

Financial Markets Conduct (Conduct of Financial Institutions – Australia and New Zealand Banking Group Limited) Exemption Notice 2025

This exemption is granted by the Financial Markets Authority under section 556 of the Financial Markets Conduct Act 2013 after being satisfied of the matters set out in section 557 of that Act.

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Notice

1 Title

This notice is the Financial Markets Conduct (Conduct of Financial Institutions – Australia and New Zealand Banking Group Limited) Exemption Notice 2025.

2 Commencement

This notice comes into force on 31 March 2025.

3 Revocation

This notice is revoked on the close of 30 March 2030.

4 Interpretation

(1) In this notice, unless the context otherwise requires,—

Act means the Financial Markets Conduct Act 2013

ANZBGL means Australia and New Zealand Banking Group Limited (ACN 005 357 522)

ANZNZ means ANZ Bank New Zealand Limited

associated product has the meaning set out in section 446F(2) of the Act

consumer—

(a) means, in relation to a relevant contract, a debtor under a relevant contract; and

(b) otherwise, has the meaning set out in section 446P(1) of the Act
consumer credit contract has the meaning set out in section 446P(1) of the Act

exempt customer means a consumer–

- (a) who became a customer of ANZBGL when the person resided outside New Zealand; or
- (b) who–
 - (i) currently resides in New Zealand but intends to reside outside New Zealand; and
 - (ii) requires the provision of a relevant service or an associated product by ANZBGL when residing outside New Zealand; or
- (c) who–
 - (i) did not become a customer of ANZBGL as a result of conduct of ANZBGL that was intended to target consumers in New Zealand; and
 - (ii) requires the provision of a relevant service or an associated product in relation to funds or property held outside New Zealand or other activities carried on outside New Zealand

FSP Act means the Financial Service Providers (Registration and Dispute Resolution) Act 2008

payment means, in relation to a relevant contract, a payment under the relevant contract by a consumer

relevant contract means a consumer credit contract in respect of which ANZNZ has transferred its rights as creditor to ANZBGL as the new creditor

relevant service has the meaning set out in section 446F of the Act.

- (2) Any term or expression that is defined in the Act and used, but not defined, in this notice has the same meaning as in the Act.

5 Application

The exemptions in clause 6 apply to ANZBGL if, in relation to a relevant service or an associated product that it provides to an exempt customer, it is–

- (a) licensed to carry on banking business in Australia; and
- (b) (if different) licensed, authorised or otherwise permitted to carry on banking business or to provide the relevant service or the associated product in the jurisdiction from which it provides that service or product.

6 Exemptions

ANZBGL is exempted from section 388(ca) and subpart 6A of Part 6 of the Act in respect of–

- (a) being a creditor under a relevant contract; and
- (b) the provision of a relevant service or an associated product to an exempt customer.

7 Conditions

- (1) The exemptions in clause 6 in respect of ANZBGL being a creditor under a relevant contract are subject to the following conditions:
- (a) ANZBGL must ensure that there is a contract (the **management contract**) between ANZBGL and ANZNZ that provides for ANZNZ–

- (i) to collect all payments from each consumer; and
 - (ii) otherwise, to manage each relevant contract; and
 - (iii) to deal with each consumer for those purposes accordingly; and
- (b) ANZBGL must ensure that the terms of the management contract require ANZNZ–
- (i) to hold a market services licence under section 388(ca) of the Act; and
 - (ii) to comply with the requirements set out in subpart 6A of Part 6 of the Act in respect of each relevant contract as if ANZNZ were the creditor under the relevant contract; and
 - (iii) to ensure that the fair conduct programme established, implemented and maintained by ANZNZ in accordance with subpart 6A of Part 6 of the Act is effective to ensure its compliance with the fair conduct principle in respect of each relevant contract as if ANZNZ were the creditor under the relevant contract; and
- (c) ANZBGL ensures that ANZNZ–
- (i) holds a market services licence under section 388(ca) of the Act; and
 - (ii) provides the relevant service of acting as an intermediary under section 446F(1)(a)(iv) of the Act in respect of ANZBGL’s provision of the service referred to in section 446F(1)(a)(ii) of the Act; and
 - (iii) is registered on the register of financial service providers under the FSP Act for the financial services referred to in section 5(1)(c), (e) and (ib)(vii) of the FSP Act (without limiting its obligation to register for any other financial services for which it must be registered); and
 - (iv) is a member of a dispute resolution scheme in accordance with section 48 of the FSP Act that satisfies the following criteria:
 - (A) the rules of the scheme relating to complaints about its members apply in relation to ANZNZ as if ANZNZ were the creditor under the relevant contract; and
 - (B) the scheme must accept for resolution, and ANZNZ must be bound by the resolution of, complaints on that basis accordingly.
- (2) The exemptions in clause 6 in respect of the provision of a relevant service or an associated product to an exempt customer are subject to the following conditions:
- (a) ANZBGL provides the relevant service or the associated product from outside New Zealand and not as part of ANZBGL’s New Zealand business; and
 - (b) ANZBGL does not distribute, or authorise or instigate the distribution of, any advertisement for a relevant service or an associated product that is intended to target consumers in New Zealand, other than an advertisement–
 - (i) that–
 - (A) is distributed only to consumers in New Zealand who are exempt customers; or
 - (B) is directed at consumers in New Zealand who intend to reside outside New Zealand and may require the provision of a relevant service or an associated product by ANZBGL when residing outside New Zealand; and
 - (ii) that contains the information in subclause (3); and

- (c) ANZBGL must take reasonable steps to ensure that before, or, if not practicable before, as soon as practicable after, commencing to provide a relevant service or an associated product that is designed to be provided to consumers to an exempt customer, the exempt customer is informed in writing, in a clear and effective manner, of the following matters–
 - (i) that the provision by ANZBGL of the relevant service or the associated product is regulated by the laws and regulatory requirements of the overseas jurisdiction that is identified by ANZBGL and that any complaint or dispute that arises in respect of that service or product is to be determined by the laws and dispute resolution processes of that jurisdiction; and
 - (ii) how to make a complaint in relation to ANZBGL’s provision of the relevant service or the associated product, including how to make a complaint to any external dispute resolution scheme; and
 - (d) if a consumer in New Zealand who is an exempt customer at the date of commencement of this notice has not been informed in writing of the matters set out in subclause (2)(c) in relation to a relevant service or an associated product that is designed to be provided to consumers, ANZBGL must take reasonable steps to ensure that the consumer is informed in writing of those matters as soon as practicable after the commencement of this notice.
- (3) For the purposes of subclause (2)(b)(ii), the information is–
- (a) a statement that the relevant service or the associated product is being provided by ANZBGL from the overseas jurisdiction referred to in paragraph (c) below, and not by ANZBGL’s New Zealand branch or by ANZNZ; and
 - (b) a statement to the effect that ANZBGL has been granted an exemption from the requirement under the Act to be licensed as a financial institution and from requirements under the Act that provide for financial institutions to treat consumers fairly; and
 - (c) a statement that identifies the overseas jurisdiction whose laws and regulatory requirements principally govern the provision by ANZBGL of the relevant service or the associated product; and
 - (d) a statement to the effect that any dispute that arises in respect of the provision of the relevant service or the associated product is to be determined by the laws and the dispute resolution processes of the overseas jurisdiction referred to in paragraph (c) above and not those of New Zealand; and
 - (e) a brief description of how to contact ANZBGL and how to make a complaint in relation to ANZBGL’s provision of the relevant service or the associated product, including how to make a complaint to any external dispute resolution scheme.

Dated at Auckland this 26th day of March 2025.



Clare Bolingford
Executive Director - Regulatory Delivery
Financial Markets Authority

Statement of Reasons

This notice comes into force on 31 March 2025 and is revoked on the close of 30 March 2030. It applies to Australia and New Zealand Banking Group Limited (**ANZBGL**), an overseas bank that is licensed to carry on banking business in Australia and is also a registered bank in New Zealand.

This notice relates to two independent and discrete activities undertaken by ANZBGL.

- ANZBGL is party to a funding arrangement (**Funding Arrangement**) with its registered bank subsidiary ANZ Bank New Zealand Limited (**ANZNZ**) under which ANZBGL acquires and holds consumer credit contracts originated by ANZNZ (**relevant contracts**). This is a funding mechanism for ANZNZ, is the sole activity of the New Zealand branch of ANZBGL and is the reason ANZBGL is a registered bank in New Zealand.
- ANZBGL provides cross-border services from outside New Zealand to certain consumers in New Zealand (**Cross-border Services**). This is limited to existing customers of ANZBGL who have moved to New Zealand, consumers intending to move overseas, and consumers who approach ANZBGL for services that relate to activities the consumer carries on overseas.

This notice exempts ANZBGL from:

- section 388(ca) of the Financial Markets Conduct Act 2013 (the **Act**), which requires a provider to be licensed as a financial institution; and
- subpart 6A of Part 6 of the Act (**subpart 6A**), which regulates the conduct of financial institutions.

The broad effect of the exemptions is that ANZBGL does not have to be licensed or comply with requirements designed to ensure that financial institutions treat consumers fairly in respect of the Funding Arrangement or the Cross-border Services.

The exemptions for the Funding Arrangement are subject to conditions that are directed at ANZBGL ensuring that ANZNZ will be licensed as a financial institution, comply with all requirements of subpart 6A in relation to the relevant contracts, and have external dispute resolution mechanisms in place, as if ANZNZ remained the creditor under those contracts.

The exemptions for the Cross-border Services require ANZBGL to be licensed to carry on banking business in its home jurisdiction of Australia, and licensed, authorised or otherwise permitted to carry on banking business or to provide the relevant services in any other jurisdiction from which it provides the services. Conditions prevent ANZBGL distributing advertisements that target New Zealand consumers (other than in very limited circumstances with appropriate disclosures included) and require it to give customers information (through terms and conditions or otherwise) directed at making it clear, in relation to services that are designed to be provided to consumers, that the provision of the services, and any disputes, will be governed by the laws of Australia or other overseas jurisdiction the services are provided from.

The Financial Markets Authority (the **FMA**), after satisfying itself as to the matters set out in section 557 of the Act, considers it appropriate to grant the exemptions because –

- in relation to the Funding Arrangement:
 - all activities subpart 6A is directed at regulating are undertaken by ANZNZ. ANZNZ retains responsibility for the entire product lifecycle and will comply with subpart 6A as though it remained the creditor under the relevant contracts. The sale of legal title to the relevant contracts by ANZNZ to ANZBGL for funding reasons does not impact on the treatment of consumers in relation to those relevant contracts, and exempting ANZBGL should not create any regulatory gap:

- ANZBGL's role is akin to a special purpose vehicle (**SPV**) in securitisation and covered bond arrangements entered for funding purposes. In those arrangements, the SPV, as the acquirer, has no involvement in the customer relationship and (if it is not a financial institution) is not within the scope of the subpart 6A. The exemptions treat ANZBGL in an equivalent manner:
- requiring ANZBGL to maintain a separate fair conduct programme would duplicate the same matters contained in ANZNZ's fair conduct programme and serve no useful purpose given ANZBGL has no involvement in those areas:
- in relation to the Cross-border Services:
 - the exemptions support a level playing field and consistency of treatment with other overseas banks that are not registered banks in New Zealand and that provide similar overseas services to consumers in New Zealand without being subject to subpart 6A. The exemptions recognise that, but for ANZBGL being a registered bank in New Zealand for historical reasons relating to the Funding Arrangement, it would not be required to comply with subpart 6A to provide the Cross-border Services:
 - the exemptions recognise that the factors connecting the Cross-Border Services to New Zealand are limited. The services are provided outside New Zealand in respect of activities that are or will be carried on outside New Zealand, that will be regulated in the overseas jurisdiction, and, in some cases, to consumers who resided outside New Zealand initially or who intend to reside outside New Zealand:
 - in circumstances where consumers are existing customers of ANZBGL who have moved to New Zealand, or who approach ANZBGL as an overseas bank for services the bank provides in an overseas jurisdiction, and are, in relation to services that are designed to be provided to consumers, informed that the provision of the services and resolution of any disputes is governed by the laws of that overseas jurisdiction rather than by New Zealand law, granting the exemptions supports the informed participation of New Zealand consumers in carrying on overseas activities, continued access to services that are generally not offered by local banks in New Zealand, and the ability of consumers to move across borders without unnecessary barriers, inconvenience and costs:
- as such, the FMA is satisfied that the granting of the exemptions is desirable in order to promote the purposes of the Act, specifically to promote and facilitate the development of fair, efficient and transparent financial markets, to promote the confident and informed participation of consumers in the financial markets, to promote innovation and flexibility in the financial markets, and to avoid unnecessary compliance costs:
- given the limited application of the exemptions to the relevant contracts under the Funding Arrangement and Cross-border Services provided to restricted categories of consumers, and conditions that restrict the Cross-border Services to those provided from outside New Zealand, restrict advertising that targets New Zealand consumers, and that relate primarily to the overseas activities of those consumers, the exemptions are not broader than is reasonably necessary to address the matters to which they relate.