

## Media Release

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### **ANZ to pay \$19 million in interest rate swaps case**

The Commerce Commission has reached a \$19 million settlement with ANZ Bank New Zealand Limited (ANZ) in relation to the marketing, promotion and sale of interest rate swaps to rural customers between 2005 and 2009.

The settlement will see ANZ establish a payment fund of \$18.5 million, to be used to make payments to eligible customers (those who registered their complaints with the Commission). The Commission will also receive \$500,000 towards its investigation costs, and some monies from the payment fund are able to be distributed to charitable organisations for the assistance of the rural community.

ANZ has also agreed to admit in High Court proceedings that it engaged in certain conduct that was misleading to some eligible customers. The Commission will be seeking High Court declarations that the bank's conduct breached the Fair Trading Act 1986. A hearing of that application is likely to take place early next year.

The Commission's investigation into ANZ looked primarily at whether the bank marketed interest rate swaps in a way that may have misled customers as to their benefits, risks and suitability.

Commerce Commission Chairman Dr Mark Berry said, "The Commission considers that ANZ's behaviour led some customers to believe that margins on the loan connected with the swap would not change, early termination amounts would be similar to break costs for equivalent fixed rate term loans, and that swaps would be for them a good substitute for a fixed rate term loan. In reality, ANZ could, and in some instances did, increase margins, and early termination amounts could be significantly higher."

The Commission's conclusions have not been tested in court and ANZ says that it does not accept them.

"We believe that this settlement is a very good outcome, as contested court proceedings would have meant uncertainty and lengthy delays in achieving any possible payments. We are pleased to be able to deliver payments to eligible customers much more quickly than might be achievable through the courts. The payments to be made under the settlement are, in our view, a reasonable approximation of the potential losses that the Commission could have recovered on their behalf, if we had been successful at trial. These payments will include amounts that eligible customers incurred by way of extra margins and additional early termination amounts (for those who broke their swaps), or extra costs (for those who did not)."

"We are also pleased that ANZ has put its hand up and admitted that some of its conduct was misleading."

The Commission's settlement agreement sits alongside a separate agreement between the ANZ and the Financial Markets Authority.

"Over the next week we will be contacting the 178 customers who may be eligible for a payment under this settlement. Payment offers will be made to these customers next year and we expect the funds to be distributed by the end of September 2015," said Dr Berry.

Discussions with the other two banks (Westpac and ASB) investigated by the Commission in relation to interest rate swaps are continuing.

## **Background**

Interest rate swaps are a financial derivative product that allows a borrower to manage the interest rate exposure on their borrowing. They were typically provided to large corporate and institutional customers, but from 2005 they were offered by various banks to some rural customers throughout New Zealand.

In August 2012 the Commission began enquiring into whether interest rate swaps were misleadingly marketed from 2005 to 2009. On 17 December 2013, the Commission announced that it has advised three major New Zealand banks (ANZ, ASB and Westpac), that it intended to

issue legal proceedings in March 2014 over their sales of interest rate swap contracts to rural customers. In April 2014, the Commission announced it was assessing new information and furthering discussions with each bank.

More information about the interest rate swaps case can be found on the Interest Rate Swaps page <http://www.comcom.govt.nz/fair-trading/interest-rate-swaps-2/>

**Media contact**

Diana Price, Communications and External Relations Manager

Phone (04) 924 3692, mobile 021 225 4417

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