

Code Of Banking Practice

PREAMBLE

The Code of Banking Practice (the Code) seeks to foster good relations between Banks and their Customers (as defined below) and to promote good banking practice by formalising standards of disclosure and conduct which Banks that adopt the Code agree to observe when dealing with their Customers.

OBJECTIVES

The Code is intended to :

- (i) describe standards of good practice and service;
- (ii) promote disclosure of information relevant and useful to Customers;
- (iii) promote informed and effective relationships between Banks and Customers; and
- (iv) require Banks to have procedures for resolution of disputes between Banks and Customers.

PRINCIPLES

These objectives are to be achieved :

- (i) having regard to the paramount requirement of Banks to act in accordance with prudential standards necessary to preserve the stability and integrity of the banking system in Trinidad and Tobago;
- (ii) consistently with the current law and so as to preserve certainty of contract between a Bank and its Customer; and
- (iii) so as to allow for flexibility in products and services and in competitive pricing.

REVIEW

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.

STAFF TRAINING

A Bank shall endeavour to ensure that its staff are aware of the provisions of this Code relevant to their duties and of the procedures for handling disputes with Customers of the Bank.

THE CODE

This Code is in three parts:

- (i) Part A - Disclosures. This part describes the information which a Bank will provide to a Customer in respect of the Banking Services which the Bank offers to the Customer.
- (ii) Part B - Principles of Conduct. This part describes certain principles of conduct which a Bank will follow in dealing with its Customers.
- (iii) Part C - Resolution of Disputes. This part requires Banks to have dispute-handling procedures.

1.0 DEFINITIONS AND APPLICATION

1.1 In this Code and the Preamble:

"Account" includes, amongst others, a cheque account or an account that can be accessed by a cheque.

"Affiliate" has the meaning set out in Section 5 of the Companies Act 1995.

"Bank" means a company licenced by the Central Bank of Trinidad and Tobago to carry on the business of banking and business of a financial nature in Trinidad and Tobago that has adopted this Code.

"Banking Service" means a deposit, loan or other banking facility provided by a Bank to a Customer, but does not include a service in relation to a bill of exchange, a variation of a term or condition of a facility or a debt to a Bank that arises as a result of a withdrawal of more than the amount by which an Account is in credit without the approval of the Bank.

"Customer" means any small business or an individual, when that individual, whether alone or jointly with another individual, acquires a Banking Service which is wholly and exclusively for his or her private or domestic use.

"Small Business" means any business processing assets valued up to TT\$1,500,000 (excluding the value of land & buildings) at the time the subject of the complaint originated.

"Standard Fees and Charges" means fees and charges normally charged by a Bank to its Customers in respect of a Banking Service at a particular time.

"Terms and Conditions" means those terms and conditions specifically applied by a Bank to a Banking Service but does not include any other terms and conditions that may apply by operation of law.

1.2 This Code is to be read subject to the laws of Trinidad and Tobago.

1.3 From the date on which a Bank publicly announces that it adopts this Code:

(a) that Bank will be bound by this Code in respect of any Banking Service that Bank commences to provide to a Customer; and

(b) that Bank will be bound by this Code other than sections 2.1, 2.2, 2.3, 7.1, and 15.1 to 15.4 inclusive in respect of any Banking Service it is then providing to any individual who would have been a Customer if this Code had applied at the time that individual first acquired that service.

PART A: DISCLOSURES

2.0 DISCLOSURE: TERMS AND CONDITIONS

2.1 A Bank shall provide to a Customer in writing any Terms and Conditions applying to an ongoing Banking Service provided by the Bank to the Customer. Those Terms and Conditions shall:

(i) be distinguishable from marketing or promotional material;

(ii) be in English

(iii) be consistent with this Code;

(iv) be clearly expressed;

(v) be provided at the time of or before the contract for the Banking Service is made except where it is impracticable to do so, in which case the Terms and Conditions shall be provided as soon as practicable after the provision of the Banking Service; and

(vi) draw attention to the availability of the general descriptive information referred to in sections 6.1 and 6.2.

2.2 Any written Terms and Conditions referred to in section 2.1 shall include a statement to the effect that the relevant provisions of this Code apply to the Banking Service but need not set out those provisions.

2.3 A Bank shall include (where relevant) the following in its Terms and Conditions applying to a Banking Service:

- (i) the nature of all Standard Fees and Charges that then apply;
- (ii) the method by which interest, if any, is calculated and the frequency with which it will be credited or debited;
- (iii) the manner in which the Customer will be notified of changes to the Terms and Conditions and changes to interest rates, fees and charges;
- (iv) if appropriate, the fact that more than one interest rate may apply;
- (v) any minimum balance requirement or restriction on depositing money in, or withdrawing money from, an Account;
- (vi) in respect of term deposits:
 - a. the manner in which payment of interest and principal will be made;
 - b. the manner in which funds may be dealt with at maturity; and
 - c. the nature of any charge or variation to an interest rate resulting from a withdrawal in advance of maturity;
- (vii) in respect of a loan to the Customer, the repayment details;
- (viii) the frequency with which statements of Account will be provided;
- (ix) a statement that information on current interest rates and fees and charges is available on request; and
- (x) how a Customer or a Bank may alter or stop a payment service.

3.0 DISCLOSURE: COST OF CREDIT

3.1 A Bank shall make available to a Customer, or a prospective Customer, the interest rates and Standard Fees and Charges applicable to a Banking Service offered by the Bank.

4.0 DISCLOSURE: FEES AND CHARGES

4.1 A Bank shall, before or at the time of providing a particular Banking Service to a Customer for the first time or otherwise on request by a Customer, make available to the Customer a schedule containing the Standard Fees and Charges which currently apply to the Banking Service.

5.0 DISCLOSURE: PAYMENTS SERVICES

5.1 Where a Bank provides a Customer with a direct debit or credit payment service, an automatic payment service or access to an account by means of instruction via telephone, or computer, the Bank shall make available to the Customer details of any bank fees or charges applying to the service.

6.0 DISCLOSURE: OPERATION OF ACCOUNTS

6.1 A Bank shall provide to a Customer or prospective Customer for a Banking Service upon request general descriptive information concerning Banking Services, including where appropriate:

- (i) Account opening procedures;
- (ii) complaint handling procedures;
- (iii) the Bank's right to combine Accounts;
- (iv) bank cheques;
- (v) the advisability of a Customer informing the Bank promptly when the Customer is in financial difficulty; and
- (vi) the advisability of a Customer reading the Terms and Conditions applying to the Banking Service.

6.2 A Bank shall provide to a Customer *upon request*, general descriptive information on:

- (i) the time generally taken for clearing a cheque and how a cheque may be specially cleared;
- (ii) the effect of crossing a cheque, the meaning of "not negotiable" and "account payee only" and the significance of deleting "or bearer" when any of these expressions appear on a cheque;
- (iii) how and when a cheque may be stopped;
- (iv) how a cheque may be made out so as to reduce the risk of unauthorised alteration; and
- (v) the dishonour of cheques, including post-dated and stale cheques.

PART B: PRINCIPLES OF CONDUCT

7.0 PRE-CONTRACTUAL CONDUCT

7.1 A Bank shall have readily available any Terms and Conditions of each Banking Service it currently offers to Customers or prospective Customers.

7.2 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.

7.3 Where a fee or charge is levied by a Bank for the provision of a bank cheque, a travellers cheque, an inter-bank transfer or the like service the Bank shall disclose the fee or charge to a Customer upon request when the service is provided or at any other time.

8.0 VARIATION TO TERMS AND CONDITIONS

8.1 A Bank shall notify affected Customers of the introduction or variation of a fee or charge payable directly or indirectly by its Customers.

8.2 Unless otherwise agreed, a Bank may give any written notice to a Customer at his or her mailing address that was last recorded with the Bank. A Bank may require a Customer to notify the Bank promptly of a change to his or her name or address.

8.3 If a Bank considers there are sufficient changes to warrant doing so, the Bank will make available a consolidation of the Terms and Conditions applying to a Banking Service.

9.0 ACCOUNT COMBINATION

9.1 A Bank shall inform a Customer promptly after exercising the Bank's right to combine Accounts affecting the Customer.

10.0 FOREIGN EXCHANGE SERVICES

10.1 In providing a foreign exchange service, other than by credit or debit card or travellers cheque, a Bank shall provide to a Customer:

(i) details of the exchange rate and commission charges that will apply or, if these are not known at the time, details of the basis on which the transaction will be completed; and

(ii) an indication of when money sent overseas on the Customer's instructions would normally arrive at the overseas destination.

11.0 PRIVACY AND CONFIDENTIALITY

11.1 A Bank acknowledges that it has a general duty of confidentiality towards a Customer except in the following circumstances:

- (i) where disclosure is compelled by law;
- (ii) where there is a duty to the public to disclose;
- (iii) where the interests of the Bank require disclosure; or
- (iv) where disclosure is made with the express or implied consent of the Customer.

11.2 A Bank shall not collect information relating to Customers by unlawful means.

11.3 A Bank shall on request provide a Customer with information about that Customer which is readily accessible to the Bank and which may lawfully be provided. The information required to be provided is limited to the Bank's record of the Customer's address, occupation, marital status, age, sex, Accounts with the Bank and balances and statements relating to those Accounts (in this section 11 called "Customer information").

11.4 A Bank need not comply with a request under section 11.3 unless the Customer has, as clearly as possible, identified the Customer information requested and its likely location (if known to the Customer).

11.5 A Bank may recover its reasonable costs of supplying Customer information to a Customer.

11.6 A Customer of a Bank may request the correction of Customer information about the Customer held by the Bank.

11.7 A request for access to Customer information, or a request for the correction of Customer information, shall be dealt with in a reasonable time.

11.8 A Bank may not collect, use or disseminate information about a Customer's:

- (i) political, social or religious beliefs or affiliations;
- (ii) race, ethnic origins or national origins; or
- (iii) sexual preferences or practices; except that it may collect or use such information in accordance with this Code for a proper commercial purpose.

11.9 A Bank shall take reasonable steps to protect personal information held by it relating to a Customer against loss and against access, use, modification or disclosure that is unauthorised. A Bank shall require all staff with access to personal information concerning Customers to maintain confidentiality concerning that information.

11.10 In this section 11 "Customer" includes an individual who would have been a Customer if this Code had applied at the time that individual acquired a financial service.

12.0 PAYMENT INSTRUMENTS

12.1 A Bank may inform a Customer of the advisability of safeguarding payment instruments such as credit and debit cards, cheques and passbooks.

12.2 A Bank may require a Customer to notify the Bank as soon as possible of the loss, theft or misuse of his or her payment instruments.

12.3 A Bank shall inform a Customer of:

(i) the consequences arising from a failure by the Customer to comply with any requirement referred to in section 12.2 that is imposed on the Customer by the Bank; and

(ii) the means by which the Customer can notify the loss, theft or misuse of his or her payment instruments.

13.0 PROVISION OF CREDIT

13.1 In considering whether to provide 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;

(ii) the purpose of the Banking Service;

(iii) credit and/or behaviour scoring; and

(iv) the Customer's assets and liabilities.

14.0 JOINT ACCOUNTS AND SUBSIDIARY CARDS

14.1 A Bank shall provide to Customers opening a joint account general descriptive information on:

(i) how funds may be withdrawn from the joint account having regard to the instructions given by the Customers;

(ii) the manner in which such instructions can be varied; and

(iii) the nature of liability for indebtedness on joint account.

14.2 When accepting a Customer's instructions to issue a subsidiary credit or debit card, a Bank shall:

(i) provide general descriptive information to the primary cardholder on his or her liability for debts incurred by the subsidiary card holder by use of the card; and

(ii) inform the primary card holder 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.

15.0 GUARANTEES

15.1 This section shall apply to each guarantee and each indemnity (whether or not contained in a security) (called "guarantee" in this section 15) obtained from a third party who is an individual (called "the guarantor" in this section 15) for the purpose of securing any financial accommodation or facility provided by a Bank to any person (called "the borrower" in this section 15) other than:

(i) a public company or any of its Affiliates;

(ii) a company of which the guarantor is a director, secretary or member or any of its Affiliates;

(iii) a trustee of a trust (including a discretionary trust) of which the guarantor or a company or a Affiliate that is referred to in paragraph (ii) is a beneficiary or one of a class of beneficiaries under the trust; and

(iv) a partner, co-owner, agent, consultant or associate of any of the guarantor, a company or Affiliate referred to in paragraph (ii) or a trustee referred to in paragraph (iii); at the time the guarantee is obtained. The term "public company" has the meaning set out in section 4 of the Companies Act, 1995.

15.2 A Bank may only accept a guarantee if the amount of the guarantor's liability is limited to, or is in respect of, a specific amount plus other liabilities (such as interest and recovery costs) that are described in the guarantee.

15.3 Subject to obtaining the consent of the affected borrower, a Bank shall send to a guarantor:

(i) a copy of any formal demand that is sent to the borrower; and

(ii) on request by the guarantor, a copy of the latest relevant statements of account provided to the borrower, if any.

15.4 A guarantor may at any time extinguish the guarantor's liability to a Bank under a guarantee by paying to the Bank the then outstanding liability of the borrower to the Bank (including any future or contingent liability) or by making other arrangements satisfactory to the Bank for the release of the guarantee.

16.0 ADVERTISING

16.1 A Bank shall ensure that its advertising and promotional literature drawing attention to a Banking Service is not deceptive or misleading.

16.2 In any advertising in the print media and any promotional literature that draws attention to a Banking Service and includes a reference to an interest rate, at the annualised percentage rate, the Bank shall also indicate whether other standard fees and charges will apply and that full details of the relevant Terms and Conditions are available on application.

17.0 CLOSURE OF ACCOUNTS

17.1 Subject to the terms and conditions of any relevant Banking Service, a Bank:

- (i) will upon request by the Customer close an Account of the Customer that is in credit;
- (ii) may close an Account of the Customer that is in credit by giving the Customer notice that is reasonable in all the relevant circumstances and repaying the Customer the amount of the credit balance; and
- (iii) may charge the Customer an amount that is a reasonable estimate by the Bank of the costs of closure.

PART C: RESOLUTION OF DISPUTES

18.0 DISPUTE RESOLUTION

18.1 A Bank shall have an internal process for handling a dispute between the Bank and a Customer and this process will be readily accessible by Customers without charge upon them by the Bank. A dispute arises where a Customer has a complaint and completes the Bank's formal complaint form and delivers it to the Bank. A Bank shall agree, if the Customer wishes to submit to the jurisdiction of the Banking Ombudsman, provided the Bank's internal process has been exhausted.

18.2 Where a request for resolution of the dispute is made, the Bank shall inform the Customer in writing of the outcome within a maximum of two months from the receipt of the complaint form. If the dispute is not resolved in a manner acceptable to the Customer, the reasons for the outcome shall be given.

18.3 The process shall apply the law and this Code and also may take into account what is fair to both the Customer and the Bank.

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