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**Consultation Paper 169**
**Term deposits that are only breakable on 31 days' notice: Proposals for relief**

Dear Ms Curtis

ANZ is pleased to provide a submission on the Consultation Paper on 'Term deposits that are only breakable on 31 days' notice: Proposals for relief' (CP 169).

## Introduction

Basel III liquidity standards require banks to make an allowance for cash outflows from customer deposits. If an Authorised Deposit-taking Institution allows early withdrawal from a term deposit, it will be assumed to be 'at call' and have greater potential for outflow. For retail term deposits to achieve recognition of their term, and therefore lower potential outflow, a necessary condition is that the depositor has no legal right to withdraw the deposit within a 30-day period.

Currently, there is uncertainty about whether term deposits that are breakable on 31 days' notice fall outside the definition of a basic banking product in the Corporations Act. If they do not meet the definition of a basic banking product they would need to be treated as Tier 1 products.

Tier 1 products attract a higher level of regulation and limitations on their sale than basic banking products, including higher staff training requirements and additional disclosure obligations (e.g. issuing Statements of Advice). This would make it more difficult for ADIs to offer the product to retail and commercial customers.

ASIC's proposed relief in CP 169 would clarify that a term deposit of less than two years with a notice period of 31 days can be considered a basic deposit product. ANZ supports this relief as it will enable ADIs to easily offer term

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deposits that are only breakable on 31 days' notice to retail and commercial depositors and will assist banks meet Basel III liquidity requirements.

CP 169 discusses a number of conditions which may need to be met for relief to be granted. We note ASIC's rationale is that consumers may acquire a term deposit without being aware that it is only breakable on 31 days' notice. For this reason, ANZ supports clear and prominent disclosure to customers that there is a 31 day notice requirement.

Current disclosure by way of terms and conditions, product disclosure information and application forms works well with existing term deposit products. In addition, current reinvestment processes including maturity notices and grace periods operate effectively. These existing disclosure and reinvestment frameworks can be readily expanded to include term deposits which are only breakable on 31 days' notice. This would include prominent disclosure of the 31-day notice period to ensure consumers are aware of the additional limitation on this product.

Ninety-eight percent of our retail term deposits are actively rolled-over or withdrawn at maturity by our customers. This indicates that almost all of our customers are actively engaged with their term deposits and take note of existing disclosure and notification.

Additional disclosure conditions and regulatory requirements, which are proposed in CP 169, will result in added operational and compliance costs without any clear consumer benefit.

Our comments on the proposals contained in CP 169 are set out below.

**Proposal B1**

*ASIC proposes to give conditional class order relief such that term deposits of up to two years that can only be broken on up to 31 days' notice would be subject to the same regulatory requirements as basic deposit products.*

***B1Q1:*** *Do you agree with this proposal? Please give reasons for your answer.*

ANZ supports class order relief to clarify that term deposits of less than 2 years are basic deposit products, notwithstanding that a customer must give at least 31 days' notice for an early withdrawal.

Our rationale is as follows:

- Current 'basic deposit product' term deposits are relatively simple and well understood deposit products. Customers are generally aware that an administration fee will be payable and an interest forgone adjustment will be made for early withdrawal. In our view, customers' understanding of term deposits is borne out by our complaint data, which shows the following:
  - Retail Deposits – while complaints vary from month to month, on average, around 12% of the complaints received for Deposits relate to term deposits. Of these complaints, the three key issues are the reinvestment

rate being offered is lower than the current rate, customers perceiving the reinvestment process as requiring too much effort and service related issues such as the branch not returning phone calls;

  - Commercial Deposits – we received seven enquiries between October 2010 and December 2011 regarding term deposits. Of the seven enquiries, four related to pricing or quotes, two concerned the Government Guarantee and one related to statements;

- If term deposits that can only be broken on 31 days' notice are not classified as basic deposit products, this will result in large operational costs to ADIs in offering them, including staff training and additional product disclosure costs. This may inhibit the ability to offer these products through all channels and/or the rate of interest at which they can be offered; and

- Relief will enable ADIs to recognise the additional liquidity benefit that term deposits provide over at-call accounts.

***B1Q2:*** *Do you think that it would be appropriate to also provide relief so that term deposits of more than two years that can only be broken on up to 31 days' notice would be subject to the same regulatory requirements as basic deposit products?*

Yes, ANZ considers that providing relief for deposits of more than two years would be appropriate and would be beneficial to consumers.

Investors seeking investment terms over two years could earn a higher rate of interest by opting for a 31 day notice period requirement as these products would likely attract a premium rate of return for investors. It is unclear, however, what the consumer appetite for these longer tenors would be given that currently only around three percent of our retail term deposit portfolio is for terms of 12 months or greater.

***B1Q3:*** *What are the consumer risks posed by term deposits that can only be broken on 31 days' notice?*

Current risks for consumers in terminating a term deposit early are the loss of interest and the payment of an administration fee for early withdrawal. This consumer risk is managed by provision of terms and conditions and specific product disclosure.

Any additional consumer risks (such as being unable to access their principal for 31 days) can be readily addressed by disclosures in application forms, product materials and terms and conditions. This approach would be consistent with current disclosure regarding the interest that is forgone and the administration fee that is payable for breaking term deposits early. We consider that a consistent approach with current disclosure would reduce the potential for customer confusion.

Current policies and practices on 'hardship' would be continued and extended to this new deposit product to ensure customers under financial hardship are able to access funds in an appropriate manner. This is expected to comply with APRA's implementation of the Basel III standard.

**Proposal B2**

*ASIC is considering whether the relief in proposal B1 should be subject to the condition that term deposits with a 31 days' notice requirement for early withdrawal use a new product name that is different to 'term deposit'.*

***B2Q1:*** *Do you agree with this proposal? Please give reasons for your answer*

In principle we support some naming requirements for these types of term deposit products in order to distinguish them and reduce any possible confusion for customers. However, our view is that any prescription of naming requirements should only require certain words to be included in the product name, so as to still allow flexibility in naming with branding, for example, 'ANZ Fixed Notice Deposit'.

***B2Q3:*** *What are some possible new product names that could be used for term deposits that are only breakable on 31 days' notice?*

Possible words that could be included in the name for these products include, 'Fixed Notice Deposit', 'Notice Term Deposit', 'Notice Fixed Deposit', or 'Term Deposit with Notice'.

**Proposal B3**

*ASIC is considering whether the proposed relief should be subject to the condition that, for term deposits with a 31 days' notice requirement for early withdrawal, consumers are given: (a) a warning about the notice requirement in writing and/or, if practicable, orally, prior to the issue of the product; and (b) information about other deposit products that permit early withdrawal without prior notice.*

***B3Q1:*** *Do you agree with this proposal? Please give reasons for your answer.*

ANZ supports clear and prominent disclosure to customers that states that there is a 31 day notice requirement. This should be accommodated within the existing framework of documentation and processes for term deposits such as terms and conditions, records of investment and term deposit maturity advices. ASIC already holds powers to take action against licensees who make misleading and/or deceptive disclosures on products.

We are not opposed to informing customers of the existence of other term deposit products that may permit early withdrawal without prior notice. However, there are practical difficulties associated with adequately disclosing that, while early withdrawal without notice may be permitted, fees and an adjustment for interest forgone adjustment may still apply.

***B3Q2:*** *Would this proposal result in practical problems or additional compliance costs? Please give details, including figures and reasons.*

ANZ considers that, while there are practical problems and additional compliance costs associated with this proposal, these could be minimised by ensuring that additional disclosure obligations are incorporated within current documentation and practices.

**Proposal B4**

*ASIC is considering whether the relief in proposal B1 should be subject to the condition that, for term deposits with a 31 days' notice requirement for early withdrawal, ADIs obtain the investor's express consent to rollover their term deposit at maturity.*

***B4Q1:*** *Do you agree with this proposal? Please give reasons for your answer.*

In ANZ's view, continued application of the current 'grace period' principle is the preferred course for the following reasons:

- Customers provide consent to re-invest the term deposit at their chosen term at origination, by accepting the terms and conditions of the term deposit;
- Customers are able to change their reinvestment options following the issuance of a 'pre-maturity' letter and/or up to seven days after the maturity date – that is, a 'grace' period; and
- This is the current practice for term deposits more broadly and we support a consistent approach that results in simplified and streamlined processes for both consumers and issuers.

In our view:

- It would be unreasonable to expect customers to make decisions on reinvestment prior to maturity, as interest rates may change significantly upon maturity;
- Many customers have multiple term deposits in a rolling portfolio (such as term deposit ladder strategies). If ASIC requires ADIs to obtain express consent from customers as each of their term deposits roll, customers could view this as a nuisance and as an unnecessary cost; and
- An alternative may be for these deposits to roll on to the same term, but into a 'normal' breakable term deposit (allowing the customer to access their funds quickly when outside of the grace period). This would ensure that customers have access to their preferred term of investments interest rate, while not preventing customer access to funds outside of their grace period. If this alternative were implemented, consent would be required from customers who want to roll on to a new term deposit with a 31 day notice period.

***B4Q2:*** *Would this proposal result in practical problems or additional compliance costs? Please give details, including figures and reasons.*

In our view, this proposal would have practical and compliance burdens associated with it.

Currently term deposits have very high maintenance costs. Separate documentation or additional processing outside of current terms and conditions and processes would further increase operating costs, which may reduce rates of return for investors.

***B4Q3:*** *What would be an appropriate way for ADIs to obtain the express consent of the investor (e.g. by contacting the investor by telephone, by sending a written request form or by electronic means such as online portals or mobile text message)? Please give details.*

The processes associated with these deposits should be aligned as closely as possible to existing processes for term deposits.

For existing term deposits, consent to reinvest for the same term is obtained when customers accept the terms and conditions for the product. Customers are clearly advised that, to change their reinvestment instructions, they must contact the bank within seven days of maturity date. Customers are advised this in their record of investment (sent at rolling date and origination) and reminded in their term deposit maturity advice letter (sent 14 days before the maturity date).

***B4Q4:*** *When would be an appropriate time to obtain the express consent of the investor? For example, would within 30 days before the end of the term be an appropriate time to obtain express consent?*

Please refer to B4Q3 above. If ASIC were of the view that express consent is required, then the closer to maturity the better this would be for a customer to be able to manage their interest rate position.

Current practice is that we advise, in our maturity letters, that "the interest rate advertised on the maturity date of your ANZ term deposit for the same investment amount and term will be the one we apply to your new ANZ term deposit". Customers are able to change their reinvestment options following receipt of this advice and/or up to seven days after the maturity date, during the 'grace' period.

We consider that a consistent approach which utilises existing practices for term deposits more broadly is preferable for both issuers and consumers.

***B4Q6:*** *What should the outcome at maturity be if the investor does not respond to a request by the ADI for their express consent prior to maturity? For example, should the term deposit funds be automatically transferred into an at-call account?*

Please refer to previous responses on express consent. If, however, express consent was required for each re-roll on a 31 day notice period term deposit, funds could either be rolled in accordance with the existing customer instructions or be automatically transferred to a regular term deposit on the same term if the investor does not make contact with the ADI within seven days of the maturity date. This would allow customers to access their funds quickly when outside of the grace period, although this option would need to be clearly documented at the time of the original investment though product disclosure documentation.

Sweeping funds to an at-call deposit would be operationally challenging to implement in our systems, and would introduce interest rate risk to customers without their consent. This proposal would raise a number of issues:

- It assumes that customers hold an 'at call' account with us. Our observation is that term deposit investors generally shop around for the best interest rate deal and this may not be with their 'main bank' where their at call account is held;
- We are unable to open an at call account where none is held with us, without the customer's consent; and
- Even if an at-call account were nominated at origination of the term deposit, the reality is that some customers will close their nominated account during the period of their term deposit. This would result in the sweep being ineffective and cause operational difficulties for issuers regarding holding the funds.

**Proposal B5**

*As an alternative, ASIC is considering whether the relief in proposal B1 should be subject to the condition that, for term deposits with a 31 days' notice requirement for early withdrawal, ADIs send a pre-maturity letter to investors at least 14 days before maturity to disclose: (a) the actual or indicative interest rate that will apply to a new term deposit if the investor allows the maturing term deposit to automatically roll over into the new term deposit; (b) a prominent warning that better interest rates may be available from the same ADI for a term deposit of a comparable period; (c) if the actual interest rate that will apply to the new term deposit at the date of rollover cannot be disclosed: (i) a prominent warning that the investor should confirm the actual interest rate on the date of rollover; and (ii) information on how the investor may ascertain the actual interest rate on the date of rollover; and (d) the grace period that will apply when their term deposit rolls over by default.*

***B5Q1:*** *Do you agree with this proposal? Please give reasons for your answer.*

ANZ currently sends maturity letters 14 days prior to maturity and in principle we support the extension of this practice for term deposits with a 31 day notice requirement.

It is not possible in practice to provide the actual interest rate that will apply if the customer allows the deposit to automatically roll. As noted earlier, interest rates can change significantly between this maturity advice and the date of maturity.

In our maturity letter for term deposits we currently state the following:

- That the interest rate advertised on the maturity date, for the same investment amount and term, will be the one we apply to the rollover;

- The indicative interest rate that will apply for the deposit for investment at the same term. The indicative rate is accompanied by a warning that this is subject to change;
- A further warning that the interest rate that will apply may be lower or higher than the interest rate on the customer's maturing term deposit and better interest rates may be available for other investment terms;
- Where information on our interest rates can be obtained, e.g. by calling us on a specified telephone number or visiting a branch; and
- That a grace period of seven days applies.

We support continuation of this practice for term deposits with a 31 day notice requirement. We have found that term deposit customers are interest rate 'sensitive' and will make an informed decision about the rates available to them. This is borne out by the fact that 98% of retail term depositors actively roll-over or withdraw their term deposit at maturity.

***B5Q2:*** *Would this proposal result in practical problems or additional compliance costs? Please give details, including figures and reasons.*

Provided the existing process and practice was utilised, there would be minimal increased costs in customer contact.

**Proposal B6**

*ASIC is considering whether the relief in proposal B1 should be subject to the condition that, for term deposits with a 31 days' notice requirement for early withdrawal, ADIs: (a) provide a grace period to investors of at least 14 days; and (b) send a post-maturity letter to investors within a maximum of five days after maturity, to disclose: (i) the grace period (i.e. a short period of time during which an investor can cancel the new term deposit or change to a different one without charge); (ii) a prominent warning that better interest rates may be available from the same ADI for a term deposit of a comparable period; and (iii) a prominent warning about any reduction in the return generated and/or fees applicable for early withdrawal on 31 days' notice, outside the grace period.*

***B6Q1:*** *Do you agree with this proposal? Please give reasons for your answer.*

We believe a post-maturity letter as proposed is unnecessary as:

- The current record of investment correspondence advises customers of maturity dates, grace periods and reinvestment instructions;
- Warnings stating that better interest rates may be available would not be required as customers are encouraged to contact ANZ to discuss reinvestment rates in the maturity advice letter. The letter states that, in relation to the interest rate on the day of maturity "this interest rate may be lower or higher than the interest rate on your maturing ANZ term deposit and better interest rates may be available for other investment terms";

- Warnings stating the reduction in return or fees etc for withdrawal on 31 days' notice would be included in the product documentation and record of investment/deposit maturity advice letters; and

- Around 98% of retail term depositors take note of these warnings and actively roll-over or withdraw their term deposit at maturity.

***B6Q2:*** *Would this proposal result in practical problems or additional compliance costs? Please give details, including figures and reasons.*

This proposal would require systems changes in order to generate the post-maturity letter and result in additional interest rate risk for ADIs as a result of the longer grace period.

***B6Q3:*** *Would it be appropriate to prescribe the grace period as a condition of our relief? Please give details.*

Mandating a grace period would create operational complexity and interest rate risk for issuers. Grace periods should be determined by the ADI as a result of the cost of managing the interest rate risk versus the commercial benefit obtained by offering the service.

ANZ would be pleased to provide any further information on this submission. I can be contacted on (03) 8654 3459 or Michael.Johnston2@anz.com.

Yours sincerely

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