

**THE  
CLEARING BANKS'  
ASSOCIATION**

**CODE OF CONDUCT**

**JANUARY 2010**

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## **1. INTRODUCTION**

- 1.1. The Code of Conduct (the Code) has been voluntarily developed by the Members of the Clearing Banks' Association of the Bahamas to foster good relations between Member Banks (Banks) and their Customers and to promote good banking practice throughout the Bahamas by setting standards of disclosure and conduct that Banks agree to observe when dealing with their Customers, Competitors and Employees. The Code allows competition and market forces to work to encourage higher service standards and lower costs.
- 1.2. Unless otherwise stated, this Code applies to all Banking products and services whether they are provided through a branch network or electronically (the telephone, ATM/ABMs or the internet or by any other method).
- 1.3. Members of the CBA commit to maintain the relevant standards of fairness set out in this Code of Conduct. In addition, members are also committed to the highest standards of ethical behaviour as contained in their respective Codes of Ethics.

## **2. OBJECTIVE**

The objectives of the Code are to ensure the highest standards of integrity and professionalism in the service of customers, to prevent criminal and regulatory abuse and to maintain and enhance the reputation of The Bahamas. To that end, the Code outlines standards of good banking practice and service by ensuring that all Banks:

1. act fairly and reasonably in all dealings with Customers;

- II. ensure that adequate procedures exist to handle Customer complaints;
- III. disclose relevant and useful information about Banking products and services to Customers;
- IV. develop secure and reliable systems and controls to preserve the integrity and stability of the Bahamian Banking Systems;
- V. ensure that the procedures Bank employees follow, reflect the commitments set out in this Code;
- VI. exercise due diligence and act in the best interest of all its stakeholders; and
- VII. develop systems and controls to ensure compliance with relevant laws and regulations of The Commonwealth of The Bahamas and International Statutes as applicable.
- VIII. Recognize the banking needs of disabled clients and take reasonable measures to enhance their access to its services and facilities.
- IX. Ensure that all written terms and conditions are fair and clearly set out the clients rights and responsibilities

### **3. GENERAL DISCLOSURE REQUIREMENTS**

The Code requires in general, that the terms and conditions applicable to an ongoing banking service shall be clearly communicated in order to provide a fair and balanced description of the customer's banking relationship. Further, the Code requires that this information be provided on or before the contract for the banking service is made. Specific disclosure shall be provided with respect to:

- I. Products, Services and Account Operations;
- II. Requirements to open and close accounts
- III. the process to vary terms and conditions;
- IV. the complaint handling and dispute resolution procedures;
- V. the Bank's right to combine accounts without the customer's consent;
- VI. Confidentiality, privacy and data protection
- VII. The manner in which electronic communication will be handled
- VIII. the cost of credit and Bank service fees and charges; including:
  - a. **the method by which interest, if any, is calculated** and the frequency with which it will be credited or debited and if appropriate, the fact that more than one interest rate may apply;
  - b. the manner in which the customer will be **notified of changes to the Terms and Conditions** and changes to interest rates, fees and charges;
  - c. with respect to **savings and chequing accounts**, the customer shall be advised of advised of:

- i. any minimum balance requirement; any restriction on depositing money in, or withdrawing money from, an account (applies to all accounts);
  - ii. any fees relating to returned items and insufficient funds;
  - iii. the ability of banks to replace original cheques with imaged (substitute) cheques;
  - iv. how dormant or hold accounts and superseded (no longer offered) accounts will be treated; and
  - v. the principles concerning the conduct of the customer during the account relationship
- d. more specifically, with respect to **term/certificate of deposits the customer shall be advised of:**
- I. the manner in which payments of interest and principal will be made;
  - II. the minimum amount required to establish a term deposit
  - III. the manner in which funds may be dealt with at maturity; and
  - IV. the nature of any charge or variation to an interest rate resulting from a withdrawal in advance of maturity.

- V. The penalty charge for withdrawing funds prior to the maturity date.
- e. more specifically, with respect to loans, the customer should be advised of:
    - I. how, and the basis on which statements of account will be provided;
    - II. interest rates, fees and charges and details on how a customer or a Bank may alter or stop a payment service, (e.g. allowance of prepayments, balloon payments, etc.); and
    - III. charges for late loan payments and timing of assessment of same.
  - f. with regard to **customer's cheques** a Bank shall provide to a customer general descriptive information on:
    - I. the time generally taken for clearing a cheque and how a cheque may be specially cleared;
    - II. how and when a cheque may be stopped;
    - III. how a cheque may be made out so as to reduce the risk of unauthorised alteration; or return due to incorrect completion.
    - IV. the standard and security features of a cheque;

- V. the use of images in processing customer transactions and statements.
  - VI. the dishonour of cheques, including post-dated, unpaid and stale cheques;
  - VII. the frequency of statements;
  - VIII. the frequency of deposits required by the Bank to keep overdraft facilities in good standing;
  - IX. the nature of liability and time frame for the customer to report disputes; and
  - X. extra charges for overdraft facilities (approved or unapproved).
- g. with regard to opening a **joint account** a Bank shall provide to a customer opening account general descriptive information on how funds may be withdrawn from the joint account;
- i. the manner in which such instructions can be varied; and the nature of liability for indebtedness on a joint account.
- h. with regard to accepting a customer's instructions to issue a subsidiary **ATM/ABM, credit or debit card**, a Bank shall:
- i. give details of any transaction fees;



- II. provide general descriptive information to the primary cardholder on his or her liability for debts incurred by the subsidiary cardholder by use of the card and also preventative measures that can be taken to avoid loss; and
  - III. inform the primary cardholder of the means by which a subsidiary card may be cancelled or stopped and the fact that this may not be effective until the subsidiary card is surrendered.
- i. with respect to **payment instruments**, a Bank may inform a customer of the advisability of safeguarding payment instruments such as ATM/ABM, credit and debit cards, cheques, passbooks, direct debits and standing orders and as such a Bank shall:
- I. disclose the need for the customer to inform the Bank as soon as possible of the loss, theft or misuse of his or her payment instruments;
  - II. a Bank shall inform a customer of the consequences arising from a failure by the customer to comply with any requirement referred to in Section I. above that is imposed on the customer by the Bank; and
  - III. the means by which the Bank or the customer can notify the Bank of the loss,

theft or misuse of his or her payment instruments.

- j. with respect to **foreign exchange charges**, Banks will provide Customers with details of the exchange rate and the charges, which will apply to foreign exchange transactions whether remitting or receiving funds.
- k. with respect to any **variation in charges**, when Banks change interest rates with immediate effect, they will effectively publicize those changes by placing notices in their branches, or in the press, or on statements.

Banks will make information about the rates on interest bearing accounts, which they offer to new or existing Customers freely available and accessible to Customers by one or more effective means, for example:

- 1. notices and/or leaflets in branches;
- 2. press advertisements;
- 3. personal notice;
- 4. direct mail or
- 5. a branch/central /telephone or internet service.

### **3.1 FEES & CHARGES**

Specific disclosure shall be made in the form of published tariffs freely available in the branches for customers when the account is opened or at any time upon request. Charges

outside the tariff will be advised on request or at the time the service is offered.

### **3.2 TERMS AND CONDITIONS**

Finally, with respect to operating of all bank services and products listed and/or not specifically listed above, a Bank shall have readily available any Terms and Conditions of each Banking Service it currently offers to Customers or prospective Customers.

- I. A Bank shall disclose the existence of any application fee or charge and whether the fee or charge is refundable if the application is rejected or not pursued.
- II. Where a Bank levies a fee or charge for a Bank cheque, a traveller's cheque, an interbank transfer or like service, the Bank shall disclose the fee or charge to a customer when the service is provided.

## **4. PRINCIPLES OF CONDUCT**

Banks will act fairly and reasonably in their dealings with Customers, Competitors and Employees as listed below.

### **4.1 CONDUCT WITH CUSTOMERS**

When dealing with Customers, Banks will:

- a. **ensure Customers have appropriate knowledge** and help Customers understand how their accounts operate.

- b. **provide regular statements of savings and chequing accounts or passbooks (in lieu thereof)** showing all transactions including bank charges since the previous statement date to help Customers manage their accounts and verify their transactions. Statements of loan accounts will be provided upon request. Customers may also elect to receive their statements or view transactions online and not by regular statement.
- c. **not normally close active Customers' accounts without first giving reasonable written notice.** Unless there are exceptional circumstances, such as suspected fraud or other criminal activity, a Bank will not close an active Customer's account without first giving reasonable notice.
- d. **bear the burden of proof to establish liability for loss** and as such, must prove that the Customer has committed fraud or has been negligent. The Bank will expect Customers to cooperate with them in their investigations
- e. **provide Customers with a list of service providers to make their choice from.** The most common service providers are lawyers and real estate appraisers. The choice of a lawyer or other professional is the customer's choice subject to the proviso that the professional or firm concerned must be acceptable to the Bank. The Bank retains the

right to decide their own internal policy regarding any such exceptions.

- f. **give reasonable notice before any variations take effect.** Banks will tell Customers how any variation of the terms and conditions will be notified.
- g. **ensure that customer complaints are properly handled by:**
  - i. having its own internal procedures for handling Customers' complaints fairly and expeditiously;
  - ii. informing Customers that they have a complaints procedure. Customers who wish to make a complaint will be told how to do so and what steps are available if they believe that the complaint has not been dealt with satisfactorily; and
  - iii. ensuring that staff are properly trained to deal directly with Customers and are aware of their Bank's internal complaints procedure.
- h. **be guided by the highest standards of customer confidentiality,** for both current and past Customers, in accordance with the applicable provisions of Bahamian Laws and Regulations and will endeavour to:

- I. strictly comply with and enforce laws relating to the confidentiality and privacy of all their clients' affairs;
- II. ensure that e-mail; voice mail, telephone banking and internet banking facilities are used in a secure and responsible fashion; and
- III. not to share, for marketing purposes any customer's information to any outside companies without the customer's express or implied consent.

- i. **take appropriate measures to ensure the security of Customer personal data and to protect same from unauthorised access or use.** A Bank shall notify the Customer of his right to access his personal information upon making request as provided for by the Data Protection (Privacy of Personal Information) Act.
- j. **when considering a request for a Banking Service involving the provision of credit to a Customer,** a Bank shall take into account the range of factors it considers are relevant to the Customer and the Banking Service to establish whether, in the Bank's view, the Customer has or may have in the future the capacity to repay. These factors may include:

- I. the Customer's income and expenditure, including the dependability of the income;
- II. the purpose of the credit facility;
- III. credit and/or behaviour scoring;
- IV. the Customer's assets and liabilities; and
- V. any security or collateral to be provided.

If an application is declined, the customer will be informed promptly of the Bank's decision. Nothing contained herein shall imply an obligation on the part of the Bank to give reasons for declining any loan application.

- k. **consider cases of financial difficulty** sympathetically and positively whilst acting and striking a balance in preserving the interest of the stakeholders and advise the client of the benefits of informing the Bank promptly when financial difficulties are anticipated or encountered.
- l. **act responsibly and prudently in marketing.** All advertising will be in good taste. In particular, Banks will ensure that all advertising and promotional literature is fair and reasonable, and does not contain misleading information.

- m. **advise the Customers of the need to carefully read the terms, conditions and account mandates applying to any Banking Service or Product.**
- n. **Provide a secure environment for the conduct of banking transactions, including those conducted at on-site and off-site ATM/ABM's.**

#### **4.2 Conduct of Customers**

Customers should adhere to the following principles in the relationship:

- a. keep Banks informed of any changes to their personal details or financial situation
- b. tell the Bank as soon as possible if they suspect or discover that:
  - their cheque books, savings account book, or cards have been lost or stolen
  - someone else knows their PIN, Password or other personal identification or
  - there are transactions on their account which they have not authorized.
- c. review all statements and savings account passbooks regularly



- d. inform the Bank of all loans, other financial commitments, income and changes to these whenever the Bank reviews or discusses the relationship
- e. manage their banking products properly in order to meet their personal financial needs and circumstances.
- f. take reasonable precautions to minimize crime at ATM/ABM machines or on Bank premises
- g. ensure that precautions are taken when using the Bank's website or Internet Banking portal, or when conducting telephone banking.

#### **4.3 CONDUCT WITH COMPETITORS**

In their dealings with competitors, Banks will:

- a. operate in a manner that promotes **open and fair competition**.
- b. **except for syndicated transactions** and where the customer is aware, Banks will have no agreements or arrangements in respect of interest rates, fees, products or services to be provided to Customers.
- c. **provide timely financial data to competitors** as requested by the customer.

#### **4.4 CONDUCT WITH EMPLOYEES**

In their dealings with Employees, Banks will:

- a. **endeavour to ensure that staff are aware** of the provisions of this code relevant to their duties and of the procedures for handling disputes with Customers;
- b. **ensure that a positive work environment exists** to foster and promote employee development;
- c. **ensure that there is ongoing training** in order to allow their employees to work to the letter and spirit of the law. Ongoing refresher courses should be provided for any regulations governing the Banking sector in particular, those related to Anti Money Laundering and Counter Financing of Terrorism and Exchange Control Regulations;
- d. **comply with the applicable employment legislation** of the Bahamas;
- e. **document policy and procedures** and train employees; and
- f. **promote an atmosphere of equal opportunity and non-discriminatory practices.**

**5. ADEQUATE SYSTEMS AND CONTROL REQUIREMENTS:**

- a. Banks should have systems and controls in place to monitor the activity of all accounts.
- b. Banks should have systems and procedures in place to provide timely accurate reporting to the Central Bank and other statutory bodies as required.
- c. Banks should have adequate backup systems and business recovery/disaster preparedness plans.

**6. LEGAL AND REGULATORY REQUIREMENTS:**

- a. All Banks shall ensure that their operations are in full compliance with all laws and regulations of The Commonwealth of The Bahamas.
- b. Banks are required by the Financial Transactions Reporting Act, Financial Transactions Reporting Regulations and Financial Intelligence Unit Act to fully satisfy themselves as to the identity of existing Customers and people or entities seeking to become Customers or transact business with or through a Bank and to report any suspicious transactions.
- c. Banks are required by law to comply and cooperate fully with any requests from The Central Bank of The Bahamas and the Financial Intelligence Unit and to provide detailed information regarding Customers' banking activities.
- d. Banks are required to develop and enforce Anti Money Laundering and Counter Financing of Terrorism procedures and to heighten staff awareness through ongoing training and well documented policies and procedures.
- e. Banks are committed to the fight against the financing of terrorism and will remain vigilant to ensure that they do not facilitate such activities.
- f. Records of all Customers' transactions shall be maintained in accordance with the laws of The Commonwealth of The Bahamas.
- g. Banks are required by law to comply with the provisions of the Data Protection (Privacy of Personal Information) Act

and shall ensure that personal data is collected, processed, maintained and used in accordance with the provisions of such Act. Banks may not disclose any information concerning a Customer's name, address, or account except as permitted by law.

- h. Banks will ensure that transactions conducted by or through them are in compliance with the Stamp Act and the Exchange Control Regulations of the Bahamas and will ensure that systems and controls are established to monitor such compliance.

#### **7. ONGOING REVIEW OF SCOPE AND APPLICABILITY OF THE CODE**

The Code shall be reviewed at least every three years in accordance with the Objectives and the Principles set out in this preamble and having regard to the views of interested parties. The Code is subject to the laws of The Commonwealth of The Bahamas, and should be amended to reflect any material changes thereto.

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