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Consultation Paper 165
Credit assistance for home loans: Competence and training requirements

Dear Ms Youl

ANZ is pleased to provide a submission on the Consultation Paper on 'Credit assistance for home loans: Competence and training requirements' (CP 165).

Application and reach of Regulatory Guide 206

ASIC has previously set a minimum standard for representatives who provide 'mortgage broking services' in Regulatory Guide 206 – Credit licensing: Competence and training (RG 206).

In CP 165, ASIC has stated that the definition of 'mortgage broking' in RG 206 captures both those working in intermediary firms as well as those who work within or for credit providers.

RG 206 defines 'mortgage broking services' as providing credit assistance in relation to a credit product where the credit is secured by real property. Given the use of the word 'broking', it was not clear that RG206 applied to those 'working within or for credit providers'.

In our view, 'mortgage broking services' in RG 206 should be taken to have its plain and ordinary meaning and should be confined to those who 'broker' mortgage deals.

Representatives of credit providers do not, in the ordinary course of their duties, engage in activities that would be considered mortgage broking. That is, representatives of credit providers do not 'broker' deals rather, they sell proprietary home loan products only in which they have detailed training and knowledge of product features. We therefore submit that:

- Prescriptive training requirements for representatives are unnecessary; and

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- A Certificate IV in Finance and Mortgage Broking would be inappropriate because the majority of units comprising the qualification are irrelevant to the function performed by credit representatives working within or for a credit provider.

Inherent in the very nature of their work, brokers are involved in matching a large range of products within the market. This is very different to, and more complex than, what representatives working within or for credit providers do and should provide the basis for justifying more extensive and prescriptive training.

In our view, credit providers such as Authorised Deposit Taking Institutions (ADIs):

- Are best placed to determine what training is most suitable for their representatives and are required to do so as a licence condition;
- Already offer comprehensive training programs designed to meet the specific needs of representatives, depending on the activities they are expected to perform as part of their day to day duties;
- Provide specific product training from which credit representatives gain detailed and thorough knowledge of home loan products. This is to be contrasted with brokers who are dealing in a large number of products and who may not know all of the features of the individual products in the array they are able to offer to consumers;
- Frequently refresh product specific training for their representatives as changes are made to product features or as offers are made or campaigns are run in the market;
- Ensure, via compliance monitoring, that representatives undertake training relevant to their duties and product specific training where they are 'selling' home loan products; and
- More closely supervise their representatives and are legally responsible for their conduct, as compared with third party brokers who act as the customer's agent.

ANZ's view is that there is a distinction to be drawn between what credit representatives who lend proprietary products do and those performing the role of intermediary. We note that this distinction has also been recognised in aspects of the *National Consumer Credit Protection Act 2009* (Cth) (NCCP Act).

Accordingly, our view is that there is no basis for prescriptive training in the form of a Certificate IV in Finance and Mortgage Broking to apply irrespective of whether a representative only deals with loans provided by their licensee or they work in the traditional mortgage broking industry.

Our comments on the proposals contained in CP 165 are set out below.

Proposal B1 – Redefining the concept of 'mortgage broking' in RG 206

It is proposed that 'mortgage broking' be redefined as: 'suggesting' that a consumer apply for a particular credit contract with a particular credit provider within the meaning of s.8(a) of the NCCP Act.

ASIC has suggested that this would constrain prescriptive training requirements to "those in a position to influence any decision consumers make regarding home loans" without imposing the same requirement on those who only assist the consumer to apply for a credit contract. However, it is ANZ's view that this interpretation is not consistent with the wording of s.8(a). We do not consider that, by its usual meaning, 'suggest' can be

ascribed a meaning equating to 'recommending' a home loan, which is what ASIC appears to be suggesting is the case.

Furthermore, it is our view that the concept of 'suggestion' is too broad and not sufficiently clear to be the basis for requiring increased training. In ANZ's view, proposal B1 would have minimal effect in delivering its intended outcome of reducing the compliance burden on credit providers and would result in an unworkable situation because:

- Credit providers such as large ADIs have thousands of credit representatives who, within the scope of their day to day duties, may suggest to a consumer that they apply for a particular credit contract. Virtually any credit representative having frontline contact with customers is potentially caught by the proposed definition of 'mortgage broking'; and
- It is often difficult for credit providers to differentiate between those credit representatives who are involved in the credit assistance part of a credit contract and those representatives involved in the procedural part. The difficulty in delineating duties means that many staff involved in the home loan process would potentially be engaging in 'mortgage broking' under ASIC's approach.

Proposal B2 – Reducing the training requirements in RG 206

While ANZ's views are:

- That ADIs already sufficiently train their credit representatives who are in a position to influence any decisions consumer's make about a home loan; and
- We do not support prescriptive training requirements for credit representatives who are not performing the role of a broker,

we acknowledge that there may be licensees who would benefit from guidance by ASIC on training.

Accordingly, we support ASIC providing guidance (as opposed to prescriptive requirements) as to the training it considers appropriate for such representatives. This would set minimum standards while allowing individual licensees to choose alternative training that is consistent with the guidance provided. ANZ considers that it should be the obligation of a licensee to make an assessment of what training is required.

Within that context, we consider that any guidance provided should not require credit representatives to undertake training in areas which are irrelevant to the function they perform. In our view there are many subjects of study included with the Certificate IV in Finance and Mortgage Broking that have no relevance our credit representatives.

Proposal B3 – Implementing one or both approaches in proposals B1 and B2

ANZ does not support ASIC implementing either of the approaches in proposals B1 or B2.

We consider that it would be inappropriate to require credit representatives who do not 'broker' loans to complete a Certificate IV in Finance and Mortgage Broking, a qualification which is tailored to the training needs of those providing traditional broking services.

We acknowledge that guidance from ASIC on appropriate training would be useful, but our view is that it should be up to licensees to determine what the form this training takes.

ANZ would be pleased to provide any further information on this submission. I can be contacted on (03) 8654 3459 or Michael.Johnston2@anz.com.

Yours sincerely

A handwritten signature in black ink, appearing to read 'MJ', followed by a long, horizontal, wavy line that extends to the right.

Michael Johnston
Head of Government & Regulatory Affairs