**Australian Securities and Investments Commission**
**National Consumer Credit Protection Act 2009 — Paragraph 163(1)(d) — Declaration**

**Enabling provision**

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraph 163(1)(d) of the *National Consumer Credit Protection Act 2009* (the *Act*).

**Title**

2. This instrument is ASIC instrument 12-1458.

**Commencement**

3. This instrument commences on 17 January 2012.

**Declaration**

4. The provisions to which Part 3-7 of the Act applies apply in relation to Australia and New Zealand Banking Corporation ACN 005 357 522 (*ANZ*) as if section 133AD of the Act were modified or varied as follows:

   (a) in subsection (2) after "in accordance with", insert "this section and";

   (b) after subsection (2), insert:

   "(2A) A licensee need not provide the consumer with a Key Facts Sheet at or by the time it would otherwise be required to be provided if the licensee, acting reasonably, cannot prepare the Key Facts Sheet unless the licensee has made an assessment of whether to provide credit to the consumer under the standard home loan to which the Key Fact Sheet relates.

   (2B) A licensee that relies on subsection (2A) must provide the consumer with the Key Facts Sheet as soon as practicable after the licensee has made the assessment.".

**Where declaration applies**

5. The declaration in paragraph 4 applies in relation to a customised residential investment loan offered by ANZ through a division of ANZ that primarily deals with applications for credit to which the Code does not apply, and that is not advertised.

**Interpretation**

6. In this instrument:

***Code*** means the National Credit Code.

***credit fees and charges*** has the meaning given by section 204 of the Code.

***customised residential investment loan*** means a standard home loan under which ANZ provides credit to a debtor:

(a) to purchase, renovate or improve residential property for investment purposes; or

(b) to refinance credit that has been provided wholly or predominantly to purchase, renovate or improve residential property for investment purposes;

where the credit fees and charges and interest charges that may be imposed or provided for under the contract are based on, among other things, the financial circumstances of the debtor.

***interest charges*** means a charge within the meaning of Division 3 of Part 2 of the Code.

Dated this 17th day of January 2012

Signed by Huy N Nguyen
as a delegate of the Australian Securities and Investments Commission