

28 January 2016

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

Dear Ms Matulick,

Inquiry into impairment of customer loans – questions on notice received 28 January 2016

I refer to the questions received today in relation to documents provided by Mr McNamee. The committee has asked us to respond to the documents and about our understanding of the confidentiality clause on page 6 of the documents.

The question raised in the documents is whether ANZ has sought to constrain customers from participating in the Parliamentary Inquiry. ANZ has not sought to place constraints on participation in the Inquiry. As noted below, where customers with whom we are entering a settlement deed are known to have an interest in the Inquiry, our settlement deed explicitly notes that they are free to provide information to the Inquiry.

Generally where we reach a settlement with a customer on any issue there is a standard mutual confidentiality clause. In this general case, there will be no mention of the Parliamentary Inquiry since this is not a relevant consideration.

In a small number of settlements, where we are aware that a customer has lodged a submission with the Inquiry, the confidentiality clause has been amended to specifically state that it does not apply to prevent the customer from providing information to any Parliamentary Inquiry.

The precise form of the clause referring to any Parliamentary Inquiry is below:

6 Confidentiality

(a) Subject to clause 6(b), no party to this deed may disclose any information in respect of this deed, other than for the purpose of enforcing this deed, receiving legal or tax advice in relation to this deed, or as required by law or with the prior written consent of the other parties, such consent not to be unreasonably refused.

(b) Nothing in clause 6(a) prevents any party to this deed from:
(1) publically stating that the Disputes have been settled amicably; or
(2) providing information about the Disputes or about this deed to any Parliamentary inquiry.

In relation to page 6 of the documents you have provided to us, we have been able to identify that document (as it is contained in only one draft settlement deed) as an early draft of clause 6 referred to above.



Our reading of the confidentiality clause on page 6 of the documents is consistent with our position. The clause states:

No party may disclose any information in respect of this deed, other than for the purpose of enforcing this deed, receiving legal or tax advice in relation to this deed, or as required by law, including in any parliamentary inquiry.

Our interpretation of this is that the phrase "including in any parliamentary inquiry" refers to "as required by law". That is, information may be disclosed where required by law including for the purpose of contributing to a parliamentary inquiry.

To ensure that there is no confusion in relation to ANZ's position, we will today be writing to the particular customer's solicitors who are currently reviewing the draft settlement deed to confirm that the clause in no way prevents that customer from providing information to any Parliamentary Inquiry and proposing the clearer wording as set out in clause 6 above.

Yours sincerely

Rob Lomdahl