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ANZ pleased law to be changed; disappointed it's not included

ANZ Bank New Zealand (ANZ NZ) is disappointed that its case before the Courts has been singled out in legislation going through Parliament.

The Finance and Expenditure Select Committee has agreed to changes in the Credit Contracts and Consumer Finance Act (CCCFA) for all lenders except for the case against ANZ NZ.

ANZ NZ CEO Antonia Watson said the proposed changes clarify the law for the 2015 to 2019 period and ensure that outcomes are fair to all parties. The changes are a positive extension of previous amendments that already cover the period after 2019.

But, Ms Watson said, the carve-out proposed by the Select Committee for the ANZ NZ case was unfair.

"It's good that MPs agree the law is potentially unfair and want to change it for the period from 2015 to 2019. But to be consistent they should have changed it for all," she said.

"It's surprising that MPs are saying it's OK for a Court case to go ahead under what was recognised as potentially bad law by Parliament in 2019, and confirmed again by the Select Committee.

"It sets a poor precedent to exclude a claim against one entity from legislative amendments. Whatever happened to the fundamental legal principle that everyone should be treated equally before the law?"

Under the CCCFA, according to one interpretation which ANZ NZ doesn't agree with, a lender could be required to refund all the fees and interest on a loan if it got the smallest of details wrong in its disclosure to a customer for the 2015 to 2019 period. For example, if a loan letter got a customer's middle name wrong in that period the lender could potentially face having to pay back all the fees and interest on a loan.

ANZ NZ has a class action against it relating to 17,000 customers who on average underpaid their mortgages by \$2 a month between 2015 and 2016. ANZ NZ found the issue, told the Commerce Commission and treated customers as though the underpayments had been made.

"The litigation funders claim that due to this customer underpayment issue, ANZ NZ must provide free loans to those 17,000 customers from 2015 to 2016."

"The Select Committee has ignored the fact that the 'just and equitable' clause in the Bill does not extinguish anyone's rights."

ANZ NZ remains confident of its position in respect of the current claim; it does not consider the law as it stands operates in the way stated by the plaintiffs and their litigation funders. ANZ NZ looks forward to having the matter determined by the Court.

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