

17 December 2010

Economics Reference Committee  
Parliament House  
Canberra ACT 2600

Dear Sir/Madam,

At the Senate hearing on 14 December the Chair referred to a statement made by ING DIRECT in our submission where we commended the Government on the release of the ASIC Regulatory Guide 220 on Early Termination Fees for Residential loans and recommended that there be no further regulation on fees. The Chair requested our views on the Government's proposal to introduce legislation to ban mortgage exit fees as it contradicts the recommendation made by us in our submission.

In addition to the statements made by us at the hearing, we would like to take this opportunity to clarify our position on this matter by this letter.

We commended the Government on the release of the Regulatory Guide 220 on Early Termination Fees for residential loans, in our submission on banking competition. This guide sets out how provisions of the National Credit Code and Unfair Contract terms law apply to mortgage early termination fees.

The Regulatory Guide 220 ("Regulatory Guide") spells out ASIC's guidelines on points including

1. what costs & types of loss can be included in exit fees;
2. types of fees that should not be recovered through exit fees; and
3. limited circumstances in which a lender may vary exit fees during the life of a mortgage.

The Regulatory Guide limits these fees to the recovery of a lender's loss caused by the early termination and clarifies the position that a lender cannot use exit fees to discourage a borrower from switching their loans or to punish them for doing so.

ING DIRECT commends the release of this ASIC Regulatory Guide as it clears the position and clearly sets out that where the exit fee cannot be justified by the lender ASIC will take compliance or enforceable action.

While ING DIRECT has removed mortgage exit fees from ING DIRECT home loans from November 2010 and the legislation to ban exit fees will not adversely affect this segment of the market, we continue to believe that further regulation will not be the solution to enhance competition.



As noted by Mark Mullington at the hearing, the key driver to reduce interest rates is assistance with the reduction to the cost of funding and to ING DIRECT a key driver is the removal of the Interest Withholding Tax from funds that can be borrowed from our global partners to reduce the pressures on funding which in turn would further assist us in pricing our mortgage products at a competitive price.

We trust that this explains our position to clarify the statements made by ING DIRECT at the hearing on 14 December 2010.

Regards

**Don Koch**  
**Chief Executive Officer**  
**ING Bank (Australia) Limited**

