



# AFIA

## BUY NOW PAY LATER BY-LAWS

1 MARCH 2021

VERSION 1



## **1. INTRODUCTION**

- 1.1 The Board (**Board**) of Australian Finance Industry Association Limited (**AFIA**) has delegated powers to the management of AFIA to establish the AFIA Buy Now Pay Later Providers Group (**Group**).
- 1.2 All Members of the Group (**Group Members**) originate a Buy Now Pay Later (**BNPL**) product (as it is defined in the [AFIA Buy Now Pay Later Providers Group Code of Practice](#) (as amended from time to time) (**Code**)).
- 1.3 These By-Laws are administered by AFIA and are binding on all Code Compliant Members.
- 1.4 AFIA will arrange for a review of these By-Laws every three years or earlier if requested by at least 75% of Code Compliant Members.

## **2. OBJECTIVES**

The objectives of the Group are to assist Group Members to:

- (a) promote high industry standards of service to customers;
- (b) provide a benchmark for consistency within the Group with respect to matters such as the upfront suitability assessment for customers; and
- (c) support compliance with legal and industry obligations.

## **3. MEMBERSHIP**

- 3.1 There are two categories of Group Members:
  - (a) **Code Compliant Members:** Group Members who have been approved in accordance with the requirements of these By-Laws as willing and able to adopt and comply with the Code.
  - (b) These Group Members are required to comply with the Code when dealing with their customers and are authorised to represent that they are Code compliant in relation to those products for which they are approved as Code compliant.
  - (c) **Non-Code Compliant Members:** Group Members who are not Code Compliant Members and are not authorised to represent that they are Code compliant.
- 3.2 Each Code Compliant Member must adhere to the standards and requirements of the Code.
- 3.3 When a Non-Code Compliant Member applies to become a Code Compliant Member, it must pay an application fee in such amount as is determined by the Board from time to time.
- 3.4 When a Group Member is approved as being a Code Compliant Member, it must pay an annual Code Compliance fee in such amount as is determined by the Board from time to time.
- 3.5 The application fee and the Code Compliance fees are separate from the fee charged for Membership of AFIA.

**4. MEMBERSHIP OF THE GROUP**

- 4.1 To be eligible to be a Group Member, an organisation must:
- (a) be a Member of AFIA;
  - (b) at all times comply with [AFIA's Constitution](#) including [clause 6.3](#) of the Constitution;
  - (c) offer and provide a BNPL Product or Service; and
  - (d) comply with any other reasonable eligibility requirements of AFIA as determined by the Board from time to time.
- 4.2 An application to become a Group Member must be:
- (a) made by the applicant in writing and in such form as the Board prescribes from time to time; and
  - (b) lodged in such manner as the Board prescribes from time to time, and in conjunction with payment of the relevant application fee (the amount of which will be determined by the Board and published by AFIA from time to time).
- 4.3 An application to become a Group Member will be considered by the Board or by such committee or person to whom it delegates this authority. The Board or its delegate may seek feedback from existing Group Members and may consider and determine any such application, including whether to approve or reject the application, in its absolute discretion.
- 4.4 An applicant to become a Group Member will be provided with written notice of the result of its application as soon as practicable after a decision has been made.
- 4.5 Neither AFIA nor the Board or its delegate(s) is under any obligation to give any reason for a determination in relation to an application to become a Group Member.

**5. REQUIREMENTS TO BECOME A CODE COMPLIANT MEMBER**

- 5.1 To be a Code Compliant Member, an organisation must be a Group Member and must:
- (a) not have a director who is, or was within the last five years, a bankrupt (within the meaning of that term in the Bankruptcy Act) or made any arrangement or composition with his/her creditors;
  - (b) not have a director who is, or was within the last five years, found to be guilty of a breach of the law by any regulatory body (including those in [Schedule 1](#), as amended from time to time) which is of such significance that it may reasonably be considered to bring disrepute to AFIA and / or to the Group if the organisation was to become a Code Compliant Member;
  - (c) not have a shareholder, who individually or through related party entities constitutes a majority of voting rights in the organisation, who is, or was within the last five years, found to be guilty of a breach of the law by any regulatory body (including those in [Schedule 1](#), as amended from time to time) which is of such significance that it may reasonably be considered to bring disrepute to AFIA and / or to the Group if the organisation was to become a Code Compliant Member;
  - (d) have appropriate risk management arrangements for their business and have adequate arrangements for compensating BNPL customers in respect of any

actionable claims for loss or damage for which the lender is or may be responsible;

- (e) comply with any other reasonable requirements of AFIA in relation to complying with the Code as determined by the Board from time to time; and
- (f) be able to demonstrate to the Board that it has the systems and processes in place to allow it to comply with the Code in relation to its BNPL Products or Services. In demonstrating this, the Group Member must:
  - (i) submit copies of its relevant pro-forma Contract document(s) and an attestation made by a director or other appropriately authorised person stating that such pro-forma Contract document(s) comply with relevant laws, including those dealing with unfair contract terms, and are enforceable;
  - (ii) provide to the CCC information about its upfront assessment, existing customer assessment and suitability assessment processes and procedures and how it will meet the requirements set out in the Code;
  - (iii) provide to the CCC information about its internal dispute resolution, and external dispute resolution policies and procedures;
  - (iv) provide to the CCC information about its hardship assistance policies and programs;
  - (v) provide to the CCC information about its merchant guidelines, and merchant on-boarding and monitoring processes and procedures including details of merchants who have been suspended and / or terminated in the last 12 months due to breach of contract;
  - (vi) provide to the CCC written and signed certification by a director or other appropriately authorised person that it is not aware of any material issue that could result in non-compliance with the Code;
  - (vii) provide to the CCC any requested information about the manner in which its processes and procedures will allow it to comply with relevant legislation and regulations (including those in [Schedule 1](#), as amended from time to time); and
  - (viii) provide to the CCC any other relevant information as may be requested by the CCC or the Board in relation to the Code.

5.2 An application for recognition as a Code Compliant Member must be:

- (a) made by the Group Member in writing within a timeframe that the CCC determines as reasonable and in such form as the Board prescribes from time to time; and
- (b) lodged in such manner as the Board prescribes from time to time, together with the relevant application fee (the amount of which will be determined by the Board from time to time).

5.3 An applicant to become a Code Compliant Member will be assessed by the Board and provided with written notice of the result of its application within 45 Business Days of the application outlined in 5.2(b).

5.4 The Board may delegate all or any of its powers or actions under this [clause 5](#) to such person or committee (such as the Code Compliance Committee) as it considers appropriate and such delegate(s) will have the authority of the Board under this clause in regard to such delegated functions.

## **6. RIGHTS AND OBLIGATIONS OF CODE COMPLIANT MEMBERS**

- 6.1 Each Code Compliant Member has a right to receive any publications and communications distributed to Code Compliant Members and to participate in any activities or educational training offered to Code Compliant Members.
- 6.2 Subject to compliance with any guidelines that may be issued in relation to its approved use, each Code Compliant Member has the right to use and display any Code Compliant accreditation symbol provided to it (or otherwise authorised to be displayed by it), by the Group, or any other part of AFIA, but only while a Code Compliant Member. AFIA, in consultation with the Group, will determine the guidelines upon which the accreditation can be used.
- 6.3 Each Code Compliant Member must act in good faith and comply with the obligations and the standards required of it as set by these By-Laws, the Code and the [Constitution](#).
- 6.4 Each Code Compliant Member must inform the CCC as soon as practical but no later than 10 Business Days if it becomes aware of any matter that is of such significance that it may reasonably bring disrepute to AFIA and / or to the Group.
- 6.5 Each Code Compliant Member must lodge an annual attestation on its compliance with the Code, in such form as the CCC may require from time to time, and will include a certification by a director or other appropriately authorised person of the Code Compliant Member that it complies with the requirements of being a Code Compliant Member.

## **7. NON-COMPLIANCE WITH BY-LAWS OR CODE**

- 7.1 If the Board considers that a Code Compliant Member has (or may have) not complied with its obligations under these By-Laws and / or the Code, it may refer the Code Compliant Member and the relevant issue for investigation and determination by the CCC.
- 7.2 The CCC may, acting reasonably but otherwise in its sole discretion, determine that a Code Compliant Member has not complied with its obligations under the Code. If the CCC determines that there has been an instance of serious non-compliance by a Code Compliant Member then under these By-Laws and / or the Code it may do any one or more of the following:
- (a) suspend or terminate the Code Compliant Member's certification as a Code Compliant Member for such period as it considers appropriate and reasonable in the circumstances;
  - (b) suspend or terminate the Code Compliant Member's membership of the Group, and / or AFIA for such period as it considers appropriate and reasonable in the circumstances;

- (c) suspend or terminate the Code Compliant Member's right to display any accreditation symbol provided to it (or otherwise authorised to be displayed by it) by the Group, or any other part of AFIA (including any Code Compliant accreditation which a Code Compliant Member is otherwise authorised to display);
- (d) suspend or terminate the Code Compliant Member's entitlement to receive or use any publications or communications otherwise available for distribution to it by the Group, or any other part of AFIA; and
- (e) apply Sanctions as set out in [clause 9.9](#); until such time as the Board considers that the non-compliance has been rectified.

7.3 Where a Code Compliant Member is in breach of these By-Laws, AFIA, the Board and the CCC (or any of them) may also take such other action as they are respectively authorised to take under the [Constitution](#), these By-Laws and/or the [Terms of Reference](#) of the CCC.

## **8. CODE COMPLIANCE COMMITTEE**

### **8.1 Monitoring Code compliance**

The Board and / or the CCC may for the purposes of monitoring compliance with the Code:

- (a) without affecting the generality of any other provision of these By-Laws or the [Terms of Reference](#) of the CCC including [clause 3.3](#) of the [Terms of Reference](#) of the CCC, make reasonable requests for a Code Compliant Member to provide the CCC with access to information, documents and systems which (as applicable) the Board or the CCC (acting reasonably) considers necessary or appropriate to carry out its functions and responsibilities;
- (b) seek independent professional legal, accounting or other advice;
- (c) conduct enquiries on its own initiative and conduct audits of any Code Compliant Member's compliance with the Code provided that any such audit is limited to (as applicable) an issue which relates to a complaint being investigated by the CCC or a specific issue which the CCC (acting reasonably) believes is of sufficient concern to warrant an audit; and
- (d) request each Code Compliant Member to lodge an annual report on its compliance with the Code.

### **8.2 Reporting of Possible Breaches of Code**

If any Code Compliant Member, other Group Member or any other person believes that a Code Compliant Member has, or may have, breached the Code, they should advise the CCC and provide the CCC with all relevant details available to them.

## **9. INVESTIGATING CODE COMPLIANCE AND ALLEGED BREACHES**

### **9.1 Alleged Breach**

The CCC may only commence an investigation of Code compliance:

- (a) in response to an allegation from any person that a Code Compliant Member has, or may have, breached the Code;
- (b) in response to a referral or report from an external stakeholder that a Code Compliant Member has, or may have, breached the Code;

- (c) in response to an allegation raised by an existing Code Compliant Member that a Code Compliant Member may be guilty of conduct which is unbecoming of a member of AFIA and / or the Group or prejudicial to the interests of AFIA and / or the Group or otherwise has failed to comply with its obligations under AFIA's [Constitution](#); or
- (d) as an outcome of the CCC's monitoring process, if the Board or the CCC has reason to suspect that a Code Compliant Member may have breached the Code (including in circumstances where a Code Compliant Member has self-identified a breach or potential breach),  
(each an **Alleged Breach**).

## 9.2 **Consideration of Alleged Breaches**

The CCC may consider any Alleged Breach, except that, subject to clause 9.3, the CCC must not consider an Alleged Breach in any of the following circumstances:

- (a) Where the person complaining of the Alleged Breach (or another person acting on their behalf) is also seeking compensation or other redress for loss or detriment allegedly suffered by them arising from substantially the same facts. In these situations, the Alleged Breach must be referred to the Code Compliant Member's internal dispute resolution and/or external dispute resolution schemes.
- (b) Where an Alleged Breach is also the subject of a dispute under an external dispute resolution or conciliation scheme or the subject of an investigation by any regulatory body. In these situations, the CCC must await the final determination or findings under the relevant dispute resolution or conciliation scheme or of the relevant regulatory body before commencing any investigation.  
Where this paragraph (b) applies, on completion of the proceedings under the relevant dispute resolution or conciliation scheme, the CCC can consider whether to undertake its own investigation of the Alleged Dispute and, if it does so, whether or not it will have regard to any determination made in relation to such dispute resolution or conciliation scheme.
- (c) To the extent that the Alleged Breach relates to a Code Compliant Member's commercial judgment in decisions about the provision of the product or service. However, the CCC may consider an Alleged Breach where it is alleged that, in exercising its commercial judgment,
  - (i) the Code Compliant Member has failed to fulfil its obligations under the Code; or
  - (ii) a Code Compliant Member has acted in a manner which is likely to bring disrepute to AFIA, another Code Compliant Member, or to the Group.
- (d) If the CCC has identified a more appropriate forum to deal with the Alleged Breach.
- (e) If the CCC considers that the Alleged Breach is frivolous or vexatious.
- (f) If the Alleged Breach is based on substantially the same events and facts as a previous Alleged Breach by the complainant to the CCC, unless there is new information.
- (g) If the events to which the Alleged Breach relates occurred:

- (i) before the Code Compliant Member to which the Alleged Breach relates became a Code Compliant Member;
- (ii) in relation to an entity which was not a Code Compliant Member at the time of the events to which the Alleged Breach relates and was subsequently acquired by a Code Compliant Member; or
- (iii) if the complainant was aware of the events to which the Alleged Breach relates or would have become aware of them if they had used reasonable diligence, more than one year before the complainant first notified the CCC in writing. This restriction can be waived at the discretion of the CCC if the CCC is unanimously of the opinion that the delay was reasonable in the circumstances and the Code Compliant Member will not be prejudiced by the delay.

### 9.3 **Investigations at Request of Board**

The CCC may investigate an Alleged Breach if the Board determines that it is in the interests of the Industry or AFIA that a particular Alleged Breach be investigated by the CCC.

### 9.4 **Responding to Alleged Breaches**

Where the CCC investigates an Alleged Breach, it will:

- (a) acknowledge the Alleged Breach in writing within 10 Business Days of receiving the reports;
- (b) assess the Alleged Breach taking into account the outcomes of any internal and external dispute resolution processes and the outcome being sought;
- (c) plan the investigation, if the Alleged Breach cannot be resolved on first contact, by defining what is to be investigated and considering whether further information is required;
- (d) when required, as outlined in [clause 8.5\(b\)](#) of the [Terms of Reference](#), ask an appropriate representative of the Code Compliant Member to attend an interview;
- (e) provide the person who made the allegation with protections, as outlined by [Treasury Laws Amendment \(Enhancing Whistleblower Protections\) Act 2019](#);
- (f) if appropriate, require a Code Compliant Member to investigate an Alleged Breach and report back to the CCC (including, where appropriate, with the assistance of external expertise);
- (g) investigate the Alleged Breach by reaching a fair and independent view on the issues and provide an appropriate remedy; and / or
- (h) respond with a clear decision with 60 Business Days.



- 9.5 The CCC will also consider whether a reported breach is indicative of a continuing underlying systemic problem by giving regard to the number and frequency of similar reported breaches by the Code Compliance Member.
- 9.6 Where appropriate, a determination of the CCC may include recommendations for corrective measures to be implemented by the Code Compliant Member including potential remediation or rectification in respect of the Alleged Breach.
- 9.7 Details of the determination may also be provided to:
- (a) all Code Compliant Members to assist them in understanding their Code compliance obligations; and
  - (b) if relevant, the person who made the allegation.
- 9.8 **Corrective measures**  
If it has been determined by the CCC that a Code Compliant Member has breached the Code, the CCC and the Code Compliant Member may agree on any corrective measures and the relevant timeframes for implementing them.
- 9.9 **Sanctions**  
The Board or the CCC may impose a Sanction on a Code Compliant Member in regard to a breach of the Code:
- (a) if that is considered to be an appropriate corrective measure;
  - (b) if the Code Compliant Member has failed to implement and comply with agreed corrective measures (or to do so within the agreed timeframe); or
  - (c) where (in the opinion of (as applicable) the Board or the CCC) the Code Compliant Member fails to reach agreement with the CCC within a reasonable timeframe in regard to appropriate corrective measures or other remediation to be taken by the Code Compliant Member.
- 9.10 The Board may impose a Sanction on a Code Compliant Member for breach of these By-Laws:
- (a) if the Code Compliant Member has failed to implement and comply with agreed corrective measures (or to do so within the agreed timeframe); or
  - (b) where, in the opinion of the Board, the Code Compliant Member fails to reach agreement with the Board within a reasonable timeframe in regard to appropriate corrective measures or other remediation to be taken by the Code Compliant Member.
- 9.11 When imposing a Sanction for breach of the Code, the Board or the CCC may impose or action one or more of the following Sanctions in accordance with these By-Laws and / or the Code:
- (a) require the Code Compliant Member to undertake a commercially reasonable rectification process or other related step within a specified timeframe, taking into account any rectification related to the breach agreed with or imposed on the Code Compliant Member by any regulatory body;
  - (b) require a Code Compliant Member undertake a compliance review of their remedial actions or remedial action plan;
  - (c) issue a formal warning to the Code Compliant Member;

- (d) require the Code Compliant Member to undertake an additional Code compliance audit at the expense of the Code Compliant Member;
  - (e) publicise non-compliance on the AFIA website and in AFIA's Annual Review and six-monthly report;
  - (f) publicise notice of the non-compliance in a public media release;
  - (g) report the Alleged Breach to the Relevant Regulatory Bodies (as defined in [Schedule 1](#) of this document, as amended from time to time);
  - (h) suspend or revoke the Code Compliant Member's certification as a Code Compliant Member;
  - (i) require the Code Compliant Member to cease portraying itself as being a Code Compliant Member and to cease using any logo or other symbol which is permitted for use by only Code Compliant Members and / or to remove from its website and from its Contracts and its other documents and literature any reference or indication that it is a Code Compliant Member;
  - (j) (in the case of the CCC), recommend to the Board that the Code Compliant Member's Membership of the Group, and / or AFIA be reviewed, suspended or terminated; and
  - (k) (in the case of the Board), suspend or terminate the Code Compliant Member's Membership of the Group, and / or AFIA.
- 9.12 The power of the CCC to impose a Sanction on a Code Compliant Member cannot be delegated.
- 9.13 Before imposing a Sanction, the (as applicable) Board or CCC will:
- (a) notify the Code Compliant Member in writing (including by electronic means); and
  - (b) provide an opportunity for the Code Compliant Member to respond with any comment within 5 Business Days of receipt of the notice provided under paragraph (a).
- 9.14 The (as applicable) Board or CCC will consider any response by the Code Compliant Member before making a final decision on whether or not to impose a Sanction.
- 9.15 The (as applicable) Board or CCC will notify the Code Compliant Member in writing of its decision regarding any failure to correct a breach of the Code or these By-Laws and any Sanctions to be imposed.
- 9.16 The CCC is under no obligation to impose a Sanction, however, where it is deemed to be a Significant Breach, the CCC will impose Sanctions [9.11\(c\)](#) and [\(e\)](#), and [\(g\)](#) as well as any other Sanction it determines will assist in ensuring customer confidence in the Code is maintained.
- 9.17 AFIA may take such action as the Board considers appropriate, including an application for injunctive relief, to enforce any Sanction, and may recover the costs of any such action from the party against which it takes such action. This clause may be used in the pleadings in any such proceedings.
- 9.18 Neither the Board nor the CCC is under any obligation to impose a Sanction and, subject to the terms of the Code and these By-Laws, the decision to impose a Sanction is wholly at the discretion of the (as applicable) Board or CCC.

- 9.19 When Sanctions are imposed, the CCC will publish details of the Sanctions in AFIA's Annual Review and six-month report to Code Compliant Members. Details to be published are:
- (a) the entity sanctioned;
  - (b) the type of sanction imposed and amount, if relevant; and
  - (c) the reasons for the sanction.

**10. CONFIDENTIAL INFORMATION**

10.1 For the purpose of these By-Laws (including the CCC and its operation as regards the Code), **Confidential Information** means all technical, commercial and other Confidential Information and materials of a Group Member, consumer or small business and includes any information or material that discloses or relates to:

- (a) a Code Compliant Member's compliance or non-compliance with these By-Laws or the Code;
- (b) an actual or Alleged Breach of these By-Laws or the Code by a Code Compliant Member;
- (c) the commercial, financial, or legal affairs of a Code Compliant Member including but not limited to pricing policies, costing information, supplier lists and customer lists;
- (d) legal advice;
- (e) a matter to which an obligation of confidence applies under privacy law; and
- (f) any other information or material which is of a confidential or sensitive nature, is marked or denoted as being confidential or which a reasonable person to whom that information or material is disclosed, or to whose attention that information or material otherwise comes, would consider confidential.

10.2 Subject to clause 10.3:

- (a) members of the Board and CCC Members must keep confidential all Confidential Information which comes to their attention in regard to CCC issues; and
- (b) a person who attends a CCC meeting, or a meeting with a CCC Member, must not disclose, or use for a purpose other than contemplated by these By-Laws or the Code, any Confidential Information supplied to him/her in connection with the conduct of the business of the CCC.

10.3 A CCC Member may disclose Confidential Information:

- (a) to another CCC Member or to any person to whom disclosure is reasonably required for the purpose of the CCC exercising its functions or powers under these By-Laws or the Code;
- (b) to any person to whom disclosure of the Confidential Information is required by law;
- (c) under corresponding obligations of confidence as imposed by this clause to a person retained to provide advice to the CCC; or
- (d) with the prior written consent of the Code Compliant Member, subject to privacy law.

10.4 If a Code Compliant Member ceases to be such, it may request that all Confidential Information relating to it be destroyed.

- 10.5 If the Board (acting reasonably, including after obtaining such advice as it considers prudent) is of the view that there is no material legal or other risk to AFIA by complying with that request, it will, in conjunction with the relevant former Code Compliant Member, and at that former Code Compliant Member's cost, arrange for the destruction of agreed Confidential Information relating to that former Code Compliant Member.

## **11. RESIGNATION AND TERMINATION OF MEMBERSHIP**

- 11.1 A Code Compliant Member may resign its membership as a Code Compliant Member, and any other Group Member may resign its Group Membership, at any time by giving at least 5 Business Days' notice in writing to the Board and the CCC. Notice can be provided by any means permitted by the [Constitution](#), for giving a notice, including electronic means.
- 11.2 The Board may, of its own volition or on the recommendation of the CCC, suspend or cancel the Code Compliance certification of a Code Compliant Member and / or suspend or terminate the Code Compliant Membership or Group Membership of a Code Complaint Member as a result of an investigation by the CCC pursuant to the Code and / or these By-Laws.
- 11.3 The Board may, of its own volition or on the recommendation of the CCC, in its absolute discretion, suspend or cancel the Code Compliance Membership of a Code Compliant Member who, in the opinion of the Board, does not meet, or no longer meets, the requirements of being a Code Compliant Member. This power includes situations where the Code Compliant Member has had its membership of the Group cancelled for any reason.
- 11.4 Where the Board cancels or suspends the Code Compliance Membership of a Code Compliant Member, the Code Compliant Member must immediately cease representing that it is compliant with the Code and must forthwith remove references to the Code from all of its Contract document(s) and forms and from all other materials provided to, or made available for the information of, its customers. For the avoidance of doubt, this paragraph does not require the removal of references to the Code from existing Contracts or other agreements already entered into with customers.

## **12. APPEALS**

- 12.1 The process of appeals in regard to termination or suspension of AFIA Membership or Group Membership, or the termination or suspension of Code Compliance certification of a Code Compliant Member is managed and determined by the Board.
- 12.2 An appeal from a decision by the CCC in relation to any issue mentioned in [clause 11.1](#) may be made to the Board. In dealing with any such appeal, the Board may delegate this function to an Appeals Committee of such other committee as it considers appropriate in the circumstances provided that no member of the CCC may be included on any such committee.

### 13. REVISION AND AMENDMENT OF BY-LAWS

The Board may, after consultation with, and seeking comments and suggestions from:

- (a) the then members of the CCC;
  - (b) the then Code Compliant Members; and
  - (c) such other organisations or people as it considers appropriate;
- review and amend these By-Laws and/or the Code at any time it considers it appropriate to do so.

### 14. DEFINITIONS AND INTERPRETATION

#### Definitions

In these By-Laws, unless the context indicates otherwise:

**AFIA** has the meaning given to that term in clause 1.1.

**Bankruptcy Act** means the *Bankruptcy Act 1966 (Cth)*.

**BNPL Product or Service** has the same meaning as in the Code.

**Board** has the meaning given to that term in clause 1.1.

**Business Day** means a day which is not a Saturday, Sunday, or public holiday in the place where the relevant act is to be done.

**Code** has the meaning given to that term in clause 1.2.

**CCC** means the Code Compliance Committee established by the Board for the purpose of the independent administration and enforcement of the Code.

**Code Compliant Members** has the meaning given to that term in clause 3.1; and **Code**

**Compliant Member** means any one of them.

**Confidential Information** has the meaning given to that term in clause 9.1.

**Group** has the meaning given to that term in clause 1.1.

**Industry** has the same meaning as in the Code.

**Members** has the meaning given to that term in clause 1.2; and **Member** means any one of them.

**Non-Code Compliant Members** has the meaning given to that term in clause 3.1; and **Non-Code Compliant Member** means any one of them.

**Sanction** means a sanction or requirement authorised to be imposed by the Code or these By-Laws.

**Significant Breach** means a 'significant' breach as described in ASIC's Regulatory Guidance 78 Breach Reporting by AFS licensees

**Terms of Reference of the CCC** means the Terms of Reference of the Code Compliance Committee of the Australian Finance Industry Association, as approved by the Board and establishing the CCC, as amended from time to time.

#### Interpretation

Unless the context indicates or requires otherwise, in these By-Laws:

- (a) headings are for convenience only and do not affect the interpretation of these By-Laws;
- (b) reference to the singular includes the plural and vice versa;
- (c) reference to a person includes a corporation and vice versa;

- (d) reference to a body, a committee, or a position of, or in relation to, AFIA, or to an official document relating to AFIA, means that body, committee, position or document from time to time;
- (e) any term which is defined in the descriptions of the parties, the recitals or elsewhere in these By-Laws will have that defined meaning;
- (f) where any word or phrase is defined in these By-Laws, any other grammatical form of that word or phrase will have a corresponding meaning;
- (g) reference to an annexure or an appendix, or to a part, article, or other subdivision, is to an annexure or appendix, or to a part, article or other subdivision, of these By-Laws;
- (h) reference to a statute, ordinance, code or other law includes any amendment to it, any replacement of it and any statute, ordinance, code or other law intended to operate in conjunction with it and, in each instance, includes every regulation, rule and other instrument;
- (i) reference to "month" is to a calendar month;
- (j) all monetary amounts are in Australian dollars;
- (k) "including" and similar expressions are not words of limitation; and
- (l) reference to a function includes a reference to a power, authority, and duty.

## **SCHEDULE 1**

### **1. RELEVANT LEGISLATION**

*Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

*Australian Securities and Investments Commission Act 2001*

*Competition and Consumer Act 2010*

*Privacy Act 1988*

*Spam Act 2003*

### **2. RELEVANT REGULATORY BODIES**

Australian Competition and Consumer Commission (ACCC)

Australian Financial Complaints Authority (AFCA)

Australian Prudential Regulatory Authority (APRA)

Australian Securities and Investments Commission (ASIC)

Australian Transaction Reports and Analysis Centre (AUSTRAC)

Office of the Australian Information Commissioner (OAIC)