



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID694/2021

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Applicant

AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD (ACN 005 357 522)

Respondent

ORDER

JUDGE: JUSTICE O'BRYAN

DATE OF ORDER: 10 March 2023

WHERE MADE: Melbourne

In these orders, “Schedule 1”, “Schedule 2” and “Schedule 3” means Schedule 1, 2 and 3 respectively to the parties’ statement of agreed facts and admissions tendered in the proceeding.

THE COURT DECLARES THAT:

1. In the period from March 2017 to March 2018, the Respondent (**ANZ**) contravened s 31(1) of the *National Consumer Credit Protection Act 2009* (Cth) (**Credit Act**) in relation to each of the 50 home loan applications referred to in Schedule 1, by:
 - (a) engaging in a credit activity within the meaning of the Credit Act, namely carrying on a business of providing credit to which the National Credit Code applies; and
 - (b) in the course of engaging in that credit activity, conducting business with the person referred to in column A of Schedule 1 in respect of that home loan application (**referrer**) where the referrer:
 - (i) was also engaging in a credit activity within the meaning of the Credit Act, namely by providing information and/or documents to ANZ about the borrower the subject of the home loan application (beyond their name and contact details and a short description of the purpose for which they may



want a provision of credit), and consequently providing credit assistance to the borrower or acting as an intermediary between ANZ and the borrower;

- (ii) did not hold an Australian Credit Licence authorising the referrer to engage in that credit activity; and
- (iii) by reason of sub-paragraphs (i) and (ii) above, contravened s 29 of the Credit Act.

- 2. In the period from November 2015 to March 2018, ANZ contravened s 47(1)(e) of the Credit Act by failing to take reasonable steps to ensure that its representatives complied with s 31(1) of the Credit Act, in that ANZ did not have adequate processes in place in connection with its Home Loan Introducer Program to ensure compliance with s 31(1) of the Credit Act.

THE COURT ORDERS THAT:

- 3. Pursuant to s 167(2) of the Credit Act, within 30 days ANZ pay to the Commonwealth an aggregate pecuniary penalty of \$10 million in respect of ANZ's conduct declared to be contraventions of s 31(1) of the Credit Act.
- 4. ANZ pay the Applicant's costs of and incidental to the proceeding.
- 5. Pursuant to ss 37AF(1)(a) and (b)(iv) of the *Federal Court of Australia Act 1976* (Cth), the following information is to be kept confidential to the parties to this proceeding and their legal representatives and, until further order, will not be open to public inspection:
 - (a) the names of the consumers in column B of Schedule 1; and
 - (b) Schedules 2 and 3 in their entirety.

Date that entry is stamped: 10 March 2023


Registrar