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RBNZ modelling confirms systemic risk from loan disclosure errors

ANZ Bank New Zealand (ANZ NZ) today welcomed the Reserve Bank of New Zealand's release of its modelling of the potential wider impact of successful litigation being brought against banks for breaches of the CCCFA.

The bank said the RBNZ had taken a considered approach in modelling the potential impact of disclosure breaches across the banking sector.

ANZ NZ CEO Antonia Watson said: "Minor disclosure errors could mean major industry costs and the modelling provides greater certainty around the potential for system-wide risk."

To estimate the broader impact, the RBNZ projected the impact of successful claims - based on the current class action's initial scope - if applied across all banks. This involved applying the same level of breach to the total interest paid on home loans during the relevant period. The total potential class size across both banks has since increased overall, meaning the potential financial exposure could actually be higher than estimated in the analysis.

"Even minor errors in standard disclosure forms can affect large volumes of loans, amplifying the risk across the industry," Ms Watson said. "Importantly, the RBNZ's modelling excludes other consumer credit products, meaning the actual exposure could be even greater."

"ANZ's experience illustrates this point; a single minor error in one calculator tool which was used widely for a year, impacted a significant portion of our loan book."

"In ANZ's case, customers who underpaid their home loans by an average of just \$2 per month could, under the funder's interpretation of the law, be refunded the entire cost of borrowing up until today's date. We maintain that the potential penalties under the current law are disproportionate and not aligned with the actual harm caused."

At the recent select committee hearing, James Every-Palmer KC illustrated how even a small lender with \$1 billion in lending could face substantial risk. A minor error affecting disclosures over three years could result in \$210 million in refunded interest - a disproportionate outcome.

For context on how disproportionate the outcome would be for a small lender, ANZ NZ's home loan lending book as at March this year was \$111 billion.

"The proposed Bill does not extinguish any rights," Ms Watson said. "The current case can still proceed. What the Bill does is confirm that if a lender made a mistake, a court can determine a fair and proportionate remedy."

"Parliament already changed the law in 2019 to address this issue. The Bill simply ensures consistency and fairness for all - before and after 2019."

For media enquiries contact:

Briar McCormack

Head of External Communications

Tel: +64 21 2801173