16 January 2014

Dr Kathleen Dermody
Committee Secretary
Senate Economics References Committee
Parliament House
Canberra ACT 2600

Dear Dr Dermody,

**Supplementary Comments to Senate Economics References Committee Inquiry on the Australian Securities and Investments Commission**

ANZ wishes to provide supplementary comments to the Senate Economics References Committee Inquiry on the Australian Securities and Investments Commission (ASIC). In addressing the terms of reference for the inquiry, ANZ believes it is important to consider how future risks to consumers and developments best be managed, and how to improve disclosure to consumers about their rights and obligations.

**Anticipating future issues**

Future market misconduct or consumer issues are likely to arise in areas that are different from those that have been of concern in the immediate past. It is worthwhile to consider how these issues can be detected and managed effectively.

Examples, of two particular product areas that have been the focus of attention by ASIC and industry are property gearing through self managed superannuation funds (SMSF) and reverse mortgages.

Property gearing by self managed superannuation funds is likely to increase investment returns and risks. As the Reserve Bank has pointed out, legislative factors have contributed to the current high rates of growth in geared property investments, particularly commercial investment.\(^1\) Gearing clearly increases returns in a positive market but gives rise to greater risks in the event of a market downturn. As a consequence, it may not be an appropriate investment structure for those close to retirement.

Reverse mortgages similarly create potential risks to consumers.\(^2\) The products may be complex for inexperienced older consumers. Interest rates and fees may be higher than for
other forms of housing loans. Compounding interest may result in depletion of the consumer’s equity at an accelerating rate. Future requirements for funding aged care or surviving spouse may be affected by loss of equity.

ASIC has provided guidance on both these areas. In relation to reverse mortgages, ASIC has updated the Regulatory Guide 209 responsible lending obligations that apply to reverse mortgages. ASIC also launched a new reverse mortgage calculator on its MoneySmart website. Credit licensees are required to use the calculator to provide the consumer with equity projections before making a preliminary or final assessment of unsuitability about a reverse mortgage. ANZ also notes the work by the Seniors Australian Equity Release Association to develop a code of conduct applying to members.iii

In relation to self managed superannuation fund investment in property, ASIC has provided guidance on its MoneySmart website and information to real estate agents about their obligations should they wish to provide investment advice to superannuation funds.iv ASIC has established an Emerging Risk Committee to analyse trends and areas of concern. It has also adopted a stronger approach to advertising and marketing of financial products and services.

ANZ does not currently offer a specific retail property loan product for SMSFs nor a retail reverse mortgage property product. Development of such products would require careful consideration. For example, developing a retail property loan product for SMSFs would involve detailed internal review and be likely to require significant controls; such as requiring independent financial advice before an SMSF was able to enter into a loan arrangement.

ANZ believes that these steps taken by ASIC and the industry to anticipate future issues are valuable. Providing early guidance to consumers and suppliers, supported by updated regulatory guidelines, is preferable to addressing problems after a failure or seeking to address each problem through legislation after the event.

Improving product disclosure

Improving the way disclosure information is provided to consumers is an important related matter if risks to consumers are to be reduced. It is critically important that consumers understand their rights and obligations, but it is widely acknowledged that few will be sufficiently skilled and motivated to review complex and detailed product disclosures.

This is made more challenging and complex with the rapid growth of online financial services. Although consumers are increasing expecting simple information and wish to use electronic channels, disclosure is often required to be paper-based and involve great detail. From an industry perspective, changing disclosure to improve customer experience, meet regulatory requirements or for other reasons is costly and requires careful consideration because of the impact on business processes, IT, risk management, training and other operations.

Purchasers of financial products will receive multiple disclosure documents, which might include a Financial Services Guide, Product Disclosure Statement, Statement of Advice, as well as ongoing disclosure documents such as account statements. Disclosure requirements can be broadly defined, apply to many different forms of interaction and be triggered in a wide range of circumstances, leading to increased information provision. Marketing and sales information is required to include substantial disclosure information. Simplified disclosure documents, although valuable, may be required to be supplemented with additional information on obligations and rights of consumers and suppliers. For example, Key Fact Sheets for credit cards, which largely duplicate information in credit contracts, must be provided to consumers before entering into a credit contract. It is additional rather than complementary disclosure.
Improving the form, content and volume of financial information provided to retail customers should be a priority. Experience in adapting complex financial services to online provision, for example in relation to e-conveyancing or the payments system innovation, indicates that a long term, multidisciplinary approach is needed. Consumer behaviour and requirements, legal and policy issues, and financial service provider operational impacts will need to be considered to develop an effective, efficient approach to disclosure in a digital environment. Insights from areas such as behavioural economics may assist in setting disclosure priorities. ANZ supports current activities by the Australian Treasury on modernising disclosure requirements and will encourage further work in this area.

ANZ would be pleased to provide further information on the issues raised in this submission.

Yours sincerely

Rob Lomdahl
Head of Government and Regulatory Affairs

Notes
1 Reserve Bank of Australia, Financial Stability Review, Chapter 3 Business and Household Finances, September 2013
5 See UK Financial Conduct Authority, "Applying behavioural economics at the Financial Conduct Authority", April 2013 at http://www.fca.org.uk
6 The Australian Banking Association responded in late December to the Australian Treasury project on modernising disclosure requirements. The comments in this letter are a summary of the points made in that response