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29 December 2015

Ms Toni Matulick  
Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
Parliament House  
Canberra  
ACT 2600

Dear Ms Matulick,

**Re: Parliamentary Joint Committee on Corporations and Financial Services  
inquiry into the impairment of customer loans – questions on notice**

I refer to the questions on notice received by the Committee on 17 and 18 November 2015, and questions taken on notice during ANZ's appearance before the Committee on 13 November 2015.

Please find attached ANZ's responses to those questions and matters arising from the 13 November hearing. The monetary compensation disclosed in question 4 (c) of questions on notice received on 17 November is provided on a confidential basis.

If you have any questions or require clarification, please do not hesitate to contact me on

Yours sincerely

**Rob Lomdahl**  
Group Head of Government and Regulatory Affairs



## **Hansard transcript, 13 November 2015**

ANZ has provided a few minor typographical edits to Hansard separately.

We would also like to make a clarification to the evidence given on 13 November in relation to ANZ's involvement with Landmark prior to the acquisition. ANZ did not have a relationship with Landmark prior to the acquisition although ANZ was a financier to the Australian Wheat Board.

## **Questions on Notice received 13 November 2015**

### **The 11% of the value of the Landmark book that were impaired – what is the number of customers that make up that 11%?**

The 11%, which is by dollar value, includes both D and E graded loans, using Landmark's internal risk rating system. Landmark used a system of grading loans as A to E, with D and E graded loans being regarded as higher risk. The D graded loans made up 7.3% by dollar value of the total loan book and comprised 167 customer accounts. The E graded loans made up 4.7% by dollar value and comprised 58 customer accounts. Typically, the term "impaired loans" refer to those loans where there is a provision (expected loss) held against them. In the Landmark portfolio, the impaired loans were the 58 E graded loans. The D graded loans did not have any provisions.

### **Did any of the agreements for the acquisition of Landmark include any warranties?**

Yes there were various warranties relating to topics customary for a warranty regime in a transaction of this kind. For example, these included warranties relating to:

- the reliability and accuracy of the data room materials and other disclosure materials provided by Landmark during the due diligence phase;
- the loans and trust arrangements comprising the Landmark loan book;
- the deposit notes/debentures comprising the Landmark 'deposit' book; and
- the Landmark employees to offered employment with ANZ and their superannuation arrangements.

ANZ did not make any claims against Landmark under any of these warranties.



## **Questions on Notice received 17 November 2015**

- 1. In July 2007 ANZ in a submission to the House of Representatives stated that Low documentation lending (Lo Doc) now represents 18 per cent of the total retail portfolio: a. How many loans, and what percentage, and what value did they represent in each year 2004 to 2015?**

The following data represents total Australian Home Loan portfolio:

AUDm	Full Doc	Lodoc 60	Lodoc 80	Total	Total Low doc	low doc % Total Portfolio
Sep-05	80,638	10,777	96	91,511	10,873	12%
Mar-06	83,454	12,936	386	96,775	13,322	14%
Sep-06	85,652	15,725	726	102,102	16,450	16%
Mar-07	87,667	18,340	1,046	107,053	19,387	18%
Sep-07	91,346	21,260	1,472	114,078	22,732	20%
Mar-08	94,497	24,264	2,194	120,955	26,459	22%
Sep-08	98,315	27,386	2,911	128,612	30,297	24%
Mar-09	103,510	29,925	3,020	136,454	32,945	24%
Sep-09	106,833	31,806	2,702	141,340	34,507	24%
Mar-10	111,712	34,786	2,412	148,909	37,197	25%
Sep-10	118,527	38,157	2,216	158,900	40,373	25%
Mar-11	125,487	37,631	1,958	165,076	39,589	24%
Sep-11	133,718	34,359	1,761	169,838	36,120	21%
Mar-12	145,717	31,084	1,588	178,390	32,673	18%
Sep-12	152,826	27,786	1,318	181,931	29,105	16%
Mar-13	161,834	24,777	1,125	187,736	25,902	14%
Sep-13	172,004	21,846	950	194,800	22,796	12%
Mar-14	181,135	19,490	815	201,440	20,305	10%
Sep-14	190,815	17,610	717	209,141	18,326	9%
Mar-15	201,060	15,981	633	217,674	16,614	8%
Sep-15	215,687	14,588	567	230,842	15,155	7%

- 2. Once the GFC struck, ANZ implied and stated in Annual Reports that its Lo Doc exposure was less than 2.0%, of the total retail portfolio:**

**a. Would that not be misleading to shareholders?**

No. ANZ stands by the information provided in our annual reports. The 18% figure referred to above was provided in a submission to the House of Representatives Economics Committee inquiry into Home Loan Lending Practices and Processes. It is provided in the context of home lending specifically and was a percentage of the total home loan portfolio. This figure is consistent with the data in the table above for 2007.

The 2% referred to in the Annual Report was calculated on a different basis, namely as a percentage of the total retail portfolio.

**b. Did ANZ provide No doc loans?**

ANZ did not provide No doc loans.

**c. How many loans and what percentage and what value did they represent in each year 2004 to 2015?**

Not applicable as ANZ did not provide No Doc loans.

**3. In July 2007 in a submission to the House of Representatives Economics Committee, ANZ said:**

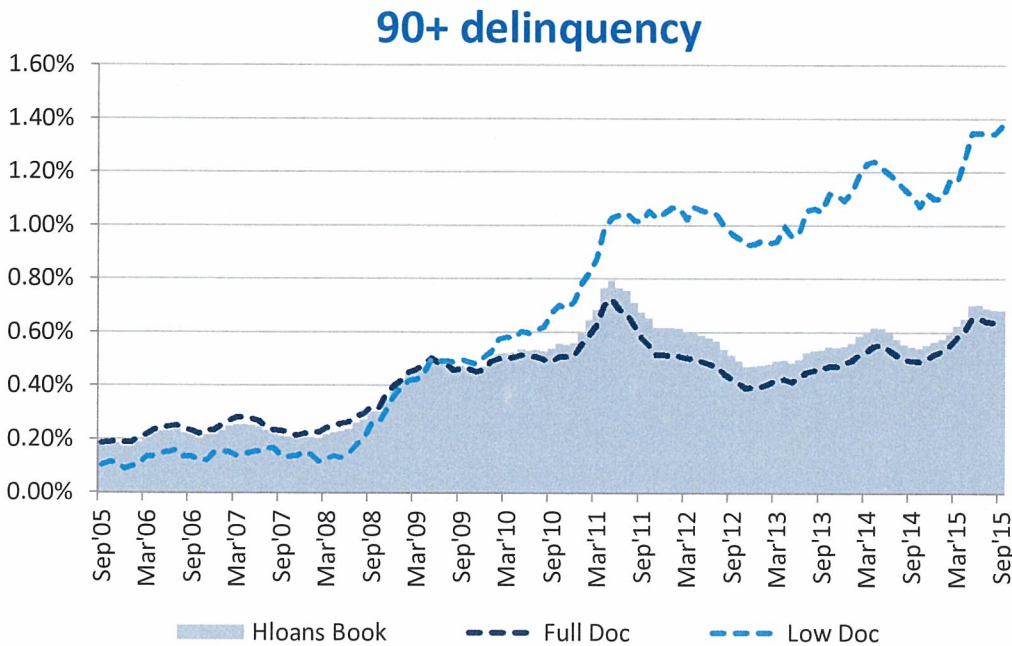
*The assessment of ANZ's Lo Doc loans is on the same basis as all other home lending (except for the ability to provide external evidence of income) and does not represent any significant change in credit standards.*

**a. What was the 90 day delinquency rate (3 monthly) as reported of ANZ Lo & No Doc loans in each year 2004 to 2015?**

**b. What was the 90 day delinquency rate (3 monthly) as reported of ANZ Full Doc loans in each year 2004 to 2015?**

The following chart tracks delinquency rates (as a percentage of the relevant portfolio) for the total home loans portfolio compared those of the Full Doc and Low Doc home loans portfolio. ANZ did not provide No Doc loans.

It is important to note that the loss rate on the Australian home loans portfolio remains extremely low at 0.01%.



**c. How many loans and what value did they represent in each year 2004 to 2015 that were known to be subject to Lender Mortgage Fraud?**

The term "Lender Mortgage Fraud" is unclear and is not defined for regulatory or complaints reporting purposes. We are unable to extract information as far back as



2004 but have endeavoured to answer this question with the information we have available.

Since October 2011, we have identified 9 files subject to internal lender fraud or misrepresentation. These matters may or may not have been subject to a customer complaint. None of these matters were relating to Low Doc loans.

ANZ was required provision a total of ~\$2.6 million to cover losses associated with those 9 files (October 2011 – December 2015).

**4. ASIC consider that fraud by a representative, and your failure to prevent fraud by a representative, is likely to involve a significant breach of each of your AFS obligations.**

**As an AFS licensee, ANZ must give ASIC a written report (Form FS80) as soon as practicable, and in any case within 10 business days of becoming aware of a breach (or likely breach).**

**a. How many breach reports as required under your licence did ANZ make each year to ASIC of Lender Mortgage Fraud?**

ANZ has made no breach reports to ASIC in relation to "Lender Mortgage Fraud".

**b. How many complaints of Lender Mortgage Fraud did ANZ receive and how many were investigated in each year 2004 to 2015?**

As noted above, "Lender Mortgage Fraud" is not a term that is defined for regulatory or complaints classification purposes.

ANZ has sought to assist the committee by manually searching for individual allegations of "Lender Mortgage Fraud" among customer instigated complaints relating to "maladministration". Maladministration occurs when a lender has not met it's broader obligations to lend with due skill and care or responsibly. We are therefore assuming that the broader categorisation of maladministration would include allegations of "Lender Mortgage Fraud".

We searched maladministration complaints data for:

- complaints where the key words of "falsified", "altered" or "fraud" were included in the complaint description field
- complaints categorised as "inappropriate lending" or "inappropriate lending/maladministration"

The data excluded complaints where there was not enough detail in the complaint description that associated application fraud with an ANZ representative.

Data was only available from 2008 onwards. It is important to note that complaint categorisation changed at least twice during this period so data may not be directly comparable from year to year and anomalies may arise.

<b>Year</b>	<b>Number of complaints</b>
2008	6
2009	5
2010	13
2011	12
2012	31
2013	38
2014	24
2015	17

**c. What amount of compensation was paid to and to how many ANZ clients/customers in each year 2004 to 2015? (in relation to Lender Mortgage Fraud)**

ANZ paid compensation in 30 of the above cases either due to an ANZ error (19 cases) or as a goodwill gesture (11 cases).

**d. How many complaints still remain unresolved at ANZ, FOS or in the courts? (in relation to Lender Mortgage Fraud)**

Five complaints about maladministration currently remain unresolved. Four complaints were received in FY15 and are continuing to be dealt with through the internal dispute resolution or FOS processes. One matter is in the courts.

## **Questions on notice for ANZ – received 18 November**

### **1. Could you provide details on the remuneration structure for ANZ staff in your branches? What are the incentives to write loans and the subsequent impact on the optimisation of these loans?**

The structure of an employee's remuneration in the branch typically comprises:

1. Fixed remuneration, i.e. either a) a Total employment Cost (TEC) package which is the total of salary and Superannuation Guarantee, OR, b) Salary, plus Superannuation Guarantee contribution and leave loading; and
2. Variable remuneration, i.e., eligible individuals participate in either a) the ANZ Employee Reward Scheme – ANZ's standard discretionary incentive scheme, OR, b) a Business Unit Incentive Plan – tailored short term incentive plans designed to meet a specific business need and to reflect market practice.

Before an employee is eligible for receiving variable remuneration, they are required to meet performance and behaviour standards including:

- completing all mandatory training (discussed below);
- complying with the ANZ customer service standards;
- maintaining compliance standards; and
- demonstrating positive behaviours.

Mandatory learning is specifically required to comply with legislation; regulatory requirements; industry standards and codes; and, principles of good corporate governance that apply across ANZ.

Employees are required to complete training modules:

- applying generally to all ANZ employees ("ANZ Essentials")
- relating specifically to the country in which they operate; and
- relating specifically to their role.

ANZ Essentials is divided into four sections:

- "Welcome to ANZ", an online induction program and introduction to ANZ;
- "Our Principles" covering the ANZ Code of Conduct and Equal Opportunity Essentials;
- "Compliance" including Compliance Essentials, Anti-money Laundering and Counter Terrorism obligations, Operational Risk Essentials and Preventing Fraud, Bribery and Corruption; and
- "Employee Wellbeing", an introduction to Health Safety and Wellbeing; and Emergency Preparedness.

ANZ centrally monitors whether an employee has completed their mandatory learning requirements and notifies line managers if training is not completed. Employees must re-sit and pass key training modules each year.

Incentive payments also depend on sales staff meeting their financial targets (how much they sell against set sales targets across banking products, including loans). Incentives specific to loans differ depending on the role (such as home loan specialists or personal bankers).

ANZ supports APRA's principles based approach to remuneration governance. ANZ's remuneration strategy, the Group's Remuneration Policy and reward frameworks all reflect the importance of sound risk management.



**2. Regarding your ongoing relationship with FOS, can you prepare a response to the following questions:**

**a. Total number of cases (disputes) where ANZ has dealt with FOS;**

The following data outlines ANZ disputes accepted by FOS for the last three years <sup>[1]</sup>. Before FOS accepts a dispute, FOS refers any disputes back to ANZ to resolve through our internal dispute resolution process.

	<b>ANZ Cases accepted by FOS</b>
FY13	1432
FY14	1664
FY15	1525

If ANZ is unable to resolve the dispute directly with the customer, the matter is than 'accepted' by FOS, at which point FOS determines whether the matter is within or outside its terms of reference. If a matter is within FOS' terms of reference then FOS will seek to facilitate an appropriate resolution between the parties by negotiation, assessment or decision. ANZ will in most cases continue to work with its customers to try a resolve a dispute that is considered to be outside FOS' terms of reference.

**b. What is that average value of these cases;**

There is a broad range in the value of cases that FOS considers. Claims can include non-monetary claims such as a variation of a contract under a financial hardship request, removal of a credit listing or a request for an apology. The value of a claim can range from a customer disputing a small fee to customers claiming the maximum monetary value of FOS' jurisdiction on a number of different credit facilities. Claims also often change during the course of a negotiation.

The larger claims can involve multiple borrowers with cross collateralisation of multiple security properties or small business claims relating to credit facilities less than \$2 million, which might also involve a claim for a waiver of a personal guarantee.

Because of the complexities noted above, ANZ does not compile the requested data and is unable to provide specific information on the average value of the disputes lodged at FOS.

**c. Of these cases, how many have ANZ challenged; and**

None. ANZ is bound by any Determinations that are made by FOS where a customer has accepted the Determination. ANZ has a good working relationship with FOS and does not have a practice of challenging the outcome of a Determination.

FOS Terms of Reference provide that Financial Service Providers can make a written request as to why a dispute should be excluded and can provide relevant information to FOS. FOS will then determine whether a dispute is within its term of reference. ANZ accepts FOS jurisdictional decisions and will also in some cases consent to FOS' jurisdiction where a dispute could be outside FOS' terms of reference. Where a dispute

<sup>[1]</sup> Data only includes ANZ volumes. It excludes Esanda and Wealth products such as managed investments and insurance.





falls within FOS terms of reference, then ANZ will work with FOS to try and resolve the dispute in accordance with FOS' processes.

One recent matter of which the Committee may be aware is the matter of Goldie Marketing Pty Limited v. FOS and ANZ which was recently heard in the Supreme Court of Victoria. This is an example of where a customer challenged a FOS Jurisdictional Decision in court that the dispute was outside its terms of reference.

The customer initially challenged the FOS Jurisdictional Decision that the dispute could not be considered by FOS as the customer was not an eligible applicant. The customer then challenged the FOS second Jurisdictional Decision that the matter was more appropriately dealt with by the court. The customer also brought proceedings against ANZ at the same time in relation to matters arising out of the dispute as the customer was in default and sought to prevent ANZ from taking enforcement action whilst the court was considering the customer's dispute against FOS.

On 19 June 2015, the Supreme Court of Victoria upheld the FOS Jurisdictional Decision that a court, rather than FOS, was best placed to consider the particular dispute between Goldie Marketing and ANZ.

**d. How many of ANZ's challenges and appeals have been successful?**

Not applicable.

**3. Could you also provide details of the typical (legal and financial) resources applied to each case, how long these cases ran for and the nature of the person ANZ were challenged (e.g. sole traders)?**

Not applicable.