

Federal Court of Australia  
District Registry: Victoria  
Division: General

No: (P)VID811/2010



**JOHN ANDREWS** and others named in the schedule  
Applicant

**AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED ACN 005 357 522**  
Respondent

## ORDER

**JUDGE:** Justice Middleton

**DATE OF ORDER:** 15 March 2019

**WHERE MADE:** Melbourne

### THE COURT ORDERS THAT:

#### *Consolidation of Proceedings*

1. Pursuant to s 33ZF(1) of the *Federal Court of Australia Act 1976* (Cth) (**FCAA**) and/or rule 30.11 of the *Federal Court Rules 2011* (Cth), this proceeding be consolidated with proceeding VID 196 of 2013 (*Paciocco & Anor v Australia and New Zealand Banking Group Ltd*) (**Paciocco Proceeding** and, together, the **Consolidated Proceeding**).
2. The:
  - a. applicants in this proceeding and the applicants in the *Paciocco Proceeding* shall, together, comprise the applicants in the *Consolidated Proceeding*;
  - b. Further Amended Originating Application dated 22 March 2017 and filed in this proceeding stand as the Originating Application in the *Consolidated Proceeding* (**Originating Application**); and

- c. Second Further Amended Statement of Claim dated 28 March 2018 and all other current pleadings filed in this proceeding stand as the pleadings in the Consolidated Proceeding.

*Class Opening / Closure, Registration, Opt Out and Notice of Proposed Settlement*

3. Pursuant to s 33K(1) of the FCAA, the definition of the group members to whom the Consolidated Proceeding relates, and on whose behalf the Consolidated Proceeding is brought, as set out in the Originating Application, be amended so as to read as follows **(Group Members)**:

*The group members to whom this proceeding relates are those persons who, at some time between 1 August 2003 and 23 February 2016 (inclusive):*

- (a) were customers of the respondent, ANZ;*
  - (b) held and operated banking facilities with ANZ; and*
  - (c) were charged by ANZ PPN Fees (as that term is defined in the Second Further Amended Statement of Claim).*
4. Pursuant to s 33ZF(1) of the FCAA, with the exception of those persons who were group members in this proceeding or in the Paciocco Proceeding before the consolidation referred to in order [1] above and the amendment referred to in order [3] above **(Original Group Members)**, any Group Member who wishes to participate in the distribution of the amount agreed in settlement of the Consolidated Proceeding shall, by no later than 4.00 pm on 24 May 2019, register as a participating Group Member either by:
- a. registering on the website of the applicants' solicitors;
  - b. telephoning the applicants' solicitors and providing to them all of the information requested by the applicants' solicitors; or
  - c. emailing or mailing a completed registration form, in the form set out in Annexure A, to the applicants' solicitors at the address shown on the form.
5. Pursuant to s 33J(1) of the FCAA, 4.00 pm on 24 May 2019 be fixed as the time and date before which a Group Member (other than an Original Group Member) may opt out of the Consolidated Proceeding.
6. Pursuant to s 33X of the FCAA, notice of the Consolidated Proceeding, of the right of Group Members (other than Original Group Members) to opt out of the Consolidated Proceeding, of the substance and effect of these orders, and of the proposed settlement



of the Consolidated Proceeding, is to be given to Group Members in accordance with orders [7] to [13] below.

7. Pursuant to s 33Y(2) of the FCAA, the form and content of the notices set out in Annexure B (**Annexure B Notice**) and Annexure C (**Annexure C Notice**) (together, **Notices**) are approved.
8. Pursuant to s 33Y(3) of the FCAA, the Notices are to be given by the applicants to Group Members by 4.00 pm on 12 April 2019 by causing, at the expense of the applicants:
  - a. a copy of the Annexure B Notice to be sent by email to each Original Group Member for whom the applicants' solicitors and/or IMF Bentham Ltd (**IMF**) hold a current email address;
  - b. a copy of the Annexure B Notice to be sent by post to the last known address of each Original Group Member for whom the applicants' solicitors and/or IMF do not hold a current email address, but do hold a current postal address; and
  - c. a copy of the Notices, together with a copy of:
    - i. the Further Amended Originating Application dated 22 March 2017;
    - ii. the Second Further Amended Statement of Claim dated 28 March 2018;
    - iii. the respondent's Defence to the Second Further Amended Statement of Claim dated 20 April 2018;
    - iv. the applicants' Reply to the respondent's Defence dated 25 May 2017;
    - v. the respondent's Rejoinder to the applicants' Reply dated 20 September 2017; and
    - vi. these orders,to be displayed on, or otherwise made available for download from, the website of:
    - vii. the applicants' solicitors ([www.mauriceblackburn.com.au](http://www.mauriceblackburn.com.au)); and
    - viii. IMF ([www.imf.com.au](http://www.imf.com.au)),and to remain continuously so displayed or available up to and including the final hearing and determination by the Court of the application for the relief set out in prayers [27] to [36] of the applicants' Interlocutory Application dated 28 February 2019 (**Section 33V Application**).
9. To the extent that the applicants' solicitors and/or IMF receive notice of a delivery failure in relation to any email sent to an Original Group Member referred to in order [8.a] above, they shall cause a copy of the Annexure B Notice to be sent by post





to the last known address of that Original Group Member, within five (5) business days of receiving that delivery failure notice.

10. Pursuant to s 33Y(2) of the FCAA, the form and content of the notice set out in Annexure D (**Advertisement**) is approved.
11. Pursuant to s 33Y(3) of the FCAA, the Advertisement is to be given by the applicants to Group Members by 4.00 pm on 12 April 2019 by causing a copy of the Advertisement to be published once in the following newspapers:
  - a. *The Daily Telegraph*;
  - b. *Herald Sun*;
  - c. *The Courier-Mail*;
  - d. *The West Australian*;
  - e. *The Advertiser*;
  - f. *The Mercury*;
  - g. *Northern Territory News*; and
  - h. *The Canberra Times*.
12. Pursuant to s 33Y(3) of the FCAA, the costs of publishing the Advertisement in accordance with order [11] above be paid in equal shares by the applicants (as to 50%) and the respondent (as to 50%).
13. The Notices and/or the Advertisement may be amended by the applicants' solicitors before they are emailed, posted, displayed or published in order to correct any website or email address or telephone number or other non-substantive error.
14. Pursuant to s 33ZF(1) of the FCAA, any person who is a Group Member (other than an Original Group Member) and who neither opts out nor registers as a participating Group Member in accordance with order [4] above by 4.00 pm on 24 May 2019 will remain a Group Member for all purposes, and will be bound by any approved settlement of the Consolidated Proceeding, but, subject to further order, shall not be entitled to receive a distribution from the amount agreed in settlement of the Consolidated Proceeding.
15. If the solicitors for any party receive, on or before 4.00 pm on 24 May 2019, a notice purporting to be an opt out notice referable to the Consolidated Proceeding, the solicitors shall file the notice in the Victoria District Registry of the Federal Court of Australia within five (5) business days, and the notice shall be treated as an opt out notice received by the Court at the time it was received by the solicitors.



16. The applicants' solicitors and the respondent's solicitors have leave to inspect the Court file and copy any opt out notices filed.
17. By 4.00 pm on 21 June 2019 the applicant's solicitors shall provide to the respondent's solicitors, in electronic form, a list of all Group Members who have registered to participate in the Consolidated Proceeding, comprising:
  - a. the Original Group Members; and
  - b. any additional Group Members who register in accordance with order [4] above.
18. The costs of each party of and incidental to the procedure set out in orders [4] to [17] above shall be costs in the Consolidated Proceeding. For the avoidance of doubt, answering enquiries by Group Members and members of the public in relation to the Notices or the Advertisement is work incidental to orders [4] to [17] above.
19. Pursuant to s 37AF(1)(b) of the FCAA, on the ground that the order is necessary to prevent prejudice to the proper administration of justice and until further order, the evidence contained in the affidavit of Steven Mark Foale sworn 28 February 2019 and marked 'Confidential Affidavit' (including the annexures thereto) not be published or disclosed without the prior leave of the Court to any person or entity other than the applicants, the respondent, their respective legal advisers, the Judge with the carriage of the matter from time to time and officers of the Court to whom it is necessary to disclose the evidence.
20. Until further order, the evidence referred to in order [19] above be sealed on the Court file in an envelope marked "*Not to be opened except by leave of the Court*".

*Directions for Section 33V Application*

21. Any Group Member who wishes to be heard in respect of the Section 33V Application (including any Group Member who, having failed to register their claim by 4.00 pm on 24 May 2019, wishes to apply for leave to participate in the proposed settlement) is to file any affidavit evidence on which they propose to rely and/or a written outline of their grounds for supporting or opposing the application, and serve a copy on the applicants' solicitors, on or before 22 November 2019.
22. On or before 29 November 2019 the applicants' solicitors shall provide to the respondent's solicitors a copy of any documents received by them pursuant to order [21] above.



23. Save for any affidavit or written submissions in respect of which confidentiality orders will be sought (**Confidential Affidavit** and **Confidential Submissions** respectively), on or before 29 November 2019 the applicants file and serve (including on each Group Member who has served documents in accordance with order [21] above) any affidavit(s) and written submissions on which they propose to rely in support of the Section 33V Application.
24. In relation to any Confidential Affidavit and/or Confidential Submissions on which the applicants propose to rely in support of the Section 33V Application, the applicants are directed to provide, on or before 29 November 2019, to the Associate of the Judge hearing the Section 33V Application, the original and one copy of the Confidential Affidavit and/or Confidential Submissions in an envelope marked with the details of the Consolidated Proceeding and a notation that it is a "*Confidential [Affidavit or Submissions] for Purposes of Section 33V Application*".
25. The Section 33V Application be listed for hearing at 10.15 am on 6 December 2019.

*Liberty to Apply*

26. The parties have liberty to apply on 3 days' notice.

Date that entry is stamped: 25 March 2019

  
(for) Deputy District Registrar



**Schedule**

Federal Court of Australia  
District Registry: Victoria  
Division: General



Second Applicant: ANGELO JULIAN SALIBA

Third Applicant: GEOFFREY ALLAN FIELD

## ANNEXURE A

### GROUP MEMBER REGISTRATION FORM

#### ANZ BANK FEES CLASS ACTION

***Andrews & O'rs v Australia and New Zealand Banking Group Ltd (VID 811 of 2010 and VID 196 of 2013)***

To: ANZ Bank Fees Class Action Team  
Maurice Blackburn  
PO Box 523  
Melbourne Vic 3001  
(Email: ANZClassAction@mauriceblackburn.com.au)  
(Tel: 1800 411 669)

The group member named below provides the following information in respect of their claim in the ANZ Bank Fees Class Action.

(Please use your best efforts to provide all of the requested information, as the information will be used to verify that you are (or were) a customer of ANZ, and were charged at least one 'PPN Fee' during the relevant period. In the absence of all of the requested information, it may not be possible for ANZ to verify those matters, and you may therefore not be entitled to receive any distribution from the proposed settlement. Any information you provide will be treated with strict confidence, and will only be disclosed to ANZ to enable it to verify that you are (or were) a customer of ANZ, and that you were charged at least one 'PPN Fee' during the relevant period.)

Full name of group member (i.e. full name of the relevant ANZ accountholder)	(First name)		
	(Middle name(s))		
	(Last name)		
Contact name (if different from name of group member), and authority to complete this form on the group member's behalf (e.g. director / secretary of group member, lawyer for group member)			
Date of birth (for individual group members only)	(Day)	(Month)	(Year)
ABN or ACN number (for corporate group members only)			
Previous name of group member (please complete this section only if your name has changed since you were an ANZ customer)	(First name)		
	(Middle name(s))		
	(Last name)		
Period (or approximate period) during which you were an ANZ customer	(From)		(To)



Current postal address	(Unit No)		(Street No)	
	(Street Name)			
	(Suburb)		(State)	(Postcode)
	(Country)			
Current email address				
Current telephone number(s)				
Postal address at the time you were an ANZ customer (please complete this section if your postal address at the time you were an ANZ customer was different from your current postal address set out above)	(Unit No)		(Street No)	
	(Street Name)			
	(Suburb)		(State)	(Postcode)
	(Country)			
ANZ account number(s) and/or ANZ internet banking login ID (please provide at least one current or past ANZ account number, or your ANZ internet banking login ID, to enable ANZ to verify your identity)	Account No:	(BSB)	(Account No)	
	Internet Banking Login ID:			
Current bank account number, including BSB (you must provide a current bank account number to enable any distribution to which you may be entitled from the proposed settlement to be paid to you directly via EFT – it may be, but need not be, an ANZ account)	(BSB)	(Account No)		
	(Name of Bank)			

For the reasons set out in the notice to which this form is attached, ANZ may not be in a position to identify 'PPN Fees' that were charged to customers between 1 August 2003 and 31 October 2005. Accordingly, if you believe that:

- you were charged at least one 'PPN Fee' during the period between 1 August 2003 and 31 October 2005; and
- you were not charged at least one 'PPN Fee' at any other time from 1 November 2005 to 23 February 2016,

you should attach to this form a copy of any documents which you have (such as bank statements) which show the fees that you were charged between 1 August 2003 and 31 October 2005. Please note that:

- you do not need to attach such documents if you were charged at least one 'PPN Fee' at any other time from 1 November 2005 to 23 February 2016 (because ANZ believes it will be able to determine that from its own records); and

- if you do not have any documents (such as bank statements) which show the fees that you were charged between 1 August 2003 and 31 October 2005, you can still register by submitting this form (because ANZ may still be able to determine, from its own records, what fees you were charged, and when).

By signing below, the group member:

- confirms that the information provided in this form is true and correct, to the best of their knowledge; and
- authorises Maurice Blackburn to provide the information contained in this form to Australia and New Zealand Banking Group Ltd (ANZ) for the sole purpose of ANZ verifying that the group member is or was a customer of ANZ, and was charged at least one 'PPN Fee', during the relevant period.

.....  
Please sign here

Date:

## ANNEXURE B

### SETTLEMENT APPROVAL NOTICE

#### FEDERAL COURT OF AUSTRALIA

ANZ BANK FEES CLASS ACTION (VID 811 OF 2010 AND VID 196 OF 2013)

**THIS NOTICE IS INTENDED FOR ALL PERSONS WHO HAVE PREVIOUSLY  
REGISTERED WITH FINANCIAL REDRESS PTY LTD / IMF BENTHAM LTD TO  
PARTICIPATE IN THE ANZ BANK FEES CLASS ACTION (BEING THOSE PERSONS  
WHO HAVE RECEIVED THIS NOTICE VIA EMAIL OR MAIL)**

PLEASE READ THIS NOTICE CAREFULLY

#### Why is this notice important?

1. In 2010 a class action was commenced in the Federal Court of Australia against Australia and New Zealand Banking Group Ltd (**ANZ**) by John Andrews (and others) on their own behalf and on behalf of certain other customers of ANZ (**Andrews Proceeding**), alleging that certain fees charged by ANZ to its customers were unlawful. In 2013 a second class action was commenced in the Federal Court of Australia against ANZ by Lucio Robert Paciocco (and another) on their own behalf and on behalf of certain other customers of ANZ (**Paciocco Proceeding**), in which substantially the same allegations were made. Those two class actions have since been consolidated to form, in effect, one single class action, which is referred to in this notice as the 'ANZ Bank Fees Class Action'.
2. Following a trial of the Paciocco Proceeding in late 2013 (and subsequent appeals), the Court ultimately found that most of the fees that were charged by ANZ to its customers, and which were the subject of the ANZ Bank Fees Class Action, were not unlawful (and the Court therefore dismissed most of the claims that were made in the ANZ Bank Fees Class Action).
3. However, in the course of the trial, the lead applicant in the Paciocco Proceeding, Mr Paciocco, raised an additional claim that two 'Periodical Payment Non-Payment Fees' that were charged by ANZ to him in September 2008 and January 2009 were charged in breach of contract.
4. Periodical Payment Non-Payment Fees were charged by ANZ to its customers whenever a scheduled 'periodical payment' which the customer had authorised to be



made from their ANZ account could not be made (usually because of insufficient available funds in the customer's account to make the payment).

5. Mr Paciocco alleged that ANZ was only contractually entitled to charge such a fee when the periodical payment was to be made to the account of another person or business (i.e. to someone other than the particular customer who had authorised the payment), and was not contractually entitled to charge such a fee when the periodical payment was to be made to the customer's own account (e.g. from the customer's transaction or savings account to another account in the name of the same customer, such as a loan account). The fees charged to Mr Paciocco fell into the second category, that is, the payments were to be made to another account in his name.
6. In the Paciocco Proceeding, ANZ admitted Mr Paciocco's individual claim in respect of the Periodical Payment Non-Payment Fees that were charged to him, and the Court ordered ANZ to repay to Mr Paciocco those fees, together with interest.
7. In this notice, '**PPN Fees**' refers to Periodical Payment Non-Payment Fees that were charged by ANZ to its customers where the periodical payment was to be made to the customer's own account (e.g. from the customer's transaction or savings account to another account in the name of the same customer, such as a loan account).
8. In 2016, following the Court's order, ANZ undertook a remediation program (**Remediation Program**), by which it sought to refund to customers all PPN Fees it had charged during the period 1 January 2008 to 23 February 2016 (inclusive), together with an additional amount by way of interest compensation. The Remediation Program did not apply to PPN Fees that were charged to customers before 1 January 2008.
9. In March 2017 the applicants in the Andrews Proceeding made claims against ANZ in relation to the charging of PPN Fees during the period 1 August 2003 to 23 February 2016 (inclusive). Those claims are now brought on behalf of all persons who were charged PPN Fees, and comprise, in substance, allegations that:
  - a. for those PPN Fees that were refunded to customers as part of the Remediation Program, the additional amount that was paid to customers by way of interest compensation was inadequate; and
  - b. ~~for~~ those PPN Fees that were not refunded to customers as part of the Remediation Program, those fees should be refunded to customers (together with an additional amount of interest compensation).

10. The Federal Court has ordered that this notice be published for the benefit of all persons who:
- are group members in the ANZ Bank Fees Class Action (as to which see the section below headed 'Are you a Group Member in the ANZ Bank Fees Class Action?'); and
  - ~~have~~ previously registered with Financial Redress Pty Ltd / IMF Bentham Ltd (IMF) to participate in the ANZ Bank Fees Class Action.
- You have received this notice because you have previously registered with IMF to participate in the ANZ Bank Fees Class Action. **You should read this notice carefully. Any questions you have concerning the matters contained in this notice should not be directed to the Court.** If there is anything in this notice that you do not understand, you should contact Maurice Blackburn, whose contact details are set out in paragraph [25] of this notice, or alternatively seek your own legal advice.
11. This notice provides important information about:
- your status as a group member in the ANZ Bank Fees Class Action; and
  - ~~what~~ you need to do if you wish to object to the proposed settlement of the ANZ Bank Fees Class Action described below.

#### **What is a class action?**

12. A class action is a legal action that is brought by one or more persons (**Applicant(s)**) on their own behalf and on behalf of a group of people (**Group Members**) against another person or persons (**Respondent(s)**), being in this case ANZ), where the Applicant(s) and the Group Members all have similar claims against the Respondent(s).

#### **What is the ANZ Bank Fees Class Action?**

13. The Andrews Proceeding was filed on 22 September 2010 in the Victorian Registry of the Federal Court of Australia. The ~~Paciocco~~ Proceeding was filed on 13 March 2013, also in the Victorian Registry of the Federal Court of Australia. Both proceedings were subsequently consolidated to form, in effect, a single proceeding. As noted above, although many of the claims that were originally pursued in the ANZ Bank Fees Class Action were ultimately unsuccessful, the Applicants allege that:
- in respect of PPN Fees that were charged by ANZ to customers during the period 1 January 2008 to 23 February 2016 (inclusive), and were refunded to customers as part of the Remediation Program, the additional amount that was paid to customers by way of interest compensation was inadequate; and



- b. in respect of all other PPN Fees that were charged by ANZ to customers during the period 1 August 2003 to 23 February 2016 (inclusive), and were not refunded to customers as part of the Remediation Program, those fees should be refunded to customers (together with an additional amount of interest compensation).
- 14. The detailed allegations are set out in the Applicants' Second Further Amended Statement of Claim filed in the Andrews Proceeding on 28 March 2018, a copy of which:
  - a. is available on the website of the Applicants' solicitors ([www.mauriceblackburn.com.au](http://www.mauriceblackburn.com.au));
  - b. is available on the website of IMF ([www.imf.com.au](http://www.imf.com.au)); or
  - c. ~~can~~ be obtained by contacting Maurice Blackburn, whose contact details are set out in paragraph [25] of this notice.
- 15. ANZ has denied the claims made against it, and is continuing to defend the ANZ Bank Fees Class Action.

**Are you a Group Member in the ANZ Bank Fees Class Action?**

- 16. You are receiving this notice because you have previously registered with IMF to participate in the ANZ Bank Fees Class Action, and therefore are a Group Member in that action. As such, you will be entitled to receive a distribution from the proposed settlement of the ANZ Bank Fees Class Action (described in further detail below) if:
  - a. at some time between 1 August 2003 and 23 February 2016 (inclusive) you were a customer of ANZ, and held and operated banking facilities with ANZ; and
  - b. during that same period you were charged one or more PPN Fees by ANZ.
- 17. If you do not meet the above criteria, you may disregard this notice. If you do meet the above criteria, it may be necessary for you to:
  - a. provide further information to assist ANZ to confirm your identity and/or to determine whether you were charged one or more PPN Fees by ANZ during the relevant period; and/or
  - b. ~~provide~~ a current bank account number to enable your distribution entitlement from the proposed settlement to be paid to you directly via EFT.

If that is the case, you will be sent a separate notice asking you to provide the required information.

**Proposed Settlement of the ANZ Bank Fees Class Action**

- 18. Following a mediation between the parties which was held on 20 August 2018, the parties to the ANZ Bank Fees Class Action signed a Deed of Settlement and Release



(Deed). The purpose of the Deed is to settle all of the remaining issues in the ANZ Bank Fees Class Action, including:

- a. the ongoing claims in respect of PPN Fees outlined above; and
  - b. the amount of costs to be paid by IMF to ANZ in respect of the other claims that were previously pursued in the ANZ Bank Fees Class Action, but which were ultimately unsuccessful.
19. The terms of the Deed are confidential, but in so far as it deals with the ongoing claims in respect of PPN Fees, it provides for ANZ to pay, in full and final settlement of those claims:
- a. an amount of \$750,000 (in respect of the claims of those Group Members who have already registered with IMF to participate in the ANZ Bank Fees Class Action, and who were charged one or more PPN Fees during the relevant period); and
  - b. an additional amount, of up to \$750,000 (in respect of the claims of those Group Members who were charged one or more PPN Fees during the relevant period and have not previously registered with IMF to participate in the ANZ Bank Fees Class Action, but who do so before the registration deadline of 24 May 2019). The precise amount of the payment will depend, in part, on the number of additional Group Members who do register to participate.
20. Not all of those two amounts will be distributed, in full, to Group Members. Instead, it is contemplated that a large part of those amounts will be paid to IMF to reimburse it for the substantial costs which it has incurred in funding the ANZ Bank Fees Class Action to date (but even then, IMF will only recover a very small portion of the many millions of dollars of costs which it has incurred). It is then proposed that the balance of those two amounts will be distributed equally to the applicable Group Members (regardless of the amount of PPN Fees which each Group Member paid). It is not yet known how much each Group Member will receive by way of a distribution, but the amount is likely to be less than (and may be substantially less than) \$100 each (which, in part, reflects the fact that most Group Members would only have incurred a small number of PPN Fees during the relevant period). The precise amount of the distribution will depend on several factors.
21. The Deed also provides for all Group Members to release ANZ from any claim in relation to, concerning, arising out of, connected with or related to:
- a. the claims relating to PPN Fees made in the ANZ Bank Fees Class Action;

- b. the matters relating to PPN Fees which are or were at any time the subject of the ANZ Bank Fees Class Action or any part of them, or which are raised in that action, whether arising at common law, in equity, under statute or otherwise; and
- c. PPN Fees charged to Group Members, whether arising at common law, in equity, under statute or otherwise.

In effect, this means that, if the proposed settlement is approved by the Court, Group Members will be bound by that settlement, and will not be permitted to make any subsequent claim against ANZ in relation to any PPN Fees charged by ANZ during the period 1 August 2003 to 23 February 2016 (inclusive).

22. The proposed settlement is subject to the approval of the Federal Court. The Court will hear the application for approval of the settlement at 10.15 am on 6 December 2019 at the Federal Court in Melbourne. If you are a Group Member in the ANZ Bank Fees Class Action, you have the right, if you wish, to make submissions as to why the Court should, or should not, approve the proposed settlement. If you wish to exercise that right, you must file with the Court any affidavit evidence on which you propose to rely and/or a written outline of your grounds for supporting or opposing the application, and serve a copy on the Applicants' solicitors (Maurice Blackburn), by no later than 4.00 pm on 22 November 2019. Any such Group Member may also (but is not obliged to) appear before the Court at the hearing of the application to approve the proposed settlement on 6 December 2019.

#### **What do you need to do?**

23. At the present time, there is nothing which you need to do (unless you wish to object to the proposed settlement, in which case you need to follow the steps outlined above). As you have previously registered with IMF to participate in the ANZ Bank Fees Class Action, you do not need to (and should not) register again. If the information which you have previously provided to IMF:
- a. is sufficient to enable ANZ to verify that you were charged one or more PPN Fees by ANZ during the relevant period, you will be entitled to receive a distribution from the proposed settlement of the ANZ Bank Fees Class Action (in the event that the proposed settlement is approved by the Court, and subject to providing any further information which may be requested from you); or
  - b. is not sufficient to enable ANZ to determine whether or not you were charged one or more PPN Fees by ANZ during the relevant period, you will be notified separately and asked to provide further information to enable a determination to be made as to whether you are entitled to receive a distribution from the

proposed settlement of the ANZ Bank Fees Class Action (in the event that the proposed settlement is approved by the Court).

**Where can you obtain copies of relevant documents?**

24. Copies of relevant documents, including relevant orders of the Court:
- a. are available on the website of the Applicant's solicitors ([www.mauriceblackburn.com.au](http://www.mauriceblackburn.com.au));
  - b. are also available on the website of IMF ([www.imf.com.au](http://www.imf.com.au)); or
  - c. may be obtained by contacting the Applicant's solicitors (Maurice Blackburn).

**What if you have further questions?**

25. If you have any questions or queries, you may contact Maurice Blackburn as follows:

Email: [ANZClassAction@mauriceblackburn.com.au](mailto:ANZClassAction@mauriceblackburn.com.au)  
Tel: 1800 411 669  
Post: Maurice Blackburn  
PO Box 523  
Melbourne Vic 3001



## ANNEXURE C

### REGISTRATION, OPT OUT AND SETTLEMENT APPROVAL NOTICE

#### FEDERAL COURT OF AUSTRALIA

ANZ BANK FEES CLASS ACTION (VID 811 OF 2010 AND VID 196 OF 2013)

**THIS NOTICE IS INTENDED FOR ALL PERSONS WHO ARE GROUP MEMBERS IN THE ANZ BANK FEES CLASS ACTION BUT WHO HAVE NOT PREVIOUSLY REGISTERED WITH FINANCIAL REDRESS PTY LTD / IMF BENTHAM LTD TO PARTICIPATE IN THAT ACTION**

PLEASE READ THIS NOTICE CAREFULLY

THERE ARE FOUR THINGS YOU MAY DO (AS DETAILED IN THIS NOTICE):

1. REGISTER TO PARTICIPATE (IN WHICH CASE YOU MAY BE ENTITLED TO RECEIVE A DISTRIBUTION FROM THE PROPOSED SETTLEMENT OF THE CLASS ACTION, BUT WILL NOT KEEP YOUR RIGHTS AGAINST ANZ)
2. COMPLETE AND LODGE AN 'OPT OUT' FORM, AND LOSE ANY RIGHT TO RECEIVE A DISTRIBUTION FROM THE PROPOSED SETTLEMENT OF THE CLASS ACTION (BUT KEEP YOUR RIGHTS AGAINST ANZ)
3. DO NOTHING (IN WHICH CASE, IF THE PROPOSED SETTLEMENT OF THE CLASS ACTION IS APPROVED, YOU WILL NOT BE ENTITLED TO RECEIVE A DISTRIBUTION FROM THE PROPOSED SETTLEMENT, NOR WILL YOU KEEP YOUR RIGHTS AGAINST ANZ IN RESPECT OF THE MATTERS WHICH ARE THE SUBJECT OF THE CLASS ACTION)
4. OBJECT TO THE PROPOSED SETTLEMENT OF THE CLASS ACTION

#### SECTION 1

##### **Why is this notice important?**

1. In 2010 a class action was commenced in the Federal Court of Australia against Australia and New Zealand Banking Group Ltd (ANZ) by John Andrews (and others) on their own behalf and on behalf of certain other customers of ANZ (**Andrews Proceeding**), alleging that certain fees charged by ANZ to its customers were unlawful. In 2013 a second class action was commenced in the Federal Court of

Australia against ANZ by Lucio Robert Paciocco (and another) on their own behalf and on behalf of certain other customers of ANZ (Paciocco Proceeding), in which substantially the same allegations were made. Those two class actions have since been consolidated to form, in effect, one single class action, which is referred to in this notice as the 'ANZ Bank Fees Class Action'.

2. Following a trial of the Paciocco Proceeding in late 2013 (and subsequent appeals), the Court ultimately found that most of the fees that were charged by ANZ to its customers, and which were the subject of the ANZ Bank Fees Class Action, were not unlawful (and the Court therefore dismissed most of the claims that were made in the ANZ Bank Fees Class Action).
3. However, in the course of the trial, the lead applicant in the Paciocco Proceeding, Mr Paciocco, raised an additional claim that two 'Periodical Payment Non-Payment Fees' that were charged by ANZ to him in September 2008 and January 2009 were charged in breach of contract.
4. Periodical Payment Non-Payment Fees were charged by ANZ to its customers whenever a scheduled 'periodical payment' which the customer had authorised to be made from their ANZ account could not be made (usually because of insufficient available funds in the customer's account to make the payment).
5. Mr Paciocco alleged that ANZ was only contractually entitled to charge such a fee when the periodical payment was to be made to the account of another person or business (i.e. to someone other than the particular customer who had authorised the payment), and was not contractually entitled to charge such a fee when the periodical payment was to be made to the customer's own account (e.g. from the customer's transaction or savings account to another account in the name of the same customer, such as a loan account). The fees charged to Mr Paciocco fell into the second category, that is, the payments were to be made to another account in his name.
6. In the Paciocco Proceeding, ANZ admitted Mr Paciocco's individual claim in respect of the Periodical Payment Non-Payment Fees that were charged to him, and the Court ordered ANZ to repay to Mr Paciocco those fees, together with interest.
7. In this notice, '**PPN Fees**' refers to Periodical Payment Non-Payment Fees that were charged by ANZ to its customers where the periodical payment was to be made to the customer's own account (e.g. from the customer's transaction or savings account to another account in the name of the same customer, such as a loan account).
8. In 2016, following the Court's order, ANZ undertook a remediation program (**Remediation Program**), by which it sought to refund to customers all PPN Fees it



had charged during the period 1 January 2008 to 23 February 2016 (inclusive), together with an additional amount by way of interest compensation. The Remediation Program did not apply to PPN Fees that were charged to customers before 1 January 2008.

9. In March 2017 the applicants in the Andrews Proceeding made claims against ANZ in relation to the charging of PPN Fees during the period 1 August 2003 to 23 February 2016 (inclusive). Those claims are now brought on behalf of all persons who were charged PPN Fees, and comprise, in substance, allegations that:
  - a. for those PPN Fees that were refunded to customers as part of the Remediation Program, the additional amount that was paid to customers by way of interest compensation was inadequate; and
  - b. ~~for~~ those PPN Fees that were not refunded to customers as part of the Remediation Program, those fees should be refunded to customers (together with an additional amount of interest compensation).
10. The Federal Court has ordered that this notice be published for the benefit of all persons who:
  - a. are group members in the ANZ Bank Fees Class Action (as to which see the section below headed 'Are you a Group Member in the ANZ Bank Fees Class Action?'); and
  - b. ~~have not~~ previously registered with Financial Redress Pty Ltd / IMF Bentham Ltd (IMF) to participate in the ANZ Bank Fees Class Action.

If you are a group member in the ANZ Bank Fees Class Action, and have previously registered with IMF to participate in the ANZ Bank Fees Class Action, this notice does not apply to you – instead, there is a separate notice, titled 'Settlement Approval Notice' ~~that~~ applies to you. If this notice does apply to you, **you should read this notice carefully. Any questions you have concerning the matters contained in this notice should not be directed to the Court.** If there is anything in this notice that you do not understand, you should contact Maurice Blackburn, whose contact details are set out in paragraph [36] of this notice, or alternatively seek your own legal advice.

11. This notice provides important information about:
  - a. your status as a group member in the ANZ Bank Fees Class Action;
  - b. what you need to do if you wish to register to participate in the proposed settlement of the ANZ Bank Fees Class Action and potentially receive some compensation;



- c. what you need to do if you wish to remove yourself from being a group member in the ANZ Bank Fees Class Action (opt out); and
- d. ~~what~~ what you need to do if you wish to object to the proposed settlement of the ANZ Bank Fees Class Action described below.

#### **What is a class action?**

- 12. A class action is a legal action that is brought by one or more persons (**Applicant(s)**) on their own behalf and on behalf of a group of people (**Group Members**) against another person or persons (**Respondent(s)**), being in this case ANZ), where the Applicant(s) and the Group Members all have similar claims against the Respondent(s).
- 13. The Applicant(s) in a class action do not need to seek the consent of Group Members to commence a class action on their behalf, or to identify a specific Group Member or Members. However, Group Members can cease to be Group Members by 'opting out' of the class action if they wish to do so. An explanation of how Group Members are able to opt out is found below in Section 2, Option B of this notice.

#### **What is the ANZ Bank Fees Class Action?**

- 14. The Andrews Proceeding was filed on 22 September 2010 in the Victorian Registry of the Federal Court of Australia. The Paciocco Proceeding was filed on 13 March 2013, also in the Victorian Registry of the Federal Court of Australia. Both proceedings were subsequently consolidated to form, in effect, a single proceeding. As noted above, although many of the claims that were originally pursued in the ANZ Bank Fees Class Action were ultimately unsuccessful, the Applicants allege that:
  - a. in respect of PPN Fees that were charged by ANZ to customers during the period 1 January 2008 to 23 February 2016 (inclusive), and were refunded to customers as part of the Remediation Program, the additional amount that was paid to customers by way of interest compensation was inadequate; and
  - b. in respect of all other PPN Fees that were charged by ANZ to customers during the period 1 August 2003 to 23 February 2016 (inclusive), and were not refunded to customers as part of the Remediation Program, those fees should be refunded to customers (together with an additional amount of interest compensation).
- 15. The detailed allegations are set out in the Applicants' Second Further Amended Statement of Claim filed in the Andrews Proceeding on 28 March 2018, a copy of which:
  - a. is available on the website of the Applicants' solicitors ([www.mauriceblackburn.com.au](http://www.mauriceblackburn.com.au));

- b. is available on the website of IMF ([www.imf.com.au](http://www.imf.com.au)); or
  - c. ~~can~~ be obtained by contacting Maurice Blackburn, whose contact details are set out in paragraph [36] of this notice.
- 16. ANZ has denied the claims made against it, and is continuing to defend the ANZ Bank Fees Class Action.

**Are you a Group Member in the ANZ Bank Fees Class Action?**

- 17. The ANZ Bank Fees Class Action is 'open', which means that it includes as Group Members all persons who were charged PPN Fees by ANZ during the period 1 August 2003 to 23 February 2016 (inclusive). Prior to 15 March 2019 the ANZ Bank Fees Class Action was 'closed', only being brought on behalf of those Group Members who had registered with IMF.
- 18. You are a Group Member if you meet the following criteria:
  - a. at some time between 1 August 2003 and 23 February 2016 (inclusive) you were a customer of ANZ, and held and operated banking facilities with ANZ; and
  - b. during that same period you were charged one or more PPN Fees by ANZ.
- 19. If you do not meet the above criteria, you may disregard this notice. If you do meet the above criteria, and have previously registered with IMF to participate in the ANZ Bank Fees Class Action, you may also disregard this notice, and should instead read the separate notice titled 'Settlement Approval Notice'. However, if you do meet the above criteria, and have not previously registered with IMF to participate in the ANZ Bank Fees Class Action, you should read this notice carefully as it will affect your rights.
- 20. If you are unsure as to whether or not you are a Group Member, you should contact Maurice Blackburn, whose contact details are set out in paragraph [36] of this notice, or alternatively seek your own legal advice.

**Are Group Members liable for legal costs?**

- 21. The costs of the ANZ Bank Fees Class Action have been, and will continue to be, funded by IMF, which has paid many millions of dollars in prosecuting the class action, including substantial sums in prosecuting the claims concerning the PPN Fees. The Applicants have retained Maurice Blackburn to act as their solicitors, but it is not necessary for you or other Group Members to retain Maurice Blackburn in order to participate as a Group Member.
- 22. If the Court approves the proposed settlement of the ANZ Bank Fees Class Action, the Court is likely to order that part of the settlement sum be used to compensate IMF for the costs which it has expended in conducting the class action (as set out further



below); however, under no circumstances will that amount exceed the amount of the approved settlement, and therefore, under no circumstances will you be liable to pay any 'out-of-pocket' costs by remaining as a Group Member, whether to IMF, Maurice Blackburn or otherwise.

23. In litigation, the Court will typically order the losing party to pay a proportion of the legal costs of the successful party (**adverse costs order**). In a class action, it is only the Applicant(s) that faces the risk of an adverse costs order if the class action is unsuccessful; as a Group Member, an adverse costs order will not, and cannot, be made against you. IMF has indemnified the Applicants against this risk.

#### **Funding of the ANZ Bank Fees Class Action**

24. The ANZ Bank Fees Class Action has been funded by IMF, which means that IMF has paid the legal costs of prosecuting the class action, and has also indemnified the Applicants against adverse costs orders made against them. Because the ANZ Bank Fees Class Action was largely unsuccessful, the costs which IMF has paid (and will not recover) comprise many millions of dollars.

#### **Proposed Settlement of the ANZ Bank Fees Class Action**

25. Following a mediation between the parties which was held on 20 August 2018, the parties to the ANZ Bank Fees Class Action signed a Deed of Settlement and Release (**Deed**). The purpose of the Deed is to settle all of the remaining issues in the ANZ Bank Fees Class Action, including:
- a. the ongoing claims in respect of PPN Fees outlined above; and
  - b. the amount of costs to be paid by IMF to ANZ in respect of the other claims that were previously pursued in the ANZ Bank Fees Class Action, but which were ultimately unsuccessful.
26. The terms of the Deed are confidential, but in so far as it deals with the ongoing claims in respect of PPN Fees, it provides for ANZ to pay, in full and final settlement of those claims:
- a. an amount of \$750,000 (in respect of the claims of those Group Members who have already registered with IMF to participate in the ANZ Bank Fees Class Action, and who were charged one or more PPN Fees during the relevant period); and
  - b. an additional amount, of up to \$750,000 (in respect of the claims of those Group Members who were charged one or more PPN Fees during the relevant period and have not previously registered with IMF to participate in the ANZ Bank Fees Class Action, but who do so before the registration deadline of 24 May 2019).



The precise amount of the payment will depend, in part, on the number of additional Group Members who do register to participate.

27. Not all of those two amounts will be distributed, in full, to Group Members. Instead, it is contemplated that a large part of those amounts will be paid to IMF to reimburse it for the substantial costs which it has incurred in funding the ANZ Bank Fees Class Action to date (but even then, IMF will only recover a very small portion of the many millions of dollars of costs which it has incurred). It is then proposed that the balance of those two amounts will be distributed equally to the applicable Group Members (regardless of the amount of PPN Fees which each Group Member paid). It is not yet known how much each Group Member will receive by way of a distribution, but the amount is likely to be less than (and may be substantially less than) \$100 each (which, in part, reflects the fact that most Group Members would only have incurred a small number of PPN Fees during the relevant period). The precise amount of the distribution will depend on several factors.
28. The Deed also provides for all Group Members to release ANZ from any claim in relation to, concerning, arising out of, connected with or related to:
- a. the claims relating to PPN Fees made in the ANZ Bank Fees Class Action;
  - b. the matters relating to PPN Fees which are or were at any time the subject of the ANZ Bank Fees Class Action or any part of them, or which are raised in that action, whether arising at common law, in equity, under statute or otherwise; and
  - c. PPN Fees charged to Group Members, whether arising at common law, in equity, under statute or otherwise.

In effect, this means that, if the proposed settlement is approved by the Court, Group Members will be bound by that settlement, and will not be permitted to make any subsequent claim against ANZ in relation to any PPN Fees charged by ANZ during the period 1 August 2003 to 23 February 2016 (inclusive).

29. The proposed settlement is subject to the approval of the Federal Court. The Court will hear the application for approval of the settlement at 10.15 am on 6 December 2019 at the Federal Court in Melbourne. If you are a Group Member in the ANZ Bank Fees Class Action, you have the right, if you wish, to make submissions as to why the Court should, or should not, approve the proposed settlement. If you wish to exercise that right, you need to follow the steps outlined below in Section 2, Option D of this notice.

### What do Group Members need to do?

30. Group Members may do the following four things:

- a. **Option A:** register to participate in the proposed settlement of the ANZ Bank Fees Class Action.
- b. **Option B:** opt out of the ANZ Bank Fees Class Action.
- c. **Option C:** do nothing.
- d. Group Members may also object to the proposed settlement of the ANZ Bank Fees Class Action.

There are different consequences depending on which of the above you choose.

31. **Option A:** Group Members who wish to receive a distribution from the proposed settlement of the ANZ Bank Fees Class Action (details of which are set out above in the section titled 'Proposed Settlement of the ANZ Bank Fees Class Action') must register by following the steps outlined below in Section 2, Option A of this notice. If you do so, and:

- a. you provide sufficient information to enable ANZ to confirm that you are a Group Member (i.e. that you meet the criteria set out in paragraph [18] above); and
- b. the proposed settlement is ultimately approved by the Court,

~~you~~ you may receive a distribution from the settlement sum. The precise amount of that distribution is presently uncertain, as it will depend (among other things) on how many other Group Members also register and the amount that the Court allows to be deducted to reimburse IMF for the legal costs which it has incurred in funding the ANZ Bank Fees Class Action to date, but the amount is likely to be less than (and may be substantially less than) \$100 per Group Member. There is no cost to register your claim.

32. **Option B:** Group Members who opt out of the ANZ Bank Fees Class Action will not be bound by the outcome of the class action, and will not be entitled to receive any monetary compensation that might result from the class action (including any monetary compensation that might result from the Court approving the proposed settlement of the ANZ Bank Fees Class Action). Group Members who opt out will no longer be Group Members in the class action following ~~their opt~~ out, but will preserve their legal rights (if any) against ANZ. If you wish to opt out, you need to follow the steps outlined below in Section 2, Option B of this notice.

33. **Option C:** Group Members who do nothing (i.e. neither opt out nor register) will remain as Group Members in the ANZ Bank Fees Class Action for all purposes, but will not, unless the Court determines otherwise, be entitled to receive a distribution from the proposed settlement of the ANZ Bank Fees Class Action. Thus, if the Court approves

the proposed settlement, Group Members who do nothing will be bound by the settlement, and therefore not able to pursue the same or similar claims against ANZ, but will not be entitled to receive a distribution from the proposed settlement either.

34. The proposed settlement of the ANZ Bank Fees Class Action, as detailed above, is subject to the approval of the Federal Court. The Court will hear the application for approval of the proposed settlement on 6 December 2019. If you are a Group Member in the ANZ Bank Fees Class Action, you have the right, if you wish, to make submissions as to why the Court should, or should not, approve the proposed settlement. If you wish to exercise that right, you need to follow the steps outlined below in Section 2, Option D of this notice. You may make such submissions even if you have registered pursuant to Option A above (but not if you have opted out pursuant to Option B above).

**Where can you obtain copies of relevant documents?**

35. Copies of relevant documents, including relevant orders of the Court:
- are available on the website of the Applicant's solicitors ([www.mauriceblackburn.com.au](http://www.mauriceblackburn.com.au));
  - are also available on the website of IMF ([www.imf.com.au](http://www.imf.com.au)); or
  - may be obtained by contacting the Applicants' solicitors (Maurice Blackburn).

**What if you have further questions?**

36. If you have any questions or queries, you may contact Maurice Blackburn as follows:

Email: ANZClassAction@mauriceblackburn.com.au  
Tel: 1800 411 669  
Post: Maurice Blackburn  
PO Box 523  
Melbourne Vic 3001



## SECTION 2

### YOUR FOUR OPTIONS

#### ***Option A – Register to Participate***

If you wish to remain as a Group Member in the ANZ Bank Fees Class Action, and to receive a distribution from the proposed settlement of the ANZ Bank Fees Class Action (provided you otherwise qualify) you must register your claim by no later than 4.00 pm on 24 May 2019 by:

- completing and submitting the online registration form via Maurice Blackburn's website, accessible at [www.mauriceblackburn.com.au](http://www.mauriceblackburn.com.au);
- telephoning Maurice Blackburn on 1800 411 669 and providing to Maurice Blackburn all of the information requested by them; or
- ~~alternatively~~, completing the ANZ Bank Fees Class Action Group Member Registration Form attached to this Notice (**Attachment A**), and returning it to Maurice Blackburn by email ([ANZClassAction@mauriceblackburn.com.au](mailto:ANZClassAction@mauriceblackburn.com.au)) or post to the address shown on the form.

As noted above, if you do register your claim, and:

- you provide sufficient information to enable ANZ to verify that you are a Group Member (i.e. that you meet the criteria set out in paragraph [18] of this notice); and
- the proposed settlement is ultimately approved by the Court,

~~you~~ may be entitled to receive a distribution from the settlement sum. The precise amount of that distribution is presently uncertain, for the reasons outlined in this notice. There is no cost to register your claim.

Your registration must be completed and received by Maurice Blackburn before **4.00 pm on 24 May 2019**. Registrations received after this time will not be accepted, and you will be treated as having not responded to this notice (see Option C below).

It will not ordinarily be necessary for any Group Member who registers to provide evidence of the PPN Fees which they were charged. That is because, as long as sufficient information is provided at the time of registration to enable ANZ to confirm the Group Member's identity, ANZ believes it will be able to ascertain from its own records what (if any) PPN Fees each Group Member was charged. However, ANZ may not be in a position to identify PPN Fees that were charged to customers between 1 August 2003 and 31 October 2005. Accordingly, if you believe that:

- you were charged at least one PPN Fee during the period between 1 August 2003 and 31 October 2005; and
- you were not charged at least one PPN Fee at any other time from 1 November 2005 to 23 February 2016,

you should also provide, at the time of registration, a copy of any documents which you have (such as bank statements) which show the fees that you were charged between 1 August 2003 and 31 October 2005. Please note that:

- you do not need to provide such documents if you were charged at least one PPN Fee at any other time from 1 November 2005 to 23 February 2016 (because ANZ believes it will be able to determine that from its own records); and
- if you do not have any documents (such as bank statements) which show the fees that you were charged between 1 August 2003 and 31 October 2005, you can still register (because ANZ may still be able to determine, from its own records, what fees you were charged, and when).

### ***Option B – Opt Out***

If you do not wish to remain as a Group Member in the ANZ Bank Fees Class Action, you must opt out by completing the 'Opt Out Notice' form attached to this notice (**Attachment B**), and returning it to the Federal Court by no later than 4.00 pm on 24 May 2019.

If you opt out, you will:

- cease to be a Group Member in the ANZ Bank Fees Class Action, and will not be affected by, or entitled to the benefit of, any orders made in the action;
- not be entitled to receive any compensation from any successful damages award or settlement outcome arising in the ANZ Bank Fees Class Action, including from the proposed settlement outlined in this notice; and
- be able to pursue any rights you may have against ANZ, on your own behalf and separate from the class action, if you so wish.

Opt out notices must be submitted to the Victorian District Registry of the Federal Court of Australia (Owen Dixon Commonwealth Law Courts Building, 305 William Street, Melbourne Vic 3000) before **4:00pm on 24 May 2019**. Opt out notices received after this time will not be accepted, and you will be treated as having not responded to this notice (see Option C below).

***Option C – Do Nothing***

As indicated above, Group Members who do nothing (i.e. neither opt out nor register before 4.00 pm on 24 May 2019) will remain as Group Members in the ANZ Bank Fees Class Action for all purposes, but will not, unless the Court determines otherwise, be entitled to receive a distribution from the proposed settlement outlined above. Thus, if the Court approves the proposed settlement, Group Members who do nothing will be bound by the settlement, and therefore not able to pursue the same or similar claims against ANZ, but will not be entitled to receive a distribution from the proposed settlement.

***Option D – Object to the Proposed Settlement***

If you are a Group Member, and you wish to object to the proposed settlement of the ANZ Bank Fees Class Action you must file with the Court any affidavit evidence on which you propose to rely and/or a written outline of your grounds for opposing the application, and serve a copy on the Applicants' solicitors (Maurice Blackburn), by no later than 4.00 pm on 22 November 2019. Any Group Member who so objects may also (but is not obliged to) appear before the Court at the hearing of the application to approve the proposed settlement on 6 December 2019.



## Attachment A

**Complete this form only if you intend to choose Option A above, and register to participate as a Group Member in the ANZ Bank Fees Class Action, and you have not previously registered to do so (or if you prefer to register electronically or by telephone, you can do so via Maurice Blackburn's website ([www.mauriceblackburn.com.au](http://www.mauriceblackburn.com.au)) or by telephoning 1800 411 669)**

### GROUP MEMBER REGISTRATION FORM

#### ANZ BANK FEES CLASS ACTION

**Andrews & Ors v Australia and New Zealand Banking Group Ltd (VID 811 of 2010 and VID 196 of 2013)**

To: ANZ Bank Fees Class Action Team  
Maurice Blackburn  
PO Box 523  
Melbourne Vic 3001  
(Email: [ANZClassAction@mauriceblackburn.com.au](mailto:ANZClassAction@mauriceblackburn.com.au))  
(Tel: 1800 411 669)

The group member named below provides the following information in respect of their claim in the ANZ Bank Fees Class Action.

(Please use your best efforts to provide all of the requested information, as the information will be used to verify that you are (or were) a customer of ANZ, and were charged at least one 'PPN Fee' during the relevant period. In the absence of all of the requested information, it may not be possible for ANZ to verify those matters, and you may therefore not be entitled to receive any distribution from the proposed settlement. Any information you provide will be treated with strict confidence, and will only be disclosed to ANZ to enable it to verify that you are (or were) a customer of ANZ, and that you were charged at least one 'PPN Fee' during the relevant period.)

Full name of group member (i.e. full name of the relevant ANZ accountholder)	(First name)		
	(Middle name(s))		
	(Last name)		
Contact name (if different from name of group member), and authority to complete this form on the group member's behalf (e.g. director / secretary of group member, lawyer for group member)			
Date of birth (for individual group members only)	(Day)	(Month)	(Year)
ABN or ACN number (for corporate group members only)			
Previous name of group member (please complete this section only if your name has changed since you were an ANZ customer)	(First name)		
	(Middle name(s))		
	(Last name)		

Period (or approximate period) during which you were an ANZ customer	(From)	(To)
Current postal address	(Unit No)	(Street No)
	(Street Name)	
	(Suburb)	(State) (Postcode)
	(Country)	
Current email address		
Current telephone number(s)		
Postal address at the time you were an ANZ customer (please complete this section if your postal address at the time you were an ANZ customer was different from your current postal address set out above)	(Unit No)	(Street No)
	(Street Name)	
	(Suburb)	(State) (Postcode)
	(Country)	
ANZ account number(s) and/or ANZ internet banking login ID (please provide at least one current or past ANZ account number, or your ANZ internet banking login ID, to enable ANZ to verify your identity)	Account No:	(BSB) (Account No)
	Internet Banking Login ID:	
Current bank account number, including BSB (you must provide a current bank account number to enable any distribution to which you may be entitled from the proposed settlement to be paid to you directly via EFT – it may be, but need not be, an ANZ account)	(BSB)	(Account No)
	(Name of Bank)	

For the reasons set out in the notice to which this form is attached, ANZ may not be in a position to identify 'PPN Fees' that were charged to customers between 1 August 2003 and 31 October 2005. Accordingly, if you believe that:

- you were charged at least one 'PPN Fee' during the period between 1 August 2003 and 31 October 2005; and
- you were not charged at least one 'PPN Fee' at any other time from 1 November 2005 to 23 February 2016,

**you should attach to this form a copy of any documents which you have (such as bank statements) which show the fees that you were charged between 1 August 2003 and 31 October 2005. Please note that:**

- you do not need to attach such documents if you were charged at least one 'PPN Fee' at any other time from 1 November 2005 to 23 February 2016 (because ANZ believes it will be able to determine that from its own records); and
- if you do not have any documents (such as bank statements) which show the fees that you were charged between 1 August 2003 and 31 October 2005, you can still register by submitting this form (because ANZ may still be able to determine, from its own records, what fees you were charged, and when).

By signing below, the group member:

- confirms that the information provided in this form is true and correct, to the best of their knowledge; and
- authorises Maurice Blackburn to provide the information contained in this form to Australia and New Zealand Banking Group Ltd (ANZ) for the sole purpose of ANZ verifying that the group member is or was a customer of ANZ, and was charged at least one 'PPN Fee', during the relevant period.

.....  
Please sign here

Date:



**Complete this form only if you intend to choose Option B above, and opt out of  
(i.e. take no further part in) the ANZ Bank Fees Class Action**

Form 21  
Rule 9.34

## Opt out notice

VID 811 of 2010

Federal Court of Australia  
District Registry: Victoria  
Division: General

**JOHN ANDREWS** and others  
Applicants

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

To: The Registrar  
Federal Court of Australia  
Victoria District Registry  
Owen Dixon Commonwealth Law Courts Building  
Level 7, 305 William Street  
Melbourne Vic 3000

I, \_\_\_\_\_, a group member in this  
representative proceeding, give notice under section 33J of the *Federal Court of Australia  
Act 1976*, that I am opting out of the representative proceeding.

Date: 2019

Signed by

Filed on behalf of (name & role of party)	
Prepared by (name of person/lawyer)	
Law firm (if applicable)	
Tel	Fax
Email	
Address for service (include state and postcode)	
[Form approved 01/08/2011]	

ANNEXURE D  
ADVERTISEMENT

FEDERAL COURT OF AUSTRALIA  
NOTICE TO GROUP MEMBERS  
ANZ BANK FEES CLASS ACTION

*(Andrews & Ors v Australia and New Zealand Banking Group Ltd (VID 811 of 2010);  
Raciocco & Anor v Australia and New Zealand Banking Group Ltd (VID 196 of 2013))*

The Federal Court of Australia has ordered that this notice be published for the information of persons who might have claims affected by this class action, and the proposed settlement of this class action.

**If at any time between 1 August 2003 and 23 February 2016 you were a customer of Australia and New Zealand Banking Group Ltd (ANZ), and were charged by ANZ one or more fees described as a 'Periodical Payment Non-Payment Fee', you may be a group member and may be eligible to participate in this class action.**

If you were charged a 'Periodical Payment Non-Payment Fee' by ANZ during the above period, there is an important notice which you should read carefully. Please note there are two different versions of the notice: (1) a notice for those persons who have previously registered with Financial Redress Pty Ltd / IMF Bentham Ltd (IMF) to participate in the ANZ Bank Fees Class Action; and (2) a separate notice for those persons who have not previously registered with IMF to participate in the ANZ Bank Fees Class Action. Both notices are available on the website of Maurice Blackburn ([www.mauriceblackburn.com.au](http://www.mauriceblackburn.com.au)) and/or on the website of IMF ([www.imf.com.au](http://www.imf.com.au)). Please make sure you read the correct notice.

If you are a group member and wish to participate in the proposed settlement of the ANZ Bank Fees Class Action (details of which are set out in the notices), and you have not previously registered with IMF to participate, you must register by 4.00 pm on 24 May 2019 by following the steps set out in the notice. If you have previously registered with IMF to participate in the ANZ Bank Fees Class Action, there is nothing you need to do at the present time (unless you wish to object to the proposed settlement of the ANZ Bank Fees Class Action).

If you are a group member but do not wish to remain as a group member (and you have not previously registered with IMF to participate), you must complete and return to the Court an Opt Out Notice by 4.00 pm on 24 May 2019 by following the steps set out in the notice.

If you are a group member and wish to be heard in relation to whether the Court should approve the proposed settlement you must take the steps set out in the notice by 4.00 pm on 22 November 2019.

**If you are a group member who has not previously registered with IMF to participate in the ANZ Bank Fees Class Action, and you take no action by 4.00 pm on 24 May 2019, you may lose any right to receive compensation or to pursue separate action on the same claims.**

For more information, including registration and opt out forms, please visit [www.mauriceblackburn.com.au](http://www.mauriceblackburn.com.au), or [www.imf.com.au](http://www.imf.com.au), or contact Maurice Blackburn by email ([ANZClassAction@mauriceblackburn.com.au](mailto:ANZClassAction@mauriceblackburn.com.au)) or on 1800 411 669.



