

# THE BANKING COUNCIL

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*South Africa*

## **CODE OF BANKING PRACTICE**

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## 2. INTRODUCTION

The Code of Banking Practice ('the Code') provides valuable safeguards for our clients. It should assist you to understand how we as members of the Banking Council should relate to you, our *personal client* and/or *small business* client in South Africa. We want to establish good relationships with you and we want to promote good banking practice by formalising standards of disclosure and conduct which we will observe when dealing with you. We commit ourselves to maintain the relevant standards of fairness set out in this Code. In addition, we are also committed to the highest standards of ethical behaviour as contained in our respective Codes of Ethics. The Code will apply to our dealings with *small businesses* in respect of those specific products and services we offer to the entity in question.

We accept the jurisdiction of the Ombudsman for Banking Services, to mediate, to make binding determinations based on this Code and on the law where appropriate, and to make recommendations in other circumstances including those based on equity. A determination made by the Ombudsman for Banking Services may be made an order of the court. If we refuse to abide by a recommendation of the Ombudsman for Banking Services, the Ombudsman may publish the recommendation and the relevant *bank's* refusal to comply.

None of the provisions of this Code:

- ◆ will be legally binding in any court of law;
- ◆ may be used to influence the interpretation of the legal relationship between you and your *bank*;
- ◆ will give rise to a trade custom or tacit contract or otherwise between you and your *bank*.

Copies of the Code are available from us and from The Banking Council South Africa. You can also view the Code on The Banking Council's website at [www.banking.org.za](http://www.banking.org.za). or on your *bank's* website. The contact details of the Ombudsman for Banking Services appear on The Banking Council's website and you can also obtain more information from the website [www.obssa.co.za](http://www.obssa.co.za).

In the text of the Code, "you" means the client and "we", "our" and "us" refer to the client's bank. There is a section in the back of the Code which contains definitions of certain words and phrases used in the Code. These appear in italics in the text of the Code.

THIS CODE APPLIES FROM: 1 October 2004

### 3. THE FUNDAMENTAL PRINCIPLES OF OUR RELATIONSHIP

We, the members of the Banking Council undertake to:

- 3.1 act fairly and reasonably in all our dealings with you;
- 3.2 ensure that all our services and products comply with this Code, even if they have their own terms and conditions;
- 3.3 ensure that the procedures our staff follow reflect the commitments set out in this Code and that they are aware of the internal procedures for handling complaints;
- 3.4 make information available to you on our services and products in plain language (this will be provided in English and where appropriate in any of the other official languages) and offer assistance on any aspect which you do not understand;
- 3.5 ensure that all written terms and conditions are fair and clearly set out your rights and responsibilities in plain language;
- 3.6 assist you to choose a service or product appropriate to your needs;
- 3.7 assist you to understand the basic financial implications of our products and services;
- 3.8 assist you to understand how your *bank* account(s) works;
- 3.9 provide reliable banking and payment systems services and take reasonable care to make these services safe and secure;
- 3.10 correct our errors and compensate you where appropriate;
- 3.11 inform you about our complaints procedures and handle complaints speedily;
- 3.12 inform you, on enquiry, and where appropriate to your circumstances, if we offer products and services in different ways (for example electronic banking). We will advise you how to get more information in this regard;
- 3.13 take care to understand your *financial difficulties* and the reasons for arrears on your accounts if you approach us timeously;

- 3.14 comply with all applicable legislation, codes, rules and supervisory requirements, specifically those relating to banking, insurance, market conduct and consumer protection. If this Code imposes an obligation on us which is not contained in a particular law, we will comply with this Code, except where doing so could lead to a contravention of law;
- 3.15 act with uncompromising integrity and fairness so as to promote complete trust and confidence in ourselves, individually, and as an industry;
- 3.16 ensure that our lending criteria, the products and services we offer, are based and applied solely on commercial principles and do not discriminate against you on any basis which is not permitted by law, taking into account the implications of commercial principles. We may, however, have certain special product or service offerings which are specifically designed for members of a target market group;
- 3.17 recognise the banking needs of disabled clients and take reasonable measures to enhance their access to those services and facilities;
- 3.18 advise you what we expect of you in your relationship with us;
- 3.19 provide a copy or a summary of this Code, to you when you become a client or on request ;
- 3.20 clearly display and/or advertise the existence of this Code and our adherence thereto, in our branches;
- 3.21 confirm to you in writing, where reasonable and appropriate, any relaxation we grant or arrangement we permit in respect of your indebtedness to us;
- 3.22 ensure that you do not sign documents that you have not fully completed where required. When you request us to complete documentation on your behalf, we will ensure that it is a true reflection of the information you provided; and
- 3.23 generally only act on your written instructions, once we are satisfied that your identity has been established by means of your *PIN* (which you should not disclose to anyone), identity document, signature or other *unique means of personal identification*. We will accept other forms of authority in exceptional circumstances only or where the nature of the process so dictates, for example internet, telephone or *ATM* banking.

#### **4 DISCLOSURE**

We undertake to disclose certain issues to you as our client (or potential client).

## What we undertake to disclose to you

### 4.1 Terms and conditions

All written terms and conditions will be fair and will clearly set out your rights and responsibilities in respect of a product or service in plain language. We will use legal and technical language only where necessary. Where legal and technical language is used, we will explain what we mean. If you are still uncertain after studying the explanation you may approach us for further clarification.

### 4.2 Products, services and account operations

When you become a client and on reasonable request, we will make available to you:

- ◆ clear written information explaining the key features of our services and products in which you express an interest;
- ◆ clear and appropriate information on the different types of products and accounts available from us to assist you to make an informed choice appropriate to your needs;
- ◆ recommended safety measures and tips on our services and products in which you express an interest.
- ◆ information on how your account works, including:
  - when you can withdraw funds after a deposit has been paid into your account and when funds begin to earn interest;
  - the various methods of issuing a cheque;
  - stopping a cheque or other types of payment;
  - the difference between and the implications of *bank* guaranteed cheques and *bank* cheques, where appropriate;
  - the effect of *unpaid cheques* and other payment instruments on your account including the instances where we may credit your account with the value of a cheque for which we might not have received value ourselves;
  - special clearance and the effect(s) it may have on your account;
  - how a cheque can become a *stale cheque* and the effect of this;
  - how *debit orders* and *stop orders* work, the difference between the two and how to stop and/or cancel them;
  - information on electronic banking services including the special requirements which we expect of you if you bank electronically;

- the different functions of any *card(s)* issued to you;
- when your account details may be passed on to *credit risk management services*;
- any special procedures or safeguards required of you to ensure safer banking.

### 4.3 Charges and fees

4.3.1 We will provide you with details of charges for *basic banking services* – full details of charges for any service or product are available on request. We will inform you of the charges (and the applicable amount where possible) for a service or product before or when it is provided to you, and at any reasonable time you ask while you are a client, including information on:

- ◆ whether fees or charges are negotiable or not;
- ◆ changes to charges for *basic banking services*, after reasonable prior notice, by two or more of the following methods:
  - letter/statement messages/other personal notice;
  - notices/leaflets in branches;
  - *ATM/* electronic banking system messages;
  - media advertisements;
  - Internet Banking;
  - e-mail messages;
  - telephonic announcements (through short message services [sms]); or
  - announcements on our website.
- ◆ any additional charges and interest you may have to pay on overdrafts and fixed term products when:
  - your account becomes overdrawn without prior agreement;
  - you exceed your overdraft limit;
  - your loan falls into arrears;
  - you decide to settle a loan early; or
  - you make an early withdrawal or early cancellation.
- ◆ the interest charges which apply to your account(s), including:
  - when interest will be deducted from or paid to you;
  - the basis on which interest is calculated;

- when increases are made to the interest rates which apply to your account(s). We will communicate any increase in the mortgage rate in the public media, as well as directly to you.

#### **4.4 Variation of terms and conditions**

We will provide you with:

- ◆ reasonable notice of changes to the terms and conditions of any account, product or service, applicable to you, so that you will have time to decide whether or not you want to continue with the product or service; and
- ◆ a copy of the new terms and conditions or a summary of the changes at the last address you provided to us, if we make material changes to them.

#### **4.5 Information**

We will provide you with:

- ◆ information regarding your rights to access your personal information held by us;
- ◆ information regarding what identification and verification documents (which we may verify) we need to prove your identity when you interact or and transact with us. This includes when you first apply to open an account and during our relationship with you, when you obtain a loan or other credit facility or when you conclude other transactions, which is important for your security and may be required by law;
- ◆ information on what checks we may carry out with *credit risk management services* and other relevant parties;
- ◆ reasonable prior notice of our intention to close any of our *bank* branches, outlets or *ATM*/electronic banking centres; and
- ◆ advertising and promotional material, which is clear, fair, reasonable, not misleading and complies with the appropriate advertising authority guidelines.

#### **4.6 Confidentiality and privacy**

We will treat all your information as private and confidential (even when you are no longer a client). Except as set out in 4.7.1 below, we will not disclose any information about your accounts or your personal details to anyone, including other companies in our *group*, other than in four exceptional cases permitted by law. These are:

- ◆ where we are legally compelled to do so;
- ◆ where it is in the public interest to disclose;

- ◆ where our interests require disclosure (This will not be used as a reason for disclosing information about you or your accounts [including your name and address] to anyone else including other companies in our *group* for marketing purposes);
- ◆ where disclosure is made at your request or with your consent. If you make use of electronic banking facilities like telephone banking, and the telephone calls are recorded, consent to disclosure might be recorded verbally.

#### **4.7 Disclosure of information to third parties**

4.7.1 Information about your personal debts and/or the manner in which you conduct your accounts may, in appropriate circumstances, be disclosed to *credit risk management services* where:

- ◆ you have fallen behind with your payments or you are in default with the terms of a product or service, and you have not made satisfactory proposals to us for repayment of your debt following formal demand and you have been given at least 28 calendar days' notice of our intention to disclose; or
- ◆ you have given us written, electronic or in the case of telephone banking, verbal consent; or
- ◆ your cheque is referred to drawer, in which case the information may be placed on a cheque verification service.

If the amount owed or the arrears amount is in dispute, we will also disclose this fact, but not the amount involved.

4.7.2 In respect of the marketing of services or products if you are:

- ◆ a new client, we will obtain your consent at the beginning of your relationship with us;
- ◆ an existing client we will inform you that you may withhold or withdraw your consent and how to exercise that choice. If you do not withhold your consent, we will presume that you agree to us continuing to market the services or products.

With your consent we may:

- ◆ bring to your attention details of our services and products, which may be of interest to you;
- ◆ give certain information about you to other subsidiaries within our *group* for marketing purposes;

- ◆ inform you about another company's services or products and, if you respond positively, you may be contacted directly by that company.

We will not pressurise you by suggesting that access to any our services and products is conditional upon your consent.

- 4.7.3 We will inform you when we record your telephone conversations with us and the reasons for doing so.
- 4.7.4 We will keep any documents relating to your transactions or relationship with us for a period of not less than 5 years from the date of the transaction(s) concerned or termination of our relationship with you.

## **5 CONDUCT**

Certain principles regarding our conduct as your *bank*, and your conduct as our client, are important during our relationship.

### **What you can expect from us**

#### **5.1 Provision of credit**

- 5.1.1 We will market and approve credit responsibly (based on the information you supply to us), to match your borrowing requirements and capabilities and supply you with suitable products, in an attempt to ensure that you are not extended beyond your financial means. However, our ability to do so depends on your compliance with our expectations of you set out in 5.11.4 regarding your financial affairs.
- 5.1.2 All lending will be subject to an assessment of your ability to afford and willingness to repay. This assessment may include:
- ◆ taking into account your income and expenses, including the dependability of your income;
  - ◆ how you handled your financial affairs in the past;
  - ◆ information obtained from *credit risk management services* and related services, and other appropriate parties, for example, employers, other lenders and landlords;
  - ◆ how you have conducted your previous and existing accounts with us;
  - ◆ information supplied by you, including verification of your identity and the purpose of the borrowing;
  - ◆ credit assessment techniques, for example, *credit scoring*;

- ◆ your age in relation to the loan facility required;
- ◆ any *security* or collateral provided; or
- ◆ your statement of assets and liabilities.

5.1.3 If we decline your application for credit we will inform you of the reasons for this, which could include :

- ◆ the overall *credit score*;
- ◆ information obtained from *credit risk management services*;
- ◆ over-indebtedness; or
- ◆ a specific policy of the *bank*.

With automated *credit scoring* systems these reasons may not be explicit, in which case only general reasons shall be provided.

## **5.2 Suretyships**

If you want us to accept a *suretyship* or other *security* from someone for your loans, we will inform you and the surety or the surety's legal adviser that the surety is entitled by law to your confidential financial information.

We will:

- ◆ encourage the surety to take independent legal advice to make sure that they understand the commitment and the potential consequences of such a decision. All the documents the surety will be asked to sign will contain this recommendation as a clear and prominent notice;
- ◆ advise and caution the surety that by giving the *suretyship* or other *security* they may become liable instead of, or as well as, you;
- ◆ advise the surety whether it is a limited (and the maximum value) or unlimited *suretyship* and tell them about the implications of an unlimited *suretyship*; and
- ◆ inform the parties of the implications of *suretyships* in terms of their periods of validity, the potential amount/s of indebtedness, the nature of the debt covered and the cancellation/termination process.

## **5.3 Mortgage loans**

5.3.1 Buying a property with a mortgage loan may be your most important financial commitment, therefore:

- ◆ when you apply for a mortgage loan, and on reasonable request, we will explain to you the operation and repayment of your loan, including all the charges and costs, the benefits of payment acceleration and the additional interest and costs payable should your account fall into arrears;
- ◆ we will assist you to understand the wider responsibilities and rights that you will have as a property owner, and assist you with a detailed affordability assessment should you require it. This could include informing you about the repayments on your loan and additional costs that apply to homeownership, such as rates and taxes;
- ◆ we will clearly explain what the potential impact of variable versus fixed interest rates will be so that you can make an informed decision in this regard;
- ◆ we will explain to you that you risk the possibility of losing your property should you not keep up your loan repayments; and
- ◆ we will also explain the steps required by law should we have to act to repossess your property due to your failure to meet your repayment obligations or your failure to comply with any other terms and conditions of the contract.

5.3.2 As financiers we have neither the skills nor the resources to monitor or control the quality of the property you are building or buying. We will clearly inform you that our appraisal is solely to enable us to assess the value of the security to us. It is not intended to be an evaluation of the present or future market value of the property, nor does it have to be the same as the purchase price. We do not necessarily inspect the property and do not accept any responsibility or liability for the structural or other condition of the property, even if the loan is a development or building loan.

5.3.3 We will explain to you the need to be careful when signing building progress payment documents.

5.3.4 We will ensure that you are clearly informed of the different types of insurance, whether the *bank* requires insurance be taken out, whose responsibility it is to arrange for the insurance and what insurance cover is available.

5.3.5 Issues of home quality are the responsibility of the seller (or builder or developer) and yourself as buyer. Homes younger than 5 years may also have a National Home Builders Registration Council Limited Warranty. You must satisfy yourself to the best of your ability that you are buying a sound property and if necessary obtain assurance as to the structural quality of the property, compliance with local authority

requirements and replacement costs of the buildings and improvements from the proper experts.

5.3.6 Should you require it, we will provide you with:

- ◆ the assessed *security* value of the property; and
- ◆ the minimum replacement cost that we place on the buildings and improvements for insurance purposes.

5.3.7 When your mortgage bond has been repaid in full we will inform you how annual insurance premiums and other charges and administrative matters can be dealt with in future.

#### **5.4 *Set-off***

5.4.1 We will not rely on *set-off* unless we are by law allowed to do so. We will inform you within a reasonable period of time if we have effected *set-off* in respect of any of your accounts. You will receive timely statements (if statements are generally produced on the relevant account), which will reflect the *set-off* position.

5.4.2 Prior to setting off your debit and credit balances, we may also elect to place any of your funds on hold pending a discussion with you on any amount owed to us.

#### **5.5 Foreign exchange services**

5.5.1 We will explain the service, details of the exchange rate and the charge applicable to any foreign exchange transactions you want to make. If it is not possible to provide specific details of charges, we will inform you of the basis on which these will be worked out.

5.5.2 If you wish to transfer money abroad, we will inform you how this can be done, what documentation may be required from the South African Revenue Service and/or the South African Reserve Bank. We will provide, at least, the following information:

- ◆ a description of the services and how to use them; and
- ◆ an indication of when the money you have sent abroad should be available to the recipient and any reason for potential delays;

5.5.3 We will give you information on any commission or charges you will have to pay, including information where a foreign *bank's* charges may also have to be paid by the recipient or by you.

## **5.6 Financial difficulties**

5.6.1 If you find yourself in *financial difficulties*, you should let us know in good time and, in particular, respond to our communications as soon as possible. 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 assist.

5.6.2 Should your account go into default, our first step will be to try to contact you to discuss the matter. It is therefore imperative that you inform us at all times of any changes to your address and contact details.

With your co-operation, including timeous communication to us about your difficulties, we will take reasonable steps to develop a plan with you for dealing with your *financial difficulties*, consistent with both our interests and yours.

## **5.7 Account operations**

### **5.7.1 Statements**

We recommend that you check your statements or savings account book regularly. If your statement or savings account book has an entry which seems to be wrong, you should tell us as soon as possible, so that we can resolve matters.

- ◆ To assist you to manage your account and verify entries on it, we will provide you with regular account statements. These may be monthly, quarterly, or at a minimum annually, unless this is not appropriate for the type of account. You may ask for account statements to be provided more frequently than normally available on your type of account.
- ◆ Statement details may also be available on request, through electronic banking terminals or other means of electronic or telephone banking if you have registered for such facilities with us.
- ◆ You may be charged an additional fee for statements requested over and above those normally provided. You should manage your use of statements to meet your requirements taking into account the charges associated with providing them.

### 5.7.2 Cheques

We may keep (by arrangement) original cheques paid from your account or copies of these, for the period prescribed by law. If we do, we may charge a fee for supplying you with copies.

- ◆ If, within a reasonable period after the entry has been made, you dispute a cheque paid from your account, we will give you the cheque or a copy (where the cheque has already been returned to you) as proof of the instruction to pay. We may charge a fee for doing so.
- ◆ When we need to inform you that we have returned one of your cheques or other items as unpaid, we will do this within a reasonable period and in the most cost-effective way, assuring you of our efforts to maintain confidentiality and privacy.
- ◆ When we become aware that a cheque deposited by you is returned unpaid, we will inform you thereof within a reasonable period and in the most cost-effective way.
- ◆ When you deposit a cheque you should remember that we usually act as a collection agent on your behalf. We may, at our discretion, credit the value of this deposit to your account and determine if that credit may be accessed before we get value for the cheque ourselves. Should we in turn not receive value for any reason, we will reverse the credit and any associated interest.
- ◆ All banks (locally and internationally) work on the principle that if you hand a cheque to them for collection, they act as your agent to collect the funds from the cheque issuer's *bank*. As such, and given the complexities of a cheque clearing system, they cannot accept responsibility for the loss or theft of the cheque in the system. Consequently, if a cheque or other payment instrument you deposit for collection is lost or damaged, you will have to approach the issuer of the cheque or instrument to stop payment (if it has not already been paid out) and to issue a replacement cheque or instrument. If you provide us with the relevant details of the drawer of the 'lost' cheque, and you mandate us in writing to act on your behalf, we will take reasonable steps to get a replacement cheque. We may require an indemnity from you in case the original cheque has already been paid to you.
- ◆ We will advise you of the various ways of issuing a cheque.

## 5.8 ***Cards, PINS, passwords, and other unique means of personal identification***

- ◆ We may issue you a *card*, or replace one that has already been issued, and may charge fees for this.
- ◆ Your *PIN* (Personal Identification Number), *password* and other *unique means of identification* are strictly confidential. Where a *bank* supplies these, they will be issued only to you, separately from your *card* where applicable. You should never disclose your *PIN*, *password*, or other *unique means of personal identification* to anyone, and specifically not any employee of the *bank*.
- ◆ We will tell you if you can select your own *PIN*, *password* or other *unique means of personal identification*. We will encourage you to avoid birth dates and simple sequences numbers such as 1111; 12345 and so on.
- ◆ We will inform you of the procedures to change your *PIN*, *password* or other *unique means of personal identification* when the need arises.
- ◆ We will publish the contact details you should use to report lost or stolen *cards* or chequebooks in statements, at *ATMs* or through other means of communication to you.

## 5.9 **Responsibility for losses**

5.9.1 After you inform us that a chequebook, savings account book, *card* or electronic purse has been lost or stolen or that someone else knows your *PIN*, *password* or other *unique means of personal identification*, we will take immediate steps to prevent these from being used to access your account.

5.9.2 Subject to sections 5.9.3 and 5.9.4, we will refund you the amount of any transaction together with any interest and charges associated with the disputed transaction:

- ◆ where you have not received your *card* and it is misused by someone else;
- ◆ for all transactions not authorised or effected by you after you have informed us (and we have given you a reference number) of the information listed in 5.9.1 (except “e-cash” transactions which we cannot audit).
- ◆ if additional money is transferred from your account to your electronic purse after you have informed us of its loss or theft (and we have given you a reference number) and you have informed us that someone else knows your *PIN*, *password* or *unique means of personal identification*; or

- ◆ where system malfunctions have occurred in *ATMs*, or associated systems, which were not obvious or subject to a warning message or notice at the time of use.

5.9.3 If you act fraudulently you will be liable for all losses. If you act negligently or without reasonable care and this has caused or contributed to losses, you may be liable. This may also apply if you fail to follow the safeguards set out in sections 5.11, 5.13 and 5.14.

5.9.4 Where a credit *card* transaction is disputed, we accept the burden of proving fraud or negligence or that you have received your *card*. In such cases we expect you to co-operate with us and with the police in any investigation.

## **5.10 Closure of accounts**

5.10.1 We will not close your account without giving you reasonable prior notice at the last address that you gave us.

5.10.2 We reserve the right, however, to protect our interests in our discretion, which might include summarily closing your account:

- ◆ if we are compelled to by law;
- ◆ if you have not used your account for a significant period of time;
- ◆ if we have reasons to believe that your account is being used for fraudulent purposes.

## **What we expect from you**

There are certain principles that you as our client should adhere to in our relationship.

### **5.11 Information**

5.11.1 It is essential that you keep us informed of any changes to your personal details or financial situation.

5.11.2 It is critical that you tell us as soon as possible if you suspect or discover that:

- ◆ your chequebook, savings account book, *cards* and/or electronic purse have been lost or stolen;
- ◆ someone else knows your *PIN*, *password* or your other *unique means of personal identification*; or
- ◆ there are transactions on your accounts which you have not authorised.

5.11.3 When you report a lost or stolen chequebook, savings account book, *card* or electronic purse, please ensure that we give you a code or other reference number to confirm that you have reported it. Please ensure that you safeguard this number for future reference, as this is your proof of having reported the loss or theft.

5.11.4 You are obliged to inform us and keep us informed of all your loans, other financial commitments, income and changes to these whenever we review or discuss our relationship with you and to act responsibly in all your financial affairs at all times. This will enable us to meet our obligation in section 5.1.1.

## **5.12 Account operation**

5.12.1 You should ensure that you manage your banking products properly in order to meet your personal financial needs and circumstances. You should make yourself aware of the opportunities for savings and investments in the financial market place.

5.12.2 If you wish to consider the tax implications of your choice of product or account, you should seek independent advice from an appropriate consultant qualified to provide this to you.

## **5.13 Reasonable care**

5.13.1 Taking care of your chequebook, savings account book, *cards*, electronic purse, *PINs*, *passwords* and other *unique means of personal identification* is essential to help prevent fraud and protect your accounts. Always ensure that you:

- ◆ do not keep your chequebook or your *PIN* and *cards* together;
- ◆ do not allow anyone else to use your *card*, *PIN*, *password* or other *unique means of personal identification*;
- ◆ always take reasonable steps to keep your *card*, *PIN*, *password* and other *unique means of personal identification* secret, safe and secure at all times; never disclose your *PIN* or *password* to anybody, including family, friends or any *bank* employee who offers to assist you;
- ◆ never write down or record your *PIN*, *password* or other *unique means of personal identification*. If you must write it down, ensure that it is not accessible to others and that it is disguised. For example, never write down or record your *PIN* using the numbers in the correct order;
- ◆ are alert to the risk of muggings and card swapping when using *ATMs* or other electronic banking devices ;

- ◆ do not use *ATMs* or associated systems that have obviously been tampered with or that contain warning messages;
- ◆ do not use *PINs* that are easy to guess, such as 1111 or 12345 or your date of birth, etc; and
- ◆ use your credit *card* with care.

5.13.2 We expect you to report all incidents of stolen chequebooks, savings account books, or *cards*, as well as fraudulent use of *cards* or other suspected fraudulent transactions to the police for investigation.

5.13.3 You should treat your electronic purse like cash in a wallet. You may lose any money left in the “e-cash” part of the electronic purse at the time it is lost or stolen, in just the same way as if you lost your wallet.

5.13.4 You may be vulnerable to crime when you use certain *ATMs*. We will take reasonable precautions to minimise crime at those *ATMs*. You also have a responsibility to do the same. You should therefore adhere to any notices of caution at *ATMs* in order to protect yourself against crime at *ATMs*. In particular, be wary of anybody who comes near you or attempts to distract you while you are using an *ATM*.

#### **5.14 Internet and telephone banking**

Internet and telephone banking services make some banking services and transactions more easily accessible. However, as with all our products and services, there are certain basic precautions that you should take to protect yourself against fraudulent transactions. Ensure that you familiarise yourself with these on our website or Internet banking portal, or with our telephone banking department.

- ◆ Review your *bank* statements and reconcile your accounts regularly.
- ◆ Do not under any circumstances reveal your secret access code/ *PIN/password* or other *unique means of personal identification* to anyone, and especially not to one of our staff members, as this can be used to access your electronic banking facility.
- ◆ Check the site security certificate for the Internet banking site each time before you do your banking.
- ◆ Ensure that a temporary *password* is changed to a *password* of your choice known only to you.

- ◆ Should you be aware that your secret access code/ *PIN/password* or other *unique means of personal identification* has been observed by anyone, change it immediately.
- ◆ The security of your personal computer is your responsibility.
- ◆ Ensure that you read and are familiar with the Terms and Conditions of your *bank's* website and the product terms and conditions on the website.
- ◆ Enter numbers accurately when doing your banking and in particular with telephone banking.
- ◆ Ensure that you make payments to the correct account or beneficiary. We cannot reverse duplicate or erroneous payments you make to other accounts without the specific consent of the account holders.
- ◆ Do not use the browser facility to store your *password* in order to avoid having to enter it each time you transact using Internet banking.
- ◆ Ensure that there is adequate anti-virus and security software installed and enabled on the computer you use for Internet banking.

## **6 DISPUTE RESOLUTION**

### **6.1 Internal dispute resolution**

It is important that your disputes with us are addressed most effectively.

6.1.1 We have internal procedures that comply with the standards determined by the Banking Council South Africa for handling complaints fairly and speedily. These include establishing a set time for an initial acknowledgement of your complaint. We will indicate how long it may take to respond more fully. We will provide you with information on these procedures on request.

6.1.2 If you wish to lodge a complaint, we will inform you how to do so and what to do if you are not satisfied with the outcome. Our branch, client-care or call centre staff will assist you with any queries. You might also be able to use our website for this purpose.

It is important that you contact us first and give us the opportunity to resolve your dispute before lodging a formal complaint.

### **6.2 Ombudsman for Banking Services**

If we do not resolve your dispute, or you are not satisfied with the outcome of our dispute handling process, you are welcome to make use of the services of the Ombudsman for

Banking Services. We will also, where relevant, give you information on other Ombudsman offices, which might have jurisdiction over your complaint.

- 6.2.1 An independent Ombudsman for Banking Services Office has been established. The Ombudsman for Banking Services is available at no cost to you to consider any complaint that we have not been able to resolve with you. The Ombudsman for Banking Services is entitled to mediate, make a determination based on this Code or on the law where the law is reasonably certain or make a recommendation in other circumstances including those based on equity. If we decline to accept any recommendation made by the Ombudsman for Banking Services, then the Ombudsman may, at their discretion, publish the fact that a recommendation was made and we have refused to accept it. A determination made by the Ombudsman for Banking Services may be made an order of the court
- 6.2.2 All *banks* that are members of the Banking Council South Africa are automatically subject to the jurisdiction of the Ombudsman for Banking Services. We will supply you with the Ombudsman for Banking Service's brochure, address, telephone and fax numbers and we will ensure that the Ombudsman for Banking Service's contact details are prominently displayed in our branches. If we fail to resolve your dispute with us, or at your request, we will provide you with the documentation required to lodge a complaint with the Ombudsman for Banking Service's Office.

<b>The current contact details of the Office of the Ombudsman for Banking Services are:</b>	
<b>The Ombudsman for Banking Services</b> <b>P O Box 5728,</b> <b>Johannesburg,</b> <b>2000</b>	<b>Telephone number:</b> <b>0860 800 900, (011) 838 0035</b> <b>Fax number:</b> <b>(011) 838 0043</b> <b>Website: <a href="http://www.obssa.co.za">www.obssa.co.za</a></b> <b>Email:</b> <b>info@obssa.co.za</b>

In respect of investment and deposit related matters, you can consider the Financial Advisory and Intermediary Services Act No 37 of 2002 (FAIS) and the FAIS Codes or refer your complaint to the FAIS Ombudsman.

<b>The current contact details of the FAIS Ombudsman are:</b>	
<b>The FAIS Ombudsman</b> P.O Box 74571 Lynwood Ridge 0040	<b>Telephone number:</b> 012 4709080 <b>Fax: 012 348 3447</b> <b>Email: <a href="mailto:mpfo@faisombud.co.za">mpfo@faisombud.co.za</a></b>

## 7 REVIEW OF THE CODE

The Banking Council South Africa will monitor and review this Code periodically. You can submit complaints and suggestions concerning the terms and general operation of the Code in writing to the Banking Council South Africa.

<b>The current contact details of the Banking Council South Africa are</b>	
<b>The Banking Council</b> P.O. Box 61674 Marshalltown 2107	<b>Telephone number:</b> (011) 645 6700 <b>Fax: (011) 645 6896</b> <b>Website: <a href="http://www.banking.org.za">www.banking.org.za</a></b> <b>Email: <a href="mailto:webmaster@banking.org.za">webmaster@banking.org.za</a></b>

## **8. USEFUL DEFINITIONS**

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

### **8.1 ATM (Automated Teller Machine):**

A cash machine or freestanding electronic banking device dispensing cash which may also provide other information or services to clients who have a card and a PIN, password or other means of unique identification.

### **8.2 Bank:**

Includes wholly owned subsidiaries of the Bank where they are engaged in providing banking services.

### **8.3 Basic banking service:**

The opening, maintenance and operation of accounts for transmission of money by means of cheque, other payment instruments, savings accounts, current accounts, call, notice and fixed deposits.

### **8.4 Cards:**

A general term for any plastic card used to pay for goods and services and to withdraw cash. For purposes of this Code, it excludes electronic purses.

### **8.5 Credit risk management services:**

Organisations which hold information which is of relevance to lenders, for example relating to credit risk, fraud, identity and address or credit repayment profile. Banks may refer to them to assist with various decisions, e.g. whether or not to open an account or provide loans or grant credit. Banks may give information to or seek information from these service providers.

### **8.6 Credit scoring:**

A system which banks use to assist in making decisions about granting consumer credit. Credit scoring uses statistical techniques to measure the likelihood that an application for credit (a loan) will be a good credit risk.

### **8.7 Debit Order:**

An agreement between you and a company or a third party in which you authorise the company or third party to take money out of your banking account for services that entity provides to you. Debit orders may be for fixed or variable amounts.

**8.8 Electronic purses:**

Any card or function of a card which contains real value in the form of electronic money which someone has paid for in advance, some of which can be reloaded with further funds and which can be used for a range of purposes. Some purses may also have an “e-cash” facility for small value transactions, which are not recorded in an audit trail.

**8.9 Financial difficulties:**

Any circumstances which might have an adverse effect on a client’s financial ability to fulfil contractual obligations.

**8.10 Group:**

A group means a holding company and its subsidiaries as defined in the Companies Act 61 of 1973.

**8.11 Password:**

A word or an access code a client selects to permit them access to a telephone or home banking service and which is also used for identification. A client may occasionally be supplied with a temporary password which must be changed by the client to a password unique to them. Temporary passwords may be less secure than other passwords and failure to immediately change this temporary password may be construed by the bank as negligence on the part of the client.

**8.12 Personal client:**

A natural person, whether carrying on business or not, who maintains an account or who receives other services from a bank.

**8.13 PIN (Personal Identification Number):**

A number provided by the bank to a card holder or chosen by a cardholder/client, on a strictly confidential basis. Use of this number by the client will enable the client to withdraw cash and access other services from an ATM or point of sale device and can be used as an authentication mechanism on many other delivery channels.

**8.14 Security/collateral:**

Words used to describe items of value such as a mortgage bond registered over a property, share certificates, life policies, etc, which represent assets used as support for a loan or other credit facilities. For example under a secured loan the lender has the right to sell the security if the loan is not repaid.

**8.15 Set-off:**

When available funds in one account of an account holder are used by the bank to settle a debt or part of a debt in another account of the same account holder.

**8.16 Small business:**

An association of natural or legal persons incorporated in or outside the Republic of South Africa, which has legal personality or enjoys a similar status in terms of which it may enter into contractual relations and legal proceedings in its own name and whose turnover for the last financial year was less than R5 million.

**8.17 Stale cheque:**

A cheque which has not been paid because its date is too old. An example of this would be where a cheque is presented for payment six months after the date appearing on the cheque. There may be different time limits applicable and clients should verify these with their banks.

**8.18 Stop order:**

An instruction given to your bank to pay funds to a nominated third party, at a fixed amount on a regular basis. The bank acts on your instructions and the third party is not given authority to debit your account as is the case with a *debit order*.

**8.19 Suretyship:**

An undertaking given by a person called the surety, to pay the debts of another person (known as the principal debtor), if that person fails to pay.

**8.20 Unique means of personal identification:**

A selection of memorable facts and information of a private and personal nature chosen by the client (the sequence of which is known only to the client) which can be used for identification and to verify identification when accessing accounts.

**8.21 Unpaid cheque:**

This is a cheque, which, after being deposited into the account of the person to whom it is payable, is unpaid for whatever reason and subsequently returned to the account holder by the bank. This leaves the person to whom the cheque is payable without the money in their account. A replacement cheque needs to be obtained by the owner of the account (the 'payee').