

- 5.5 Prior to 30 November 2009, all of the Wealth businesses (with the exception of ANZFP and SIL) were conducted by a joint venture with ING, in which ANZ had a 49% interest and ING 51%. ANZ purchased ING's stake on that date.
- 5.6 As part of its strategy to create a simpler, better balanced bank, ANZBGL is in the process of selling its P&I business and the dealer groups to IOOF, and its life insurance business to Zurich. It is retaining the ANZFP business, which currently employs approximately 250 advisers. Completion of both sales is expected to occur in late-2018, subject to regulatory approval. Following completion of the sales, ANZ will continue to make superannuation and investment products, and life insurance, available to ANZ customers through arrangements with IOOF and Zurich respectively.
- 5.7 SIL's primary business is the provision of a trading platform, through which customers trade in listed securities. ANZ has entered into an arrangement with CMC Markets, as a result of which customers of SIL are being migrated to CMC Markets' platform. SIL's trading platform is expected to be decommissioned later this year.

B. Documented annual service reviews to customers

- 5.8 Some Advice customers pay fees for ongoing financial planning services, which can include a documented annual review. For customers of ANZFP, this is known as the "Prime Access" service.
- 5.9 ANZFP financial advisers did not provide documented annual reviews to 9,178 Prime Access customers from 2008 to 2013.⁶ This has been the subject of an extensive ANZ investigation, with oversight from ASIC since August 2013 when ANZ reported the matter to ASIC. As part of the investigation, the files of all Prime Access customers from 2006 to 2013 were reviewed. Where a file contained insufficient evidence of an annual review meeting having been held, or an annual review document having been provided to the customer, ANZ issued an apology and remediated the failure by paying compensation.
- 5.10 This remediation methodology was developed with the assistance of an external consultant and was disclosed to ASIC. Compensation amounts were equivalent to a proportion of the Prime Access service fee paid for the relevant year reflecting the value of the service not delivered, together with interest to compensate customers for the loss of money over time. ANZ has compensated 9,167 affected Prime Access customers in a total amount of \$43,719,222.16 in relation to the period from 2008 to 2013. ANZ is in the process of remediating the final 11 customers in the sum of \$31,229.84, and expects to complete this by 28 February 2018.⁷
- 5.11 ASIC is conducting an enforcement investigation and ANZ is engaging with ASIC in that regard. The remediation methodology and compensation paid have been notified to ASIC.
- 5.12 ANZ has also identified failures by ~~four~~ authorised representatives of FSP, RI and M3 to provide ~~or offer~~ documented ~~annual-periodic~~ reviews to ~~813691~~ customers ~~between May 2013 to April 2016~~. ~~These matters~~ ~~Each of those authorised representatives~~ have been ~~breach~~ reported to ASIC ~~(5 of which specifically related to fee for service issues)~~. ANZ understands that ASIC has commenced investigations ~~in respect of fee for no service issues~~ in relation to two of those ~~four~~ authorised representatives. ANZ is in the process of remediating the failures of those authorised representatives, with monthly progress reports to ASIC ~~in respect of four of them~~, applying the principles referred to above. ~~There are also other authorised representatives of the aligned dealer groups in respect of~~

⁶ ANZ has also identified the non-provision of documented annual reviews between 2006-2008, which are not addressed in this submission.

⁷ ANZ expects that compensation in respect of approximately 30 customers will need to be remitted as unclaimed monies. The 11 customers who have not yet been remediated are either deceased or subject to extenuating circumstances (for example, joint customers who are now divorced).

[whom annual audits or compliance reviews indicate isolated incidents of non-delivery of ongoing advice services as contractually required.](#) At ASIC's request, ANZ is currently investigating whether any other such failures have occurred in FSP, RI and M3 during the period after 1 July 2008. An external consultant is assisting with that investigation.

- 5.13 ANZ attributes its failures to a combination of: (a) system controls and supervision and monitoring processes being inadequate to track ongoing service delivery; (b) staff turnover; and (c) possible culture amongst financial advisers (which may also exist in the broader industry) of inadequate attention to service delivery, particularly in circumstances where fee-charging or remuneration structures involve upfront payments made before all services have been delivered, or periodic payments that are deducted from customers' accounts (and, in some cases, made to advisers) automatically irrespective of whether services have been delivered, or by a combination of both types of payment.
- 5.14 ANZFP has implemented several measures to reduce the risk of recurrence, including (and see further [5.26]): (a) improved systems controls, and in particular, alerts to prompt advisers to complete ongoing service obligations; a requirement for advisers to create a record in ANZ's centralised financial planning software when they deliver documented annual reviews to Prime Access clients; and daily reports circulated to advisers and practice managers identifying clients whose annual reviews are overdue; (b) increased focus on service delivery in annual advice assurance reviews, which are taken into account in assessing advisers' performance; (c) establishment of a dedicated team in 2014 with responsibility for supervising and monitoring ongoing service delivery; and (d) changes to remuneration structure, including service delivery criteria for performance bonus eligibility.
- 5.15 The dealer groups have implemented the change in [5.14(b)], and are in the process of implementing changes analogous to those in [5.14(a)] and [5.14(c)].
- 5.16 In addition to being the subject of ASIC Report 499⁸ published in 2016, the non-delivery of financial advice services was referred to in the House of Representatives Standing Committee on Economics, *Review of the Four Major Banks (Four Major Banks Review)*⁹ and the Senate Economics References Committee, *Inquiry into Scrutiny of Financial Advice*.¹⁰
- 5.17 **Summary: 1 and 2** Yes, as described in [5.9] and [5.12]. **3(a)** Yes. ASIC investigations ([5.11] and [5.12]) and other inquiries ([5.16]). **3(b)-(d)** ANZ attributes the failures to the matters referred to in [5.13]. **3(e)(i)** ANZ has taken the remedial steps in [5.9] and [5.10] and is in the process of taking the steps in [5.12]. **3(e)(ii)** ANZ has taken or is taking the steps in [5.14] and [5.15].

C. Conduct of financial advisers

- 5.18 Some financial advisers employed by ANZ or who are authorised representatives of ANZ have engaged in improper or non-compliant conduct on a number of occasions in the relevant period. This submission focuses on conduct that ANZ notified to ASIC in 2015 as giving rise to serious compliance concerns (**SCC notification**)¹¹ and other conduct that ANZ has subsequently reported or notified to ASIC.

⁸ ASIC Report 499, *Financial Advice: Fee for no service* (2016).

⁹ *First Report*, November 2016, [9.6]-[9.7]; *Second Report*, 21 April 2017, [2.67]; Transcript 11 October 2017, p. 45; Transcript 20 October 2017, pp. 13-14.

¹⁰ Transcript 21 April 2015, p. 24 and pp. 31-33.

¹¹ ASIC defined "serious compliance concerns" as being where an advice licensee believes, and has some credible evidence in support of the concerns identified, that an adviser – in the course of providing financial services – may have engaged in: (i) dishonest, illegal, deceptive and/or fraudulent misconduct; (ii) any misconduct that, if proven, would be likely to result in the instant dismissal or immediate termination of the adviser; (iii) deliberate non-

allegations are substantiated.²⁰ In the beneficiary form cases in [5.21(b)], remediation involves arranging for the forms to be re-executed and properly witnessed.

- 5.25 A number of different factors caused or contributed to the improper or non-compliant conduct of advisers, including the failure of ANZ's processes, controls and supervision to protect against that conduct. The matters in [5.21(a)] and [5.21(c)] were caused principally by human factors specific to the advisers in those cases. Gaps in qualifications or training of advisers and a lack of understanding of the importance of following proper processes contributed to the matters in [5.21(b)], [5.21(d)] and [5.21(e)]. In cases involving falsification or alteration of customer or compliance documentation (excluding those in [5.21(a)]), advisers have typically intended to mislead the ANZ advice assurance audit team so as to pass audits. ANZ considers there are pockets of poor culture which might contribute to the issue, and is working to address them.
- 5.26 Steps taken to reduce the risk of recurrence of these problems include:
- (a) Improved training such as Advice Quality Coaches introduced in December 2015; a best practice toolkit for advisers, introduced in June 2015; weekly or fortnightly newsletters to financial planners which go through changes to standards and promote webinars which are available to planners through central webinar technology introduced in ~~January~~ 2015⁶; and professional development days to assist planners to stay abreast of the latest changes, introduced in January 2015.
 - (b) Improved supervision and monitoring, including by reference to the Key Risk Indicators in ASIC Report 515 Appendix 4 and the data analytics referred to below. In ~~December~~ ~~September~~ 2017, ANZ introduced an Adviser "Hub", which is a central data repository that enables ANZ to more efficiently and effectively monitor services provided by its advisers and authorised representatives than was previously the case. For example, the Adviser Hub means ANZ's back office teams no longer need to manually transfer/handle data or spend time sifting through emails to monitor such things as turn-around times in advice being provided to customers. Historical data is being migrated to the Adviser Hub in early 2018.
 - (c) An improved advice assurance review process since October 2016, including enhanced use of data analytics and a scorecard that has been reviewed by ASIC and addresses the substance of Appendix 3 to ASIC Report 515.
 - (d) A balanced scorecard for ANZFP adviser performance assessment and incentives, which was introduced on 1 October 2016 and further enhanced on 1 October 2017 (see [4.20]);
 - (e) Adherence to the ABA Reference Checking & Information Sharing Protocol since 1 March 2017, which is directed towards improving reference checking during the recruitment of financial advisers, and promoting better information sharing about the performance history of financial advisers focussing on compliance, risk management and advice quality;
 - (f) Rolling out, from October 2017, a new technology tool (called "Grow for Advice") for ANZFP financial planners to use with customers in an interactive way. Grow for Advice is designed to enable personal insurance advice to be provided to customers in a more consistent and efficient way than has typically been the case in the past. A logic based advice engine automatically makes over 100 decisions about insurance strategy and product selection once a customer's preferences and information has been entered. This new technology is expected to reduce the risk of poor quality advice being provided to customers.

²⁰

Subject to the adviser being an authorised representative at the time of the conduct and the adviser not acting outside of its authority in circumstances where that lack of authority was clearly disclosed to the client.

- 5.55 While preparing to remit lost/inactive balances to the ATO for the period ending 31 December 2017, ANZ identified 9,000 lost/inactive member balances, collectively totalling approximately \$41 million, that should have but had not been transferred for the periods ending 31 December 2016 and 30 June 2017. This arose as a result of transaction history information not being carried across in ANZ's systems when those members were transferred from legacy products to MySuper products, which in turn led to ANZ's systems not detecting when balances met criteria to be transferred to the ATO. ANZ also identified some balances that were transferred outside of the required timeframes, but does not yet know how many members that affected. ANZ is investigating the nature and extent of any adverse financial impact to members. ANZ is committed to remediating those members in a similar manner as set out in [5.54], should that be required, and implementing system fixes.
- 5.56 1,640 policyholders were not paid stamp duty and transfer costs when their claims for total loss pursuant to a certain car insurance policy were settled between April 2011 to September 2013. The claims administration was carried out by QBE on behalf of OPGI and QBE (who were in a co-insurance arrangement). The issue was discovered after the FOS made a determination in a particular case that the relevant disclosure document required a payout to include those amounts. All affected customers were paid additional amounts, including interest, by 13 November 2014. QBE implemented changes to its systems so that future claims to which the relevant disclosure statement applied included such payments.
- 5.57 In April 2014, ANZ identified a breakdown in its processes which meant that it had not set up "insurance only" accounts within employer sponsored plans after being instructed to do so when an employee wanted to manage their own superannuation, including with ANZ, rather than for their superannuation to be managed as part of the employer sponsored superannuation fund ~~rolled over their balance to a new non-ANZ fund~~. This resulted in some customers not having life insurance cover. 647 members were affected across 12 employer plans. Remediation was completed in December 2014.
- 5.58 There were errors relating to life insurance cover in respect of about 50,000 superannuation fund members, including the provision of benefits to dual account members, during the period 1 July 2013 to 31 March 2017. ANZ did not consider each matter to be individually reportable, but identified them as collectively significant and so made reports to APRA and ASIC. The errors were rectified by, among other things, reviewing policies to ensure members were provided with the correct insurance, accepting claims for consideration where insurance had lapsed in error or was due to lapse, and issuing appropriate notices to policyholders. To reduce the risk of recurrence, ANZ rectified system errors and implemented new control mechanisms. APRA closed the breach on 31 May 2017.
- 5.59 During 2017, ANZ carried out a number of reviews relating to life insurance in superannuation (one of which was undertaken by an external consultant). The reviews identified inconsistencies and gaps in ANZ's systems, processes and disclosures, including: (a) incorrect calculation of sums insured and premiums, as referred to in [5.37(a)]; and (b) some customers not having insurance when they should have, because policies were cancelled or lapsed when that should not have occurred, and other customers being provided with insurance when they should not have been, for example, because they did not meet the eligibility requirements for automatic cover.
- 5.60 ANZ has made a report to ASIC in relation to these matters. ANZ is continuing to investigate the matters to assess, among other things, the impact on its customers and is working to fix the issues that have been identified with respect to its systems, processes and disclosures. ANZ expects all impacted customers to be remediated by July 2018.
- 5.61 In or about May 2014, ANZ identified that it had issued approximately 32,000 cheques (for matters including insurance claim proceeds, and payment of superannuation benefits and refunds), totalling approximately \$14.5 million, that had remained unrepresented for

more than 12 months. ANZ had not taken steps to contact the recipients or otherwise remit the funds to ASIC as unclaimed monies. ANZ reported the matter to ASIC. ANZ subsequently remitted approximately \$2.9 million to the payees and the \$11.6 million balance to ASIC. ASIC advised that the matter was closed on 19 November 2015. To reduce the risk of recurrence, ANZ developed and implemented an "Unclaimed Monies Standard" with new internal processes to identify and action unrepresented cheques in a timely manner.

- 5.62 From time to time, system issues and human error have resulted in SIL breaching legal/regulatory requirements, or otherwise falling short of CSEs. The errors include approximately nine incidents between 2008 and 2017 resulting in penalties from the ASX or the ASIC Markets Disciplinary Panel ranging between \$20,000 and \$130,000. Where errors such as incorrect charging were identified, SIL undertook remediation programs, the most significant of which (by value) involved SIL refunding a total of approximately \$46,000 to over 400 customers in late 2014/early 2015 in relation to incorrect brokerage rates charged to those customers.
- 5.63 **Summary:** 1 and 2 Yes, as described in [5.50] to [5.62]. 3(a) ASIC is investigating the matter referred to in [5.60], and certain matters referred to in [5.62] were the subject of ASX and ASIC Markets Disciplinary Panel proceedings. The other matters were reported to ASIC/APRA. 3(b)-(d) See [5.50] to [5.62]. 3(e)(i) ANZ has taken the remedial steps described in [5.50] to [5.62]. 3(e)(ii) ANZ has rectified the errors that caused the matters and taken the steps described in [5.50] to [5.62].

H. Remediation

- 5.64 Remediation programs involving financial advice typically require a manual review, by suitably qualified and independent persons, of advice files and other records to objectively and fairly assess the advice provided, taking into account individual circumstances. The review may extend over a substantial period of time in some cases.³¹ Significant time is spent collating the data and other records needed to assess the quality of the advice clients received. These matters mean that customer remediation in financial adviser cases can take a substantial period of time.
- 5.65 ANZ acknowledges that, over the relevant period, it has not remediated all financial adviser matters within a timeframe that is consistent with CSEs. For example, in a number of matters which were identified in 2013 or 2014, remediation is not yet complete or was completed in late 2017. ANZ considers that this is, in part, a result of it not having had the necessary structures, processes and resources in place to efficiently deal with large-scale remediations.
- 5.66 ASIC receives regular reports on many of ANZ's customer remediation programs relating to financial advice, and ASIC also received data about the time taken to remediate customers as part of its Breach Reporting Project.
- 5.67 ANZ has sought to improve its governance practices around remediation in order to streamline processes. In particular:
- (a) A small remediation team (which became known as the Advice Remediation Team) was formed in the first half of 2014. In 2015, the team was renamed as the Advice Review Team (ART). The team expanded and increased its capabilities over the course of the second half of 2015 and in the lead up to the implementation of the Remediation Framework in mid-2016. ART A specialist Advice Remediation Team for Wealth was established on 1 July 2016 to undertake significant remediation programs where a preliminary root cause analysis suggests that there will be

³¹ Wealth considers a period of at least seven years, but goes beyond that time where relevant records exist and it is in the interests of the customer to do so.