SUBMISSION 5

Mr Stephen Boyd
Committee Secretary
House of Representatives Standing Committee on Economics
Parliament House
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BY EMAIL

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Dear Mr Boyd

Submission: National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill 2011

Australia and New Zealand Banking Group Limited (ANZ) is pleased to provide a submission to the Committee's Inquiry into the *National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill 2011*. The Bill mainly implements the Government's election commitments on credit cards announced by the Prime Minister in August 2010. This involves major new regulation of the credit card industry. In addition, the Bill requires home loan lenders to provide Key Fact Sheets for home loans.

ANZ believes that the Australian credit card industry is well-regulated, responsible and fair to consumers. In particular, credit card issuers in Australia must comply with the *National Consumer Credit Protection Act 2009*. This includes responsible lending obligations which prohibit credit card issuers from advancing credit that a customer cannot afford to repay or does not meet the customer's requirements. ANZ has ensured its processes and policies comply with these obligations when issuing new credit cards or extending additional credit on existing cards.

Generally, consumers in Australia manage their credit card debt well. The average credit card balance is around 35 per cent of the available limit and a significant percentage of customers repay their credit card balance in full each month. Default rates on credit cards are low.

ANZ does not believe there is a case for significant additional regulation of the credit card industry. It was disappointing that the Government announced its policy while it was engaged in the early stages of consultation with industry. Nevertheless, ANZ understands that the Bill is Government policy and has worked productively with the Government and Treasury in the development of the Bill. We were also disappointed with the level of consultation at key stages of the process. In particular, we were initially given only three business days to comment on the draft legislation. There are still a number of aspects of the Bill which pose implementation problems or require further clarity.

Offers to increase credit limit of credit card contract

The stated policy supporting the Government's election commitments is that customers should not receive a credit limit increase offer unless they have opted in to receive them. The Bill provides for this.

An unresolved issue is the types of communications which will be permitted. Issuers should be able to provide information to customers about their options to manage their credit limit as their circumstances change. This would include communications about the ability to increase their credit limit, reduce their credit limit or to opt-in to receive offers.

We believe that credit limit increase offers are a service that some customers will want and they should be able to receive information about the service and to opt in relatively easily to receive offers.

ANZ understands that the policy is to clearly prohibit any communication which gives a pre-approved offer, mentions a likely personalised dollar figure or suggests that a specific offer of an amount of credit will be made if the customer opts in. The scope of the legislation should be limited to achieving this policy objective.

Use of credit card in excess of credit limit

The announced election commitment was that customers would not be charged a fee for overlimit transactions unless they explicitly opt-in to go overlimit. If a customer wanted the flexibility to go overlimit, they could choose to opt-in and access this service. We are concerned that the proposed implementation of this measure is unnecessarily complex.

The Bill provides for a fee-free buffer of up to 10 per cent of the credit limit as a default feature of credit cards. Issuers have discretion to provide a lower buffer or no buffer at all based on the customer's credit behaviour. However, the buffer effectively forms part of all credit card contracts and is available as a contractual right unless the issuer chooses not to allow the customer to access it or the customer opts out. The issuer may also offer a further supplementary buffer which the customer may access in addition to the fee-free buffer if they expressly opt in. Issuers will be permitted to charge a fee for this supplementary buffer after the customer has exceeded the fee-free 10 per cent buffer.

Introducing two buffers adds significantly to the complexity involved in implementing this election commitment. We believe it will be difficult to implement in our systems. In addition, the prohibition on fees for the default buffer means issuers are unable to recover the cost of allowing a customer to go overlimit. Costs include the administrative costs of approving the transaction and holding capital against the additional credit provided. This may result in issuers choosing not to offer this service to customers. Where this is the case, the Bill prohibits the customer from opting in to pay for the service even if they want to.

It would be simpler if the buffer was implemented as an opt-in arrangement. The default option would be no buffer (with an exception to allow for instances where we cannot prevent the customer going overlimit e.g. transactions which occur offline). Issuers would not be prohibited from charging a fee for the service to enable them to recover the cost of extending additional credit. This would be fully disclosed to the customer when they are given the opportunity to opt in to the service to ensure they make an informed decision.

Industry standard on interest calculation

The Bill allows for regulations to determine an appropriate industry standard for interest calculation. This is intended to enable consumers to compare between credit cards more easily based on their interest rates. We believe such an industry standard already exists for interest calculation. The vast majority of issuers accrue interest on the daily balance on the credit card taking into account purchases and repayments made each day. The accrued interest will be charged to the account after the repayment due date for that period. Accrued interest is not charged for customers who pay their balance in full at the end of each statement period i.e. those customers are provided with ‘interest free days’ as a bonus for repaying in full.

There are some minor variations between issuers and some outliers from the industry standard discussed above. Requiring them to conform to the same standard as the majority will impose significant costs on those issuers. These variations may be better dealt with through disclosure to consumers rather than imposing additional regulation on the entire credit card industry.

Key Fact Sheets for Standard Home Loans

As currently drafted, the Bill requires lenders to make Home Loan Key Fact Sheets (KFSs) available to customers online and on request from 1 September 2011. The KFS is required to be a personalised document which is based on information provided by the customer. ANZ will have difficulty meeting the commencement date and has concerns about the regulatory burden of providing personalised KFSs.

Commencement Date

It will be extremely difficult for ANZ to meet the 1 September 2011 implementation date. Implementing the KFS requires changes to our IT systems and staff will need to be trained on how to complete the fact sheet when a customer requests it.

It is worth noting that ANZ is still implementing changes to our IT systems for aspects of the *National Consumer Credit Protection Act 2009* and has in place a number of manual workarounds. This is not ideal for staff or customers.

We would also note that ANZ has a freeze on its systems from November to January to minimise the risk of any failures over the busy Christmas period. An alternative implementation date of 1 January 2012 is not ideal for this reason. We would also have difficulty making the changes in time to meet that implementation date. We would prefer 12 months from the finalisation of final regulations to implement this change.

Personalisation

The Home Loan Key Facts Sheet is intended to be an individually tailored document. This adds to the compliance costs. An alternative to reduce the compliance costs would be to allow for a range of Home Loan Key Fact Sheets which include prescribed amounts e.g. $100k, $250k, $500k etc. This would enable consumers to compare costs between lenders based on an amount which is closest to the size of their expected loan. At this time they are unlikely to know their final loan amount and a tailored KFS will be based on their best estimate and is unlikely to represent the final loan amount and costs. It is not clear that this ‘best estimate’ KFS would assist consumers substantially more than a KFS of a prescribed amount. In addition to the KFS, most lenders provide online calculators which enable consumers to obtain a tailored estimate of the likely cost of their loan.

ANZ would be pleased to provide further information about this submission. I can be contacted on (03) 8654 3459 or michael.johnston2@anz.com.

Yours sincerely

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