- has been decreased but there has been no reduction in the base rate;
- has not been increased following an increase in the base rate.

#### The twelve-month reference period

The twelve-month reference period is a ‘rolling’ period, e.g. the reference period on 1.1.07 will be the 12 months from 2.1.06, on 2.1.07 it will be the twelve months from 3.1.06, etc.

After a base rate change, either of the following could happen:

- the subscriber changes its own rates within 60 days (or a period extended to meet a contractual notice obligation) in which case the temporary position between the base rate and account rate change is ignored, and the reference point is the date of the base rate change; or
- the subscriber does not change its rates within 60 days, in which case the reference point is again the date of the base rate change.

This means that the subscriber must compare the margin after reacting to a base rate change with the one that applied 12 months before the base rate change, to see whether notifications need to be issued. The reference margin is therefore not necessarily the one 12 months prior to the date the subscriber changes its own rate (if it does) within the 60-day window, unless the change is made the same day as base rate changes.

There are two sets of circumstances when the reference period is less than 12 months (see table below which illustrates how these work):

- when a notice under section 4.8 has already been sent to customers within the previous 12 months, in which case the effective date for the most recent such notification becomes the reference date (e.g. the date the new reference period starts). The effective date will be either the date the change in the savings account interest rate took effect or, in the case of a section 4.8 notification, (the base rate increased, but the savings account interest rate remained unchanged or was not raised enough to avoid a downgrading), the date of the increase in the base rate.
- if the interest rate on an account is increased relative to the base rate, when compared to the margin relative to the base rate that applied at the start of the current reference period. In this case, the reference date becomes the date of the increase and the new relationship to the base rate becomes the margin against which any further changes are measured.

#### Examples of how the reference period works

Base rate	Savings account rate	Date of savings account rate change or base rate change where no change in savings account rate	Date new reference period starts (ie, the reference date where applicable)	Savings account rate deterioration relative to base rate	Has savings account rate been downgraded?	Reason for downgrading
4%	3.5%	1 Jan 2006	1 Jan 2006	n/a	n/a	n/a
4.25%	3.5%	5 March 2007	n/a	-0.25 percentage points	no	n/a
4.5%	3.5%	24 June 2006	24 June 2006	-0.50 percentage points	yes	Fall of rate by 0.5% relative to base rate
4.25%	3%	16 Sept 2006	n/a	-0.25 percentage points	no	n/a
4.25%	3.25%	12 Nov 2006	n/a	n/a	no	n/a
4.25%	2.75%	13 Feb 2007	13 Feb 2007	- 0.50 percentage points	yes	Fall of rate by 0.5% relative to base rate
4.5%	2.5%	10 June 2007	10 June 2007	-0.50 percentage points	yes	Fall of rate by 0.5% relative to base rate
4.75%	2.5%	6 Oct 2007	n/a	-0.25 percentage points	no	n/a
5%	2.5%	20 Nov 2007	20 Nov 2007	-0.50 percentage points	yes	Fall of rate by 0.5% relative to base rate

#### Bonuses and tiers

Bonuses offered for a fixed period of time, either to new or existing customers, should not be considered when deciding whether or not the interest rate on an account has ‘fallen significantly’ relative to the base rate. Subscribers should ensure that the terms of any relevant bonus period are clearly communicated to customers prior to opening, and on opening, the account.

Accounts with more than one tier of interest rates will be considered to have ‘fallen significantly’ if the rate on any one of the tiers has ‘fallen significantly’. All customers with balances of £250 or more in the account, whatever tier they fall into, must be personally notified that the account has been downgraded.

**‘Reasonable period’**

Subscribers have up to 30 days<sup>2</sup>, from a change in the base rate to make a decision regarding the interest payable on accounts. The ‘reasonable period’ of time for subscribers to notify customers of downgrading (in the first sentence of paragraph 4.8) should be not more than 30 days from the date the subscriber’s decision is made about the interest rate that would trigger a downgrading notification. It would not be ‘reasonable’ for a subscriber to routinely implement reductions almost immediately in relation to base rate reductions and delay for nearly 30 days increases following rises in the base rate.

The practical application of this is that if any savings rate change is not implemented within 60 days following a base rate change, then a new margin comes into effect that may result in an immediate downgrading notification or create a new, more demanding, benchmark, depending on the direction of the base rate change.

Where the terms and conditions for the account require more than 30 days’ notice to be given before a rate change can take effect, the subscriber must still take a decision. Where the decision is to change rates, subscribers must give notice of the change, within 30 days of the change in the base rate, but bringing the change into effect after the contracted notice period, rather than within 30 days, will not be treated by the BCSB as a breach of the Code.

In the fourth bullet point of section 4.8 of the Code, a ‘reasonable period of time’ for customers to switch to another account or to withdraw the money in the account is at least 60 days from the date of dispatch of the communication telling the customers about the downgrading. Customers who become aware of downgrading prior to dispatch of personal notifications (e.g. because they have seen the new interest rate(s) for their account on a website notice) must also be free to withdraw their balance without notice or penalty.

**Communications to customers**

Where it is necessary to contact customers under section 4.8, this should be in the form of a personal written notification that is not subordinate to other material, e.g. marketing messages. The communication should make it clear to customers that they will need to take action if they are not happy with the revised interest rate and, where appropriate, should incorporate an easy response mechanism for those that wish to switch accounts or withdraw funds. The rate of interest currently being earned should be clearly drawn to the customer’s attention, together with the current base rate, preferably being shown on the face of the letter rather than in an accompanying summary. The notification should also show either:

- the previous savings account interest rate(s) and the previous base rate; or
- that the relationship between base rate and the interest rate on the customer’s account has changed and tell the customer how it has changed.

Subscribers may restrict the customer to one transaction which is charge-free and notice-free within the period referred to in the fourth bullet point of section 4.8, provided that such a restriction is communicated clearly to the customer before the transaction takes place.

**Pre-notification**

It is recognised that where customers are pre-notified of interest rate changes, this exceeds the minimum required under section 4.8. In such cases, if the interest rate has fallen significantly relative to the base rate, customers should be given a minimum of 30 days from the date of dispatch of the notification to withdraw or switch accounts without notice or penalty. Subscribers who pre-notify in this way should bear in mind that if the base rate has increased, but their savings account interest rate has not, such that there has been a reduction compared to the base rate of 0.5 per cent or more, then the notification provisions of paragraph 4.8 would apply in full.

**Exceptions to section 4.8**

The requirements under section 4.8 do not apply if:

- the interest rate tier relates to balances below the minimum operating balance for the account and the minimum balance requirements have been communicated clearly to the customer (e.g. in terms and conditions); or
- the customer has been told that the interest payable to them will be fixed or nominal (e.g. 0.5 per cent or less)

<sup>2</sup> This may be extended to take account of the decision of the following month’s meeting of the Monetary Policy Committee, provided any notification of downgrading is sent within 60 days of the change in the Base Rate referred to in the first sentence under ‘reasonable period’ above.

whilst their balance remains below the minimum level for the account or at the level of low-balance tier to which a fixed or nominal rate applies.

The requirements under section 4.8 do not apply to tracker accounts<sup>3</sup>.

**Superseded accounts**

If the account is a superseded account, superseded prior to 1 March 2003, under section 4.11 of the January 2001 Code, and the customer has been informed that the interest rate on the account is a fixed rate or is a nominal rate which is unlikely to change (this might be where the customer has failed to respond to a notification or switch their account) Section 4.8 does not apply.

However, other superseded accounts (e.g. those dealt with under section 4.9 and 4.10 of the January 2001 Code) will be subject to the notification provisions of section 4.8 of the March 2005 Code. For the avoidance of doubt, from 1.3.03 there has no longer been a requirement to maintain the interest rates on a superseded account at the same level as an account with ‘similar features’ from the subscriber’s current range.

## 5 Charges

**5.1** *When you become a customer, we will give you details of any charges for the day-to-day running of the account you have chosen.*

**5.2** *You can also find out about these charges by:*

- *phoning our helpline;*
- *looking on our website; or*
- *asking our staff.*

Customers should be given, at the start of the relationship and at any time they ask, details of the charges for the day-to-day running of the account which apply to their particular account. Table 5 below shows examples of such charges for current and savings accounts.

The intention underlying the requirements in section 5.2 to section 5.5 is that customers should not be surprised at any charge they see appearing on their statement in connection with the basic operation of an account. It would also be advisable to include a warning that the charges may change in the future.

There is no need at the account opening stage for details to be given of charges for other services and products provided on a less frequent basis, for example, charges for bankers’ drafts, duplicate statements, and stopped cheques. However, individual subscribers may wish to do this – as a minimum the customer should be told the charges for these services before the service is given.

It is common for subscribers to charge fees for borrowing on current account when there is no borrowing limit or it has been exceeded. There are also fees for events such as cheques returned or direct debits not paid because of an inadequate balance. These should be advised to the customer on account opening and details should be available any time the customer asks. See section 10 for details on charges to be advised to credit card applicants.

Applicants for personal loans should be advised before the loan account is opened of the standard charges that apply if they fall behind with their loan repayments.

**5.3** *If we increase any of these charges or introduce a new charge, we will tell you personally at least 30 days before the change comes into force.*

Section 5.3 refers to the charges for the day-to-day running of the account covered by sections 5.1 and 5.2. Personal notification, as before, can be by any one of a variety of methods; for example, letter, statement insert, e-mail secure internet messaging (see guidance on section 4.4 above), etc. There is no need to notify customers of reductions in charges.

<sup>3</sup> ‘Tracker account’ – a product which, as defined in its terms and conditions, pays interest at a rate or rates which follows, by a defined amount and within a defined period, an external and independent index or bank rate. (NB. the defined period should be the same when the tracked index or rate goes up as it is when the tracked index or rate goes down.)

**5.4** We will tell you the charge for any other service or product before we provide that service or product, and whenever you ask.

This covers those charges not required to be notified to customers when they open their accounts (although subscribers mostly choose to do so) and includes non-standard charges in relation to borrowing. Customers should also be told details of any extra interest that would be payable in such cases. Any changes in these charges do not need to be personally notified to customers. The customer should be notified of the charge before the service is provided, whether orally, by e-mail or by some other method. Table 5 shows examples of these types of charges for current and savings accounts.

**5.5** Before we take **interest** or charges for **standard account services** from your **current** or **savings account**, we will give you at least 14 days' notice of how much we will take.

Any charge or interest that accumulates to the account, e.g. that is rolled up to be charged at the end of a particular period, should be pre-notified. This would generally include debit interest, and transactional charges. These are shown in Table 5 below as services for which customers will receive prior notification. This does not include the fees for unauthorised borrowing, including exceeding a limit.

'Interest' refers to interest deducted from the current or deposit account itself and not to payments made from the account in respect of interest due on another account.

The 14 days start from the date the notification is posted (whether by letter, statement notice or e-mail, etc.), not from the date the notification is received.

Charges for services that are debited at the time a service is provided and where the customer has been notified in advance (for example, in the standard tariff) or where the customer is informed at the time the service is provided, are not subject to 14 days' notice before they are taken. This includes fees for taking an unauthorised overdraft or exceeding an agreed limit although subscribers may choose to give this notice.

**Table 5**

Product type	Examples of charges which customers should be told about on account opening (see section 5.1)	Examples of charges which customers should be told about when they request a specific service (see section 5.4)	Charges where 14 days' prior notification is required (see section 5.5)
Current account	<ul style="list-style-type: none"> <li>standard charges and additional interest payable for unauthorised borrowing</li> <li>charges for cheques/standing orders/direct debits which are returned for lack of funds</li> <li>charges for using branch counters</li> <li>monthly or other regular account fees</li> <li>usage fees for arranged overdrafts</li> <li>if applicable, charges for processing cheques/standing orders/direct debits/UK debit card transactions</li> <li>charges for unpaid cheques</li> </ul>	<p>Charges for:</p> <ul style="list-style-type: none"> <li>bankers' drafts</li> <li>duplicate statements</li> <li>stopped cheques</li> <li>special presentations</li> <li>CHAPS</li> <li>foreign-exchange services (see sections 9.11-9.13)</li> </ul>	<ul style="list-style-type: none"> <li>usage fees for arranged overdrafts</li> <li>debit interest</li> <li>if applicable, charges for standard account services such as charges for processing cheques/standing orders/direct debits/UK debit card transactions</li> </ul>
Savings account	<ul style="list-style-type: none"> <li>where applicable, charges for any 'current account' services (as above)</li> <li>the basis of calculation for any charges for early withdrawal from notice accounts or fixed-term accounts</li> </ul>	<ul style="list-style-type: none"> <li>where applicable, charges for any 'current account' services (as above)</li> </ul>	<ul style="list-style-type: none"> <li>where applicable, charges for standard account services – such as processing cheques/standing orders/direct debits/UK debit card transactions</li> </ul>

#### Cash machine charges

**5.6** We will give you details of any charges we make for using **cash machines** when we issue the **card**.

Customers should be told, both when they open their account and every time a **card** is re-issued, whether and what charges are made for ATM withdrawals, including the basis on which charges for withdrawals at ATMs abroad will be made.

**5.7** You will not be charged more than once for any transaction at one of our **cash machines**.

**5.8** When you use a **cash card** at one of our **cash machines**, a message on the screen will tell you, before you commit to making a withdrawal, the amount (if any) you will be charged for the transaction and who is making the charge.

**5.9** When you use a **card** other than a **cash card** at one of our **cash machines**, a message on the screen will tell you, before you commit to making a withdrawal, the amount (if any) we will charge you for the transaction. The message will also tell you that your **card** issuer may charge you for the transaction.

**5.10** We will show **cash machine** charges on your account statement.

These provisions are directed both at customers of the subscriber and others who may choose to use the subscriber's cash machines. Customers must be given full details of all charges to be debited from their account, in accordance with the LINK rules on ATM signage, before they commit to making a withdrawal using a cash card. Credit cards and charge cards are covered by Section 5.9.

In the case of cash cards, this means that details of the charges levied by either the ATM owner (the acquirer) or the card issuer must be displayed so that there is full transparency of charging. 'Who' is defined widely enough to mean either the issuer or the acquirer. The ATM owner cannot, however, be liable for displaying an incorrect charge if it was the result of incorrect information provided by the card issuer. In such cases, the provider of the incorrect information would be in breach of the Code (if a Code subscriber), not the ATM owner. However, the customer must not be charged twice for the same transaction.

Some issuers may wish to absorb all or part of the surcharge imposed by the acquirer. Provided there is still a net charge to the customer, details will still be pre-notified on the screen with the option to continue or cancel the transaction. Where the issuer wishes to give its customer an 'incentive fee' e.g. the issuer credit exceeds the acquirer's surcharge or there is an issuer credit and no acquirer surcharge, the responsibility of communicating, this 'incentive' fee rests with the issuer and this does not have to be communicated via the acquirer's ATM screen.

In the case of credit and charge cards the customer should be warned by an on-screen message that the card issuer may take a separate charge (this refers to the 'cash advance' fee/charge).

The charge, whether levied by the issuer or the acquirer, should be separately identifiable on the statement. It is for subscribers to decide whether to show a separate debit for the ATM charge, or to include an appropriate message with the cash debit figure. Either is acceptable, provided that the charge is clearly and separately identifiable. In relation to withdrawals made at ATMs abroad, the detail on the statement should show how the final debit figure has been arrived at from the amount of foreign currency withdrawn, for example, by including details of the exchange rate used and/or any charges applied. (See also, the guidance below, on section 10.4, foreign-currency card transactions.)

It may not be possible for card issuers to separate out a foreign acquirer's charge from the information received, as it may be included in the exchange rate. However, the rate used or the currency amount should be shown, together with any cash-handling fee taken by the issuer. The 'no double charging' provision applies only when subscriber-issued cards are used in the UK.

The charges referred to in this section are those that relate solely to the use of the ATM at the time it is used. The section does not cover account transaction charges that become payable at a later date, for example, because an account which was in credit at the time of the transaction subsequently becomes overdrawn or because the number of free withdrawals allowed had been exceeded.

## 6 Terms and conditions

Section 6 refers to standard terms and conditions, e.g. those which customers are not able to negotiate.

**6.1** When you apply to become a customer or accept a product for the first time, we will give you any relevant terms and conditions for the product you have asked us to provide.

This section does not require that formal terms and conditions, in the legal sense, have to be separately in place for each product or service. Where there are no product-specific terms and conditions applying to the product or service selected by the customer, and the customer is required to sign a customer agreement, the customer's attention should be drawn to the features of the customer agreement.

Unless it is impracticable to do so, (as in the case of products purchased by telephone) customers should be provided with any product terms and conditions – and be encouraged to read them – before they are committed to purchasing the product. In the case of products purchased at a distance, the requirements of the Financial Services (Distance Marketing) Regulations 2004 and the rules made by the FSA which give effect to the Distance Marketing Directive should be followed where appropriate.

**6.2** *All written terms and conditions will be fair and will set out your rights and responsibilities clearly and in plain language. We will only use legal or technical language if necessary.*

All terms and conditions should be written in clear and intelligible language. They should be fair in substance to reflect the requirements of the Unfair Terms in Consumer Contracts Regulations.

Terms and conditions supplied to customers in paper format should be easy to read by someone with normal or corrected eyesight.

#### *Changes to terms and conditions*

**6.3** *When you become a customer, we will tell you how we will let you know about changes to terms and conditions.*

'When' customers have to be notified of changes is set out in sections 6.4 and 6.5. Customers should be told 'how' they will be notified when they become a customer. Only where any change is to the customer's disadvantage does the change have to be personally notified. Therefore, subscribers should tell customers 'how' they will be notified of other changes, for example, by press advertisements, branch notices, information on the website, etc. The method chosen should be appropriate for the distribution channel. So, for example, a branch notice would not be appropriate to advertise changes in the terms of an internet-only account.

**6.4** *If the change is to your disadvantage, we will tell you about it personally at least 30 days before we make the change. At any time up to 60 days from the date of the notice you may, without notice, switch your account or close it without having to pay any extra charges or **interest** for doing this.*

If terms and conditions are changed to the customer's detriment, for example, if the access provisions on a savings account are reduced, customers must be given at least 30 days' personal notice, for example, by letter, e-mail, etc, before the change takes effect. At any time during the 60 days from the date of the notification, the customer must be free to close or switch their account without having to give any notice. Customers should also be free to close or switch accounts without any financial penalty.

**6.5** *We may make any other change immediately and tell you about it within 30 days.*

Any changes which are not to the customer's disadvantage are covered by this section. Subscribers should be prepared to justify why they believe a change is not to the customer's disadvantage. The method of notification used should be that explained to customers under section 6.3 above.

**6.6** *If we have made a major change or a lot of minor changes in any one year, we will give you a copy of the new terms and conditions or a summary of the changes.*

In determining what constitutes a 'major change or a lot of minor changes', subscribers should consider what the average customer could expect to receive. When subscribers make any changes, they will give customers the detailed wording of the new changes or a summary of the changes.

If a subscriber has made a major change or a lot of minor changes in any one year, and has just given customers a summary of the changes, it will give them a full copy of the terms and conditions applicable during the year showing the date of issue or the date when they became effective.

If the subscriber has already given customers the new wording for the changes, then it is not necessary to provide a full copy of the terms and conditions during the year.

## 7 Changing your account

### *Cooling off*

**7.1** *If you are not happy about your choice of **current account**, **savings account** or **Cash ISA**, you may cancel it within 14 days of:*

- *the day you enter into the contract; or*
- *the day on which you receive the contract terms and conditions and other information on paper or electronically;*
- *whichever is later.*

*We will help you switch to another of our accounts or we will give you all your money back with any **interest** it has earned. We will ignore any notice period and any extra charges.*

*This does not apply to:*

- *a **fixed-rate** account (except a **Cash ISA**);*
- *an account or contract for financial services where the price depends on rises and falls in financial markets outside our control that may happen during the cancellation period; or*
- *a branch-based Child Trust Fund cash deposit account (in other words, not sold at a distance).*

This provision enables customers to change their mind about a product within 14 days of the conclusion of the contract or on the day that the customer receives the contractual terms and conditions and other information in a durable medium (as defined in the glossary to this guidance), whichever is the later.

Interest should also be paid on the funds for the period of time the account was open (starting from the date funds are cleared for the payment of interest). On a savings account, this should be paid at the level of the subscriber's currently promoted instant-access savings account, as a minimum. On a current account, no interest may be payable and indeed, if the customer has been overdrawn, interest may be payable by the customer. It is acceptable to charge a fee if a facility such as an overdraft has been used, but additional charges to close the account should not be made.

The customer's funds do not have to be returned to them until the funds have cleared. Also, there may be occasions when the customer has to fully satisfy identification requirements under the money laundering rules (see the JMLSG Guidance).

It is important that customers are made aware of their rights under this provision no later than the point of account opening.

Subscribers should be aware that the FSA rules on cancelling Child Trust Funds and Cash ISAs are more complex than the general provision set out above. Please refer to the relevant FSA Conduct of Business rules for details.

### *Upgrading your account*

**7.2** *We will not upgrade your **current account** from a free account to a fee-paying account without your permission, unless we plan to upgrade all free accounts of that type.*

Subscribers may offer customers the opportunity to upgrade their current account from a free account to a fee-paying account. An upgrade should not take place unless the customer has given their express consent for the subscriber to do so.

Express consent is not required where it is the subscriber's intention to move all customers on the previously free account to a fee-paying service. In these circumstances all customers will be:

- given at least 30 days notice of the subscriber's intention;
- given the opportunity of 60 days from the date of notice to, without penalty, close their account or switch to another account; and
- informed of any alternative free current account with equivalent facilities currently marketed by the subscriber.

### *Moving your account*

**7.3** *If you decide to move your **current account** to another financial institution, we will give them information on your **standing orders** and **direct debits** within three **working days** of receiving their request to do this. Also, we will close or move your **current account**, free of charge, when you ask us to do so.*

Direct debit and standing order (DDSO) information should be sent to the new bank within three working days of receiving a request from the new bank.

Once the new bank has received the DDSO details from the old bank it will provide these to the customer to enable the customer to check their accuracy and ensure that only active ones are transferred. If the customer fails to respond within a reasonable period, the new bank may assume that the customer wants all DDSOs to be transferred to their new account.

All account transfer notifications between banks, customers and direct debit originators will be made by the most expedient method. Depending on the circumstances, this will typically include first class post, telephone, or electronic transmission.

Also, we will close or move your current account, without charge, when you ask us to do so.

If the customer wishes the new bank to transfer their balance from the old bank to their account with the new bank, and this service is a feature of the new account type, the new bank will give sufficient notice of this to the old bank (this will usually be at least 5 working days before the transfer date). The old bank will use best endeavours to close the account on the transfer date and, where there is a credit balance, to send the funds in the manner requested. If the transfer cannot be completed on that date, the old bank will inform the new bank and the customer of the reason and will complete the transfer as soon as reasonably possible.

Subscribers may not levy additional charges for closing an account or for transferring standing orders and direct debits.

- 7.4** *If you want to transfer your **current account** to us, we will tell you:*
- *how the process for transferring your account will work and who is responsible for each step in the process;*
  - *what information your old financial institution will pass to us;*
  - *what features you will be offered with the new account so that you can compare your new account with features on your old account; and*
  - *how long the transfer is likely to take.*

This requires the 'new bank' – e.g. the bank or building society to which the customer wishes to transfer their current account – to explain to the customer how the process of transfer will work and, in particular, who is responsible for each step in the process: e.g. the old bank, the new bank, the customer or the direct debit originator. It is important, also, where the customer requires their account to be transferred within a certain period that a timescale acceptable to the customer is agreed.

Where the customer wishes to transfer their DDSOs to the new bank account, the new bank will, if so authorised by the customer, request the DDSO information from the old bank within three working days of approving a valid application. If the application has already been approved, the new bank will request DDSO information from the old bank within three working days of receiving the customer's written request to do so.

Where the customer wishes it to do so, the new bank will notify direct debit originators of the new account details and will do so on a timely basis. A specific service level eg, for the number of days which the bank has to react, is not appropriate in that the new bank will not know when direct debits are due to be collected. It is not in the customer's interest for revised instructions to be sent to direct debit originators prematurely. The important thing for the customer is that DDSOs are transferred to their new account on the date they have agreed with the new bank.

*We will give you what you need to use the account within 10 **working days** of approving your application.*

The 10 working days are counted from the date the customer's application is approved, e.g. once any necessary identification and address validation checks have been completed and, where appropriate, any necessary security has been put in place or any necessary credit has been received. 'What you need to operate the account' means the ability to pay into (including where appropriate, a paying in book) and make withdrawals from the account (e.g. an ATM card with PIN and, where appropriate, a cheque book).

- 7.5** *We will cancel any bank charges you will have to pay as a result of any mistake or unnecessary delay by us when you transfer your **current account** to or from us.*

This requires bank or building society charges to be waived where the subscriber is at fault. Where charges have been taken from the customer's account before the subscriber's error has been identified, the customer should be reimbursed. (See also section 2.)

#### *Closing your account*

- 7.6** *Under normal circumstances, we will not close your account without giving you at least 30 days' notice. Examples of circumstances which are not 'normal' include threatening or abusive behaviour towards staff.*

Subscribers will be able to respond to a bankruptcy notice by immediately closing an account without notice if they feel this is necessary. Similarly, they may respond to a request by a receiver in bankruptcy to close an account and send the funds to the receiver under his powers which are not compromised by the Code.

- 7.7** *We will not close your account, or threaten to do so, as a response to a valid complaint you have made.*

Subscribers should not close an account solely because a customer has made a complaint or exercised their rights under the Banking Code or in law, so long as the customer is not also acting in a manner that might normally lead to account closure.

#### *Moving or closing your branch*

- 7.8** *If we plan to close or move your branch, we will tell you at least 12 weeks beforehand. We will also tell you how we will continue to provide banking services to you.*

This relates to permanent closure, not temporary closures (e.g. due to branch refits). This does not apply where branches merge and are very close together (e.g. in the same or adjacent streets) or where a branch relocates to a very close location, providing customers do not experience the service reductions outlined in the next three Guidance bullets below.

If a customer is formally attached to a particular branch (e.g. they have an individual account number and branch, rather than a central or universal, sort code), and that branch is to close, the customer should be given personal notification of at least 12 weeks.

In all cases (e.g. whether customers are formally attached to a branch or not) a prominent notice should be placed in the branch for all customers to see and consideration given to other local advertising and notifying local councils and community groups.

Notifications should provide information on alternative facilities offered by the subscriber in the locality including, its nearest alternative branch and its nearest free ATM(s). Notifications should also include generic information about other channels through which banking services are provided.

In exceptional circumstances, such as where there have been life-threatening raids, the notification periods may be reduced or waived by the subscriber, although notification should still be given to customers.

The requirements of this section of the Code apply also where:

- all counter services in a branch are replaced with automated provision; or
- branch opening hours, are reduced by 30% or more; or
- access to a branch becomes restricted to a particular group or groups of customer(s).

The 30% reduction in opening hours should usually be measured by reference to the branch's previous opening hours over a working week, but alternative measures in line with the local market are acceptable.

This section also applies to branch agencies, where it is the subscriber who chooses to bring the agency agreement to an end (placing notices in the agency may still be dependent on the goodwill of the agent, and may not therefore be possible – although arrangements and agreements made with agents should have been designed to ensure as far as possible their co-operation in complying with this requirement). If the agent defaults or withdraws from the agreement at short notice, it may not be possible for the subscriber to give the required notice to customers.

## 8 Advertising and marketing

- 8.1** *We will make sure that all advertising and promotional material is clear, fair, reasonable and not misleading.*

Subscribers should also ensure that they comply, as appropriate, with the relevant industry codes of practice listed under section 2 of the Code, 'Our key commitments to you', the FSA Handbook and other relevant legislation.

- 8.2** *We will take care when we send you marketing material, particularly if it relates to loans or overdrafts, or if you are under 18.*

This provision discourages casual and random use of marketing approaches and restates the importance of proper controls.

- 8.3** *Unless you specifically give your permission or ask us to, we will not pass your name and address to any company, including other companies in our group, for marketing purposes. We will not ask you to give your permission in return for **standard account services**.*

This provision restates, in a marketing context, the basic duty of confidentiality that financial institutions owe to their customers (see section 11 below). It means that a subscriber needs to have a customer's consent before passing information across the group, or to companies outside the group, for marketing purposes.

There are various acceptable methods of obtaining the customer's consent. It may, for example, be given by way of a clear and unambiguous clause above a signature box on an application form, or a positive 'click' on an internet application, or a positive reply to a specific question on the telephone. Subscribers should also be aware of the Information Commissioner's Guidance for Direct Marketers and telecoms licensing requirements. Consent should not be required in return for the provision of standard account services.

- 8.4** *We may tell you about another company's services or products. If you agree, that company may contact you directly.*

This section is concerned with 'host mailing'. No confidential information about the customer will be passed to the other company by the subscriber. If the customer is interested in the other company's products or services and they respond, then they are themselves releasing confidential information. For example, a subscriber may have a subsidiary which offers general insurance products. The subscriber could send their customer details of those products. The subscriber should make clear to the customer that the third party is a separate legal entity, and is not a division of the subscriber's company, since this will not always be clear to the customer from the name of the third party. It is only if the customer chooses to respond positively that the subsidiary will learn any details about the customer, or even that the particular customer has been sent the information in the first place.

- 8.5** *When you become a customer, we will give you the opportunity to say that you do not want us to contact you for marketing purposes. At least once every three years, we will remind you that you can do this.*

Account opening forms, whether paper or internet-based, or questions over the telephone, or other 'welcome pack' information, should contain a section or question to allow customers to signify that they do not wish to receive 'marketing approaches'. Examples of marketing approaches include literature through the post, e-mails and telephone calls. The types of approaches could be listed so that the customer can object to some rather than all.

'Marketing approaches' means information designed to sell additional services and products. This means that if there is a clear intention to sell a product or service which the customer does not already have, it will be caught by this provision, however it is sent. However, the provision of information relating to product or service improvements or the availability of new channels (e.g. that the customer's existing account(s) can be accessed via the internet) are excluded from this provision, as are changes to administrative details, such as new branch or telephone helpline opening hours.

As an illustration, advising a customer that they have free annual travel insurance with their 'added value' current account is not a marketing approach, whereas promoting an enhanced credit card to a standard credit cardholder is. Subscribers should consider carefully whether the purpose of a customer communication is operational or promotional. Where 'combined' messages are used, a non-promotional version may be needed for customers who have opted out of receiving marketing material.

Section 8.5 does not require express consent to send the information, but does require that the customer be given a clear opportunity to opt out of receiving it. Subscribers should, however, be aware (in the case of direct marketing telephone calls) of the Information Commissioner's Guidance in relation to the Privacy and Electronic Communications (EU Directive) Regulations 2003.

It will not be sufficient to state only in terms and conditions that customers can opt out by writing to a particular address; however, provided it was clear and unambiguous, a notification could be included in, for example, an account opening pack. In addition, existing customers have to be reminded, at least once every three years, that they can opt out from receiving this information. This reminder could be by letter, e-mail, telephone or other method, such as being included in an annual mailing, provided it is sent personally to each customer and is clear. Whatever notification method is chosen, subscribers should ensure that they are familiar with the various pieces of guidance issued by the Information Commissioner under the Data Protection Act 1998.

The three year notice can also be covered by subscribers adopting a more frequent approach, for example, on all statements and/or marketing material.

- 8.6** *We will not insist that you buy an insurance product from us when we agree to provide you with a lending product.*

This provision prohibits the bundling of insurance products with lending products in such a way that the customer is forced to buy an insurance product from the lending subscriber. It does not prevent subscribers from offering customers an incentive to take out an insurance product linked to another product, provided the customer is also able to take the other product without the insurance. (Subscribers are bound by the FSA Insurance Conduct of Business Rules and this section of the Code is preserved for the sake of clarity to customers.)

It is still permissible for a subscriber to insist that insurance cover is provided in support of the customer's borrowing. However, it should be made clear that the customer is free to obtain a relevant product from their own preferred source. The subscriber's terms for accepting such insurance should not be so disproportionately onerous that the subscriber's own insurance products appear more attractive.

## 9 Running your account

### Statements

- 9.1** *To help you manage your account and check entries on it, we will give you regular account statements unless this is not appropriate for the type of account you have (such as an account where you have a passbook).*
- 9.2** *We will normally give you a statement every month, every three months or at least once a year. You can ask us to give you account statements more often than is normally available on your type of account, but there may be a charge for this service.*

This provision applies to all accounts, however provided, unless clearly inappropriate. The statement does not have to be in paper form. For example, in the case of internet-based accounts, (or accounts with an internet banking facility where the customer has indicated they are content to receive statements in non-paper form) customers could be e-mailed regularly to remind them to check their statement of account online, and encouraged to save it or print it off. If statements are only available online, customers should be told how long they will remain available.

Statements should continue to be sent even when the account is inactive unless previous statements have been returned. Although customers may ask for more frequent statements, there is no requirement for subscribers to provide such a service and, if they do, a charge may be made.

There is no requirement for customers with fixed-rate, fixed-term loans to be sent a statement, although those with variable rate loans should be sent one. However legislation during 2008 will prescribe the provision of an annual statement on all loan accounts.

The statement does not have to be in traditional statement form – it could, for example, take the form of a letter.

For LIBOR linked accounts, no statements will be sent.

There are a number of specific pieces of information which should be included on every credit card statement and you will find this information at section 10.11.

- 9.3** *If you have a **card** which allows you to withdraw money from your account, we will provide you with account statements at least every three months if you have used the **card**.*

This is a fraud protection measure and applies to all card accounts, including passbook accounts with a **card**.

#### Clearing of payments

- 9.4** *We will tell you about the **clearing of automated payments**, including those over the phone or using online banking, or by **standing order**. We will tell you when you can withdraw money after it has been paid into your account and when you will start to earn **interest**. We will do this when you open your account and whenever you ask us.*

Subscribers should clearly explain to customers how long it will take for their payment to clear. If the payment is processed through the Bacs three-day clearing cycle then the explanation should include the number of days specified in the glossary definition of the clearing cycle and whether they add extra days to this. If the payment is made using the same-day Faster Payments Service (due to be operational from May 2008) then subscribers should ensure that their customers are aware of its impact. A sort code checker to ascertain whether the Faster Payments Service is available for customers' accounts will be on the APACS website ([www.apacs.org.uk](http://www.apacs.org.uk)) when the service is launched.

Subscribers will generally process automated payments based on account number and sort code. Guidance on handling payments in cases of discrepancy between account name and account number is available to subscribers from APACS.

- 9.5** *We will tell you about the maximum timescales for each stage of the process for **clearing** cheques you pay in or whether we offer a quicker service. We will tell you when you will start to earn **interest** on the money (or reduce the balance on which **overdraft interest** is charged), when you can withdraw the funds and when you can be certain that the money is yours. We will do this when you open your account and whenever you ask us.*

This section relates to the 2-4-6 (or 2-6-6 for savings accounts) timescales for each stage of the cheque clearing process.

When telling customers about cheque clearing, subscribers should include the number of days specified in the glossary definition of cheque clearing (or if they offer a quicker service, what those days are).

Day 6 for 'certainty' will not apply where the beneficiary is a knowing party to fraud.

Subscribers are encouraged to refer to the current edition of the Cheque & Credit Clearing Company and APACS publication, "Cheques & Cheque Clearing: The Facts", which provides factual information on the clearing process. More information on 2-4-6 and 2-6-6 can also be found at [www.chequeandcredit.co.uk](http://www.chequeandcredit.co.uk) or [www.apacs.org.uk](http://www.apacs.org.uk).

#### Direct Debits and Recurring Transactions

- 9.6** *We will tell you how **direct debits** and **recurring transactions** work and how you may cancel one of these when you no longer need it.*

Normally this should be done when the account is opened.

This links with section 12.10. Subscribers should give customers the information set out in section 12.10 relevant to the customer's account. So, for example, the information on cancellation of a recurring transaction would be relevant to a credit card, but not a savings account.

- 9.7** *We will tell you about the Direct Debit Guarantee, which protects you if a **direct debit** you have not authorised is taken from your account. If any money is wrongly taken from your account under a **direct debit**, we will refund your account as soon as you tell us about it.*

Normally this should be done when a customer opens the account.

If customers ask about the Direct Debit Guarantee they should be given the relevant information.

The Direct Debit Guarantee is offered by all banks and building societies that take part in the direct debit scheme. The efficiency and security of the scheme is monitored and protected by the customer's bank or building society.

If the amount to be paid or the payment dates change, the originator will notify customers normally 10 working days in advance of their account being debited or as otherwise agreed.

If an error is made by the originator or the customer's bank or building society, the customer is guaranteed a full and immediate refund from their branch of the amount paid.

A customer can cancel a direct debit at any time by writing to their bank or building society. They should also send a copy of the letter to the originator.

Further information can be obtained from [www.directdebit.co.uk](http://www.directdebit.co.uk).

#### Cheques

- 9.8** *We will keep original cheques paid from your account, or copies, for at least six years unless we have already returned these to you.*

This section does not apply to cheques that are not cleared through the customer's own account when finally presented, e.g. managers' payments or branch cheques or drafts, building society cheques, etc. which are 'bought' by customers, drawn on the bank or building society itself. Subscribers should also bear in mind the Limitation(s) Act 1980.

- 9.9** *If, within a reasonable period after the entry has been made on your statement, there is a dispute with us about a cheque paid from your account, we will give you the cheque or a copy as evidence. If there is an unreasonable delay after you have told us about it, we will add the amount of the cheque to your account until we have sorted the matter out.*

Again, this paragraph refers only to cheques issued on customers' own accounts. A common sense approach should be taken in relation to what constitutes a 'reasonable period' and an 'unreasonable delay' and, to an extent, the latter is a function of the former. For example, if the cheque requested was 5 months rather than 5 days old, it would take longer to locate. Similarly, it is likely to take longer to respond to a request for ten cheques than a request for one.

The dispute referred to is a dispute between the customer and the subscriber, not a third party. Therefore, if a customer requests a copy of a cheque (to act as a receipt, for example), this provision does not apply. In such cases and in the interests of good customer relations, a subscriber would no doubt wish to accede to the customer's request (and, of course, a charge could be made). But, in such circumstances, there would be no requirement to re-credit the account if there was an unreasonable delay in finding the cheque.

- 9.10** *We will tell you how we will deal with **unpaid cheques** and **out-of-date cheques**.*

This refers to cheques drawn on current accounts and other money transmission accounts.

- 9.11** *If we need to tell you that a cheque you have written (or another item) has been returned unpaid, we will do this either by letter or in another private and confidential way.*

The overriding duty of confidentiality is covered elsewhere in the Code, so this provision is simply a restatement. Therefore, unless the customer has specifically requested it, details about bounced cheques, etc. should not be sent, for example, by fax, where the subscriber cannot be sure that someone other than the customer may pick up the information.

This provision does not require customers to be sent a letter or be otherwise informed every time a cheque is returned unpaid; merely that if notification is sent, it is sent by private and confidential means. This would normally be to the customer's mailing address.

#### Foreign-exchange services

- 9.12** *When you buy or sell foreign currency, we will give you an explanation of the service, details of the exchange rate and an explanation of the charges which apply to foreign-exchange transactions.*

Foreign-exchange services should be explained to customers who are about to use them. If the customer has used the service before or is familiar with it, the explanation does not have to be given again. This paragraph also recognises that it will not always be possible to give a customer an exact cost as, for example, the proceeds of a foreign cheque sent

for collection may be dependent on the exchange rate at some point in the future. Where this is the case, customers should instead be told how the eventual charge will be worked out.

- 9.13** *If you want to transfer money abroad, we will tell you how to do this and give you:*
- a description of the services and how to use them;
  - details of when the money you have sent abroad should get there and the reasons for possible delays;
  - the exchange rate applied when converting to the foreign currency (if this is not possible at the time of the transaction, we will let you know later what the rate is); and
  - details of any commission or charges which you will have to pay and a warning that the person receiving the money may also have to pay the foreign bank's charges.

These provisions reflect the requirements of the Cross-Border Credit Transfer Regulations 1999. Although the regulations apply only to transfers made within EEA countries, the Code provisions apply to all transfers, whatever country is involved.

Subscribers should refer to the APACS implementation guidelines for further details. However, the provisions of the Code recognise the difficulties inherent in making cross-border payments, especially where a number of agent banks may be involved in the transfer. Customers should, therefore, be given reasons if there is likely to be a delay and also a warning if additional charges may have to be paid by the recipient of the payment. The exchange rate applied also has to be given – this does not necessarily have to be a specific figure but, if the transaction is carried out on behalf of the subscriber by another institution (for example, a building society may use its bank), the customer should be told the basis of the rate used (e.g. the rate on a specific day offered by a specific institution).

In respect of transfers to destinations outside the EEA, it is recognised that the subscriber may only be able to give the customer details of the charges and commission which the customer will have to pay to the subscriber.

- 9.14** *If money is transferred to your bank account from abroad, we will tell you the original amount received and any charges. If the sender has agreed to pay all charges, we will not take off charges when we pay the money into your account.*

Again, this provision reflects the requirements of the Regulations. It refers to payments received directly into an account from abroad. Customers should be told what the original amount received was and the charges deducted by the subscriber, unless the sender of the funds had agreed to pay all charges in which case the customer's account must not be debited with further charges.

Customers should also, when paying in foreign cheques, be told what happens; for example, whether their cheque is to be negotiated or collected, and an estimate of how long it might take the cheque to clear and the costs involved. If the cheque is paid in by post, this explanation should accompany the acknowledgement or receipt.

#### *Protecting your account*

- 9.15** *We will tell you what you can do to help protect your accounts. You can find out more about what you can do to help in section 12 of this Code.*

Subscribers should decide what information it would be most useful for customers to receive and the information set out in sections 12.5, 12.6, and 12.9 is indicative of the information customers may find useful. It should be communicated to the customer, at an appropriate time, such as when the account is opened.

- 9.16** *If you tell us that your chequebook, passbook, **card** or **electronic purse** has been lost or stolen, or that someone else knows your **PIN** or other security information, we will take immediate steps to try to prevent these from being used.*

This ensures that a stop will be put on the lost items as soon as possible and a block on PINs, personal information, etc. that may be known by someone other than the customer.

It links with sections 12.7 and 12.8 which give guidance to the customer on the need for them to inform the financial institution as soon as they become aware their cards, cheque books, etc. have been lost or stolen.

#### *Dormant accounts, lost accounts and unclaimed assets*

- 9.17** *If you have money in a **dormant account** or **lost account**, it will always be your property (or if you die, it will become part of your estate). This is the case no matter how many years pass.*

Institutions may have different definitions of 'dormant account', 'lost account' or 'unclaimed assets'.

A passbook or statement indicating that an account has money in it is not evidence that the account is dormant and still has money in it. A number of accounts have over time been closed without the closures being recorded in passbooks, etc. (for example, a passbook may have been mislaid at the time). A statement may pre-date the final closure of an account.

Subscribers should follow the ten core 'pledges', which underpin the dormant and lost accounts schemes:

- In advance of making an account dormant, following an extended period of inactivity, subscribers will write to the last known address asking whether the account should be kept open, unless mail has already been returned from that address.<sup>4</sup>
- Where the customer responds, the account will be kept open.
- If no response is received, the account will be made dormant and/or additional security procedures applied as a means of preventing fraud and protecting privacy.
- A record of dormant and lost accounts, including unclaimed assets, will be maintained in perpetuity.
- The funds remain in the beneficial ownership of the customer and will continue to attract interest on the same basis as the preceding live account.
- Claim forms will be made available through the branch network, central institutional points and through the BBA, BSA and NS&I and [www.mylostaccount.org.uk](http://www.mylostaccount.org.uk)
- Claims made direct to individual subscribers or via [mylostaccount.org.uk](http://mylostaccount.org.uk) will be processed as quickly as possible and, in any event, within three months.
- In the event of a valid claim the customer will be advised of: the balance of the account; the amount of interest that has accrued if the account is interest-bearing; and how the customer can access the funds.
- The commitment on the part of banks and building societies to assist customers reclaim money in a dormant account or lost account includes accounts falling within the statute-backed unclaimed assets scheme (scheduled to be introduced during 2009).
- There is a right of appeal through internal bank processes and, ultimately, by recourse to the Financial Ombudsman Service.

The core pledges governing the dormant accounts, lost accounts and unclaimed assets can be found in the help section of [www.mylostaccount.org.uk](http://www.mylostaccount.org.uk) and on the paper application form.

- 9.18** *If you ask us, we will tell you how to access these accounts either directly, or through the free central tracing service online at [www.mylostaccount.org.uk](http://www.mylostaccount.org.uk). This is run by the British Bankers' Association, the Building Societies Association or the National Savings & Investment **dormant and lost account** schemes (see section 17.6).*

- 9.19** *If we subscribe to the **unclaimed assets scheme**, we will tell you about the introduction of the scheme as part of our existing correspondence with you, and will remind you every three years. The **unclaimed assets scheme** will apply if you have not been in touch with us or have not made a transaction on your savings or current account for more than 15 years. This will not affect your right to access the money in your account. You can find out our policy for checking whether accounts are unclaimed by:*

- looking on our website;
- calling our helpline; or
- asking our staff.

*(The **unclaimed assets scheme** is scheduled to be introduced during 2009.)*

The Unclaimed Assets Scheme ('the Scheme') is scheduled to be introduced following the completion of Government legislation and consequential secondary legislation and an FSA policy statement on its detailed regulatory requirements. The main features of the Scheme are to be set out in the Bank and Building Society Dormant Accounts Bill, introduced in the 2007/08 Parliamentary session. The description of the Scheme, and the requirements of Banking Code subscribers, set out below are based on the BBA's and BSA's understanding of the Government's proposals and are subject to amendment in light of any changes made to the Bill during its passage through Parliament.

Participation in the Scheme will be voluntary, although both the BSA and the BBA are encouraging their respective members to participate. Banks and building societies that participate in the Scheme will be subject to the Banking Code

<sup>4</sup> Some banks and building societies will only make contact if the sum in the customer's account is above a certain amount, such as £25.

in respect of their dealings with account holders (or their legal heirs), whose accounts fall within the definition of an unclaimed asset. The operation of the Scheme will be governed mainly by a series of bilateral agency agreements between each bank and building society and the Reclaim Fund.

The requirement to tell customers about the Scheme is intended to raise general levels of awareness about the existence of the Scheme and to give contact details so customers know where to go if they want to trace a dormant or lost account. Notification of the details of the Scheme should be sent to all customers entitled to receive a copy of the Banking Code flyer (see section 2 of the Code).

Although under the Scheme liability to repay customer balances will rest with a Reclaim Fund, banks and building societies that participate in the Scheme are responsible for dealing with requests from lost account holders who come forward to claim their account (and any money paid under an agency agreement will be reimbursed subsequently by the Reclaim Fund).

When a customer claims an account that falls within the Scheme – and subject to their satisfying any identification and verification checks subscribers may have in place – they will usually have two options. They either:

- reactivate the account; or
- withdraw the available balance and close the account.

Whichever option the customer chooses to take, they should be reunited with their money without undue delay.

In the case of straight forward enquiries, for instance, in respect of an account made dormant relatively recently for which the claimant has full account details, the bank or building society should be able to reactivate the account or repay the funds within a matter of weeks. For less straightforward enquiries, for instance where the account is old or the claim and has only partial account details, it may take up to three months to advise on whether there may be a claim. The three month timeframe is likely only to be necessary in respect of claims made during the enhanced reunification initiative envisaged for 2008 and the early part of 2009. The Code sponsors plan to review this, in light of experience, once the unclaimed assets scheme is in place (e.g. during mid 2009), with a view to reducing the recommended timeframe to six to eight weeks. Subscribers will be given notice of any change and the effective date from which it will apply. The transfer of money to the Reclaim Fund should have no bearing on the time taken as the bank or building society will remain solely responsible for the maintenance of individual account records in respect of accounts falling within the unclaimed assets scheme.

It should be noted that for building society accounts where the account attracts an entitlement to membership of the society, the account holder should be informed that one of the consequences, should they choose to close the account, is that they will lose entitlement to any future rights they would otherwise have had as a member of the building society.

The Scheme will define an unclaimed asset as an account on which there has been no customer activity for 15 years or more. There are two areas relating to this where banks and building societies will have discretion.

First, subscribers will be able to take account of other evidence of customer activity within the previous 15 years.

Examples of this include:

- transactions on other accounts held with the institution (e.g. a savings, mortgage, current or credit card account),
- evidence of the customer visiting a branch, logging on to a website or phoning a call centre,
- voting at a building society AGM.

If subscribers do take account of such other evidence, it is important that they have systems in place to record all instances of such customer activity as subscriber records may be subject to external audit.

Second, as related above, where the customer disagrees with the way a bank or building society has dealt with their claim, the customer has a right of appeal through its internal complaints procedure and then through the Financial Ombudsman Service. In the case of account monies transferred under the unclaimed assets scheme, the customer will be notified that the complaint is against the Reclaim Fund and not the bank or building society. The bank or building society will however provide all parties with information needed to make an informed decision on the complaint and will issue the final response expressly stated to be on behalf of the Reclaim Fund. This will enable the FOS to establish whether the complaint is against the Reclaim Fund, the bank or building society or whether specific elements of the original complaint are against each party.

The Reclaim Fund is part of the Financial Services Compensation Scheme (FSCS) set up under the Financial Services and Markets Act 2000 (see section 17.5).

## 10 Cards and PINs

*This section applies to **cards** as defined in the glossary.*

### *General features of cards*

**10.1** *We will only send you a **card** if you ask for one or to replace a **card** you already have.*

This prohibits the unsolicited mailing of cards. It does not include 'electronic purses' so, if they ever become a widely used product, this section would not prevent the sending of test or sample cards for marketing purposes. Subscribers should also be aware of relevant legislation prohibiting the mailing of unsolicited cards.

**10.2** *If you do not recognise a **card** transaction which appears on your statement, we will give you more details if you ask us. In some cases, we will need you to give us confirmation or evidence that you have not authorised a transaction.*

This is designed to cover all circumstances when a customer may query a card transaction – whether a single debit or credit card transaction, an ATM transaction, or a recurring transaction.

Where a customer claims an unauthorised transaction, subscribers should tell the customer what evidence will be needed. Each subscriber should determine what it needs to prove a claim, but audit trails, systems checks, ATM cameras, copy letters and the sending of cards by registered post or courier could all be considered.

Where a subscriber will routinely block transactions on cards used abroad in an effort to reduce fraud, the subscriber should inform customers of this possibility so that customers can consider alternative methods of payment.

**10.3** *If we confirm a transaction is unauthorised, any **interest** charged will be refunded, unless you have acted fraudulently or without reasonable care (see under Sections 12.5 and 12.11).*

If the subscriber agrees that a transaction has genuinely not been authorised by the customer, then any interest that may have been charged on this transaction will be refunded. Interest will not be refunded if the customer has acted fraudulently or without reasonable care.

**10.4** *Your statement will show the rate of commission or charge (if any) we apply to foreign-currency **card** transactions.*

The rate of any commission charge subsumed within the exchange rate should also be disclosed. This may either be on the front of the statement or prominently on the back of the statement. For online-only statements, the information can be made available via a click-box link, provided this is prominent. Subscribers may also find it helpful to refer to the UK banking industry guidelines – published by APACS – on cards and the European Regulation on cross border payments in Euro.

### *PINs*

**10.5** *We will give you your **PIN** (personal identification number) separately from your card. We will not make your **PIN** known to anyone else.*

To increase card security and reduce fraud, subscribers issue chip and PIN protected cards. For more information on chip and PIN refer to [www.apacs.org.uk](http://www.apacs.org.uk) or [www.cardwatch.org.uk](http://www.cardwatch.org.uk).

**10.6** *We will tell you about our systems, which allow you to choose and change your **PIN**. This should make it easier for you to remember.*

All subscribers should have arrangements in place to allow customers to choose or change their PINs. This is normally by way of ATMs, including reciprocal arrangements with ATM owners, but could be by any other secure method.

In offering this facility, subscribers may wish to block certain combinations of numbers, for example '1234', and encourage customers not to pick, for example, their birthday or another number which could be easily guessed or found out. This provision means that there will be no need for customers to write their PINs down, even in a disguised way. (For the avoidance of doubt, PIN relates only to cards.) Subscribers should ensure that they notify customers that they can choose their own PIN, for example, in account opening welcome packs, on card carriers or on PIN notifications, etc.

**10.7** We will tell you about alternatives to 'chip and PIN', which are available if you are unable to use a **PIN** due to a disability or medical condition.

Subscribers should make reference to the availability of alternatives to chip and PIN in materials accompanying card issuance to a new customer and in any discussion with a cardholder where the cardholder expresses difficulty with using PINs.

#### Credit cards

**10.8** Before you become a customer we will give you the main features of the **credit card** in a **summary box**.

Issuers should follow the APACS Best Practice Guidelines for summary boxes – ('the Guidelines') available from APACS.

The items of information to be provided and their order in the summary box are prescribed by the Guidelines. The primary objective of the Summary Box is to provide the consumer with a consistent and succinct summary of the key features of the credit card they are considering and to enable consumers to compare different products more easily. The aim is to draw a balance between providing sufficient meaningful information without overloading the summary box. The summary box includes the following features:

- APR and other rates
- Interest free period
- Interest charging information
- Allocation of payments
- Minimum repayment
- Amount of credit
- Fees
- Charges
- Default charges.

The summary box should have been made available to the applicant prior to their acceptance of the credit agreement.

All integral features of the product, such as introductory rates, should be included in the summary box. Information on free-standing or optional product features such as Payment Protection Insurance, credit card cheques or other free-standing product features should not be shown in the summary box. Information on such free-standing features should be provided separately and should comply with any relevant best practice guidelines.

Pre-contract, the summary box should appear prominently on or within any application form/pack acting as a final reminder for the consumer. This will typically cover direct mail pieces, free-standing leaflets, inserts etc. but not media such as television, radio, cinema or outdoor advertising.

For internet applications a click-through to a page containing the summary box should be available. Credit card issuers are not precluded from using the Summary Box in any advertising media they choose or at any point post-contract.

**10.9** When you apply for a **credit card**, we will tell you how it works and give you the terms and conditions.

Examples of information that should be provided as a minimum include:

- an explanation of how interest is calculated and charged; for example, whether it is charged on the full statement balance or only on any balance remaining after the customer has made the monthly payment;
- details of how monthly payments are applied to any outstanding balance across transaction types including promotional offers;
- an explanation of recurring transactions;
- details of charges for the day-to-day running of the account including any annual fee, dormancy fee, charge for exceeding credit limit, charge for delayed monthly payment, charges for overseas transactions, cash withdrawal fees for card usage at an ATM or over the counter, fees for any cash equivalent transactions, balance transfer fees, returned payment fees for insufficient funds, and any other applicable fees;
- the distinction between being the principal cardholder and an additional cardholder should be explained, e.g. that the principal cardholder is responsible for all spending by additional cardholders and is responsible for repayments on the credit card;
- the interest rates applicable to different types of transactions (e.g. purchases, balance transfers, credit card cheque transactions and cash transactions) and the ways in which customers will be told about changes in interest rates. Credit card customers must receive personal notification of interest rate changes (see guidance in section 4.4); and
- sufficient details to enable customers to pay on time, including via automated payments. Subscribers should also ensure that, where customers are offered the facility to pay by cheque by post, sufficient time is given to allow

payments to be made in time, taking account of the postal delivery system and the length of the clearing cycle.

**10.10** Before we give you a credit limit, we will assess whether we feel you will be able to repay it.

The guidelines in section 13.1 are to be followed in assessing the customer's ability to repay.

**10.11** We may increase your credit limit on your **credit card**. We will give you notice if we do this. We will also explain clearly, and closely to the notice we give you, that you can refuse the increase, and the ways in which you can do so.

- You can contact us at any time if you want to reduce your **credit limit** or opt out of having your **credit card** limit increased.
- You can ask us to increase your **credit card** limit. We will consider this when we have made the appropriate checks.
- Sometimes, we may decide to reduce your **credit card** limit. We will tell you if we do this.

The ability to decline the increase must be provided so that it is clearly linked to the increase notification.

Credit card issuers should follow the APACS Best Practice Guidelines for credit card limit increases.

- Issuers should undertake appropriate checks to assess a customer's ability to repay before increasing their credit card limit. Any increase should always be in proportion to the customer's risk profile.
- Where an emergency increase to a credit card limit is granted, e.g. when a transaction goes for authorisation and will take the customer over their pre-agreed limit, the issuer should always assess the customer's ability to repay.
- Issuers should advise customers that checks are made before a limit is increased (the method and timing of advice will be at the issuer's discretion).
- Credit card limit increases should not be offered on accounts that are in arrears and should not be granted for accounts that fall below credit scoring thresholds.

Subscribers are required to periodically review customers' credit card limits using credit reference agency and internal data. The requirements to use CRA data does not apply in specialist customer segments such as private banking where use of credit reference agency data is not always appropriate.

Where the subscriber feels it is appropriate, the credit card limit should be reduced and notification given to the customer.

**10.12** You will receive a monthly statement for your **credit card**, unless your account has a zero balance and has not been used. The monthly statement will include information about transactions since the last statement date, any **interest** which applies, the minimum repayment and other useful information including the 'allocation of payments' (how we use your payment to reduce your balance).

Subscribers should follow the APACS Best Practice Guideline for Cardholder Statement Summary Box.

There are a number of specific pieces of information which should be included on every credit card statement (and where appropriate on a link from an electronic statement). These are as follows:

- Sufficient details to enable customers to pay on time, including via automated payments.
- The current interest rate should be printed on each statement. Also, if more than one interest rate applies to an outstanding balance, for example, where one rate applies to a transferred balance and different rates to new borrowing and cash transactions, this should be made clear.
- A clear statement that if the account is not fully cleared, interest will be charged on the total value of the statement, and not just on the outstanding balance.
- A clear statement that interest will be charged on a daily basis and that interest payments therefore increase the longer payment is delayed (even before the monthly payment date).
- A brief summary on the allocation of monthly payments on the front or back of the statement (or a link from an online statement).
- The front of each credit card statement should show a cash figure indicative of the amount of interest which would be payable by the customer if they paid the minimum amount and it reached the subscriber on the last day for payment.
- A warning about the risk of only making minimum payments – this should be worded as follows: 'If you make only the minimum payment each month, it will take you longer and cost you more to clear your balance'.

In addition, in the event that a customer has missed a payment, subscribers should also include in any notification sent

to a customer in respect of missing the first payment, reference to the option of paying by automated payment to avoid missing future payments

**10.13** *We will make sure that your minimum repayment covers more than that month's interest.*

This means that the minimum repayment will cover that month's interest and a proportion of the balance outstanding from the previous month.

The minimum payment amount on the account should be clearly shown. This amount should normally be sufficient to avoid negative amortisation over a period of 12 months (e.g. the sum of 12 minimum payments would exceed the sum of additional interest added to the account over the same 12 month period). The principle should be that the minimum repayment on a credit card should reduce month by month if there have been no further transactions on the card and the lower minimum payment threshold of the card has not been reached, assuming all other conditions of the product remain unchanged. The term 'transactions' includes any fees, charges or PPI premiums incurred on the card.

It is acceptable for the minimum payment amount to be calculated as a percentage of the balance carried forward, so long as the percentage would normally prevent negative amortisation. Other methods for calculating the minimum payment are also acceptable, provided this principle can be demonstrated.

Subscribers may offer payment holidays and will explain clearly the terms and that customers can reject the holiday by continuing payment. Where a payment holiday is provided the minimum repayment afterwards should be sufficient to avoid negative amortisation over a period of 12 months from the start of the holiday.

**10.14** *We will warn you when an introductory promotional interest rate on your credit card is about to come to an end.*

Where an introductory promotional rate applies (e.g. in respect of new customers), the expiry date of the introductory promotional offer will be shown on the front of the statement or in a separate, prominent personal notification to the customer. This should be given between four and eight weeks before the offer expires. However, if the best way of providing the information is by a message on or with a monthly statement and this means the four or eight week period is exceeded by a few days, this would be acceptable. This requirement does not apply where the customer is in breach of the terms and conditions of the account and the subscriber is concerned that giving the customer warning that the promotional period is about to end may result in abuse of the card, or where the account is not being used and the customer is not receiving a monthly statement.

**10.15** *If you make a cash withdrawal with a credit card, it will be treated as a cash advance and we may charge you a handling fee and interest at the cash advance rate from the date of the withdrawal.*

**10.16** *You have the opportunity to say you do not want to receive credit card cheques and we will let you know about any fees if you use these cheques. You may not have the same level of protection when you use a credit card cheque as you do with a credit card. This information and other important details are included in the summary box, which comes with all credit card cheques.*

In addition to the APACS Best Practice Guidelines for Credit Card Cheques, the following customers should not be issued credit card cheques.

- Customers who are in arrears or over-limit\*.
- Customers with limited scope to borrow more or who are at their limit.
- Customers who have opted out of receiving cheques.
- Accounts where there are fraudulent activities or lost/stolen procedures pending.

\* this is taken to mean that subscribers will not send cheques to customers who are in arrears with their payments or over-limit at the time of selection for receipt of credit card cheques.

Subscribers should not send out unsolicited credit card cheques with a pre-completed amount.

In addition to the summary box, subscribers are required to clearly and transparently highlight in the main body of any communication accompanying the provision of credit card cheques, the following (where applicable):

- Credit card cheques do not provide the same level of consumer protection as a normal credit card purchase.
- The transaction fee per cheque.
- Whether there is an interest free period.
- How to opt-out of receiving credit card cheques in the future.

- An alert to the summary box (e.g. "see important information overleaf").

Subscribers will follow the APACS best practice guidelines for credit card cheques. Subscribers will also advise customers of ways in which to safely destroy unwanted credit card cheques and supporting material.

#### *Pre-paid cards*

**10.17** *Before you apply for or buy a pre-paid card, we will give you a summary box explaining the main features of the card.*

Subscribers should follow the APACS Best Practice Guidelines for Pre-Paid Cards summary box.

**10.18** *When you apply for or buy a pre-paid card, we will tell you how it works and give you the terms and conditions.*

Subscribers should follow the APACS Best Practice Guidelines for Pre-Paid Cards. Terms and conditions must include clear and transparent information on the liability of the cardholder in the event that the card is lost or stolen and fraudulent transactions occur.

## 11 Your personal information

### *Confidentiality*

**11.1** *We will treat all your personal information as private and confidential (even when you are no longer a customer). We will not make your name and address or details about your accounts known to anyone, including other companies in our group, other than in the following four exceptional cases when we are allowed to do this by law.*

- If we have to give the information by law.
- If there is a duty to the public to make the information known.
- If our interests mean we must give the information (for example, to prevent fraud). However we will not use this as a reason for giving information about you or your accounts (including your name and address) to anyone else, including other companies in our group for marketing purposes.
- If you ask us to make the information known, or if we have your permission.

This paragraph reflects the overriding duty of confidentiality that banks and building societies owe to their customers (Tournier v National Provincial and Union Bank of England (1924) 1KB 461). A subscriber is not permitted to pass information about a customer's accounts or their names and addresses to anyone (which includes other companies in the group) without the customer's consent, except in the cases stated in the Code. Consent, as a result of the Data Protection Act 1998, should be 'explicit' if the data is sensitive ('sensitive' data includes racial or ethnic origin, medical history, criminal convictions, etc.).

The additional section under the third bullet point is intended to make it clear that the third exception is designed to protect an institution's legitimate interests, but does not extend to the transfer of information for marketing purposes unless, of course, the customer has requested or consented to such disclosure (see section 8.3). Subscribers should take their own legal advice before relying on any of these exceptions in the absence of the customer's consent.

### *Bankers' references*

**11.2** *If we are asked to give a banker's reference about you, we will need your written permission before we give it.*

Subscribers should also explain to customers, when asked, how a banker's reference works, reflecting the key commitment which states that subscribers should give customers information and explain if there is any aspect which they do not understand. For example, subscribers may wish to explain to customers requesting a banker's reference about another customer the limitations of the reliance which can be placed on such references.

### *Data protection*

**11.3** *We will explain to you that, under the Data Protection Act, you have the right to see the personal records we hold about you.*

Subscribers need to explain to customers their right of access to their personal information, including the fee (either the amount of the fee or – given that the fee might change – the fact that a fee may be payable and where the customer can find out about it) under the Data Protection Act 1998. A notification may be made, for example, on an application form, on the internet or in product literature, including terms and conditions.

**11.4** *We will tell you if we record your telephone conversations with us.*

The recording of telephone conversations could be notified to customers in product literature, terms and conditions, at the start of a call or in some other way.

## 12 Protecting your accounts

### *Secure and reliable banking and payment systems*

**12.1** *We will co-operate with other organisations in the banking industry to provide secure and reliable banking and payment systems you can trust.*

Enforcement of this commitment will be delivered in the following ways.

The Bank of England is responsible for oversight of the UK payment clearing systems. The Bank's financial stability remit is set out in the Memorandum of Understanding (MoU) agreed in 1997 between the Bank, HM Treasury and the Financial Services Authority. This states that the Bank is responsible for 'the overall stability of the financial system as a whole'. In practice this means: encouraging and contributing to the development of robust financial infrastructure, including safe and efficient payment and settlement arrangements, an appropriate legal regime, effective disclosure requirements and sound principles for prudential regulation. High-level guidance on priority-setting is provided by the Bank's Financial Stability Board and periodic assessments of financial stability risks are published in the Financial Stability Review.

Code subscribers will also adhere to all payment, clearing and card scheme rules where appropriate. The relevant scheme will be responsible for enforcement of the rules of that scheme.

### *Keeping us up to date*

**12.2** *Please make sure you let us know as soon as possible when you change your:*

- *name;*
- *address;*
- *phone number; or*
- *e-mail address (if this is how we communicate with you).*

*If we do not hold correct information we may make your account **dormant** to protect us both (see section 9.16 and section 17.6).*

### *Checking your account*

**12.3** *We recommend that you check your statement or passbook regularly. If there is an entry which seems to be wrong, you should tell us as soon as possible so that we can sort it out. Regularly checking direct debits and standing orders will help you be sure the money is going where you want it to.*

This provision draws customers' attention to the importance of checking their statements and passbooks since, in general, the longer the delay in their notifying the bank or building society of a disputed entry, the more difficult it will be to resolve.

**12.4** *If we need to investigate a transaction on your account, you should co-operate with us and the police, if we need to involve them.*

If a customer refuses to co-operate in an investigation, the Financial Ombudsman Service or the courts can take this into account.

### *Taking care*

**12.5** *Taking care of your cheques, passbook, **cards, electronic purse, PINs and other security information** is essential to help prevent fraud and protect your accounts. Please make sure that you*

*follow the advice given below.*

- *Do not keep your chequebook and **cards** together.*
- *Do not allow anyone else to use your **card**, and do not tell anyone else your **PIN, password or other security information**.*
- *Your bank or building society will never ask you to tell them your **PIN**. If you are in any doubt about whether a caller is genuine or if you are suspicious about them, take their details and call us.*
- *If you change your **PIN**, you should choose your new **PIN** carefully.*
- *Try to remember your **PIN, password and other security information**, and securely destroy the notice as soon as you receive it.*
- *Never write down or record your **PIN, password or other security information**.*
- *Always take reasonable steps to keep your **card safe and your PIN, password and other security information** secret at all times.*
- *If your card issuer takes part in a secure online payment system (such as Verified by Visa or MasterCard SecureCode), consider signing up either at their website or whenever you are given the option while shopping online. This involves you registering a **password** with your card company, which you will be asked whenever you shop at an online retailer taking part in the scheme. You should keep this **password** secret.*
- *Never give your account details or **other security information** to anyone unless you know who they are and why they need them.*
- *Keep your **card** receipts and other information about your account containing personal details (for example, statements) safe and get rid of them carefully.*
- *Take care when storing or getting rid of information about your accounts. People who commit fraud use many methods such as 'bin raiding' to get this type of information. You should take simple steps such as shredding printed material.*
- *Be aware that your post is valuable information in the wrong hands. If you don't receive a bank statement, card statement or any other expected financial information, contact us.*
- *You will find the APACS website [www.cardwatch.org.uk](http://www.cardwatch.org.uk) a helpful guide on what to do if you suspect **card** fraud.*

The objective of this provision is to encourage customers to take proper care of their cheque books, passbooks, PINs, cards and other security information (for example, numbers, passwords and personal details that may be used to access telephone or internet accounts). The advice listed in the bullet points represents the most important security requirements, which have been highlighted as customer responsibilities.

Another useful website on identity fraud is [www.cifas.org.uk/identity\\_fraud.asp](http://www.cifas.org.uk/identity_fraud.asp)

**12.6** *When you write a cheque, it will help to prevent fraud if you clearly write the name of the person you are paying the cheque to and put extra information about them on the cheque especially if you are not personally paying a cheque in (for example, because you are sending a cheque by post).*

- *If you are paying a cheque to a large organisation such as HM Revenue & Customs, do not make the cheque payable simply to that organisation. Add further details into the payee line (for example, HM Revenue & Customs re: J Jones, your reference xxxxyz). You should draw a line through any space you don't use on the cheque so unauthorised people cannot add extra numbers or names.*
- *If you are making a cheque payable to a bank or a building society, do not make the cheque payable simply to that organisation. Add further details in the payee line (for example, XYZ Bank, re: J Jones, account number xxxxxx). You should draw a line through any space you don't use on the cheque so unauthorised people cannot add extra numbers or names. Your cheque is likely to be returned to you if you make it payable simply to a bank or building society.*

This provision is designed to prevent, as far as possible, cheques being intercepted in the post and paid into the wrong account. The more details about the true payee and the fewer the empty spaces on the cheque, the less likely it is that it can be tampered with and used fraudulently.

*What to do if you lose your chequebook, passbook, electronic purse or card, or if someone else knows your PIN*

**12.7** *It is essential that you tell us as soon as you can if you suspect or discover that:*

- *your chequebook, passbook, **card** or **electronic purse** has been lost or stolen; or*
- *someone else knows your **PIN, password or other security information**.*

The requirement for customers to tell their bank or building society as soon as they can of loss, etc. rather than immediately, is to cover situations where the customer is unable to give immediate notice for a good reason. All of the

information in this section should be included in documentation about cards, PINs, etc. given to customers.

- 12.8** *The best way of telling us about the loss will usually be by phone, using the numbers we have given you, or by e-mail if we have given you an address for this purpose.*

It is important that subscribers take proper steps to inform customers of how they can give details of lost/stolen cards, information, etc. and to give them the appropriate telephone numbers, etc. It is up to subscribers to decide which method of notification they require, but it should be easily accessible to the customer.

#### Online banking

- 12.9** *Online banking is safe and convenient as long as you take a number of simple precautions. Please make sure you follow the advice given below.*

- *Keep your PC secure. Use up-to-date anti-virus and spyware software and a personal firewall.*
- *Keep your **passwords** and **PINs** secret.*
- *We (or the police) will never contact you to ask you for your online banking or payment card **PINs**, or your **password** information.*
- *Treat e-mails you receive from senders claiming to be from your bank or building society with caution and be wary of e-mails or calls asking you for any personal security details.*
- *Always access internet banking sites by typing the bank or building society's address into your web browser. Never go to an internet banking site from a link in an e-mail and then enter personal details.*
- *Follow our advice – our websites are usually a good place to get help and guidance on how to stay safe online.*
- *Visit [www.banksafeonline.org.uk](http://www.banksafeonline.org.uk) for useful information.*

#### Cancelling payments

- 12.10** *If you want to cancel a payment or series of payments you have authorised, you should do the following.*

- *To cancel a cheque or **standing order**, you must tell us (we cannot cancel cheques covered by a cheque guarantee **card**).*
- *To cancel a **direct debit**, you can either tell the **originator** of the **direct debit** or tell us. We recommend you do both.*
- *To cancel a **recurring transaction** you must tell the **originator**. We recommend you keep proof of cancellation.*
- *It may not be possible to cancel payments if you do not give enough notice of your decision to cancel.*

Subscribers should give customers the information relevant to their account. It should not be assumed customers will read the relevant section of the Code. Where relevant and possible, customers should be told whether there is a minimum notice period for cancellation, and what the minimum period is.

#### Liability for losses

- 12.11** *If you act fraudulently, you will be responsible for all losses on your account. If you act without reasonable care, and this causes losses, you may be responsible for them. (This may apply if you do not, for example, follow sections 12.5 or 12.9 or you do not keep to your account's terms and conditions.)*

This applies to online banking and all cards, including electronic purses. Customers cannot take advantage of the limits on liability (in sections 12.12, 12.16 and 12.17 below) if they have acted fraudulently. Similarly, this paragraph makes it clear that subscribers may also hold a customer liable if they have acted without 'reasonable care', for example, with 'gross negligence' (see comment under section 12.12 below).

Whilst there is reference to the advice to customers in sections 12.5 or 12.9, it does not follow that the Ombudsman or the courts would necessarily find that the failure to follow any of the safeguards set out in these paragraphs would amount to 'gross negligence' by the customer. See the guidance under section 12.12 below for comment on gross negligence.

- 12.12** *Unless we can show that you have acted fraudulently or without reasonable care, your liability for your **card** being misused will be limited as follows.*
- *If someone else uses your **card**, before you tell us it has been lost or stolen or that someone else*

*knows your **PIN**, the most you will have to pay is £50.*

- *If someone else uses your **card** details without your permission, and your card has not been lost or stolen, you will not have to pay anything.*
- *If someone else uses your **card** details without your permission for a transaction where the cardholder does not need to be present (for example, buying something over the internet), you will not have to pay anything.*
- *If your **card** is used before you have received it, you will not have to pay anything.*

The second bullet refers to fraudulent situations where, for example, a customer's card has been cloned. Unless the customer has acted fraudulently or without reasonable care (which the subscriber must prove – see below), the customer is liable for a maximum of £50 in total (e.g. not for each transaction) before they give notification of loss, etc. if the card is out of their possession.

Previous editions of the Code referred to 'gross negligence' rather than 'without reasonable care'. The words have changed to make them more readily understandable to consumers, given that 'gross negligence' is not a phrase in common usage. However, subscribers should note that the standard has not changed and the previous 'gross negligence' standard is still that applied by the Financial Ombudsman Service.

This reflects the provisions of the Consumer Credit Act 1974 but applies to all cards, not just credit cards. For liability on pre-paid cards, please refer to 10.18. If card details are misused while the card is still in the customer's possession (e.g. it has not been lost or stolen), the customer cannot be liable, unless they have acted fraudulently or without reasonable care. This would include misuse of card details in the case of distance transactions (this reflects the requirements of the EU Distance Selling Directive). Under the Consumer Credit Act 1974, if the card was used as a credit token, then the consideration of gross negligence is irrelevant.

This provision confirms that the burden of proof lies with the subscriber and not with the customer, so the subscriber will have to provide proof if necessary. However, this should be read in conjunction with section 12.4, which requires co-operation by the customer.

- 12.13** *Unless you have acted fraudulently or without reasonable care (for example, by not following the advice in Section 12.9), you will not be liable for losses caused by someone else which take place through your online banking service.*

This requirement only refers to losses which take place through the account provider's online banking website. Purchasing goods and services online by card is covered in Section 12.12.

Customers should not be held liable for any losses suffered through their online banking service if they have followed the advice given in Section 12.9 and are not found to have otherwise acted fraudulently or without reasonable care.

The burden of proof lies with the subscriber and not with the customer, so the subscriber will have to provide proof if necessary. However, this should be read in conjunction with section 12.4, which requires co-operation by the customer.

Subscribers should provide the advice in Section 12.9 to customers when they first open online banking services and periodically during the customer's use of online banking. Provision can be made in writing, orally, or via electronic communication.

#### Account aggregation services

- 12.14** *If you use an **account aggregation** service, you may be liable for any fraud or mistakes that happen on your accounts as a result.*

#### Electronic purse

- 12.15** *You should treat your **electronic purse** like cash in a wallet. If you lose your **electronic purse** or it is stolen, you will lose any money in it, in just the same way as if you lost your wallet.*

- 12.16** *However, unless we can show that you have acted fraudulently or without reasonable care, your liability for the misuse of your **electronic purse** will be as follows.*

- *If money is transferred to your **electronic purse** by unauthorised withdrawals from your account before you tell us it has been lost, stolen or misused, the most you will lose is £50.*

- 12.17** *You will not lose anything if money is transferred from your account to your **electronic purse** after you have told us it has been lost or stolen or that someone else knows your **PIN**.*

Although the electronic purse is not yet a product in common use, the provisions remain in the Code at the request of HM Treasury to comply with EU requirements. If a card is lost or stolen, any credit on that card will be lost. The rest of the paragraph is self-explanatory.

## 13 Lending

### *Borrowing money*

**13.1** *Before we lend you any money or increase your **overdraft**, or other borrowing, we will assess whether we feel you will be able to repay it.*

(For **credit cards** – see also section 10.9.)

This assessment will include consideration of information from credit reference agencies plus at least one of the following three points:

- The customer's income and financial commitments.
- How they have handled their finances in the past.
- Internal credit scoring techniques.

Additional useful considerations could include:

- any security provided; and
- why the customer wants to borrow the money and for how long.

Assessment may also include other checks that have not been listed above.

This requirement does not apply in specialist customer segments such as private banking where use of credit reference agency data is not always appropriate.

Where income is one of the factors considered when assessing ability to repay a personal loan and the loan is agreed only if the income of another person is taken into account, normally the loan should be provided on a joint and several basis. However there may be circumstances when it is appropriate to provide a loan on a sole basis.

Subscribers should also ensure that they are familiar with the requirements of the Code Sponsors' Guide to Credit Scoring and the explanations that need to be given to customers if credit scoring is used, and also the Information Commissioner's Guidance on Credit Referencing.

**13.2** *If we offer you an **overdraft**, or an increase in your existing **overdraft** limit, we will tell you if your **overdraft** is repayable on demand (in other words, if you have to immediately pay back any amounts you owe when we ask you to).*

The explanation to the customer could be contained in a facility letter or the terms and conditions.

**13.3** *If we cannot help you, we will explain the main reason why, if you ask us to. We will give you this, in writing or electronically, if you ask.*

The written explanation could be given in the form of a leaflet if this is sufficiently focused. In regard to refusals based on credit scoring, the Code Sponsors' Guide to Credit Scoring (in particular, section 6 of the Guide) refers. Subscribers should have regard to the potential for financial crime in the information they provide and will want to avoid compromising their security procedures.

If, after declining an application for credit, subscribers wish to refer a customer to another lender, they should make the customer aware that a referral is not an indication that a subsequent application for credit will be successful.

**13.4** *If you want us to accept a **guarantee** or other **security** from someone for any amounts you owe, we may ask you for your permission to give confidential information about your finances to the person giving the **guarantee** or other **security**, or to their legal adviser. We will also:*

- *encourage them to take independent legal advice to make sure that they understand their commitment and the possible consequences of their decision (if appropriate, the documents we ask them to sign will clearly show this information);*
- *tell them that, by giving the **guarantee** or other **security**, they may become liable instead of, or as well as, you; and*
- *tell them what their liability will be.*

*We will not take an unlimited **guarantee**.*

Regular financial information about the person on whose behalf a guarantee/indemnity or other security is given should always be made available to the guarantor or granters of third party security ('granters'), so that they can assess the likelihood of being called upon to pay. The Code allows this so long as permission is given and confidentiality is not breached. If the guarantor or granter requests confidential financial information (with the exception of the current level of liability), such as details of balances, copy statements, etc, the customer's consent should first be obtained (as required by section 11).

It is important that guarantors or granters receive independent legal advice to help them understand the full nature of their commitment and the potential implications of their decision. Case law on this issue is well developed and subscribers should encourage, as far as possible, potential guarantors or granters to take independent advice. Subscribers may wish to go further than what is covered in this section and actually get a potential guarantor or granter who refuses to take legal advice to sign a declaration to that effect. In any case, the recommendation to take independent legal advice and the potential consequences of their decision should be stated clearly on all appropriate documents that the guarantor or granter is asked to sign.

In relation to guarantees/indemnities, subscribers must also inform guarantors or granters that, by giving the guarantee/indemnity or other third party security, they may have to pay instead of or as well as the customer. Subscribers must also tell the guarantor what the limit of their liability is including the addition of interest and charges after demand has been made. When independent legal advice has been given, it may be assumed that the solicitor will have explained the nature of all monies and continuing security if appropriate. Depending on the nature and structure of facilities, subscribers may choose to explain these features to those customers who have declined independent legal advice (and should always do so when requested by any guarantor).

However, other forms of unlimited third party security may still be taken, provided that the limit of the granter's liability is explained in a side letter. This is to avoid the need to take fresh security, with the associated expense and inconvenience to customers, each time a facility changes.

'Unlimited' applies to the capital amount of the loan and excludes interest, charges and arrears, etc. An explanation of this should be covered in the guarantee/indemnity or other security documents that the guarantor is asked to sign.

### *Credit reference agencies*

**13.5** *When you open your account or apply for a **card**, we will tell you when we may pass your details to **credit reference agencies** and the checks we may make with them.*

At account opening customers should be told whether a check will be made with credit reference agencies and what that involves. For example, customers should be told if a record of the search is kept at the credit reference agency and, if so, that this could impact the customer's ability to obtain credit elsewhere within a short period of time.

**13.6** *We may give information to **credit reference agencies** about the personal debts you owe us if:*

- *you have fallen behind with your payments;*
- *the amount owed is not being disputed; and*
- *you have not made proposals we are satisfied with for repaying your debt, following our formal demand.*

**13.7** *In these cases, we will give you at least 28 days' notice that we plan to give information about the debts you owe us to **credit reference agencies**. At the same time, we will explain the role of **credit reference agencies** to you and the effect the information they provide can have on your ability to get credit.*

Sections 13.6 and 13.7 refer to the disclosure of default information, and when it can be relayed to credit reference agencies. For some time it has been common practice for banks and building societies to obtain the customer's consent to such disclosures before borrowing is taken out, usually by way of a declaration on an application form.

Whether or not notice was given by the subscriber and consent was obtained from the customer at the time the account was opened, disclosure of default information can be made. But, in all cases, the customer must be given further notice of the intention to disclose the information at least 28 days before the disclosure is made, for example, when a notice of default or formal demand is given. At the same time, customers must be given an explanation about how default information registered against them may affect their ability to obtain credit in the future. This notice will mean that customers have 28 days to try to repay or come to some arrangement with the subscriber before default

information is passed to the credit reference agencies.

Subscribers should also refer to the Information Commissioner's Technical Guidance on Filing Defaults with credit reference agencies ([www.ico.gov.uk](http://www.ico.gov.uk)).

**13.8** *We will give **credit reference agencies** other information about the day-to-day running of your account if you have given us your permission to do so.*

This section refers to non-default information and includes a requirement for subscribers to share positive data where they have agreed to follow the industry's Principles of Reciprocity. It is consistent with the legal position that any other disclosure to credit reference agencies can be made only with the customer's consent, usually by way of a declaration on an application form. The Information Commissioner accepts that such permission may be made a condition of borrowing.

The requirement to share data does not apply in specialist customer segments such as private banking where sharing credit reference agency data is not always appropriate.

See also the Information Commissioner's Guidance on the Data Protection Act 1998 which requires, in the absence of consent, one of eleven other conditions to be met. The 'permission' can be covered in a number of ways, for example, in terms and conditions, in an account opening pack, or it can be obtained at the time the disclosure is made. (Useful information can be found at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk))

**13.9** *If you ask, we will tell you how to get a copy of the information that **credit reference agencies** have about you, or their leaflets that explain how credit referencing works. You should contact the customer service teams at the following organisations:*

<i>Experian Ltd</i>	<i>Equifax Credit File Advice Centre</i>	<i>Callcredit Plc</i>
<i>PO Box 9000</i>	<i>PO Box 1140</i>	<i>PO Box 491</i>
<i>Nottingham NG80 7WF</i>	<i>Bradford BD1 5US</i>	<i>Leeds LS3 1WZ</i>
<i><a href="http://www.experian.co.uk">www.experian.co.uk</a></i>	<i><a href="http://www.equifax.co.uk">www.equifax.co.uk</a></i>	<i><a href="http://www.callcredit.co.uk">www.callcredit.co.uk</a></i>

*We may also ask you to give your permission to use the information held by **credit reference agencies** to check identity for anti-money-laundering and fraud purposes – this does not affect your credit history.*

## 14 Financial difficulties – how we can help

**14.1** *We will be sympathetic and positive when we consider any financial difficulties you may have. Our first step will be to try to contact you to discuss the matter.*

This spells out existing good practice. Subscribers will consider customers to be in financial difficulty when income is insufficient to cover reasonable living expenses and meet financial commitments as they become due. This may result from a change in lifestyle, often accompanied by a fall in disposable income and/or increased expenditure, such as:

- loss of employment;
- disability;
- serious illness;
- imprisonment;
- relationship breakdown;
- death of a partner;
- starting a lower paid job;
- parental/carer leave;
- starting full-time education.

A customer's financial difficulties may become evident to the subscriber from one or more of the following events:

- items repeatedly being returned unpaid due to lack of available funds;
- failing to make loan repayments or other commitments;
- discontinuation of regular credits;
- notification of some form of insolvency or court proceedings;
- regular requests for increased borrowing or repeated rescheduling of debts;
- making frequent cash withdrawals on a credit card at a non-promotional rate of interest; and
- repeatedly exceeding a credit card or overdraft limit without agreement.

If during the course of a customer's account operation a subscriber becomes aware, via their existing systems that the customer may be heading towards financial difficulties, the subscriber should contact the customer to outline their approach to financial difficulties and to encourage the customer to contact the bank if the customer is worried about their position. Subscribers should also provide signposts to sources of free, independent money advice.

Subscribers will determine the level of intervention required dependent on the individual customer's position.

Subscribers should make available to customers straightforward information in plain English on their procedures and systems for dealing with customers in financial difficulty. This might explain, for example, the main rights and responsibilities of customers and subscribers, and what is involved in legal demands or a referral to a debt recovery unit. The BBA publishes a leaflet, 'Dealing with Debt' which is available on the BBA, BSA and APACS websites (see inside front cover of this Guidance for website addresses).

**14.2** *If you find yourself in financial difficulties, you should let us know as soon as possible. We will do all we can to help you to overcome your difficulties. With your co-operation, we will develop a plan with you for dealing with your financial difficulties and we will tell you in writing what we have agreed.*

Subscribers will try to assist customers in financial difficulties. The subscriber will not usually be aware that the customer's circumstances have changed until the customer tells them.

Where a customer requests that the subscriber deals with them in writing or e-mail (providing that facility is available) rather than by telephone, they will do so as long as the customer remains co-operative and in regular dialogue.

There is also an onus on customers to try to help themselves. These requirements do not mean that the commercial judgement of subscribers is compromised.

If a customer does not respond to direct attempts to re-establish contact, lenders may pursue other alternatives to establish a point of contact. This may include the use of debt collection agencies and tracing agents (see section 14.6).

Where a consolidation loan is being provided and the subscriber considers the customer to be in financial difficulties, the subscriber should reduce or pay off the existing in-house borrowing that it is aware is being consolidated. This applies only where the existence of such in-house borrowing is apparent to subscribers via their existing in-house systems. Exceptionally there may be circumstances in which it is appropriate not to reduce or pay off existing borrowing.

**14.3** *The sooner we discuss your problems, the easier it will be for both of us to find a solution. The more you tell us about your full financial circumstances, the more we may be able to help.*

If it becomes clear to the subscriber that the customer needs specialist assistance, the customer should be referred promptly to a specialist team that deals with customers in financial difficulties, if one exists. In some cases, referral to a debt recovery unit may also be necessary.

The subscriber should explore a range of options with the customer. Usually this will require the customer to disclose to the subscriber details of their income, expenditure, assets and liabilities, including amounts (if any) owed to other creditors. This information will be used to develop a plan for dealing with the liabilities. In cases where there are liabilities to multiple creditors, subscribers should recommend a free money advice service (see section 14.4).

The initial arrangements for repaying the debt should be in writing or other durable medium. This will not always be treated as a formal debt management plan, and there may be departures from this plan, if it is in the interests of subscribers and customers. There is no need for every small departure from the basic plan to be in writing (for example an agreement to accept a lower repayment for one week), but any amendments that change the fundamental nature of the plan should be in writing. If, at the subscriber's discretion, the plan includes an agreement to accept smaller repayments, the subscriber should tell the customer whether this is regarded as 'falling behind with repayments' and whether information will be passed to Credit Reference Agencies.

If the customer does not co-operate with the subscriber, a plan cannot be developed and the subscriber may proceed with normal debt recovery procedures. Lack of co-operation would include not responding to the subscriber's attempts at contact and unreasonable demands by the customer (for example, a request that the debt be written off or repaid over a very long period, even though the customer could afford to make reasonable repayments).

The subscriber should take into account any other accounts that the customer may have with the subscriber if these have a credit balance. In addition, if a customer has assets which could reasonably be expected to be sold to reduce outstanding debts, the subscriber may request that the customer, and if appropriate, their adviser, considers this option.

Thereafter, the subscriber should acknowledge that income should only be used to repay ‘non-priority’ debts once provision has been made for any ‘priority’ debts. The subscriber should leave the customer with sufficient money for reasonable day-to-day expenses, taking into account individual circumstances. Subscribers will not subject customers to harassment or undue pressure when discussing their problems.

A debt is considered ‘priority’ where the customer’s failure to pay could lead directly to the loss of one or more of the following:

- the customer’s home (e.g. rent, mortgage, secured loans);
- their liberty (e.g. council tax, child support maintenance, income tax, court fines);
- their utility supplies (e.g. water, gas, electricity); or
- their essential goods or services (e.g. a cooker, a fridge, or the means to travel to work).

Subscribers should consider appropriate concessions, relating to charges and interest payable by the customer, where the customer is constructively cooperating with the subscriber. Considerations might include reducing or suspending interest, charges and fees where agreed repayments do not cover them. The nature of any concessions will need to be assessed on a case-by-case basis, taking account of the seriousness of the customer’s situation. (Charges will have been communicated to the customer under section 5 of the Banking Code.)

Token offers may be accepted where the customer has demonstrated they have no surplus income available for their ‘non-priority’ creditors and there is a realistic prospect of the customer’s circumstances improving. A token offer will not necessarily be sufficient to prevent the subscriber from selling the debt to a third party debt recovery agent and to prevent the debt from being registered as a default with the credit reference agencies.

Where the subscriber considers the customer’s personal and financial circumstances to be exceptional and unlikely to improve, the subscriber may, among other options, consider writing off or not pursuing part or all of the customer’s debt(s). Where write-off is requested by a customer or adviser but is not considered appropriate by the subscriber, the subscriber must give their reasons in writing. If the subscriber agrees to a write-off, then the debt may be registered as a default with the credit reference agencies.

Repayment plans between subscribers and customers may be subject to regular review. Any review period will be agreed with the customer or their adviser, and subscribers should seek to revise contributions only at the end of the review period or if a customer’s personal circumstances change. (Customers and/or their advisers should inform the subscriber if the customer’s personal situation changes.)

**14.4** *If you are having difficulties, you can also get help and advice from debt-counselling organisations.*

*We will tell you where you can get free money advice. If you ask us to, we will work with debt-counselling organisations, such as Citizens Advice, money advice centres or the Consumer Credit Counselling Service. Their contact details are as follows.*

- *Advice UK – 020 7407 4070 ([www.adviceuk.org.uk](http://www.adviceuk.org.uk))*
- *Citizens Advice bureaux – You can get the phone number of your local bureau from the phone book, the local library or [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)*
- *Citizens Advice Scotland – 0131 550 1000 ([www.cas.org.uk](http://www.cas.org.uk))*
- *Consumer Credit Counselling Service – 0800 138 1111 ([www.cccs.co.uk](http://www.cccs.co.uk))*
- *Money Advice Scotland – 0141 572 0237([www.moneyadvicescotland.org.uk](http://www.moneyadvicescotland.org.uk))*
- *National Debtline – 0808 808 4000 ([www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk))*
- *Payplan – 0800 917 7823 ([www.payplan.com](http://www.payplan.com))*

*You should also be aware that there are other companies that charge a fee for managing your debts. It is your responsibility to check the fees that may be charged before asking these companies to act on your behalf.*

This paragraph formally acknowledges the role of money advisers. Subscribers should tell customers where they can get free money advice when the subscriber thinks the customer is in financial difficulties. Subscribers may give customers time to consult a money adviser (this would not prevent subscribers protecting their position if necessary), and will be prepared to enter dialogue with a money adviser when an appropriately completed authority to disclose information has been received, either by fax or post (original or photocopy).

Subscribers will also work with a nominated adviser from an organisation not listed in section 14 of the Code, unless they have reasonable grounds for believing that it would not be in the customer’s interests.

Communications with customers and/or their advisers should, wherever possible, acknowledge and reflect any previous discussions that have taken place. Subscribers should be willing to communicate with customers and/or their advisers by phone, post or fax. Normally, the subscriber will communicate through the adviser, if an authority has been received. This does not preclude subscribers from copying correspondence to customers if they choose. In certain circumstances

it may be beneficial for discussions (either face-to-face or over the telephone) between the adviser and subscriber to take place with the customer present.

On occasions the subscriber may need to contact the customer directly, even when an authority is in place. These occasions may be the result of the adviser not being available, failing to provide requested information within a reasonable period of time, or other similar circumstances.

Subscribers should give a phone number on all communications that will put the customer in contact with a named person or a team dedicated to dealing with cases of financial difficulty.

**14.5** *If you have debts with many creditors, a debt-counselling organisation may complete a **Common Financial Statement** (or an equivalent statement we accept) on your behalf, which we will accept as the basis for negotiations with you in drawing up a debt-management plan.*

This provision is designed to help people in financial difficulties, and some subscribers may only apply it when accounts have gone into default. Other subscribers may choose to use the provision at an earlier stage if it benefits both them and the customer.

Money advisers will use the BBA/MAT/FLA Common Financial Statement format and principles when submitting information to subscribers<sup>5</sup>.

Subscribers should accept the Common Financial Statement (CFS) (and other similar statements such as that used by the Consumer Credit Counselling Service (CCCS)). The CFS – or equivalent details of the customer’s income, expenditure and assets – is necessary to enable the subscriber to gather information to assess if an ‘offer to pay’ will enable the customer to be accepted onto a formal debt management plan (DMP), or enable the subscriber to reduce or suppress interest and fees.

The third party money adviser should ensure that their authority to act on behalf of the customer is promptly sent to all creditors identified by the customer. It is also the responsibility of the adviser to ensure that a CFS or equivalent is sent to the creditors shortly after the authority. In these circumstances, where a money adviser has been appointed and there are debts with many creditors subscribers will not normally be able to work with the customer until a CFS or equivalent has been received.

In general, subscribers should then be prepared to accept an offer of repayment which is based on the principle of equitable distribution of available income (after priority payments), in line with the amount outstanding to each creditor. Alternative means of calculating the distribution of available income by the customer or their adviser may be agreed on a case-by-case basis. A subscriber may accept an offer of payment, even though the offer is not sufficient to enable the customer to be accepted onto a formal DMP.

**14.6** *In certain circumstances we may pass your debt to another organisation or debt-collection agency. When arranging how you will make your repayments, we will always choose reputable firms which agree to follow the Code.*

Subscribers should follow a due diligence process when selecting third parties for debt management, which should include third party compliance with Data Protection legislation, Consumer Credit legislation, Office of Fair Trading guidance on debt collection and debt management, and the code of the Credit Services Association.

Subscribers should use all reasonable endeavours to ensure that the Code standards for handling financial difficulties contained in section 14.1 of the Code are applied by such agents. Code compliance standards should form part of all third party contracts agreed on or after 31st March 2002. Subscribers should pass on relevant information to enable the third party debt manager to recover the debt.

**14.7** *In other circumstances we may sell your debt. We will always choose reputable firms if we do this.*

Subscribers should follow a due diligence process when selecting any third party for debt sale. Any new contract entered into after March 2005 with such companies should ensure that the third party will comply with Data Protection legislation, Consumer Credit legislation, Office of Fair Trading guidance on debt collection and debt management, the code of the Credit Services Association and the Banking Code’s standards for handling financial difficulties contained in paragraph 14.1 even if the debt purchaser is not a subscriber. The subscriber will inform the third party of any relevant arrangements currently being complied with by the customer.

<sup>5</sup> More information on the BBA/MAT/FLA statement is available from the British Bankers’ Association or Money Advice Trust as well as the agencies supported by MAT, eg, National Associations of the Citizens Advice Bureaux Service, Advice UK, Money Advice Association, Money Advice Scotland, and National Debtline.

It is common practice for third parties taking on a debt to request a new statement of income, expenditure and assets to understand the customer's most up-to-date position.

## 15 Complaints

### Step 1 – Internal procedures

- 15.1** *If you want to make a complaint, we will tell you how to do this and what to do if you are not happy with the outcome. Our staff will help you with any questions you have.*
- 15.2** *When you become a customer, we will tell you where to find details of our procedures for handling complaints fairly and quickly. These procedures meet the requirements of the Financial Services Authority.*
- 15.3** *When we receive your complaint, if we are not able to sort it out quickly, we will send you a prompt written acknowledgement to confirm that we are dealing with it.*
- 15.4** *We will keep you informed of our progress in dealing with your complaint.*
- 15.5** *If we have not already sent it, we will send you our final response within eight weeks (or explain why we are not in a position to make a final response) and tell you that you can refer your complaint to the Financial Ombudsman Service (if this applies). We will also enclose a copy of the leaflet explaining the Financial Ombudsman Service (if this applies).*

Details of the internal complaints procedures do not need to be given to every customer (unless the subscriber chooses to do so) but they must be given to customers who wish to make a complaint.

All subscribers should have a set of internal procedures for handling complaints and staff dealing with customers should know what these are so that customers can be informed if the need arises. Procedures should be clear and well defined.

This section of the Code reflects the FSA's DISP rules. As such, enforcement of compliance with these requirements will be a matter for the FSA, not the BCSB. In line with FSA rules, the requirements under sections 15.3 to 15.5 apply only if the complaint has not been resolved to the complainant's satisfaction by the close of business the next working day.

### Step 2 – Financial Ombudsman Service

- 15.6** *The Financial Ombudsman Service (FOS) is a free, independent service which might be able to settle a complaint between a customer and a bank or building society. You can take your complaint to the FOS if you are not satisfied with our efforts to deal with it or if we have not completed our investigations within eight weeks of your complaint. The contact details of the FOS are as follows:*

- *The Financial Ombudsman Service  
South Quay Plaza  
183 Marsh Wall  
London E14 9SR  
Website: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)  
Phone: 0845 080 1800*

## 16 Monitoring

- 16.1** *We have a 'Code Compliance Officer' and our own auditing procedures make sure we meet the Code.*

Subscribers should appoint a Code Compliance Officer who is likely to be the contact person for co-ordinating the annual statement of compliance, compliance visits and other contact with the Banking Code Standards Board (BCSB).

### Banking Code Standards Board

- 16.2** *The Banking Code Standards Board monitors banks and building societies to make sure they keep to this Code. It cannot deal with customers' complaints but can provide information on the*

*standards that banks and building societies must meet. Their contact details are as follows:*

- *Banking Code Standards Board  
Level 12, City Tower  
40 Basinghall Street  
London EC2V 5DE  
Phone: 0845 230 9694  
Website: [www.bankingcode.org.uk](http://www.bankingcode.org.uk)*

This tells customers who actually monitors the Code in practice. The BCSB has a Memorandum of Understanding with the FSA which outlines each organisation's approach to areas in which both have responsibilities. This is available on the BCSB website.

## 17 Getting help

- 17.1** *If you have any enquiries about the Code, you should contact the British Bankers' Association, the Building Societies Association or APACS. Their addresses and phone numbers are shown at the front of this booklet. Or, contact the Banking Code Standards Board at the address above.*

The BCSB is interested in hearing from customers where there appears to have been a clear breach of the Code, although it is the role of the FOS and not the BCSB, to resolve individual complaints.

### Copies of the Code

- 17.2** *All financial institutions that follow this Code will make copies of it available to all their **personal customers** and have notices in all their branches and on their websites explaining that copies of the Code are available and how you can get one.*
- 17.3** *You can get a copy of this Code and guidance notes on how this Code should be followed from the Banking Code Standards Board, whose contact details are given in section 16.2, or from the British Bankers' Association, the Building Societies Association or APACS at the addresses shown at the front of this Code.*

Copies of the Code must be made available to customers. Subscribers should display a clear notice in branches, positioned so that it can be read easily by customers, and on websites stating that copies of the Code are available on request. It is not sufficient for branches to tell customers 'how' to get a copy – they must be available in branches. They must also be made available on websites, whether on the subscriber's own site or via a link to the BBA, BSA, APACS or BCSB sites, all of which include full copies of the Code and this guidance. Other customers, such as those with telephone banking relationships, should be made aware of the existence of the Code and told that copies are available. For example, this information could be included in an account-opening pack.

### Further information

- 17.4** *You can get more information on a range of banking matters from the British Bankers' Association's (BBA) 'BankFacts' leaflets, and factsheets and information leaflets from the Building Societies Association (BSA) and APACS. The BBA, BSA and APACS also have customer helplines. (The phone numbers are given at the front of this Code.)*
- 17.5** **Financial Services Compensation Scheme**  
*We are part of the Financial Services Compensation Scheme (FSCS) set up under the Financial Services and Markets Act 2000. The FSCS pays compensation if an authorised firm cannot pay claims against it. The scheme is governed by FSA rules. For more details on the scheme, go to the FSCS website at [www.fscs.org.uk](http://www.fscs.org.uk) or phone 020 7892 7300.*

The scheme does not apply to subscribers that are not regulated by the FSA.

### 17.6 Dormant account and lost savings

*You can make searches for dormant accounts and lost savings, including those falling within the unclaimed assets scheme, online at [www.mylostaccount.org.uk](http://www.mylostaccount.org.uk). Or, you can get copies of claim forms for dormant accounts and lost savings, including unclaimed assets, from us or from the following.*

**FOR BANKS**

Write to the British Bankers' Association at BBA Dormant Accounts, Pinners Hall, 105-108 Old Broad Street, London, EC2N 1EX. Or, phone 020 7216 8909 or download a copy from the website at [www.bba.org.uk](http://www.bba.org.uk).

**FOR BUILDING SOCIETIES**

Write to the Building Societies Association at BSA Lost Accounts, 6th Floor, York House, 23 Kingsway, London, WC2B 6UJ. Or, phone 020 7437 0655 or download a copy from the website at [www.bsa.org.uk](http://www.bsa.org.uk).

Copies of the relevant BBA, BSA or NS&I scheme leaflets should be made available on request to customers as appropriate.

## Glossary

These definitions explain the meaning of words and terms used in the Code. They are not precise legal or technical definitions.

**Account aggregation**

Account aggregation services allow you to have details of some or all of the online accounts you hold with financial institutions, and other information, presented on one web page. These services may be provided by a financial institution (who you may already hold an account with) or through a website not owned by a financial institution.

**Banker's reference**

An opinion about a particular customer's ability to enter into, or repay, a financial commitment.

**Banking and payment systems**

The clearing, money transmission and computer systems that are controlled by financial institutions that follow the Code.

**Base rate or Bank of England base rate**

This is the rate the Bank of England considers every month and publicly announces any changes to.

**Basic bank account**

A basic bank account will normally have the following features.

- Employers can pay income directly into the account.
- The Government can pay pensions, tax credits and benefits directly into the account.
- Cheques and cash can be paid into the account.
- Bills can be paid by direct debit, by transferring money to another account or by a payment to a linked account.
- Cash can be withdrawn at cash machines.
- There is no overdraft.
- The last penny in the account can be withdrawn.

**Card**

A general term for any plastic card a customer may use to pay for goods and services or to withdraw cash. In this Code, it includes debit, credit, cheque guarantee, charge cards and cash cards. It does not include electronic purses, pre-paid cards or store cards.

**Cash card**

A card, other than a charge card or credit card, which allows the cardholder to withdraw cash from a cash machine.

**Cash machine**

An automated teller machine (ATM) or freestanding machine in which a customer can use their card to get cash, information and other services.

**Charge card**

A card which allows you to buy items and withdraw cash up to an arranged credit limit. The terms include paying the balance in full at the end of a set period. You will normally be charged a fee each year.

**Clearing****CHEQUES**

A cheque normally takes six working days to clear, as shown below.

Day 0 – The collecting bank or building society receives the cheque.

Day 2 – The account starts to earn interest on the money paid in or reduces the balance on which overdraft interest is charged. This is also the day on which the payer's bank account will be debited with the amount shown on the cheque.

Day 4 (or day 6 for savings accounts) – The money is available to withdraw (if it is an account that allows withdrawals).

Day 6 – By the end of the day, the customer can be certain that the money is theirs and cannot be reclaimed without their permission (as long as the customer has not deliberately committed fraud).

Up until the end of day 6, a cheque may still bounce and the money may be reclaimed from the payee's account.

#### CLEARING OF AUTOMATED PAYMENTS

A new payment system is due to come into force from May 2008. The Faster Payments Service will allow electronic payments (usually made over the internet or phone) to be processed in hours rather than days. It will also be used to make quicker standing-order payments on bank working days. This service may not be available from all banks and building societies.

If this same-day service is not used, automated payments will be processed on a three-day clearing cycle through Bacs. When you give an instruction to your bank to make an automated payment, the money will normally be taken from your account on the same day. Payments through Bacs may take longer than three working days for some financial institutions. However, if the account of the person you are paying is at the same bank as yours, the amount will usually be credited on the same day.

#### Common Financial Statement

A full review of the financial position of a customer in financial difficulties. This is filled in with the help of a money adviser. It allows you to offer repayments from your available income to a group of creditors. Although it exists in a standard format agreed by the industry, we may also agree to accept an equivalent form.

#### Credit card

A card which allows you to make purchases and withdraw cash up to an arranged credit limit. You can pay off the credit we grant you in full or in part by a set date. Interest is usually charged on the amount of any balance you still owe. In the case of cash withdrawals, interest is normally charged from the transaction date. You may also have to pay an annual fee.

#### Credit card cheque

A cheque drawn against a credit card account that gives the cardholder another way of accessing funds up to their credit limit. This is usually to make transactions where credit cards are not accepted. Interest is normally charged from the transaction date. Important features include the following.

- Credit card cheques may not provide the same level of protection as when you buy items with a credit card.
- There is usually a transaction fee for each cheque you use.
- The interest-free period of the credit card may not apply to the credit card cheque.

#### Credit reference agencies

Organisations, licensed under the Consumer Credit Act 1974, which hold information about people that is useful to lenders. Financial institutions may contact these agencies for information to help them make various decisions – for example, whether or not to open an account or provide loans or grant credit. Financial institutions may also give the agencies information.

#### Current Account

An account with a bank or building society for managing day-to-day money.

#### Debit card

A payment card linked to a bank or building society account, used to pay for goods and services by taking the money from the cardholder's account direct. A debit card is usually also combined with other facilities such as cash card and cheque guarantee functions. Some debit cards, sometimes known as 'Solo' or 'Electron' cards, need to be authorised immediately for the retailer to be able to complete the transaction.

#### Direct debit

A pre-authorised debit on the payer's account set up by the payee (known as an originator). Direct debits are typically used to make regular payments for debts such as utility bills and insurance payments and amounts may be variable.

#### Dormant accounts, lost accounts and unclaimed assets

Accounts that a customer has forgotten about or not used for an extended length of time. Under the unclaimed assets scheme due to be introduced in 2009, money from accounts which have not been used for a longstanding period will be transferred for use on community causes.

#### Durable medium

Means any instrument which enables personal customers to store information addressed personally to them in such a way that it is accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information.

#### Electronic purse

Any card, or function of a card, which contains real value in the form of electronic money which someone has paid for beforehand. Some cards can be reloaded with more money and can be used for a range of purposes.

#### Fixed rate

An interest rate which is guaranteed not to change over a set period of time.

#### Fixed term

This applies to products and services which have a set lifetime. The customer may be charged if the financial institution agrees to change the product or service before it is due to end.

#### Guarantee

A promise given by a person called 'the guarantor' to pay another person's debts if that person does not pay them.

#### Interest

A charge for borrowing money, or a reward for saving money. It is usually shown as a percentage of the amount borrowed or saved.

#### Originator

A company (either a retail or service organisation) which collects payments from a customer's account in line with the customer's instructions. This only applies to direct debits or recurring transactions.

#### Other security information

Facts and information only you know that are used for identification when using accounts.

#### Out-of-date cheque

A cheque which has not been paid because the date written on the cheque is too old (normally older than six months).

#### Overdraft

A facility that allows you to spend more money from your account than you have in it.

#### Password

A word or an access code which you have chosen, to allow you to use a phone or internet banking service.

#### Personal customer

Any person who is acting for purposes which are not linked to their trade, business or profession. (This definition is based on the one used in European law and by the Financial Services Authority with the title of either 'consumer' or 'retail customer'.)

In practice, personal customers may act in a number of roles. The above definition does not include an individual acting, for example:

- as trustee of a trust such as a housing or NHS trust;
- as a member of the governing body of a club or other unincorporated association such as a trade body or a student union; or
- as a pension trustee.

Examples of personal customers acting in roles that are included in the above definition are:

- personal representatives, including executors, unless they are acting in a professional role (for example, a solicitor acting as executor); and
- private individuals acting in personal or other family circumstances (for example, as trustee of a family trust).

***PIN (personal identification number)***

A confidential number which allows customers to buy things, withdraw cash and use other services at a cash machine. Instead of signing a receipt, you will often have to enter your PIN into a machine at the counter to authorise a transaction.

***Pre-paid card***

A payment card where an amount of money is loaded onto it before it is used. The card can be used to buy goods and services, or may allow you to withdraw cash from cash machines. Charges may be applied for various services. Some prepaid cards can be reloaded.

***Recurring transaction***

A regular payment (other than a direct debit or standing order) collected from a customer's card account by an originator, in line with the customer's instruction. Recurring transactions are not covered by the Direct Debit Guarantee.

***Savings Account***

Savings accounts are deposit-based. This means you'll usually get back the money you have put in, plus interest.

***Security***

A word used to describe valuable items such as title deeds to houses, share certificates, life policies and so on, which represent assets used as support for a loan or other liability. Under a secured loan, the lender has the right to sell the security if the loan is not repaid.

***Standard account services***

Opening, maintaining and running accounts for transmitting money (for example, by cheque or debit card). These services would normally be provided in basic or current accounts.

***Standing orders***

An instruction from customers to their bank or building society to make regular automated payments of a specific amount.

***Summary Box***

This gives you a brief summary of the main features of the credit card; unsecured loan or savings account you are considering, so you can compare different products more easily.

***Unpaid cheque***

This is a cheque which, after being paid into the account of the person it is written out to, is returned 'unpaid' (bounced) by the financial institution whose customer issued the cheque. This leaves the person the cheque was written out to without the money in their account.

***Working days***

Monday to Friday, not including bank holidays.