



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

12 April 2022

The Banking Code Compliance Committee  
PO Box 14240  
Melbourne VIC 8001

*via email: [info@codecompliance.org.au](mailto:info@codecompliance.org.au)*

Dear Sir/Madam

### **Banking Code Compliance Committee (BCCC) Deceased Estates Inquiry**

Timely settlement of deceased estates involving Small and Family Business ownership can be challenging depending on ownership structure, succession and/or sale plans, the estate value and will validity. Estates of sole traders are often more complex to settle, because when sole traders die, no one else is authorised to continue running the business.

The process to settle deceased estates can be delayed and confusing when accounts are held with multiple banks, who mostly lack a clear policy for settling business estates, with each bank applying different requirements for Probate and Letters of Administration to different estate values.<sup>1</sup> Settlement can also be delayed if there are assets in multiple states as Probate and Letters of Administration must be sought from each state Supreme Court taking between 5 days to 6 weeks to be issued.<sup>2</sup>

We recommend the BCCC works with the Australian Banking Association (ABA) to amend the banking code so that code-subscribing banks are committed to publishing a policy for settling business-related estates, and to ensure those banks apply the same estate values to their requirements for Probate and Letters of Administration to reduce confusion and unnecessary bank delays during settlement.

Late payment for funeral services can occur as bank-required legal evidence takes time to compile. The funeral industry responds to this delay by labelling late payment fees as estate fees and charging late payment interest, increasing costs for estates.<sup>3</sup> To better support bank customers, we recommend the BCCC works with the ABA to amend the banking code so that code-subscribing banks are committed to supporting efficient payment of the deceased's creditors.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Ms Sarah Blyton on 02 5114 6128 or at [sarah.blyton@asbfeo.gov.au](mailto:sarah.blyton@asbfeo.gov.au).

Yours sincerely

**The Hon. Bruce Billson**  
Australian Small Business and Family Enterprise Ombudsman

<sup>1</sup> Comparison of Commonwealth Bank, NAB & Westpac evidence requirements for different estate value brackets.

<sup>2</sup> Probate and Letter of Administration timeframe guides from State and Territory Supreme Court websites.

<sup>3</sup> December 2019. ACCC. Funeral services Sector: Competition and consumer issues.