# Australia & New Zealand Banking Group Limited (“ANZ”)

## *Submission to the Senate Standing Committee on Economics*

**Inquiry into the Australia Business Investment Partnership Bill 2009 and the Australian Business Investment Partnership (Consequential Amendment) Bill 2009**

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Committee Secretary
Senate Economics Committee
Department of Senate
PO Box 6100
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Dear Committee Secretary

**Inquiry into the Australia Business Investment Partnership Bill 2009 and related Bill (the "Bill")**

ANZ's submission to the Inquiry centres on the rationale for the Bill and the Bank's acceptance of the invitation to become one of the initial stakeholders in the Australian Business Investment Partnership Limited ("**ABIP**").

The continuing ramifications of the global financial crisis are well known. The objectives of the Bill represent a focused Public Private Initiative to provide a 'safety net' to a key sector within the Australian Financial System; commercial property financing (the "**Sector**"). ABIP as the centrepiece of the Bill is conceived as a contingency mechanism to support systemic stability directly to the Sector and more broadly across financiers, investors, superannuation funds, employees and households. ABIP's purpose is to address the potential funding gap resulting from diminishing liquidity and capacity from traditional financing sources and the current limited capacity of the capital markets, thereby seeking to avert a necessity to divest assets in the commercial property sector.

A fundamental feature is ABIP's limited tenor (i.e. five years; two-year availability window and maximum facility term of three-years). It is envisaged as a temporary solution in which to execute its mandate (if required), straddle the tight liquidity period and provide for refinancing back into the financial markets in an orderly fashion.

In light of our observations ANZ believes that the establishment of ABIP should be prioritised. While envisaged as a prudent contingency mechanism, the provision of a Commonwealth sponsored 'backstop' provides a powerful boost to sentiment in the financial markets, particularly in the Sector. Anecdotally, the recent "Ozcar" Initiative is testimony to the benefit of a specific programme.

## The Backdrop

Underlying the potential funding gap is the contraction of traditional funding sources, including:

- The potential future withdrawal of foreign bank liquidity from the domestic commercial property market; and
- Dislocation of the capital markets (Commercial Mortgage backed Securities ("**CMBS**") being the specific consideration in this context).

ANZ is one of the major participants in the Sector. However, capacity is not unlimited as we are subject to regulation which establishes prudential and concentration limits. These range across industry, sector and borrower levels. It follows that our major bank peers would be in a similar position. Consequently, in the first instance while liquidity solutions should be sought from the financial markets, there is a likelihood of escalating competition, or need, for a reducing pool of financing. A necessity to divest assets due to the lack of liquidity could accelerate devaluation. As a key participant we observe:

- ABIP is by no measure intended to provide a mechanism for any financier to exit a funding obligation.
- ANZ estimates of the CMBS maturities for 2009 and 2010 are $3.0B and $2.3B respectively, representing significant refinancing needs. Expectations are that there will be very limited appetite to renew these transactions.

Based on our experience at this point in time, we see a greater risk in the immediate term of a serious funding gap arising in the context of CMBS, rather than from foreign bank activity, particularly when the nature of CMBS issues are taken into consideration - large stand-alone transactions held by third party investors rather than participations by banks.

## Governance and Risk Management

The Bill, and related documents such as the Shareholder's Agreement, prescribes prudent controls around ABIP's activities, funding, operations and governance. ANZ's views on key aspects are noted below:

- **Governance**: Decisions are subject to unanimous support. Inherently, this provides a conservative framework to manage key decisions. This is of particular importance in the context of matters such as credit decisions (e.g. what risks to adopt, implement changes or exceptions to lending criteria) and expanding ABIP's scope to other lending sectors. The Shareholder's Agreement will impose an appropriate conflicts policy with an underlying theme that directors and secondees must act in the best interests of ABIP during their tenure. Matters such as loan proposals considered by ABIP will also be commercial-in-confidence, being included in an appropriate confidentiality framework. These controls will be supplementary to those required under the Corporations Act.
- **Prudent Risk Profile**: ABIP's lending policy and criteria will be substantially similar to that of the Australian banking sector. The Majors have a prudent and commercial reputation in this Sector, so ABIP will essentially draw policy and procedures from 'best practice' institutions. From ANZ's point of view, it follows that a similar conservative policy should be adopted and in the context of being a stakeholder and given the entity's nature as a Public Private Initiative. ABIP's Risk Committee will be resourced by very experienced property risk specialists, consequently the responsibility for implementing the policy will be in the hands of conservative lending executives. The framework also provides flexibility to consider exceptions to Policy. This will be subject to the same rigorous regime and remain prudent (excessive credit risk is not intended, viable propositions also remain a prerequisite).

## Competition

ABIP is to be established with a specific function as a back stop funder. By definition, it is to provide a backstop to other financiers rather than compete with them. Potential borrowers must satisfy a number of fundamental prerequisites before ABIP may consider the proposal:

- A contractual refinancing need must have arisen;
- The proposal must be 'performing', that is, a commercially viable transaction; and
- Finance is not available from other commercial sources.

The latter is important. In practical terms the applicant must have first tested the financial markets for funding.

## Conclusion

In conclusion, the Initiative contemplated by the Bill is based on sound foundations, embodying a prudent contingency mechanism. It is targeted and does not seek to remedy liquidity stress across all finance sectors, thereby recognising the inherent risks in a "broad brush" approach.

At the very the least a liquidity contingency will encourage confidence in a key sector of our economy. If required, it can assist in stabilising liquidity and asset revaluation.

Yours sincerely

Gary Newman
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