

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE FOUR MAJOR BANKS (FIFTH HEARINGS)

Australia and New Zealand Banking Group Limited

ANZ11QON: Hansard p. 32

Foreclosures on farmers – legal fees and time-lines

CHAIR: When that occurs, the liquidators who go in and look at the assets and the ability to repay debt are nominated by the bank—that's correct? What quantum of legal fees to be incurred would be deemed appropriate?

Mr Elliott: I'd have to come back to you. I don't know. It's a good question—I should know, but I don't.

Mr Elliott: No, I don't know the answer to the question about the quantum of legal fees that is reasonable.

CHAIR: No, all right. There's the actual and then there's what you deem would be legit. Say there are assets to the value of \$1 million and an appropriate amount of legal fees would be no more than, say, 10 per cent—because, of course, it comes out of the estate.

Mr Elliott: I don't know. It's a good question. I'm not equipped to answer the question, sorry.

CHAIR: Does that mean that you would be prepared to take it on notice and come back with an answer?

Mr Elliott: Sure, absolutely.

CHAIR: What time lines or options do banks, at all, provide farmers around the right to negotiate or restructure once a default has occurred?

Mr Elliott: Again, that varies. I can come back to you on the specifics in terms of time lines. In reality, at the end of the day, nobody wants to get into that situation, least of all us. The last thing we want to be doing is recovering assets and selling farms or businesses.

ANSWER

ANZ seeks to minimise any instances of enforcement. As outlined in an answer to question on notice 10, ANZ initiated 3 enforcements against agribusiness customers in the 15 months to end March 2019 out of an agribusiness customer base of approximately 20,000. In the rare instances where an enforcement occurs, ANZ and its appointees seek to minimise the amount spent on legal fees noting that every situation is case specific.

In its forecasting, ANZ typically estimates total enforcement costs (including legal fees) to be around 10% of total assets. As noted above, every situation is case specific and so the actual legal fees incurred may be more or less than the estimate. For farming customers, if the enforcement is not contested, the legal fees incurred will generally be limited to the costs of preparing the required enforcement notices, appointment documents, property sale documents and attending the property settlement.

Typically, where a customer defaults, ANZ's practice is to engage with our customer to discuss their individual circumstances and to ascertain what actions the customer is proposing to take as a result of the breach. ANZ may take a number of different approaches depending on the nature and severity of the default. There is no prescribed time line for ANZ to deal with such defaults and this will be determined on a case by case basis.

In 2017, ANZ estimated that in the past the time between ANZ first issuing a breach or default notice and then taking action under its security documents was on average a period of over 2.5 years for Agribusiness customers (p.10, ANZ Submission to the Senate Select Committee Inquiry into Lending to Primary Production Customers, May 2017).