SUBMISSION TO THE INQUIRY INTO THE SCRUTINY OF FINANCIAL ADVICE

Contents

1 Executive Summary

This submission addresses issues in the order they appear in the Terms of Reference.

Regulatory framework

ANZ believes the current regulatory framework, including the recent Future of Finance Advice (FoFA) changes, will improve the quality of advice and has put in place a framework to protect consumers from poor advice.

The reforms create opportunities to engage our clients more deeply, facilitate the provision of quality, accessible and affordable financial advice to Australians, and lift the professionalism of the advice industry.

Regulator responsibilities

Where regulator responsibilities are increased to improve their oversight of the industry, appropriate resourcing should be provided to enable them to manage their expanded role.

Consumer compensation for poor advice

ANZ will compensate customers for poor quality advice for which we are responsible.

"Last resort" compensation scheme

ANZ believes that each adviser and financial institution providing advice should be required to have sufficient insurance or resources to compensate clients. When dealing with other people's money, a high bar of professional responsibility must be set, particularly in order to prevent the systemic risk that clients of individual financial firms are unable to seek redress where poor financial advice is given.

ANZ supports the St John report's finding that more needs to be done to ensure licensees are in a position to compensate their own clients through their insurance arrangements and the capital resources they have at risk.

However, ANZ also sees value in introducing a general insurance scheme for firms who choose to take out insurance rather than self-insure through net asset backing. We share concerns in the St John report of avoiding moral hazard and agree there are other issues that would need to be addressed. Under such a scheme, a firm making a claim should expect its insurance premium to increase, thereby limiting the risk that firms will be less prudent in exercising their professional responsibility and placing undue reliance on other industry players.

Those firms that choose not to participate in an industry insurance scheme should demonstrate an adequate capacity to provide redress to those who have suffered loss in extreme cases.

Centralised public register for representatives

ANZ supports a centralised public register for representatives, including employed representatives, which contains publicly available information relating to misconduct (bans, disqualifications, enforceable undertakings, industry association memberships and education and experience qualifications).

A further opportunity exists for legislation so that legal protection would be given to <u>good faith</u> disclosures made by licensees in response to reference checks. This is intended to inhibit financial planners who have engaged in misconduct, but had not yet been formally banned, from moving from licensee to licensee.

Governance and compliance framework

ANZ's governance and compliance framework establishes strong risk, compliance and quality assurance management in relation to ANZ financial planners and the advice they provide to customers.

Dispute resolution

ANZ maintains an internal dispute resolution process as well as being a party to an approved external dispute resolution scheme. In addition to this, ANZ maintains an Office of the Consumer Advocate to review decisions of the internal complaints process where the customer is subject to an unfavourable decision.

Education and training standards

ANZ supports increasing education, training and competency standards for financial planners.

We support the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services, recognising that further input on the detail of recommendations adopted by government may be needed; for example on detailed transition arrangements and their timing.

Amongst other reforms, ANZ believes there should be a national competency exam for financial planners so that consumers have confidence that the financial planner that provides them with advice meets high industry standards.

ANZ looks forward to increasing education and training standards with the benefit of recommendations from Parliamentary inquiries into advice regulation and further Government guidance.

Retail life insurance advice

With respect to life insurance, product changes could be made to improve customer protection outcomes, through a review of remuneration arrangements, premium structures and product design. Any changes to these arrangements should not exacerbate underinsurance across the Australian community. They should seek the appropriate balance between consumer protection and advisers' receiving a fair and reasonable reward for their work in providing quality advice.

Disclosure

ANZ supports improving the quality of disclosures to investors to reduce the burden on them and to improve customers' experience. This should include electronic disclosure and the form, content and volume of financial information provided to retail customers.

Currently, the default mechanism for providing disclosure is not through electronic channels. This is a barrier to better customer engagement, better advice process and improved financial literacy.

A well designed opt-out approach to electronic disclosure would be more efficient. Shifting more disclosure online needs to be accompanied by approaches that reduce the risk of exclusion for customers without internet access, who are also likely to be among the most disadvantaged and excluded consumers.

2 Overview of ANZ

ANZ welcomes the opportunity to provide a submission to the Senate Economics References Committee inquiry into the Scrutiny of Financial Advice.

ANZ is Australia's fourth largest company[1] and the number one bank in New Zealand. It employs 48,000 staff worldwide and operates in 33 markets providing banking and financial products and services to around eight million customers. Australia is ANZ's largest market, serving approximately six million Retail and Commercial customers through a network of around 800 branches, 115 business centres, 2,700 ATMs and leading online and mobile banking applications.

ANZ Global Wealth, a division of ANZ, is one of Australia's leading providers of life insurance, superannuation, investment solutions and financial advice via a network of financial planning groups and the ANZ Private Bank.

The following financial planning groups are controlled by ANZ:

- ANZ Financial Planning
- RI Advice
- Financial Services Partners; and
- Millenium3

With almost 1400 financial planners as part of our overall advice network, our advice groups collectively represent approximately 10 per cent of Australia's financial advisers. Through these groups we provide financial advice to clients to help them achieve their financial goals.

3 Introduction

Australians seek quality financial advice to help them connect, protect and grow their wealth to reflect their personal circumstances and ensure their financial wellbeing.

ANZ is working to transform the way our customers connect with their wealth and meet demand for consistent, high quality and trusted advice.

The need for this transformation is driven by observations that Australian should be supported to better manage their financial assets and circumstances:

- Only one in ten people seek financial advice due to cost, poor accessibility and the low levels of credibility in the industry;
- 70% of Australians are not financially ready for retirement;
- One in four Australians are underinsured;
- Control of superannuation/pension assets is moving to younger generations born in the digital age;
- Customer engagement models are changing and mobile devices have become central to consumer/business relationships.

In addition, reforms affecting the regulation of financial advice provide an opportunity to redefine how financial advice is given, and to improve Australians confidence in the financial services sector.

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[1] Based on ASX market capitalisation.

ANZ is transforming how it advises customers on their wealth. The Bank's 'Advice Transformation program' takes place against a background of changing technology and market developments:

- Customers are changing the way they engage with financial services;
- Mobile devices have become central to consumer/business relationships;
- Financial advice needs to be more relevant, accessible and affordable; and
- Wealth solutions need to be less complex reducing the cost to consumers.

As detailed in section 4.2 below, ANZ 'Grow' has been developed as an innovative approach to help consumers better manage their wealth to support their financial wellbeing. The transformation program includes three initiatives:

- ANZ Smart Choice Super is a simple, accessible and affordable superannuation solution delivered via a digital mobile platform;
- ANZ has opened two new Grow Centres in Sydney and Melbourne where customers can get help and support with all their wealth needs. ANZ plans to expand the Grow Centres concept to other urban areas; and
- a digital app, 'Grow by ANZ', offers customers a financial market place that brings wealth and banking together in one place. Users can customise their relationship with the bank in terms of information they receive, functionality and support.

ANZ is also working to improve access to financial advice for all Australians by developing new digital solutions that can support the advice process.

ANZ has been working with IBM's Watson cognitive technology to deliver more efficient and tailored advice solutions to customers. ANZ's goal is that Watson will help our financial planning teams deliver an improved advice experience reducing the time it takes for customers to receive a statement of advice and reducing the cost.

The confidence Australians have in financial advice is critical.

Standing behind the delivery of ANZ's wealth solutions and advice services are our strong governance and compliance frameworks. These are supported by robust risk, compliance and quality assurance systems to protect customer interests. ANZ's Advice Transformation Program is also investing in ongoing enhancements to compliance frameworks to ensure we continually improve the quality of the advice provided. This includes utilising data across a range of attributes to risk weight the advice provided and our adviser population. We have also rebuilt our compliance scorecard and are currently investigating potential predictive technology solutions.

As an organisation with a focus on the customer, ANZ believes that if a customer suffers a loss due to a mistake or misconduct, industry participants should have the required capital and insurance in place to respond to the situation as soon as practicable. ANZ has internal and external dispute resolution processes, including a Customer Advocate, to ensure customer complaints or issues are dealt with fairly and equitably.

ANZ is a strong supporter of the FoFA and related MySuper reforms and is working to not only comply but take a leadership position to rebuild consumer confidence in advice. ANZ supports recommendations of the Financial Systems Inquiry to lift education, training and competency standards for financial advisers to achieve consistent high quality advice outcomes and to build consumer trust across the industry. ANZ believes that this could be complemented by the inclusion of a national exam testing competencies similar to the Series 7 model used in the US.

In addition, targeted policy enhancements should be made to improve customer protection outcomes, such as a review of planner remuneration arrangements, premium structures and product design in the life insurance sector. ANZ also supports an enhanced adviser register.

ANZ deals with the implications of the financial advice reforms with particular reference to the items set out in the inquiry's terms of reference in sections 4 to 9, below.

4 Current level of consumer protection

4.1 Key Regulatory Environment

ANZ supports the FoFA package of reforms designed to facilitate the provision of quality, accessible and affordable financial advice to Australians while lifting the professionalism of the industry.

These reforms are comprehensive and contain a number of important protections for consumers in the both the Corporations Act and the ASIC Act in relation to the provision of personal advice. It has sought to increase consumer protection by introducing requirements in relation to the provision of personal advice, including:

- The "best interests duty" that requires advisers to put the interests of their client ahead of their own when providing personal advice. This addition to the advice regulatory framework now means financial planners must:
  - make reasonable inquiries to obtain complete and accurate information in relation to the client's circumstances;
  - decline to provide advice if they do not have the requisite expertise to provide the advice requested;
  - only provide advice where it is reasonable to conclude it is appropriate to the client; and
  - give priority to the interests of the client over their own interests when providing advice.
- A ban on conflicted remuneration given to licensees or their representatives who provide financial product advice to retail clients. The ban is critical in removing conflicted or inappropriate adviser behaviours.
- A new Fee Disclosure Statements (FDS) so that customers with ongoing fee arrangements with financial planners receive an annual FDS that includes the amount of ongoing fees paid by the customer in the previous 12 months, services that were to be provided for those fees and services that were actually rendered.
- The 'opt-in' requirement where a financial planner must send all new customers a renewal notice every two years with the customer then needing to 'opt-in' to the paying of ongoing advice fees.

The *Corporations Act* also provides penalties for any misleading or deceptive statements in a Statement of Advice provided by a financial planner to a client. Furthermore, an Australian Financial Services licensee must ensure any financial advice provided by a financial planner under its Australian Financial Services Licence is provided honestly, efficiently and fairly.

The *ASIC Act* provides penalties for misleading or deceptive conduct as well as misleading or deceptive representations in the provision of financial services.

The FoFA reforms are complemented by other regulatory requirements such as a comprehensive disclosure requirement, much of which has also been subjected to separate reforms intended to deliver better engagement with customers - including the requirement for more transparent fee disclosure and shorter product disclosure affecting super and investment products.

More reforms are foreshadowed. For instance, we welcome the Financial System Inquiry's consideration of disclosure reform issues as well as recent proposals in ASIC's consultation paper to facilitate electronic disclosure. ANZ is of the view that effective electronic disclosure is now critical to better customer engagement, better advice processes and improved financial literacy. Section 9 of this submission contains our views relating to better disclosures. Section 4.2 of this submission also describes our Advice Transformation program driven by innovation and implications of recent reforms.

Reflecting on the recent disallowance by the Senate of certain FoFA regulations, ANZ already has the policies and procedures in place that comply with the best interest duty and fee disclosure aspects of FoFA. ANZ will make some process changes to ensure compliance with the opt-in rules. ASIC has announced a facilitative approach to compliance until 1 July 2015. ANZ will have our changes in place within this timeframe.

Given the breadth of FoFA and other reforms and the fact that up until very recently they were still subject to regulatory uncertainties, ANZ believes that further time is needed for the reforms to be embedded to increase the reach of their benefits for consumers.

For this reason, ANZ believes greater customer engagement is critical to ensuring good financial outcomes for customers. We need to engage more Australians at earlier stages in their lives, to ensure they can take control of their finances. This requires educating and supporting people to identify suitable solutions and enabling access to quality, affordable advice that will make them more likely to achieve financial well-being.

4.2 ANZ Advice Transformation initiatives

The ANZ Advice Transformation programme is driven by a desire to improve service to our clients via innovative technology that allows them to better connect, protect and grow their wealth.

Customers should be able to choose how, when and the extent they wish to engage and be engaged. Personal interactions with a planner and digital delivery of advice can complement each other to achieve this objective. We aim to ensure clarity of the service that is being provided at every stage and the point at which a fee arrangement may be required.

In helping financial planners deliver quality advice to our customers, ANZ has the following initiatives in progress:

- Ongoing enhancements to our monitoring and supervision framework to continually monitor and improve the quality of advice provided. ANZ is looking at using more data sources to proactively assess the risk that a financial planner's activities may pose to our customers, enable ever present monitoring of key risk indicators and timely exception reporting for us to investigate and remediate prior to advice being provided to clients.

- We are designing a digital tool for financial planners that will help them educate and assist customers to understand their wealth needs and provide a Statement of Advice that is visually engaging and easier to understand. This initiative is initially focusing on a customer's protection and insurance needs and will expand to superannuation and investment needs. This initiative also aims to embed automated business and compliance rules within the advice process to ensure a consistency in the quality of advice provided and prevent advice that is not in the best interests of our customers.

- ANZ is redesigning our Statements of Advice to be more customer-centric, by using clear and concise language, info graphics and visual aids to ensure the advice is better understood by our customers.

Section 8 of this submission describes ANZ's monitoring and supervision of financial planners to ensure they meet the requirements of the reforms.

To better connect with our customers and make advice more available and accessible:

- ANZ has opened 'Grow Centres' in Sydney and Melbourne where customers can seek advice in person on wealth management options. ANZ will consider expanding the concept in other parts of Australia. The Centres help customers improve their financial literacy by:

    - speaking to a Grow Centre Representative;
    - obtaining assistance to download and use a number of financial apps including ANZ's innovative digital 'Grow by ANZ' app;
    - attending free seminars on a range of wealth topics starting from basic financial health tips to the global economic outlook.

ANZ is also piloting IBM's Watson, cognitive intelligence technology, to answer simple questions on life insurance in our Grow Centre in Sydney.

- ANZ is building simpler ways to engage the 8 out of 10 Australians who need advice today but do not seek it through a financial planner. We are designing digital engagement tool for customers to use to:

    - plan for major life events;
    - understand their budget and cash flow needs over time;
    - model the impact of 'what if' scenarios;
    - track progress; and
    - connect to a financial planner in branch or online.

- ANZ is increasing access to affordable good advice within our ANZ financial planning business by enabling the provision of simple scaled advice that is in our customers' best interest via phone and video conference.

- ANZ is transforming advice provided to retirees to better meet the needs of an ageing population. We are reviewing and improving how we provide advice, services and solutions to meet the needs of retirees.

ANZ View 1: *ANZ believes the current regulatory framework, including the recent Future of Finance Advice (FoFA) changes, will improve the quality of advice and has put in place a framework to protect consumers from poor advice.*

The implications of the reform are that they are presenting opportunities to redefine our engagement with our clients to facilitate the provision of quality, accessible and affordable financial advice to Australians while lifting the professionalism of the advice industry.

5 Role of, and oversight by, regulatory agencies in preventing the provision of unethical and misleading advice

In the context of Government supporting an enhanced role for regulators in their oversight of the financial planning industry, ANZ suggests that appropriate resourcing be provided to enable them to manage any increase in role.

More general information in relation to ANZ's views about regulators' mandates and powers can be found in ANZ's submission to the Financial System Inquiry (FSI) and ANZ's response to the Interim report of the FSI.[2]

ANZ view 2: *Where regulator responsibilities are increased to improve their oversight of the industry, appropriate resourcing should be provided to enable them to manage their expanded role.*

6 Appropriateness of compensation process relating to unethical or misleading financial advice and instances where these mechanisms may have failed

ANZ believes that financial planning businesses should hold appropriate levels of professional indemnity insurance as well as holding sufficient financial resources to ensure that clients adversely impacted by poor advice can be appropriately compensated.

ANZ stands behind each of its wholly owned financial planning groups.

ANZ view 3: *As a major Australian financial institution, ANZ has the financial strength to ensure that customers' adversely affected by poor quality advice can be compensated for the loss they suffer.*

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[2] ANZ Financial System Inquiry submission http://fsi.gov.au/files/2014/04/ANZ.pdf Chapter 7 and ANZ Response to the Interim report of the Financial System Inquiry (attachment) http://fsi.gov.au/files/2014/08/ANZ_attachment.pdf at 3-121 to 3-129.

The mechanisms ANZ has in place to manage these situations is discussed in more detail in section 8 of this submission.

6.1 Statutory Last Resort Compensation Scheme

In response to the 2009 Parliamentary Joint Committee Inquiry into Financial Products and Services recommendation that "Government investigate the costs and benefits of different models of a statutory last resort compensation fund for investors", the then Government commissioned Richard St. John to consider compensation arrangements for consumers of financial services.

St John's final report concluded "that it would be inappropriate, and possibly counter-productive, to introduce a more comprehensive last resort compensation scheme to underpin the current relatively light compensation regime for financial advisers and other providers of financial services."

The reason for this recommendation was that "it would be inappropriate to require more responsible and financially secure licensees to underwrite the ability of other licensees to meet claims against them for compensation. There would also be an element of regulatory moral hazard should a last resort scheme be introduced without a greater effort first to put licensees in a position where they can meet compensation claims from retail clients. It would reduce incentive for stringent regulation or rigorous administration of the compensation arrangements."

On 26 April 2013 the then Government accepted this recommendation but left it open for future consideration to take account of any residual levels of under-compensation after improvements in the industry's conducts standards have been implemented.

ANZ view 4: *ANZ believes that each adviser and financial institution providing advice should have sufficient insurance or resources to compensate clients. When dealing with other people's money, a high bar of professional responsibility must be set, particularly in order to prevent the systemic risk that clients of individual financial firms are unable to seek redress where poor financial advice is given.*

ANZ supports the St John report's finding that more needs to be done to ensure licensees are in a position to compensate their own clients through their insurance arrangements and the capital resources they have at risk.

However, ANZ also sees value in introducing a general insurance scheme for firms who choose to take out insurance rather than self-insure through net asset backing. We share concerns in the St John report of avoiding moral hazard and agree there are other issues that would need to be addressed. Under such a scheme, a firm making a claim should expect its insurance premium to increase, thereby limiting the risk that firms will be less prudent in exercising their professional responsibility and placing undue reliance on other industry players.

Those firms that choose not to participate in an industry insurance scheme should demonstrate an adequate capacity to provide redress to those who have suffered loss in extreme cases.

7 An enhanced Public Register of Financial Advisers

ANZ supports a centralised public register for financial advisers, giving information of the kind referred to in the announcement of the Minister for Finance.[3]

However, that register should contain only publicly available information relating to misconduct (bans, disqualifications and enforceable undertakings, industry association memberships and education and experience qualifications). We submit that a legislatively supported regime of mandated minimum requirements is also required for licensees in relation to:

- Reference checking; and
- Responding to those reference checks, could complement the operation of a public register.

It is recognised that people of bad character – described by ASIC as "bad apples" – within the financial planning industry are often able to move from licensee to licensee with relative ease. One reason for this is that current licensees do not provide a prospective licensee with information about a representative's conduct.
Without this information, financial planners that have engaged in misconduct able to remain in the industry. Prospective licensees are also deprived of information that would enable better decisions to be made about specific training and supervisory requirements for that incoming representative.
Licensees do not provide this information because of actual or perceived legal constraints and potential liabilities for so doing.

There have been efforts in the past to better enable disclosure, including ASIC's collaboration with industry bodies on the 'bad apples' initiative. However, ANZ believes that there has not been any significant improvement in licensees' willingness to provide disclosures about a representative's conduct.

There is an opportunity for legislation to address this issue by creating a framework within which legal protection would be given to <u>good faith</u> disclosures made by licensees in response to reference checks. This would inhibit financial planners who had engaged in misconduct but had not yet been formally banned from moving from licensee to licensee.

ANZ does not support the register containing even good faith allegations or opinions of mischief or misconduct for two reasons: First the public disclosure of even <u>good faith</u> may be unfairly prejudicial to a planner. Second, we submit that the knowledge that information about conduct supplied by licensees would be made publicly available would inhibit frank disclosure between licensees.

ANZ view 5: *ANZ supports a centralised public register for representatives, including employed representatives, which contains only publicly available information relating to misconduct (bans, disqualifications and enforceable undertakings, industry association memberships and education and experience qualifications).*

A further opportunity exists for legislation so that legal protection would be given to <u>good faith</u> disclosures made by licensees in response to reference checks. This is

[3] Mathias Cormann, Press release 103/14 24 October 2014.

intended to inhibit financial planners who have engaged in misconduct but had not yet been formally banned from moving from licensee to licensee.

8 How financial services providers and companies have responded to misconduct in the industry

8.1 Governance framework

ANZ's Governance Framework, including external audit, exists to ensure there is appropriate oversight and robust risk and compliance systems in place, to protect customer interests.

The governance framework is supported by operational risk management that is implemented through three clearly articulated layers. Known as the 'Three lines of Defence' this model has become the standard in a modern institution's approach to managing risk.

The first line consists of the business itself, which has primary accountability for the understanding key risks and the related control environment. The business is also responsible for day-to-day risk management, decision-making, reporting and carrying on its business in compliance with laws and within risk tolerances.

The second line of defence is the enterprise's independent compliance and risk functions that provide oversight of the risk management activities of the first line of defence. Its role is to protect the reputation, balance sheet and strategy of the organisation.
The Third Line of Defence is Internal Audit. Internal Audit provides independent and objective assurance to management and the ANZ Board that the First and Second Lines of Defence are functioning as intended.

External auditors are engaged primarily to express an opinion on various financial reports. They conduct their audit in accordance with Australian Auditing Standards.
ANZ Global Wealth monitors and maintains a list of both related and third party investment products and solutions. The Wealth Approved Products Lists (APLs) and platform investment menus are chosen from this list. The APL is tailored specially for each distribution channel to align with the designated suitability of their customers as segmented by each business, in accordance with their risk appetite.

8.2 Monitoring and Supervision of Advisers

ANZ's governance framework includes an ANZ-wide advice monitoring and supervision framework to deliver compliance and risk management outcomes in lines with our risk appetite. This requires identification of the primary regulatory compliance obligations impacting our licensees and execution of a Compliance Plan to:

- identify compliance risks;
- identify controls in place to mitigate those risks;
- put in place a testing programme to ensure those controls are effective; and
- put in place treatment plans to deal with any compliance risks that may not have sufficient or sufficiently effective controls.

The objective of ANZ is for advisers to provide quality compliant advice that fits within clearly defined boundaries and that does not pose a material risk. Advisers are regularly reviewed under an advice assurance framework that includes:

- inspecting the quality of advice provided to clients compliance with our regulatory and ANZ advice risk and compliance obligations;
- remediation of issues identified for both client and adviser;
- coaching/training/process improvement to address root causes of advice risk;
- enactment of consequences for higher risk advisers.

ANZ's advice assurance function operates independently of the licensee distribution business with the assurance function coming under different reporting lines to those of the licensee. The advice assurance framework utilises a consistent scorecard resulting in an overall advice quality rating (1-5) for each adviser. Advisers who achieve an advice risk rating 4 or 5 are referred to the Consequence Management Committee for determination of actions across a range of consequences.

Appropriateness and range of the consequence depends on the nature and severity of issues identified. There is clear intention to raise standards by providing re-training via improvement programs and remediation where required.

Systemic issues which adversely impact clients and/or recurring breaches of regulatory obligations result in both disciplinary action and other risk mitigation treatments. Circumstances involving serious, repeated or wilful contraventions are treated as "serious misconduct" and may require temporary suspension, termination and/or reporting of the adviser to the Regulator.

The advice assurance and consequence management framework is supported by a number of other ANZ Group risk and compliance frameworks including:

- Incident Management;
- Complaints Management;
- Risk and Compliance Meetings (Management and Board Meetings).

ANZ is investing in ongoing enhancements to our monitoring and supervision framework to continually monitor and improve the quality of advice as part of our Advice Transformation program.

ANZ View 6: *ANZ's governance and compliance framework facilitates effective risk, compliance and quality assurance management in relation to ANZ financial planners and the advice they provide to customers.*

8.3 ANZ Wealth principles around mistakes made, misconduct and complaints handling

In circumstances where a mistake has been made or where ANZ becomes aware of misconduct by ANZ staff or aligned advisers, ANZ acts to remediate the situation as quickly as practical so that any affected customer would be restored to the position that they would have been in if the mistake or misconduct had not occurred.

ANZ believes our ability to remediate customers in these circumstances is a positive and strong feature of ANZ as a major financial institution.

In examining potential mistakes or misconduct, ANZ seeks to establish the facts of a situation as soon as possible, including through the use of reviews of customer files and independent reviews. We report significant breaches to ASIC and brief the regulator on our progress throughout the investigations. ANZ works to treat the customer sensitively as part of the process.

Once the facts have been established and it has been determined that a mistake has been made or misconduct has occurred, we will seek to resolve the issue with the customer via a collaborative approach. If the customer is unhappy with ANZ's proposed resolution, the disputes resolution process (as described below) is activated.

8.4 Dispute resolution

ANZ maintains an internal disputes resolution process and is a member of the Financial Ombudsman Service (FOS), an external dispute resolution scheme.

We have a centralised Internal Disputes Resolution (IDR) team to consider customer complaints (independent of the adviser and licensee) including in relation to financial advice.

To the extent that a complaint is decided against the client by the internal dispute resolution process, the complaint can be escalated to either the internal Customer Advocate or to FOS.

To the extent that it is established that a client suffered loss as a consequence of the misconduct of a financial adviser, ANZ's starting position is to put the client back into the position they would have been but for the misconduct.

Should a complaint escalate to FOS, the same Case Manager cannot manage both the internal and external dispute response. A different Case Manager must be allocated to the EDR response by the Manager, Incidents and Disputes. This is to ensure an objective assessment is undertaken.

ANZ view 7: *ANZ complies with its legal obligations to maintain an internal dispute resolution process as well being a party to an approved external dispute resolution scheme. In addition to this, ANZ maintains an Office of the Consumer Advocate to review decisions of the internal complaints process where the customer is subject to an unfavourable decision.*

9 Other regulatory or legislative reforms that would prevent misconduct

The following sections addresses additional areas of legislative reform that should be undertaken to prevent misconduct by financial advisers. We highlight three areas for consideration:

- Education and training (see section 9.3);
- Retail Life Insurance advice (see section 9.2); and
- Disclosure (see section 9.3).

9.1 Education and training

ANZ supports the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services in its report into proposals to lift the professional, ethical and education standards in the financial services industry, recognising that further consultation on the detail of recommendations will be required. We support:

- the need for greater clarity over the labelling of general and personal advice;
- a register of financial planners;
- increased education standards including degree qualifications;
- a national exam for financial planners;
- the establishment of an independent body responsible for education standards; and
- the need for appropriate transitional arrangements to enable an orderly introduction of new requirements.

9.1.1 Over-arching framework and oversight body

A rigorous professional standard and competency framework based on regulatory and legislative requirements is central to achieving a trusted profession. The framework should be holistic, that is encompassing behaviour and conduct as well as technical competencies.

ANZ believes that an independent, self-regulatory body should oversee the framework and accreditation. The body's governance should include appropriate industry and education experts, and consumer representation with expertise in financial advice and related areas.

Based on regulatory and legislative core standards and in consultation with ASIC, the overall purpose of this body would be to develop minimum benchmark requirements and a robust competency framework to achieve the necessary professionalism, standards, conduct and behaviour of practitioners within the financial advice industry.

Its functions, based on regulatory requirements, should include:

- The professional standards framework and educational requirements and qualification standards of practitioners within the financial services industry;
- Development and management of accreditation for advisers and providers of training services;
- Periodic assessment of Licensees, continuing professional development and related processes;
- Development and management of a code of conduct and ethics;
- Provision of advice on standards, training, codes of conduct and other relevant matters to professional associations and providers of services to the financial advice industry;
- Advice on policy and other public interest matters related to financial advice.

9.2 Standards and minimum competency requirements

The framework should include 'setting the standards and outlining the minimum competency requirements and any advanced competencies' tailored to specialist advice areas. It should also take into account:

- Likely enhanced regulatory requirements including those likely to flow from the review of ASIC's Regulatory Guide 146, and associated oversight and administration.

- Increasing Continuing Professional Development (CPD) requirements including an increase to a minimum of 40 CPD points annually.

- The value of periodic competency assessment, for example through annual observation and examination. ANZ believes that the Series 7 exam run by the Financial Industry Regulatory Authority in the United States is an example of a globally recognised best practice model that could be applied to Australian conditions.

- Increasing weight on ethical conduct. This could be captured in the increased CPD allocation related to codes of conduct.

- Experience of practitioners, the nature of advice and needs of customers for appropriate advice for their circumstances.

9.2.1 Transition to new standards

While ANZ supports increasing competency and educational standards for financial planners, we also recognise that suitable transition arrangements are required, including through the national exam as described above.

New advisers - ANZ supports the introduction of a minimum degree level qualification for new entrants to the industry. This is in line with the Australian Qualifications Framework (AQF) that outlines degree level as the minimum requirement for a 'professional'. A holistic competency framework is necessary to ensure that the framework includes the requirements for non-academic skills and attributes that are required to perform the role of providing personal financial advice to clients. Consideration should also be given to the addition of a professional year or 'apprenticeship' as part of the framework, taking into account the cost to industry which could negatively impact on the cost to provide advice.

Timeframes for implementation need to consider the availability and capacity of education providers to provide a relevant academic program giving effect to any new industry standards.

Existing advisers – Appropriate recognition should be given to existing practitioners. This should be done in a manner that balances recognition of previous experience with any new professional standards. An analysis of required standards and gaps should be undertaken to formulate bridging programs so that Licensees can continue to provide accessible and affordable advice to clients without compromising required competency standards.

This analysis should take into account new requirements under the competency framework, as well as experience levels of the existing advisers. Re-accreditation could be undertaken through continuing professional development or a new examination process may be appropriate. Costs to the industry should also be considered since these will be passed on customers and will affect affordability and accessibility of advice.

Licensees should be free to continue to select professional development and education providers on a competitive basis, including through in-house or on an outsourced basis. Competitive flexibility will provide opportunities for licensees to manage education and training costs, ultimately benefiting customers.

ANZ view 8: *ANZ supports the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services, recognising that further input on the detail of recommendations adopted by government may be needed; for example on detailed* *transition arrangements and their timing.*

ANZ looks forward to increasing education and training standards with the benefit of recommendations from Parliamentary inquiries into advice regulation and based on Government guidance in relation to how to achieve appropriate standards.

9.3 Retail life insurance advice

ASIC's recent report 413 that reviewed retail life insurance advice identified a number of areas of concern related to life insurance product design and distribution practices. The three key issues arising from the report:

- Remuneration structures - specifically the potential conflict of interest between current remuneration, quality life insurance advice and compliance practices.
- Product design issues - a correlation was found between product design and high lapse rates.
- Quality of advice - a number of factors were identified in respect to the provision of quality of advice:
  - adviser incentives;
  - inappropriate scaling of advice;
  - lack of strategic life insurance advice;
  - weak rationales for product replacement advice; and
  - failure to consider the relationship between life insurance and superannuation.

In its report, ASIC made three recommendations for consideration by insurers and a further four recommendations for consideration by AFS licensees.[4]

ANZ notes ASIC's acknowledgement that there are specific 'first mover' considerations particularly with respect to remuneration reform in the area of life insurance advice[5], suggesting that industry wide responses may be required to address some of ASIC's recommendations.

The Association of Financial Advisers and Financial Services Council have jointly convened a working group to specifically address retail life insurance product structures and distribution practices with its final report to be made in March 2015.

While it is not yet clear whether industry consensus can be achieved in relation to, for example, issues such as appropriate remuneration arrangements for financial planners that provide a life insurance advice, ANZ believes that there may be a case for a solution to be mandated in the absence of industry agreement.

ANZ believes that care will need to be taken so that any proposed reforms:

- do not exacerbate current issues of under insurance in the community;
- recognises an appropriate balance between achieving adequate consumer protection while advisers receive a fair and reasonable reward for their work in providing quality advice;
- promotes the value of advice and encourages more people to take advice.

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[4] ASIC report 413 into retail life insurance advice https://dv8nx270cl59a.cloudfront.net/media/2012616/rep413-published-9-october-2014.pdf at page 7.
[5] Ibid.

In arriving at a staged transition to fee for service, interim remuneration approaches should be implemented and this will require consideration of issues such as the continuation, or quantum of, upfront commissions, level and hybrid commission structures, responsibility periods.

Separate to this ANZ is examining ASIC recommendations that we can act on unilaterally e.g. ASIC's suggested review of the training and competency of advisers giving life insurance and increasing monitoring and supervision of advisers.

ANZ view 9: *With respect to life insurance, product changes could be made to improve customer protection outcomes, such as through a review of remuneration arrangements, premium structures and product design. Any changes to these arrangements should not exacerbate underinsurance across the Australian community while achieving the appropriate balance between consumer protection and advisers' receiving a fair and reasonable reward for their work in providing quality advice.*

9.4 Disclosure

The current regulatory regime for disclosure in relation to financial products and services is still geared overwhelmingly towards paper as a delivery mechanism. Increasingly, however, information accessed by most Australians is no longer in paper form. Australians are using technology to access information often at the expense of paper disclosure.

The interim report to the Financial System Inquiry, established by the Government to examine how the financial system could be positioned to best meet Australia's evolving needs and support Australia's economic growth, has observed that "technological innovation is a major driver of efficiency in the financial system and can benefit consumers. Access to growing amounts of customer information and new ways of using it has the potential to improve efficiency and competition, and presents opportunities to empower consumers".[6]

Further the interim report also observes "the current disclosure regime produces complex and lengthy documents that often do not enhance consumer understanding of financial products and services, and impose significant costs on industry participants".[7]

ANZ's Advice Transformation programme is in part a response to the urgent need to better engage with our customers by delivering affordable and accessible quality advice and information through smarter use of technology.

A disclosure regime that is prescriptive and geared towards paper no longer reflects Australians' preference for how they consume information, conduct research to educate themselves and compare products. ANZ is appreciative of ASIC's understanding of this reality with its Consultation Paper 224 on facilitating electronic disclosure.[8]

Reforms that allow more innovative product disclosure statements, visually engaging statements of advice, and opt-out electronic delivery of ongoing disclosures are long overdue. While ANZ welcomes ASIC's initiative, more can be achieved through legislative

[6] Refer to the Financial System Inquiry Interim Report, page 4-35, Chapter 9 on "Technology".
[7] http://fsi.gov.au/publications/interim-report/06-consumer-outcomes/
[8] ASIC Consultation Paper 224 "Facilitating electronic financial services disclosures".

reform to provide greater certainty and better customer engagement that reflects current market realities.

ANZ supports any move by Government to improve the quality of disclosures to investors to reduce the burden on them and to improve their experience

ANZ view 10: *ANZ supports any move by Government to improve the quality of disclosures to investors to reduce the burden on them and to improve the customer's experience. This should include electronic disclosure to improve the form, content and volume of financial information provided to retail customers should be a priority.*

Currently, the default mechanism for providing disclosure is not through electronic channels, this is a barrier to better customer engagement, better advice process and improved financial literacy.

A well designed opt-out approach to electronic disclosure would be more efficient. Shifting more disclosure online needs to be accompanied by approaches that reduce the risk of exclusion for customers without internet access, who are also likely to be among the most disadvantaged and excluded consumers.