



RELEASE TO AUSTRALIAN SECURITIES EXCHANGE (“ASX”)

MONDAY, 5 DECEMBER 2011

BANK FEES UPDATE

1. Justice Gordon, in the Federal Court, today delivered judgement on an important preliminary issue in the ANZ bank fees class action; whether various exception fees charged to its customers by ANZ could amount to penalties at law.
2. The Court found that late payment fees were capable of being penalties at law. However, the court also found that other exception fees could not be so construed, in the absence of a breach of contract by the customer.
3. On late payment fees, it is still open to ANZ to adduce evidence (if such evidence exists), that these fees, typically \$35 a time, represented a genuine pre-estimate of damages.
4. On the other exception fees, the class representative will consider an appeal directly to the High Court for consideration, amongst other things, of the wider definition of penalties as formulated by Brereton J in an earlier judgement.
5. Once the question has been resolved on appeal, the matter will then be brought back before her Honour to finalise the litigation.
6. All of the exception fees are alleged to be penalties and also to be unconscionable and contrary to various statutory provisions.
7. In the meantime, proceedings will be issued against a number of other banks in the coming weeks.

A handwritten signature in black ink, appearing to read 'Diane Jones', enclosed within a large, loopy circular flourish.

Diane Jones
Chief Operating Officer

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