



ASIC
 Australian Securities &
 Investments Commission

CEU interim compliance report by ASIC

ASIC’s interim report dated 9 May 2019 on compliance with the s93AA ASIC Act court enforceable undertaking (CEU) given by Australia and New Zealand Banking Corporation (ANZ).

Terms used in this report have the same meaning as in the CEU dated 5 July 2018.

Undertakings	Report on compliance
<p>ANZ undertakes that its staff or representatives will cease offering or recommending SmartChoice Super or any other Superannuation Product to retail clients immediately before, during, after or in conjunction with or in a manner that might be perceived to be in conjunction with an A-Z Review or Needs-Based Discussion</p> <p>CEU paragraph 3.2</p>	<ol style="list-style-type: none"> 1. On 20 August 2018, ANZ wrote to ASIC confirming that it had complied with its obligations under clause 3.6 of the CEU (which required compliance with clauses 3.2-3.5 and 3.7 of the CEU). 2. PwC, the Independent Expert appointed by ANZ (in accordance with paragraphs 3.9-3.12 of the CEU) found that overall ANZ has adequate monitoring and supervision processes in place to manage the risks associated with ANZ’s compliance with the CEU and distribution of SmartChoice Super. 3. The Compliance Report prepared by PwC states that necessary changes to ANZ’s processes, systems and controls were implemented by ANZ ahead of the CEU compliance date of 18 August 2018. 4. Branch staff are no longer permitted to offer SmartChoice Super to retail customers in conjunction with a Needs-Based Discussion or A-Z Review. Branch staff are not permitted to discuss SmartChoice Super and are required to follow a mandatory script which directs the customer to the ANZ website and a financial comparison website. Functionality in ANZ’s systems for originating SmartChoice Super products has been removed for all branch staff. 5. Reporting reviewed by PwC showed zero SmartChoice Super originations through the branch network between 13 August 2018 and 3 February 2019.

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<p>ANZ undertakes that if it develops and implements a new process by which ANZ staff or representatives distribute Smart Choice Super or any other Superannuation product to retail clients, such distribution process will not include ANZ staff or representatives offering or recommending SmartChoice Super or any other superannuation product before, during, after or in conjunction with, or in a manner than may be perceived by a reasonable person to be in conjunction with an A-Z review or Needs-Based Discussion other than where they are providing personal advice.</p> <p>CEU paragraph 3.3</p>	<ol style="list-style-type: none"> 6. On 20 August 2018, ANZ wrote to ASIC confirming that it had complied with its obligations under clause 3.6 of the CEU (which required compliance with clauses 3.2-3.5 and 3.7 of the CEU). 7. The Compliance Report prepared by PwC states that at the time of preparation of the report there have been no new processes developed or implemented by ANZ to distribute SmartChoice Super or any other Superannuation product. 8. The Compliance Report states that staff and representatives from ANZ's telephone based general advice service who distribute SmartChoice Super under a general advice model, cannot access the information obtained in an A-Z Review or Needs-Based Discussion with a customer and are required to clarify during the discussion with a customer that they have not considered the customer's personal circumstances.
<p>ANZ undertakes that any ANZ staff member or representative other than a person who provides Personal Advice , who is to offer SmartChoice Super or any other Superannuation Product in discussion with a client will not be authorised to access information obtained from that client during an A-Z review or Needs-</p>	<ol style="list-style-type: none"> 9. On 20 August 2018, ANZ wrote to ASIC confirming that it had complied with its obligations under clause 3.6 of the CEU (which required compliance with clauses 3.2-3.5 and 3.7 of the CEU). 10. ANZ's branch staff are prevented from offering or originating the SmartChoice Super product on behalf of retail customers. The changes to ANZ's systems apply regardless of whether a Needs-Based Discussion or A-Z Review has been conducted with a customer. 11. The Compliance Report prepared by PwC states that staff and representatives from ANZ's telephone based general advice service who distribute SmartChoice Super under a

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<p>Based Discussion at around time of such discussion and prior to offering Smart Choice Super or any other Superannuation product to a retail client, will clarify that they will not have regard to the information provided by the client in any A-Z Review or Needs-Based Discussion</p> <p>CEU paragraph 3.4</p>	<p>general advice model, cannot access the information obtained in an A-Z Review or Needs-Based Discussion with a customer and are required to clarify during the discussion with a customer that they have not considered the customer's personal circumstances.</p>
<p>ANZ undertakes that any new process it implements by which ANZ staff or representatives provide factual information or general advice about SmartChoice Super or any other Superannuation Product to retail clients will incorporate a compliant warning appropriate to the relevant sales model that expressly describes the nature of the information or advice being provided.</p> <p>CEU paragraph 3.5</p>	<ol style="list-style-type: none"> 12. On 20 August 2018, ANZ wrote to ASIC confirming that it had complied with its obligations under clause 3.6 of the CEU (which required compliance with clauses 3.2-3.5 and 3.7 of the CEU). 13. The Compliance Report prepared by PwC states that at the time of preparation of its report there have been no new processes developed or implemented by ANZ to distribute SmartChoice Super or any other Superannuation product. 14. The Compliance Report states that staff who are permitted to discuss and/or originate SmartChoice Super do so under a general advice model, with appropriate compliance warnings provided to customers.
<p>ANZ undertakes to, upon the Acceptance Date, take immediate steps to ensure that within 45 days of the Acceptance Date, the steps outlined in paragraphs 3.2-3.5</p>	<ol style="list-style-type: none"> 15. On 20 August 2018, ANZ wrote to ASIC confirming that it had complied with its obligations under clause 3.6 of the CEU (which required compliance with clauses 3.2-3.5 and 3.7 of the CEU). 16. The Compliance Report prepared by PwC states that the necessary changes to ANZ's processes, systems and controls

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<p data-bbox="193 232 400 293">and 3.7 are complied with.</p> <p data-bbox="193 327 411 387">CEU paragraph 3.6</p>	<p data-bbox="571 232 1329 309">were implemented by ANZ ahead of the CEU compliance date of 18 August 2018.</p>
<p data-bbox="193 479 472 1059">ANZ undertakes that any new process it implements by which ANZ staff or representatives provide factual information or general advice in relation to SmartChoice Super or any other Superannuation Product to retail clients by telephone will include a system by which the telephone call will be recorded.</p> <p data-bbox="193 1093 411 1153">CEU paragraph 3.7</p>	<p data-bbox="496 495 1369 667">17. On 20 August 2018, ANZ wrote to ASIC confirming that it had complied with its obligations under clause 3.6 of the CEU (which required compliance with clauses 3.2-3.5 and 3.7 of the CEU).</p> <p data-bbox="496 689 1329 862">18. The Compliance Report prepared by PwC states that at the time of preparation of the report there have been no new processes developed or implemented by ANZ to distribute SmartChoice Super or any other Superannuation product.</p> <p data-bbox="496 884 1369 965">19. Telephone calls are recorded using ANZ's telephone recording system.</p>
<p data-bbox="193 1196 456 1294">Payment of Community Benefit payment</p> <p data-bbox="193 1328 456 1361">CEU paragraph 3.8</p>	<p data-bbox="496 1211 1329 1339">20. ANZ paid a \$1.25 million Community Benefit Payment to the Superannuation Consumers' Centre Ltd on 31 July 2018 in accordance with paragraph 3.8 of the CEU.</p> <p data-bbox="496 1361 1361 1489">21. The Superannuation Consumers' Centre Ltd provided a report to ASIC on 2 May 2019 updating ASIC on its use of the funds received from ANZ.</p>
<p data-bbox="193 1532 464 1608">Engagement of an Independent Expert</p> <p data-bbox="193 1731 464 1807">CEU paragraphs 3.9 – 3.12</p>	<p data-bbox="496 1547 1361 1682">22. ANZ nominated PwC as Independent Expert for approval by ASIC within the time frame required under paragraph 3.9 of the CEU.</p> <p data-bbox="496 1704 1281 1780">23. ASIC approved PwC's appointment and draft terms of engagement on 17 December 2018.</p> <p data-bbox="496 1803 1321 1928">24. ANZ obtained written approval from ASIC for a short extension of time for appointment of PwC in accordance with paragraph 3.10 of the CEU.</p> <p data-bbox="496 1951 1201 1984">25. PwC was appointed by ANZ on 16 January 2019.</p>

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	26. PwC delivered its Compliance Report to ASIC on 12 April 2019 in accordance with paragraph 3.12.7 of the CEU.