

ANZ makes further changes to simplify small business contracts

ANZ is committed to making the changes outlined in its press release dated 23 August 2017. The changes will apply to small business loan contracts where the contract value is up to \$1 million and additionally will apply where lending to the customer group is up to \$3 million in total credit exposure. This reflects principles agreed with ASIC and the Australian Small Business and Family Enterprise Ombudsman.

In particular:

- Any “entire agreement” clauses will be removed. Although ANZ would not normally seek to rely on such a clause, their removal from loan terms and conditions provides greater clarity for small business lending customers.
- General material adverse change will no longer be a default event. This means that ANZ will not have default rights where there is an unspecified negative change in a small business customer’s circumstances.
- Other non-monetary default events will in most cases be limited to 6 events, namely:
 - unlawful conduct notified by a statutory or law enforcement agency;
 - insolvency / asset seizure;
 - material change of control or ownership without consent / change in legal status, capacity or composition;
 - loss of business licence / permit;
 - failure to provide accounts/information or maintain insurance;
 - material misrepresentation / use of loan for non-approved purpose / improper dealing with security.
- Financial indicator covenants as an event of default will be limited to specific types of lending. This means that, for the majority of small business lending customers, ANZ will not have the right to call a default when, for example, the value of secured property falls but the customer is still meeting their financial repayments to ANZ.
- Indemnity clauses will be limited in their operation for small business customers. For example, ANZ will generally ensure that customers are not liable for any indirect costs or losses incurred by ANZ.
- ANZ will limit its rights to unilaterally vary a customer’s contract to specified circumstances on stated notice periods.
- ANZ will also limit its cross-default rights, so that an event of default under another unrelated ANZ agreement will not be treated as an event of default under any ANZ small business lending contract or related guarantee or security.

Small business lending customers will hear more about this in the coming months through direct communications.

Existing and new customers will both benefit from these changes. From 31 August 2017 ANZ will not rely on or enforce any provision in our small business loan contracts that is inconsistent with this commitment.