

**From:** On Behalf Of Kelvin WONG  
**Sent:** Thursday, February 08, 2018 11:55 AM  
**To:** 'applications@compsomm.hk' <applications@compsomm.hk>  
**Cc:** David P KNEEBONE < >  
**Subject:** Submission of representation [Case number: AD/01XX]

Submission of representation

Case AD/01XX: Application for a decision in relation to the Code of Banking Practice (the Code)

*With regards to the four general issues that the Commission would like to obtain feedback on, IEC would like to provide our views on issue iii and iv.*

- *Issue i: The extent to which the Code amounts to a legal requirement.  
The IEC is not in the position to interpret the Code or the Competition Ordinance (Cap. 619)*
- *Issue ii: The extent to which compliance with the Code fulfils the exclusion in section 2 of Schedule 1 to the Ordinance  
The IEC is not in the position to interpret the Code or the Competition Ordinance (Cap. 619)*
- *Issue iii: General experiences with the application of the Code in Hong Kong*

*The Code plays an important role in terms of consumer protection. Like other regulatory or industry codes and guidelines that provide a standard for a participants' conduct, the Code sets out the minimum requirements and best practice that the authorized institutions e.g. banks should comply with. It ensures that banks will act in the interest of their customers, and customers will expect to obtain professional, fair and trustworthy service from banks in reverse. The Code is the broad public interest as it covers a wide range of banking services from the relationship between banks and customers, opening and operation of accounts and loans, card services, payment services and debt collection.*

*We should note that consumer and business interests are not necessarily aligned, and sometimes they are even in conflict with each other. There is keen competition among banks in Hong Kong, e.g. intense competition in the mortgages, credit cards, RMB deposits businesses especially. It can be envisaged that competition and sales pressure would outweigh consumer interest and protection if supervision and codes*

*and guidelines are not in place. The Code indeed serves to restrain and regulate banking conduct, so banks will not act contrary to the interests of customers.*

*We always emphasise that consumers should look for intermediaries such as banks, brokers, insurance agents with the proper licenses and registrations. This is because these intermediaries' businesses and services are supervised by the respective regulators and must comply with the relevant rules and regulations. This is an important element of consumer protection.*

- *Issue iv: Specific competition-related issues arising from the application of the Code*

*The Hong Kong Association of Banks (HKAB) has suspended certain provisions of the Code from 11 December 2015 in light of effectiveness of the Competition Ordinance. Though Hong Kong Monetary Authority has called for the full compliance of the Code by the authorized institutions, the suspension will lead to uncertainty for consumer protection.*

*The provisions suspended by HKAB are mainly related to fees and charges imposed by banks for deposits and credit cards. The suspension puts the interest of the general public and those vulnerable groups, such as small depositors (e.g. provision 6.5) and students (e.g. provision 26.1 (c)), in question.*

*We appreciate that both the Competition Ordinance and the Code serve the same objective to protect the interest of consumers, and should not be contradicted in principle.*

#### *About IEC*

*Established in 2012 and supported by the Education Bureau and all four financial regulators, the Investor Education Centre (IEC) is an organisation dedicated to improving financial literacy in Hong Kong.*