MARKET STUDY INTO PERSONAL BANKING SERVICES

DRAFT REPORT

ANZ BANK NEW ZEALAND LIMITED SUBMISSION

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Public version

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EXECUTIVE SUMMARY

1 ANZ recognises the critical importance that personal banking services play in the lives of all New Zealanders. We appreciate the value of the Commerce Commission's (**Commission**) work, including in respect of the market study. We support a competitive banking market in New Zealand. Each day our staff compete to keep and win customers.

2 Our acknowledgement of the importance of this work is reflected in our engagement in the market study, including by making submissions and providing data and information in response to Requests for Information. We have sought to assist the Commission wherever possible to understand this complex industry and we look forward to engaging with the Commission throughout the remainder of the market study.

3 We support many of the Commission's draft findings. We agree that more needs to be done to ensure financial inclusion for vulnerable customers. We also agree that the industry, regulators and Government need to do more to overcome barriers to access and financial inclusion that are unique to Māori.

4 We acknowledge the Commission's emphasis on innovation and recognise that innovation is key to continuing to improve outcomes for all New Zealanders. We are investing heavily in our core systems to future-proof our bank for our customers. We are committed to developing solutions that enhance consumer experience. ANZ has long supported open banking and we agree that the industry needs to work together with Government to implement it safely and securely.

5 We also agree that there is a high regulatory burden on the industry, which impacts competition. ANZ supports the Government's announced review of financial services regulations, including the Credit Contracts and Consumer Finance Act 2003 (**CCCFA**). In particular, we support its intended aims of simplifying licensing requirements, and reducing overlapping regulations and duplicative regulator scope. We believe that achieving these aims should have the effect of reducing the regulatory burden, without negatively impacting the stability of the financial system or consumer protection. ANZ will engage with that process with the Government and regulators.

6 However, while we agree with many of the draft findings and recommendations, there are draft findings that ANZ does not agree with. In particular, ANZ believes that far from presenting a market that is lacking in competition, the information in the Draft report illustrates a market that is competitive, vibrant and healthy.

Commission's draft recommendations

7 ANZ generally supports the recommendations suggested by the Commission. For example, although it has some different perspectives, ANZ supports:

7.1 progressing open banking

7.2 exploring the widespread availability of basic bank accounts

7.3 reducing barriers to lending on Māori freehold land

7.4 exploring the Ministry of Justice's recommendations to develop a code of practice and licensing framework for high-risk businesses for AML/CFT, without lessening AML/CFT standards

7.5 requiring mortgage lenders to pro-rate clawbacks for adviser commissions and cash incentives, and

7.6 providing guidance and monitoring advisers.

8 Several of the Commission's recommendations involve work that is carried out by the Reserve Bank. If the Commission makes these recommendations, ANZ will engage constructively with the Reserve Bank.

9 Our submission responds to the evidence and findings in the Draft report on a thematic basis.

Competition between banks is strong and sustained

10 The evidence presented in the Draft report, and the additional evidence provided in this submission, is consistent with continual and effective price competition among banks. Non-price competition is also an important feature of the market (as recognised in the Draft report), with ANZ itself being demonstrably always 'on' and constantly assessing developments.

11 The draft finding that competition is sporadic and not sustained is not supported by evidence. As the Commission acknowledges, external factors affect price competition in the market at different times, and in a competitive market there would be periods where a given market participant may have a lower incentive to aggressively pursue volume. The Commission has not provided any basis for its expectation that competition should be more intense, more frequently, nor have we found any economic model that would support such an expectation (see also the expert economics report by Charles River Associates (**CRA Expert Report**), provided at **Annex B**).

12 The evidence shows ANZ competes closely with ASB, BNZ, Westpac and Kiwibank and sets ambitious targets for itself. Maintaining existing volume and market share requires significant effort in a competitive market.

13 The evidence also shows Kiwibank is a disruptor to the market. The Commission acknowledges that ANZ, ASB, BNZ, Westpac and Kiwibank closely monitor each other's interest rates. Kiwibank's fast growth (and our projections of its future growth) demonstrate that it is a strong competitive threat. It is the only provider that has grown consistently at or above system growth over the period March 2019 to September 2023, taking market share off the other large banks, including ANZ.

14 We also disagree with the Commission's draft finding that there has been a lack of entry and expansion by new providers in the past decade. This finding is focussed on registered banks; however, alternative providers have entered the market and are expanding. These providers can and do enter in the market and cherry pick smaller product sets, and in some cases act as a meaningful constraint in relation to those product sets.

Customers are engaged in the market

15 The consumer survey undertaken for the Commission found that 62% of people have not considered switching banks in the past three years, with the majority of those customers content with their current provider. Research also shows that 88.4% of customers view their bank as good, or better.[1] These results reflect ANZ's experience, and do not reflect a market that is functioning poorly.

16 Switching data, by itself, understates customers' engagement with competition for personal banking services – for example, joining another provider often does not involve 'switching' in the sense of leaving one bank and joining another – rather, as the Commission has acknowledged, 'multi-banking' is common and increasing.[2] In any event, there is an active portion of the market switching providers. Around 20% of the total home loan commitments disclosed to the Reserve Bank in a given month involve a customer that has changed loan provider.[3]

17 Those customers who do wish to switch banks can do so easily, only 8% of respondents to the Verian survey who had switched in the last three years found switching to be difficult. ANZ agrees with the Commission that the ability to switch easily is critical to competition working well and acknowledges the survey's findings that there are perceptions that it can be difficult. However, the evidence does not support the draft finding in the Draft report that customer inertia and barriers to consumers shopping around and switching actually exist.

The Commission's profitability analysis is flawed

18 Applying the Commission's established methodology, Incenta Economic Consulting (**Incenta**) demonstrates that:

18.1 ANZ's ROE over the 2010-2021 period (12.3%) is *materially the same* as the average of an appropriately identified and adjusted international benchmark (12.2%), and

18.2 based on a bottom-up analysis, the average returns of the New Zealand banks over the analysis period have been *within the range of normal returns*.

19 In reaching its draft finding that the profitability of the New Zealand banking sector is high relative to banking sectors in peer nations, the Commission has:

19.1 departed from its established methodology for conducting international comparisons without any valid reason for doing so

19.2 departed from its practice in previous market studies of analysing and placing weight on a bottom-up profitability analysis, in addition to examining international comparators, without any valid reason for doing so, and

19.3 undertaken analysis that relies on a dataset that is inherently inadequate for the purpose and cannot produce reliable comparisons for the Commission's purposes.

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1 [REDACTED]

2 Draft report at [8.3].

3 Reserve Bank C3 market data.

20 It has not provided any valid reason for this departure. These issues materially undermine the Commission's ability to draw its conclusions.

ANZ is innovative, and the pace and scale of innovation is healthy

21 ANZ prides itself on its innovation and we are constantly looking for how we can improve our entire product and service proposition. We are one of the largest employers of technologists in New Zealand. ANZ continually invests in innovation, and observes innovations globally and locally by banks, financial services providers, and others. This is evident in the transformation of banking operations, the evolution of innovative products and services, and the continued investment in improving customer propositions.

22 We, therefore, consider the Commission's draft findings on the pace and scale of innovation are not supported by the evidence available to it. This is particularly so given innovation by banks cannot amount to a 'move fast and break things' approach. We are required to maintain our system and not disrupt the financial stability of New Zealand, which is a responsibility we take seriously.

23 We also note that complying with the changing regulatory landscape demands non-discretionary technology (and other) investment that could be spent on other innovations. A recent example is the Reserve Bank's outsourcing policy (BS11). Implementing it has been approximately a five-year programme of work for ANZ at a cost over $580m.

Regulation is a key feature of the market

24 Banking is one of the most highly regulated industries in New Zealand, which reflects its critical importance to individuals and the healthy functioning of New Zealand's economy. The stability of the financial system can be threatened by the failure of both large and small deposit takers, as has been seen in New Zealand and overseas. We recognise that regulation also impacts competition and agree with the Commission that prudential policy needs to be carefully calibrated with competition policy to ensure that the overall interests of New Zealand are protected.

25 However, in our view the Commission's suggested approach does not get this balance right. We provide additional information and evidence to assist the Commission to accurately assess the impact on competition of various key pieces of regulation such as the Deposit Compensation Scheme (**DCS**) and the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**AML/CFT**).

26 In particular, ANZ disagrees with the Draft report's preliminary assessment of the way the capital requirements affect competition. As part of the extensive capital review, the Reserve Bank's analysis stated that a '[D-SIB] buffer of 2 percent would result in IRB banks' mortgage capital requirements being 103 percent of the standardised banks' requirements'.[4] That analysis also noted it was undertaken at arguably the low point in the credit cycle, which means in less benign times IRB

[4] Reserve Bank Financial Policy *How much would the Capital Review proposals 'level the playing field' for mortgages?* (10 September 2019) at [12] (memorandum starts at p.11 of the document).

capital requirements would be a 'higher proportion of the standardised requirement'.[5]

27 The Draft report recommends the Reserve Bank considers whether some loan types (e.g., first mortgages with LVRs below 80%) should have no difference in capital holdings between the standardised and IRB approaches, reflecting that such loans are consistently low-risk irrespective of the lender. The RBNZ's recent capital review has already considered this idea.

Open banking should be progressed

28 ANZ is committed to contributing to the development of open banking in New Zealand. We are proud that New Zealand is a jurisdiction where banks have collaborated to progress and develop an open banking framework and opened up access to payments and customer data ahead of regulation. The successful development of open banking is complex, and we agree that Government and industry must work together to ensure a coordinated and complementary development of open banking, a digital identity framework and innovation in the payments system.

Improving outcomes for certain consumer groups

29 ANZ is committed to improving the banking experiences of Māori. We are also committed to improving the experiences of vulnerable groups of people. We acknowledge the Commission's draft findings that some consumer groups are not able to experience the full benefits of New Zealand's competitive personal banking services. ANZ is committed to:

29.1 improving the experience of Māori consumers and this is embedded in our Te Ao Māori Strategy, 'Tākiri-ā-Rangi'

29.2 continuing work to reduce barriers for lending on Māori freehold land

29.3 reducing the access barriers experienced by vulnerable groups of people through a range of initiatives that may impact the ability of vulnerable groups of people to access personal banking services, and

29.4 finding solutions for vulnerable groups of people to access personal banking services, including exploring the availability of basic bank accounts.

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5 Reserve Bank Financial Policy *How much would the Capital Review proposals 'level the playing field' for mortgages?* (10 September 2019) at [14] (memorandum starts at p.11 of the document).

1. COMPETITION IS STRONG AND SUSTAINED

30 There is strong competition for personal banking services in New Zealand. The evidence in the Draft report does not support the Commission's draft findings in relation to the nature of competition in the market. In particular, ANZ's view is that the Commission has underestimated the level of competition, principally because:

30.1 it has incorrectly discounted competition between the major banks (as defined by the Commission). It is not consistent with the evidence to suggest that these banks do not actively compete – ANZ competes closely with ASB, BNZ, and Westpac, as well as Kiwibank, and

30.2 it has underestimated the constraint from Kiwibank, which exhibits features of a disruptor, including its growing market share.

31 In this section we also provide additional support for the proposition that competition is vibrant and healthy.

There is strong competition, including between the five larger banks

32 The five larger banks actively compete, both on price and non-price features, in ways that reflect a healthy and vibrant market:

32.1 evidence in the Draft report illustrates that both price and non-price competition are sustained and functioning well

32.2 evidence in the Draft report illustrates that external factors affect price competition in the market at different times

32.3 ANZ's growth targets are evidence of the competitiveness of the market, and

32.4 there is no robust evidence to support the Draft report's assertions regarding weak competition in the market.

Price and non-price competition is sustained and functioning well

33 The Commission finds that providers are constantly closely monitoring market conditions and propositions by competitors.[6] We agree. ANZ is always 'on' when assessing market conditions and propositions, with consequent above-line campaign and pricing activity managed alongside all product portfolios. As well as the evidence in the Draft report, the information provided by ANZ to the Commission via Requests for Information and the response to the Preliminary Issues Paper, evidence this.

Home loans

34 [

REDACTED

[6] Draft report at [5.38].

]

Transaction accounts

35 The fact that transactional accounts are largely free is a strong indicator of price competition, as these fees have effectively been competed away. The Draft report has mischaracterised the fact that many transaction services are priced at zero, as evidence of a lack of competition.[7] As stated in the CRA Expert Report, the Draft report observes that 'many account fees have been reduced or removed in recent years'[8] and presents data showing that transaction and call deposit account fees have fallen from more than 0.4% of average balances to around 0.1% from 2014 to 2022.[9] This is consistent with competition to attract retail deposits in the context of retail deposit customers' price sensitivity. The Draft report appears to acknowledge this when it states that declining fees may be attributed to banks 'reducing fees to attract retail deposits'.[10] CRA concludes 'this would not make sense if price were not a significant factor for customers and for competition in retail deposits'.[11]

36 The Commission also finds that providers compete on non-price measures such as range of products, service, perceptions of trust and security, credit settings, turnaround times (particularly for home loan applications), digital capabilities, and brand awareness.[12] The Commission acknowledges that non-price features are important to consumers, for example, the Commission recognises that 'innovations like mobile applications [can] help attract customers away from major banks'.[13] The Verian survey results also show the importance of non-price competition in its finding that non-financial benefits are a key driver for customers when choosing a provider.[14]

Non-price features

37 In ANZ's experience, non-price competition is important, and sustained and needs to be considered together with price competition in any assessment of competition. The larger banks compete strongly against each other with non-price brand advertising and sponsorship activity. For example, ANZ has consistently run brand marketing campaigns for the last year, with the 'Good Energy Brand' campaign from June 2023 to December 2023, followed by the 'Cricket – Fans since forever campaign from December 2023 to present'. ANZ commits significant media spend to these brand campaigns, totalling [REDACTED] ANZ's activities in relation to non-price competition are set out by ANZ in depth in the information already provided to the Commission and include aspects such as our service proposition, brand view and others.

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7 Draft report at [2.46.3].

8 Draft report at [5.19].

9 Draft report at [5.21] and Figure 5.1.

10 Draft report at [5.22].

11 CRA Expert Report, at [54].

12 Draft report at [2.55].

13 Draft report at [7.57.2].

14 Draft report at [2.57].

External factors affect price competition in the market at different times

38 As the Commission acknowledges, external factors affect price competition in the market at different times:

38.1 in relation to home loans, 'fluctuations in the intensity of competition can often be related to the broader economic environment – including the state of the property market, the interest rate cycle, inflation and/or wholesale funding markets'[15]

38.2 fluctuations can also be driven by factors at the provider level such as bank strategy and other considerations. For example, the evidence in the Draft report of a period of more intense competition in home loans in 2022 and the first half of 2023 appears to have been financially unsustainable,[16] and

38.3 in relation to deposits, 'due to interdependencies across the balance sheet and drivers of consumer choice, the same factors can impact competition for deposit accounts and home loans'.[17]

39 These external factors (correctly identified by the Commission) mean that in a competitive market there would be periods where a given market participant may have a lower incentive to aggressively pursue volume. For example, at a time when growth in lending outpaced deposits such that a bank judged itself to be out of balance and therefore financially more vulnerable, it would not make commercial sense to seek to win additional lending volumes regardless of the actions of competitors. Doing so would simply increase the bank's risk.

40 It is not clear how the Commission has factored its acknowledgement of the impact of external factors into its draft findings or its expectation about what it would expect to see in a competitive market. In other words, while the Draft report acknowledges these factors, it does not analyse how they would affect the aggressiveness of some or all market participants at particular times, regardless of the level of competition.

41 Moreover, there is no clear evidence for the preliminary view expressed in the Draft report that 'although there is evidence of some price competition between providers, it appears to be sporadic'[18] and 'not sustained'.[19] The Draft report does not explain what it means by 'sporadic' but appears to use the term to refer to competition 'rising and falling in intensity at different points in time'.[20] The Draft report infers that these changes in intensity of competition over time is evidence of weak competition, stating 'we would expect to see a higher frequency of more intense competition if there were stronger competition'.[21]

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[15] Draft report at [4.43].

[16] Draft report at p.88 'some providers reported that margins on new home lending fell well below the cost of capital (where the cost of capital is the financial return required to cover a business' cost of debt and equity) during the period of intense competition in 2022-23'.

[17] Draft report at [5.16].

[18] Draft report at [2.46].

[19] Draft report at p.44.

[20] Draft report at [4.36.1].

[21] Draft report at [2.39.2].

42 However, the Draft report provides no basis for the expectation that a higher frequency of more intense competition would happen if there were stronger competition.[22] It also provides no explanation of the difference between its observations and its expectation of what a competitive market would look like.

43 This analysis aligns with CRA's view set out in its Expert Report, that:[23]

43.1 an expectation of a high frequency of bouts of 'more intense' competition is not valid as a test for whether a market is competitive

43.2 CRA is not aware of any economic model that defines an appropriate frequency of 'more intense' competition, and

43.3 CRA does not see an economic basis for an expectation that 'more intense' competition should occur more frequently than the Draft report has observed.

44 Simply put, the fact that competition occurs at different levels of intensity at different times is not evidence that relevant markets are or are not workably competitive.

ANZ's growth targets evidence the competitiveness of the market

45 Home loan momentum and growth are key factors in ANZ's decision making processes in relation to home loans.

46 As set out in more detail in the following section:

46.1 targets involving retention of existing volume can also be consistent with an environment of strong competition (and in that environment would be an ambitious target), and

46.2 in any event, ANZ's growth aspirations are ambitious while balancing the stakeholders' expectations including customers, regulators, and shareholders.

47 ANZ's current financial plan has what it regards as ambitious targets. ANZ's current target is for [

REDACTED

]

48 To maintain existing volume and market share requires significant effort in a competitive market, e.g. for both home loans and personal deposits, ANZ broadly needs to win 1 in 3 transactions just to stand still. [REDACTED

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22 Draft report at [2.39.2].

23 CRA Expert Report at [35].

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49 At times, ANZ has targeted growth at system, or a little above system[24] in the face of strong competition. In order to do so, ANZ has had to create highly competitive price offerings. [

REDACTED

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50 The above is not consistent with the Commission's draft finding that 'growth targets generally balance share of supply growth with protecting margins'[25] and that purported lack of ambitious growth targets 'are a symptom of limited competition'.[26]

51 In any event, the Draft report does not provide any support for its view that the growth targets it identifies can be regarded as unambitious on the basis that they balance share of supply growth with protecting margins.[27] It would not be commercially rational for a bank, or any competitor in any market, in considering a volume or share growth target, to have no regard to the margin at which such growth is achieved. Such growth would risk not being financially sustainable for the provider (and, of course, shareholders expect a return on their investment).[28]

52 The Draft report does not provide any indication of what an ambitious growth target is, and whether the Commission uses it in relation to balance sheet growth only, or overall financial outcomes.[29]

Lack of evidence to support assertions regarding weak competition in the market

53 The Draft report puts forward a series of negative assertions that are not supported in relation to their impact on competition in the market. In reality, the evidence relating to:

53.1 lack of a 'best in market' leader demonstrates weak competition

53.2 discretionary pricing, and

53.3 matching offers

is consistent with healthy competition.

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[24] As defined in Draft report at [4.11].

[25] Draft report at [2.39.3].

[26] Draft report at [2.39.3].

[27] Draft report at [2.39.3].

[28] As discussed further in the CRA Expert Report at [28a].

[29] See also CRA Expert Report at [33].

The evidence relating to a lack of a 'best in market' leader[30] is consistent with healthy competition

54 The Commission cites evidence that suggests none of the major banks (as defined by the Commission to include only ANZ, ASB, BNZ and Westpac) or Kiwibank are consistently offering the lowest headline interest rates.[31] It uses this evidence to support its draft finding that competition between major banks (as defined by the Commission to include only ANZ, ASB, BNZ and Westpac) is sporadic and, ultimately, that this demonstrates weak competition.

55 But lack of a 'best in market'[32] leader on price does not evidence weak competition:

55.1 the Commission does not explain or provide any basis for its expectation of a 'best in market'[33] leader in a competitive market, or what exactly this would mean for competition

55.2 in fact, a 'best in market'[34] leader could suggest stability in the way competition occurs in the market. Lacking a 'best in market'[35] leader suggests unpredictable and dynamic market conduct i.e., vigorous competition, rather than a coordinated market, and

55.3 market participants differentiate their offers with price and non-price features, as set out further below in relation to home loan top-up offers. Drawing a negative inference from a lack of 'best in market' leader on price is not an appropriate finding as to competition.

56 The CRA Expert Report similarly concludes there is no basis to interpret fluctuations in particular banks' aggressiveness as indicating competition is inconsistent and not always effective[36] and further that [REDACTED][37] CRA also notes there is no basis in economics for an expectation that an effectively competitive market will have a consistent 'best in market' lowest priced player.[38]

The evidence relating to discretionary pricing is consistent with healthy competition

57 The Commission does not provide evidence that discretionary pricing negatively impacts competition. For example, a finding that banks 'compete hard for these valuable customer segments at the same time as retaining the ability to set less competitive interest rates' is not supported by evidence.[39]

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30 Draft report at [4.56].

31 Draft report at [4.41] and [4.59.1].

32 Draft report at [4.59.1].

33 Draft report at [4.59.1].

34 Draft report at [4.59.1].

35 Draft report at [4.59.1].

36 CRA Expert Report at [30].

37 CRA Expert Report at [31].

38 CRA Expert Report at [32].

39 Draft report at [4.70].

58 The assessment of competition in the Draft report generally overstates the effects of discretionary pricing, particularly in its finding that the benefits of competition accrue only to those customers who are willing and able to shop around.[40]

59 The Commission implies that this results in higher prices generally across the market, stating 'in markets where it is not possible to price discriminate in this way, customers who shop around generally provide a positive benefit for all customers (by driving prices down for everyone)'.[41] The Commission has not provided any evidence for the proposition that discretionary pricing results in higher prices generally.

60 Further, the Draft report does not appear to place weight on the ability for any customer to shop around or negotiate a better price, which is discussed further below in relation to switching (Section 2).

Matching offers is consistent with intense competition

61 The Commission's Draft report links its draft finding of 'established patterns of price matching behaviour'[42] to a concern that this could have the effect of 'muting price competition'.[43] The draft finding is not supported by the evidence available to the Commission.

62 The CRA Expert Report explains that 'the matching of others' offers does not imply an absence of intense competition. On the contrary, it is consistent with intense competition'.[44]

63 The Draft report presents 'green home loan top-up' offerings as an example of 'the major banks matching rather than beating each others' competitive offers'.[45] CRA's interpretation of these offers is that they are an example of banks continually innovating and adjusting their offers until they reach a competitive equilibrium involving differentiated offers, with beating as well as matching along the way.[46]

64 CRA concludes that 'while some matching occurred, particularly toward the end of the period by BNZ and ASB, this episode might be characterised as one of intense competition with differentiated offers and a number of instances of price and non-price 'beating', with the major banks ultimately settling on similar but still differentiated offers'.[47]

65 As to the Commission's concerns that incentives to innovate and offer better terms will be dampened by matching of headline offers, CRA concludes that the above case

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40 Draft report at [4.64].

41 Draft report at [4.64].

42 Draft report at [4.65].

43 Draft report at [4.67].

44 CRA Expert Report at [53].

45 Draft report at [2.49]. According to Figure 2.4 in the Draft report, the development of 'green home loan top-up offers' appears to have started in 2019 with Kiwibank's offer of cash bonuses for loans taken out for sustainable energy products. In fact, ANZ first offered an interest free home loan top up product in 2018 (offering $5,000 of interest free lending for heat pumps and insulation) and this should be viewed as the first competitive move.

46 CRA Expert Report at [39].

47 CRA Expert Report at [46].

study illustrates that innovation has not been discouraged in terms of new home loan offers.[48]

Kiwibank is a competitive threat

66 While the Draft report acknowledges that the larger banks consider Kiwibank to be a competitor,[49] it finds that Kiwibank is not a *close* competitor.[50]

67 Yet, the Draft report indicates, 'the major banks and Kiwibank tend to closely monitor each other's interest rates'.[51] ANZ's internal documents provided to the Commission as part of our RFI responses demonstrate that [REDACTED [52]] we view Kiwibank as a close competitor.

68 Kiwibank is a close competitive threat, including due to the fast growth it has achieved and our projections of its future growth. Kiwibank exhibits disruptive characteristics, most obviously demonstrated by its growth at the expense of larger banks. This contrasts with the Draft report's suggestion that there is no 'maverick' to disrupt the four largest banks.[53]

69 Kiwibank is currently the fifth largest home loans provider, with 7.3% share of total residential lending as of 30 September 2023. The Commission comments that Kiwibank's home loan portfolio growth has come off 'a much lower base than that of the major banks, and has come at the sacrifice of returns'.[54] This is not unexpected and does not affect the disruptive impacts of Kiwibank's growth in market share. The sacrifice of returns to increase market share relative to existing market participants is what would be expected in most (if not all) industries. It does not diminish Kiwibank's success.

70 As the Commission itself states, 'Kiwibank stands out as the only provider that has grown consistently at or above system growth over the four-year period' (March 2019 to September 2023).[55] ANZ notes that Kiwibank has also outperformed the larger banks with regards to average system growth[56] over the longer period from June 2018 to December 2023 (see Figure 1).

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48 CRA Export Report at [59].

49 Draft report at [2.23.1].

50 See for example Draft report at [4.53], 'Kiwibank's pricing places some constraint on the major banks, but not to the same extent as pricing for the other major banks'.

51 Draft report at [5.38].

52 [REDACTED]

53 Draft report at [2.22].

54 Draft report at [4.50].

55 Draft report at [4.13.3].

56 System growth compares individual bank growth to the system (i.e. market) on a percentage basis.

Figure 1: Average growth of home lending of the larger banks over the period 2018-2023 relative to system growth of home lending

Bank	Avg system growth
ANZ	0.96
BNZ	1.22
WBC	0.95
ASB	0.84
Kiwibank	1.48

Source: Reserve Bank dashboard 'Bank Assets – Loans by purpose'

71 Although Kiwibank's growth has accelerated in the last 12-18 months, this is not the first time ANZ has seen this scenario. Between 2007 and 2011, [REDACTED] During the same time period, Kiwibank's home loan market share increased by around 4%. [REDACTED][57]

72 [REDACTED]

57 [REDACTED]

Figure 2: [

REDACTED

]

73 In the Draft report, the Commission also refers to the Australian Competition Tribunal's finding that Macquarie, which has experienced rapid growth in its home loan market share over the past decade (from 0.49% in 2012 to 5.01% by February 2023), constitutes a 'maverick' in the Australian market.[58] Kiwibank's fast growth in the home loan market reflects a similar dynamic in the New Zealand market to that of Macquarie in the Australian market, supporting the view that Kiwibank constitutes a disruptor. Kiwibank accounted for 25% of all bank mortgage lending in the half year to December 2023.[59]

74 In relation to deposits, Kiwibank has also offered customers competitively priced propositions and in more recent periods often offered market leading rates. [REDACTED]

Important entry and expansion has occurred, and smaller providers can exercise a real constraint

75 The Draft report states that there has been a lack of entry and expansion in New Zealand in the last decade.[60] In doing so, it has predominantly focused on the entry and expansion of registered banks.

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58 Draft report at [2.70]. See also, Australian Competition Tribunal, ACT 1 of 2023 "Determination", 20 February 2024 at [613]. https://www.competitiontribunal.gov.au/decisions/year/2024/acompt-2024?sq_content_src=%2BdXJsPWh0dHBzJTNBJTJGJTJGd3d3Lmp1ZGdtZW50cy5mZWRjb3VydC5nb3YuYXUlMkZqdWRnbWVudHMlMkZKdWRnbWVudHMlMkZ0cmlidW5hbHMlMkZhY29tcHQlMkYyMDI0JTJGMjAyNGFjb21wdDAwMDEmYWxsPTE%3D.

59 J. Ruth, 'Kiwibank accounted for 25% of all bank mortgage lending in Dec half year' (Good Returns, 22 February 2024). Available at: https://www.goodreturns.co.nz/article/976522815/kiwibank-accounted-for-25-of-all-bank-mortgage-lending-in-dec-half-year.html

60 See for example: Draft report at [2.21] and [2.39.7].

76 However, this understates the importance of current entry and expansion in relation to niche financial products and services, which can provide meaningful constraint. The Commission should not ignore other types of entry of providers of particular products and services which also offer NZ consumers alternative and highly competitive product and service offerings and can be a competitive constraint on full-service registered banks. The impact of these providers is not diminished by the fact that often they do not have a full-service proposition. Smaller providers can and do enter the market and cherry pick smaller product sets, as they do overseas, and in some cases act as a meaningful constraint in relation to those product sets.

77 The Commission finds the concentration of the larger banks also represents a significant hurdle for smaller providers and new entrants looking to scale-up.[61] But in doing so it has not taken into account expert evidence that market concentration of larger banks in New Zealand is not high comparatively. The report prepared by Deloitte on behalf of BNZ in response to the Preliminary Issues Paper indicates that, despite New Zealand's smaller scale, the concentration of bank assets owned by the five largest banks is in line with international comparators.[62]

78 The Commission provides little evidence about providers that have entered the market with discrete propositions, other than expressing scepticism as to the competitive constraint such providers pose:[63]

> A number of new entrants such as Wise, Dosh, Squirrel and Simplicity offer a narrow range of services. However, none of these participants has gained a significant share of supply in any of the markets in which they participate.

79 Contrary to the Commission's assertion, some new entrants such as Simplicity and Squirrel appear to offer a range of services.

80 ANZ does not agree with the Commission's characterisation of the effect new providers have had in the New Zealand personal banking sector to date and are likely to have in the future (especially given the banks' efforts in rolling out open banking despite the lack of a consumer data right (**CDR**) and a central accreditation body). As it stands, these providers are entering the market and expanding. They are not burdened by legacy systems, can take advantage of new technologies, and do not require a branch network. The Technology Investment Network's New Zealand: Fintech Insights Report (2022) illustrates the large number of fintechs that are already operating in New Zealand, and their growth.[64] There is no evidence to suggest their impact will not continue to grow.

81 As the Commission acknowledges:[65]

> Data and data analysis is becoming increasingly important in understanding and anticipating customer needs, and this gives banks and fintechs the opportunity to proactively develop and offer services which are tailored to specific needs.

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[61] Draft report at [2.38].

[62] Deloitte *Personal banking services: Consumer switching, conditions of entry and expansion, profitability and innovation* (7 September 2023) at [87] and Figure 18.

[63] Draft report at [2.39.7].

[64] Available at: https://tin100.com/nz-tech-sector-facts/2022-fintech-insights-report/

[65] Draft report at [B33].

Understanding customer needs and delivering good customer experience can facilitate customer retention and increase sales.

82 Several new providers are also recent entrants, so it is not possible yet to draw conclusions about their potential. For example, Wise launched in New Zealand in December 2018, Dosh in October 2021, Revolut in July 2023, and Simplicity, which has traditionally been a competitor in the provision of Kiwisaver, launched its home loan offering in October 2019.

No coordination in the market

83 The Commission concludes that there is no evidence that tacit collusion is occurring in the New Zealand banking market.[66] Having concluded there is no evidence of it, however, the Commission goes on to state that it cannot rule out tacit collusion is occurring. We do not consider that statement to be appropriate when the Commission accepts that there is no evidence that tacit collusion is occurring.

84 More generally, we do not agree that the market for personal banking services has the following features that the Draft report suggests are necessary conditions for coordination to occur:[67]

84.1 the focus of the major banks (as defined by the Commission) on maintaining existing share of supply and margins with sporadic competition, as set out further above

84.2 persistently high profitability, see Section 3

84.3 ability of providers to readily observe each other's prices and volumes and a tendency to match prices, as set out further above

84.4 limited innovation, stable demand, and a lack of market volatility: see Section 4, and

84.5 low rates of customer switching and high customer inertia (which makes potential coordination easier to sustain): see Section 2 for ANZ's response.

85 The Commission's own draft findings point away from there being 'tacit coordination'. For example, the Commission expresses concern that search costs are high for home loan customers. The basis for this concern is that pricing can be difficult to compare due to discretionary discounts and other 'below the line' campaigns such as cashbacks.[68] The use of different pricing mechanisms indicates that providers cannot readily observe each other's prices and as a result, are not in a position to coordinate regarding pricing.

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66 See for example: Draft report at [4.96].

67 Draft report at [2.67].

68 Draft report at [8.35].

2. CUSTOMERS ARE ENGAGED AND CAN AND DO SWITCH BANKS WHEN THEY SEE A REASON

86 We do not agree with the draft findings in the Draft report that there is a significant degree of customer inertia and barriers to consumers shopping around and switching.[69] In general, the Draft report overstates the barriers to customers making effective choices or frictions for customers seeking to switch.

87 The evidence below and contained in the Draft report (including in the Verian survey) demonstrates:

87.1 switching data is a poor proxy for customer engagement

87.2 customers do not switch because they are happy with their main bank

87.3 (in any event) the Draft report underestimates the level of switching, and

87.4 customers who wish to switch can do so easily.

Switching is a poor proxy for customer engagement

88 Switching data is a poor proxy for customers' engagement with competition for personal banking services.

89 Joining another provider often does not involve 'switching' in the sense of leaving one bank and joining another – rather, 'multi-banking' is common and, as recognised in the Draft report, is increasing.[70] The Draft report acknowledges a range of customers' activities such as 'hard switching', 'soft switching' and renegotiation.[71]

90 The Draft report does not appropriately acknowledge that customers' varied behaviours demonstrate switching in the market, or the extent to which these activities indicate that customers are not inert – the approach to assessing customer inertia and switching levels needs to properly take into account this complexity.

Commission's consumer survey illustrates that, when customers do not switch, it tends to be because they are satisfied with their bank

91 The results of the Verian consumer survey provide evidence that the reason more consumers do not switch banks is because they are happy with their existing provider. The survey results do not provide a basis for finding customer inertia or a poorly functioning market. In several cases, findings made in the Draft report from the survey results are not supported by the results themselves.

92 The survey finds that 62% of people have not considered switching banks in the last three years. Of those, the survey also finds that the majority of people have not switched because they are happy where they are (69% for transaction accounts, 65% for savings accounts, 56% for term deposits, and 61% for home loans). Many

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69 Verian survey, p.10.

70 Draft report at [8.13]. Approximately every second person has accounts with more than one bank. [REDACTED]

71 Draft report at [8.3].

customers also responded that they 'can't/don't think I can find a better deal'. These responses could also be attributed to a feeling of satisfaction in relation to their existing provider and if included this brings the percentages for each of the above products up to 74%, 73%, 68% and 71% respectively.

93 The survey's findings of high levels of customer satisfaction align with the data that ANZ has access to. Research from February 2024 shows that, in relation to the five larger banks, 67.2% of respondents view their bank as 'excellent' or 'very good'.[72] This increases to 88.4% if respondents who view their bank as 'good' are included.

94 The Commission recognises that customers who are not considering switching banks 'could be because the majority of customers are happy where they are and have taken up home loan products on terms that suit them well'.[73] However, the Draft report also states 'switching rates reflect customer inertia'.[74] The Commission does not explain how it arrives at a draft finding of customer inertia and in fact the draft finding is not supported by the survey results.[75]

Draft report understates the level of customer switching

95 The Draft report understates the level of customer switching present in the market. While the Commission seems to have relied on its consumer survey as evidence of customers' switching levels, there are many other more direct sources of information available that show higher levels of switching. It is not clear how the Commission has reconciled these different sources of information.

96 As an initial point, the survey's short timeframe may understate the amount of switching occurring, particularly in view of the Commission's findings relating to the prevalence of tranche lending,[76] which will affect how many customers are rolling off fixed term loans over this period.

97 ANZ believes that actual data on customer switching is a more reliable guide on switching rates than survey evidence. In relation to home loan switching, the information available to ANZ shows home loan switching rates are around 20% in recent times.[77] That is, around 20% of the total home loan commitments disclosed to the Reserve Bank in a given month involve a customer that has changed their loan provider.

98 Tracking main bank switching is more difficult. ANZ tracks customers with main bank tenure of less than a year as a proxy for switching in the market ('main bank' is self-selected by the customer, with no definition or criteria for 'main bank' applied). The data relates to all customers in the market, as opposed to only ANZ customers.

99 Figure 3 shows main bank switching rates. These rates are back at pre-Covid levels after declining during Covid. ANZ agrees with the Commission that switching is

72 [REDACTED]

73 Draft report at [4.107].

74 Draft report at [4.107].

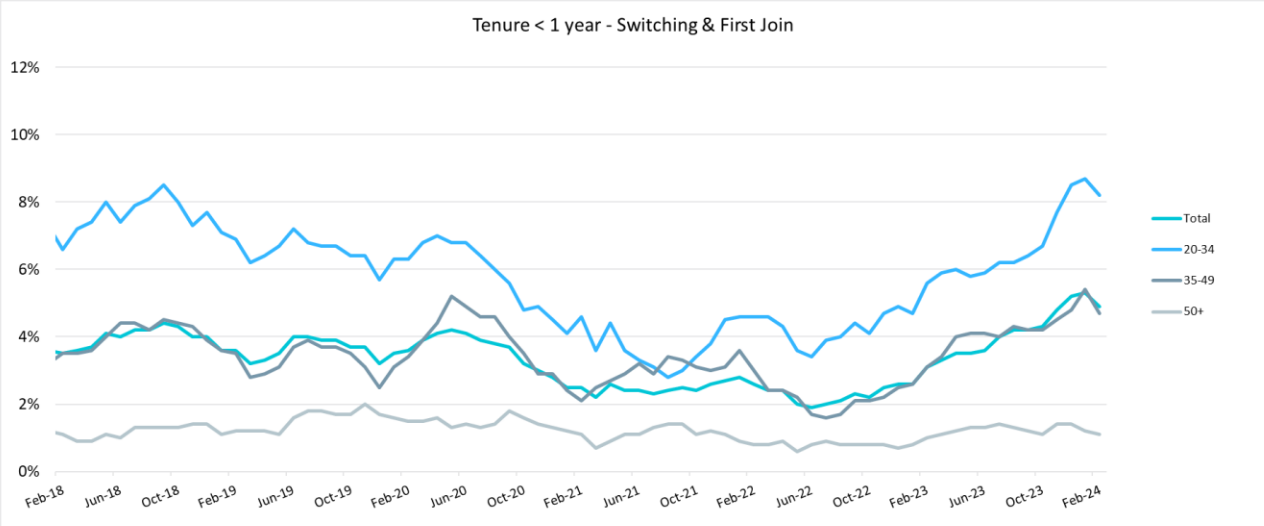
75 Draft report at [4.107] – [4.108].

76 Draft report at [4.16]: 'As of August 2023, data provided by banks indicate that around half of new home lending owner-occupiers was split into two or more tranches'.

77 Reserve Bank C3 market data.

often linked to life events and those declined for a time and particularly over the period considered by the consumer survey.[78]

Figure 3: Bank customers with tenure of less than one year



Source: [REDACTED]

100 Increased switching also coincides with a decline in customer satisfaction.[79] This is consistent with the survey results, which suggest that customers do not switch because they are content with their existing provider. There is no basis for a finding that happy customers are inert. Retaining customers requires significant effort in the face of strong competition (see further paragraph 49 above).

101 Further, the Draft report acknowledges that non-price features are important to customer decision making but does not fully consider the impact of these features when assessing switching.

102 For example, the Commission notes 'smaller providers have told us they struggle to acquire main bank customers because they are unable to offer the same quality mobile banking apps as the major banks'.[80] While these comments from smaller providers are questionable, given the vast majority of new entrants are digitally focused, this finding would demonstrate the perceived and actual importance of non-price features for retaining customers, and accordingly, its relevance to switching and customer engagement.

Customers who want to switch can do so easily

103 The Commission's draft findings in relation to switching difficulties are not supported by the consumer survey. The survey:

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78 Draft report at [8.9].

79 ANZ acknowledges that another factor affecting Figure 3 will be migration levels. These decreased during the Covid period, and the current increase in migrant levels will be bringing new customers. That said, the impact of this phenomenon is capped, as at its peak new migrants made up around 39% of new customer flows (being the percentage of ANZ new to bank customers that are known migrants, based on ANZ internal analytics). This means that other factors are likely at play in the recent increases in switching.

80 Draft report at [2.7].

103.1 provides evidence that on average the people who have switched did not find it difficult, and

103.2 does not provide a basis for linking this finding to customer inertia.

104 The Draft report includes the survey finding that 40% of home loan customers who thought about switching but did not do so (in itself only 23% of respondents) said it was because it was too much effort to switch or too hard to find the relevant information.[81] The Draft report does not mention the survey's key finding in this regard, which is that 'switchers found the process easier than those who just considered it'.[82] As explored in more detail in CRA's Expert report,[83] the survey shows that any perceptions of switching difficulties do not align with realities:

104.1 62% of customers who switched found it 'very easy' or 'easy' to do so, and

104.2 only 8% of customers who switched found it 'difficult' or 'very difficult'.

105 These results mean that other draft findings as to difficulties of switching are not supported. For example, with reference to page 43 of the survey – which is headed 'The most common reason to not switch in the future is being content' – the Draft report states 'there are many perceived and actual switching costs associated with transaction accounts, e.g., the hassle factor associated with opening new accounts'.[84]

106 The survey does not support that this is an 'actual' as opposed to 'perceived' switching cost. Page 43 of the survey shows that only 10% of respondents who said they are unlikely to change providers in the next 12 months stated this was due to it being 'too hard/too much hassle'. A further 2% said they 'can't be bothered', bringing the total to 12% of respondents anticipating it would be 'too hard'. In contrast, 44% of respondents put the reason as being happy with their current provider.

107 There is no basis for linking the survey results on switching difficulties to customer inertia. The Draft report describes 'non-engaged' customers as being 'customers who are 'sticky' in that they are unlikely to have switched or to consider switching providers in the future'.[85] The Commission does not explain how it arrives at this draft finding that 'sticky' customers are 'non-engaged', particularly in view of the high levels of customer satisfaction, or how it arrives at a finding of general customer 'inertia' from the results.

Barriers and frictions are often more perception that reality

108 ANZ and, in our observation, all banks, try to make switching as easy as possible, as it is in our interests to gain customers that are looking to switch banks. And in general, switching (or at least, taking up services from a new provider) is readily achievable. As set out below, the consumer survey demonstrates that barriers and

[81] Draft report at [4.113].

[82] Verian survey, p.10.

[83] CRA Expert Report at [63].

[84] Draft report at [8.56].

[85] Draft report at [8.10.2].

frictions are more perception than reality (noting that, given the importance of switching, ANZ considers this perception to be an issue worthy of addressing).

109 While choosing a fixed term loan or deciding to borrow in tranches may increase friction for customers later seeking to switch, they provide customers with offsetting benefits for the period of their commitment. Fixed-term loans give customers certainty about interest rates and payments. Tranche lending can be good for customers and reflects a customer's own longer term risk mitigation strategy.

110 Other frictions are outside the control of the market, including:

110.1 the financial switching costs relate predominantly to the requirement to have a conveyancer/lawyer discharge and record a mortgage, and

110.2 the administrative burden is largely due to regulatory requirements.

Online information is not the only assistance available to customers for switching

111 The Commission's draft findings in relation to search costs are not supported by the consumer survey, as:

111.1 they focus on online information, when the survey demonstrates that advisers and other sources play an important role in providing information about switching, and

111.2 the survey does not provide a basis for the draft finding of high search costs.

112 The Commission has assessed how easy it is for consumers to access information about different providers and reaches a draft finding that search costs are high for some banking products.[86] The Commission does not explain how it reaches this finding, when it recognises that only 19% of survey respondents reported it being difficult or very difficult to access information, as discussed further in CRA's Expert Report.[87]

113 More generally, the Commission's comments relating to difficulties accessing information focus on online information. In relation to 'information barriers are limiting switching behaviour for some customers' the Commission acknowledges that 56% of people sought information online.[88] It does not consider the other relevant sources of information that help people switch. For example, 40% of respondents with a home loan have used an adviser when setting up or switching their loan and two-thirds of respondents that switched a home loan recently used an adviser.[89]

114 The Draft report does acknowledge in other places there are several sources of information available that help consumers to compare different banks and banking services,[90] and that advisers can help consumers navigate the market, but it does not refer to the survey results.

[86] Draft report at [8.27.1].

[87] Draft report at [8.31.1] and CRA Expert Report at [65].

[88] Draft report at [4.114].

[89] Verian survey, at p.39.

[90] Draft report at [8.32].

115 In ANZ's experience, the primary, or lead product for switching is a home loan.[91] Home loan switching is often initiated through independent advisers, and the use of advisers has grown considerably in recent years. In ANZ's experience, 60% of FUM in FY 24 (Oct – Mar) came through an adviser. Advisers are undoubtedly an important independent source of information for customers looking to switch. As acknowledged in the Draft report, advisers help to increase consumers' knowledge of loan products and assist customers to choose products that are a good fit for them.[92]

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[91] Note, most new home loan customers to ANZ join off the back of a transaction or savings account.

[92] Draft report at [4.124.1].

3. PROFITABILITY

116 ANZ agrees with the Commission that it is important to consider the banking sector's profitability based on profitability measures rather than total dollar amounts. However, ANZ disagrees with several aspects of the Commission's profitability analysis. In short, we do not consider the analysis in the Draft report is sufficiently robust to carry the weight the Commission is placing on it.

117 We include at **Annex A** an independent expert report prepared by Incenta Economic Consulting, which responds to the Draft report's profitability analysis.

Background to Incenta's report

118 The Commission has an established methodology for conducting profitability assessments. It has used this methodology in its previous market studies into retail fuel and grocery markets, and it is consistent with other areas of its work, such as for regulated industries under Part 4 of the Commerce Act (e.g., electricity, gas and airports). The methodology has two parts:

118.1 undertaking a comparison of returns with international comparator firms by identifying individual comparable firms that are listed on share markets, and then sources the relevant financial information for those firms from Bloomberg, and

118.2 undertaking a bottom-up estimate of the opportunity cost of capital or profitability. Indeed, in the grocery market study the Commission expressed doubts about the conclusiveness of international comparison work,[93] preferring to rely instead on its bottom-up analysis as a primary measure.[94]

119 However, in this market study the Commission has chosen not to follow either established methodology. It has departed from its previous approach to conducting international comparisons. It has also decided not to undertake a bottom-up estimate of the cost of capital. The Commission has not provided any valid justification for this novel approach.

120 Specifically, in the Preliminary Issues Paper, the Commission proposed to conduct its profitability assessment by:[95]

120.1 considering international banking data provided by the World Bank and other institutions to compare New Zealand banks' financial performance with similar firms in other countries (i.e., conducting a country-by-country analysis based on secondary aggregate data rather than an individual comparator analysis based on Bloomberg financial information), and

120.2 using existing information and analysis prepared by the Reserve Bank for its Bank Financial Strength Dashboard to compare financial performance indicators across New Zealand banks (i.e., not undertaking its own internal calculations to produce a bottom-up estimate).

93 Grocery market study final report at [3.58]ff.

94 Grocery market study final report at [3.46].

95 Preliminary Issues Paper at [114]-[117].

121 Incenta responded to the Preliminary Issues Paper in its August 2023 report, highlighting that:

121.1 a country-to-country analysis is less robust than the established methodology of comparing firm-to-firm, and

121.2 the Commission's proposed approach would result in an 'apples with oranges' comparison, because it would include banks from countries whose banking markets – and banks – have experienced deep-seated banking crises ('crisis countries'), and it would include banks which provide a broader range of services than New Zealand (such as investment banking and complex instruments).[96]

122 Incenta conducted an analysis of ANZ's returns (as a proxy for New Zealand banks) using the Commission's established firm-to-firm methodology and estimated a bottom-up cost of capital as a cross check, again using the Commission's standard method for this analysis. Incenta found:

122.1 ANZ's average post-tax return on equity (ROE) over the 2010 to 2021 period – 12.3% – was materially the same as the average post-tax returns of a valid peer group of international banks – 12.2% – when compared on a like-for-like basis,[97] and

122.2 an estimated cost of equity for ANZ of 12.1%-12.8%. ANZ's actual post-tax ROE of 12.3% was within the range of normal returns.[98]

123 Accordingly, using the Commission's established methodology to calculate profitability, Incenta's report demonstrated that ANZ's returns were normal.

The Commission has continued to chart a novel approach to assessing profitability

124 However, despite Incenta's analysis, in the Draft report the Commission has continued to chart a new course to assess profitability:

124.1 it has maintained its approach of conducting a country-by-country analysis based on secondary aggregate data.[99] The Commission has not explained the reasons for its approach: this secondary dataset is inherently inadequate and cannot produce reliable comparisons for the Commission's purposes. The fact that other Government entities have used the dataset for their own work does not appear to be a reason, in and of itself, for the Commission to depart from its own established methodology, particularly where that established methodology would have yielded demonstrably more useful results, and

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96 Incenta *Benchmarking the profitability of the New Zealand banks against international peers* at [26]-[28].

97 Incenta *Benchmarking the profitability of the New Zealand banks against international peers* at Table 3.

98 Incenta *Benchmarking the profitability of the New Zealand banks against international peers* at Table 3.

99 Draft report at [6.14].

124.2 the Commission has not conducted a bottom-up estimate by undertaking its own internal calculations for opportunity cost of capital or profitability (and did not engage with Incenta's estimate).

125 The Draft report also criticised Incenta's September 2023 report, however these criticisms largely reflect misunderstandings of Incenta's analysis, as explained below.

126 As set out in Incenta's report prepared in response to the Draft report, the key findings of which we summarise below, the Commission's departure from its established methodology, and the errors it has made, materially undermines its draft findings.

127 As such, the main finding of the Draft report, that the profitability of the New Zealand banking sector is high relative to banking sectors in peer nations, is not correct.

The Commission's profitability analysis is flawed

128 Incenta's report identifies three key errors with the Draft report's profitability analysis, as follows:

128.1 the Commission has not selected a comparable set of banks against which to assess the financial performance of New Zealand's banks

128.2 the Commission's methodology for deriving its profitability benchmarks contains material errors which undermine its conclusions, and

128.3 the Commission chose not to make a comparison against a bottom-up estimate of the cost of capital.

129 These errors meant the Commission's analysis does not produce reliable comparisons of New Zealand banks' performance.

Identifying an appropriate comparator sample

130 The validity of any international comparison of banks' returns depends on selecting an appropriate comparison set. If the comparison set includes banks which are not comparable, then the comparison will not provide any useful information.

131 In this context, a valid comparison set against which to compare New Zealand banks requires identifying banks that have a similar scope of business to New Zealand banks, in economies that have similar underlying macro characteristics to New Zealand.

132 Simply put, the Commission's comparison set includes banks that are not comparable to New Zealand banks. It includes banks in countries where banks' returns have been trapped below the cost of capital for significant periods. An assessment of returns for these markets does not provide a sound indication of what an appropriate return is. New Zealanders benefit from having reliable and resilient banks, and when assessing their returns we should not aspire to comparators whose low returns threaten their long-term viability. The returns earned in these countries provide no useful information about whether the returns New Zealand banks earn are reasonable or not.

133 In particular, the Commission's decision to include banks from 'crisis countries' undermines the Draft report's draft findings. As Incenta observes:[100]

> Almost all of the Commission's key conclusions are tainted by including the crisis countries in its sample.

134 More specifically, Incenta's September 2023 report recommended that the Commission's comparator sample should exclude banks from crisis countries as they are not comparable to New Zealand. The Draft report disagreed and 'crisis countries' such as Japan and countries within the European Union (**EU**) remained part of its comparator sample. These countries have suffered deep banking crises; Japan had a housing bubble and banking crisis in the 1990s while EU banks were affected by both the GFC and the EuroZone Crisis of 2010-late 2010s.

135 The Commission accepted that banking crises impacted bank profitability and stability of returns but found that New Zealand had also weathered a crisis (the GFC) and a banking crisis is not indicative of a high-risk banking sector.[101]

136 However, as outlined in Incenta's report, this misunderstands the analysis behind Incenta's position in response to the Preliminary Issues Paper:

136.1 Incenta excluded 'crisis countries', not because there was a difference in their inherent risk, but because the Commission's reason for reviewing comparator firms was to determine what may be a *'normal' rate of return* in New Zealand.[102] If this is the reason to observe comparator firms, Incenta considers that it is irrelevant to take observations from countries where bank profitability has been consistently *below the cost of capital for an extended period of time*. Banks in 'crisis countries' do not provide a fair benchmark for the return that is required to continue to attract investment in the banking sector in New Zealand,

136.2 Incenta did not exclude individual banks which had a price-to-book ratio of less than one. It observed that a low price-to-book ratio was a feature of 'crisis countries' – as an average across the banking sector – which demonstrates that these countries were not a suitable comparator sample. The ROE earned by banks in 'crisis countries' has been trapped below the cost of equity, i.e. a price-to-book ratio of less than one. This is not what would be expected in a long run competitive equilibrium, and

136.3 the Commission also did not reference Incenta's broader analysis regarding the 'crisis countries' which indicated there were also demographic and macro-economic characteristics that differ between those countries and New Zealand.

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100 Incenta report at [50].

101 Draft report at [6.51].

102 Preliminary Issues Paper at [100]:

> In a workably competitive market, firms are generally expected to earn a level of profit that approximates their opportunity cost of capital (this is often referred to as a 'normal' rate of return). While profit levels may vary over time due to changes in supply and demand, cyclical factors, transitory price changes and promotional activities, in competitive markets there is an overall tendency towards profit levels that correspond to firms' cost of capital.

See also Draft report at [6.4].

137 In its expert report prepared in response to the Draft report, Incenta provides additional material and literature to support its analysis that banks from 'crisis countries' should be excluded from a comparator sample for New Zealand banks.

138 Incenta concludes that including 'crisis countries' in its comparator sample has materially affected the Commission's estimate of the benchmark ROE, and accordingly almost all of its key conclusions. In particular, Incenta notes:[103]

> Excluding the crisis countries increases the benchmark return on equity as the Commission has measured it using World Bank data from 7.1 per cent (excluding NZ) to 11.5 per cent, prior to any adjustments being made. Indeed, this value *is higher* than the value of 11.0 per cent that we derive (prior to any adjustments being made) based upon the average of the individual banking firms that we identified from our comparable countries that are most closely focussed on traditional banking activities.

139 That is, even putting aside the problems with the World Bank data set (discussed further below), using an appropriate comparator set implies that New Zealand banks returns are within a normal range.

The Commission's methodology for deriving its profitability benchmarks contains material issues

The Commission has relied on a dataset that is not fit for purpose

140 The Commission has used publicly available World Bank aggregated data for its analysis. Incenta's report notes that this data has material shortcomings. In particular:

140.1 there is no visibility over the dataset i.e., the Commission does not know which banks have been included for each country, and

140.2 it is incomplete i.e., it does not include leverage or the level of 'booked' intangible assets.

141 The Commission acknowledges these shortcomings and that using the World Bank dataset is at odds with the Commission's usual approach. The Commission conducts profitability benchmarks regularly, and it has a standard method for doing so: it derives a sample of comparable firms from those that are listed on share markets sources the relevant financial information from Bloomberg. ANZ notes that all relevant Bloomberg data is available for banks, which would allow the Commission's usual method to be used.

142 Incenta prepared its comparator sample based on the Commission's standard method, using Bloomberg data. As there is data for all required variables, this method allows the Commission/Incenta to compare firms. Incenta observes that it is unclear why the Commission has applied a different approach to the banking sector, and that in its view the different approach the Commission has taken is an error.

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[103] Incenta report at [10]. As noted in Incenta *Benchmarking the profitability of the New Zealand banks against international peers* at Table 3, the 11% unadjusted post-tax ROE becomes 12.2% once adjusted for leverage, the interest rate differential and levels of goodwill, which is materially the same as ANZ's post-tax ROE of 12.3%.

The Commission's analysis does not make appropriate adjustments

143 In addition to this fundamental point, the Incenta report points to a number of issues with the Commission's methodology for its profitability benchmark:

143.1 it did not make an adjustment to its benchmark ROE to reflect New Zealand's markedly higher Government interest rates

143.2 it did not adjust for leverage. Incenta notes that the Draft report's conclusion that New Zealand banks are 'middle of the road' with respect to leverage relies upon Commission including the 'crisis countries' in its sample. These banks are more highly leveraged, which raises the average

143.3 it did not make an adjustment for intangible assets, despite goodwill and unbooked intangibles being a material proportion of the assets of banks. The extent to which intangibles are recognised in a bank's accounts will have a material effect on the value of these variables. Incenta notes that since the World Bank excludes information on goodwill, this was not an adjustment that the Commission was able to do. Incenta also points to research indicating that price-to-book ratios above 1 tend to be driven by intangible assets and that differences in how goodwill is recorded will impact their ROE and price-to-book ratios. Incenta's analysis adjusts for goodwill, and

143.4 it concluded that New Zealand's banks are likely to be less risky than overseas, because their non-interest income is much less significant. Incenta argues that it is not possible to assume that the degree of non-interest income is a suitable proxy for relative risk. The critical question is instead the nature and risk of the activities that earn non-interest income; which may have higher, similar, or lower risks than traditional banking activities.[104]

A bottom-up estimate of cost of capital is informative

144 The Commission's choice not to conduct a bottom-up analysis in this case is also a departure from its approach in previous market studies. In its report prepared in response to the Preliminary Issues Paper, Incenta observed that, although caution is required, a bottom-up estimate on the cost of capital is an informative cross-check to the comparator sample analysis.

145 In previous market studies, the Commission has undertaken this analysis. In the grocery market study, it expressed doubts about the conclusiveness of international comparison work, preferring to rely instead on its bottom-up analysis as a primary measure. It noted that, to draw firm conclusions from international comparisons 'would require a close examination of the overseas grocery retailers' businesses and the competitive context in which each of them operates. For example, the extent to which the overseas grocery retailers are operating in workably competitive markets is unclear'.[105] In contrast, the Commission indicated, 'we consider that the WACC is the best available benchmark of returns expected under workable competition'.[106]

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[104] The CCCFA means that credit fees are limited to cost/loss recovery.

[105] Grocery market study final report at [3.58]-[3.59].

[106] Grocery market study final report at [3.46].

No evidence that New Zealand banks are earning above normal profits

146 ANZ agrees with the Commission that profitability is not conclusive evidence of how competition is working in a market – high profitability does not necessarily mean a market could be more competitive, and low profitability does not necessarily mean competition is working well.[107] As set out in our submission on the Preliminary Issues Paper, profitability is an outcome of the competitive process and it is well recognised and accepted that caution is needed when trying to draw inferences about the level of competition from profitability measures. The key focus for a market study should be the factors that may affect competition for the supply or acquisition of goods or services, i.e., the underlying competitive conditions themselves.

147 Nevertheless, if the Commission does wish to place any weight on a profitability analysis or draw any inferences from it (which the Draft report does seek to do), then of course the analysis must be robust. As set out above, we do not consider the analysis in the Draft report is sufficiently robustly to carry the weight the Commission is placing on it.

148 To the contrary, following the Commission's established methodology shows:

148.1 ANZ's average post-tax return on equity (ROE) over the 2010 to 2021 period – 12.3% – was materially the same as the average post-tax returns of a valid peer group of international banks – 12.2% – when compared on a like-for-like basis,[108] and

148.2 an estimated cost of equity for ANZ was 12.1%-12.8%, with ANZ's actual post-tax ROE of 12.3% was within the range of normal returns.[109]

149 Even if the Commission were to continue to rely on the World Bank data, and otherwise not adjust its approach, correcting its sample of countries to exclude 'crisis countries' would also indicate that New Zealand banks are earning normal returns.

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[107] Preliminary Issues Paper at [102]; and Draft report at [6.5].

[108] Incenta *Benchmarking the profitability of the New Zealand banks against international peers* at Table 3.

[109] Incenta *Benchmarking the profitability of the New Zealand banks against international peers* at Table 3.

4. ANZ IS INNOVATIVE AND THE PACE AND SCALE OF INNOVATION IS HEALTHY IN NEW ZEALAND

150 ANZ continually invests in significant innovation, and also observes innovations from its competitors. Innovation is evident in the transformation of banking operations, the evolution of innovative products and services, and the continued investment in improving customer propositions.

151 We disagree with the Draft report's findings in relation to innovation. In our view:

151.1 ANZ makes significant ongoing and planned investment in its core system, alongside other wide ranging innovation both in the area of personal banking services and beyond to incorporate the entire product and service proposition of the bank

151.2 the pace and scale of innovation is healthy in New Zealand, both in absolute terms and when viewed in the context of the competing demands on resource, and

151.3 banks have not sought to inhibit the innovation of fintechs in New Zealand, nor have they done so.

ANZ has significant ongoing and planned innovation

152 Caution is required in relation to statements such as 'the major banks innovate enough to stay ahead'[110] and any negative findings drawn or implied from those statements. Innovating enough to stay ahead (presumably, ahead of competitors) suggests effective competition rather than indicating a lack of competition.

153 In any event, ANZ regularly gathers information about whether customers' needs are being met, and customers' preferences and suggestions for innovation, to retain existing customers and attract new customers. We also keep an eye on developments offshore and consider whether they would work here [REDACTED] To stay aware of global changes, we dedicate specific resource, both in job roles and spend (e.g. subscriptions, conferences, and study tours) to looking at overseas models and development. We also work closely with companies we partner with such as [REDACTED] and consultants in this field such as [REDACTED] to stay aware of global changes.

154 In our Preliminary Issues Paper submission, we provided many examples of our innovations over the past five years that range across all our products and services. ANZ disagrees that these innovations are 'around the edges'.[111] Innovations have been directed at:

154.1 digitisation and personalisation – making it easier for our customers to access and use our digital offerings. This is evidenced by our mobile app and other products in relation to payment and data sharing innovations – for example, Viewbills allows joint customers of ANZ and our partner billers to view and

[110] Draft report at p.223.

[111] Draft report at [9.5].

pay their third-party bills within goMoney. We have also included house valuation information in the mobile app, and provide for joining and opening products online

154.2 customer protections – taking steps to protect our customers data and transactions via card controls (e.g. placing blocks on cards via app), cyber resilience, and fraud measures

154.3 product innovation, products such as the Blueprint to Build Loan Discount, offering discounted interest rates for customers building a new home, and the Good Energy Home Loan

154.4 operational improvements which relate to internal bank processes, enabling infrastructure and ways of working, and

154.5 partnering and opening access – work to advance open banking, data sharing services with companies.

155 Those examples were limited to the scope of the review the Commission is undertaking, but it is worth noting that there are many other innovations across all divisions of the bank. In addition, ANZ has a number of planned innovations across those same categories, including in the financial wellbeing space e.g., further developments to our new income and assessment tool (described at [152.11(b) of our submission on the Preliminary Issues Paper) [REDACTED] and the fraud international payments space [REDACTED]

The pace and scale of innovation is healthy in New Zealand and consistent with a competitive market

156 We do not agree with the Commission's draft findings relating to the pace and scale of innovations in New Zealand.

Investment in core systems is not 'delayed'

157 ANZ's investment in its core system has been sustained and significant over at least the last 14 years. That investment has made substantial core upgrades, and we are now in the process of a core replacement.

158 The timeline below demonstrates the priority that ANZ has given to this investment:

2010 – 2012	ANZ moved to Systematics, which was the National Bank core system, and decommissioned the ANZ core system. The project took just over two years and was designed to create a single set of connected systems for ANZ and to migrate all customers to it. It also included the simplification of the bank's product offering, and required training and product rationalisation to provide better customer outcomes. The project culminated in the full merger of the systems on 29 October 2012. The 2021 NZ Simplification programme delivered, amongst other things, a single core comprised of [REDACTED] The programme cost [

	REDACTED] The 2012 infographic provided as **Confidential Annex C** illustrates the scale of this project.
012 – 2015	Between 2012 and 2015, ANZ worked with the Systematics vendor to complete upgrades to the chosen core. These were to ensure the core was as up to date as possible, reducing risk to ANZ's customers and increasing ANZ's ability to develop it. These upgrades took approximately three years. [REDACTED]
2015 – 2020	Between 2015 and 2020 we continued to invest in the core to keep it fully up to date every year. We also invested in simplifying and removing customisation from the core to prepare it for eventual replacement and increasing resilience of the bank by spreading risk from more on core to less on core. During these later years, between 2017 and 2023, ANZ was also investing in: • system changes to comply with BS11, and • creating digital capability for our customers in line with what customers wanted most i.e. ability to self-serve the most common transactions using internet or mobile banking.
2020/2021	ANZ experienced that building digital capability on top of a core that was not built with today's digital capabilities became complex and carried a high level of inherent risk. In 2021, ANZ began to develop its plan to *replace* the core with updated technology. By 2020/2021, ANZ had decided to replace the core, and has now commenced Phase 1 of the transformational multi-year programme, known as Ngā Tapuwae o ANZ, to update ANZ's existing technology to provide a new banking platform. ANZ was not in a position to start Ngā Tapuwae o ANZ earlier because of the complexity of implementing the Reserve Bank's outsourcing policy (BS11). This is a recent example of how complying with the changing regulatory landscape requires significant system and process changes, and demands non-discretionary technology (and other) investment that could be spent on other innovations. Implementing BS11 has been approximately a five-year programme of work for ANZ at a cost of over $580m.[112] [REDACTED] Ngā Tapuwae will cost ANZ [REDACTED] and will take [REDACTED] to complete. It is the largest and most complex programme of work ANZ has ever undertaken.

112 [REDACTED]

159 It is worth noting that since 2020, ANZ has also invested significantly in Microservices/APIs. This is an evolution of the core system, with services that sit on top of the core to make it easier and faster to connect and upgrade systems and services. Our Open Banking capabilities are built with this type of technology [REDACTED]

160 In addition, we have invested significantly in our system as a result of changes required by the Financial Services Legislation Amendment Act 2019 and the Credit Contracts Legislation Amendment Act 2019 including by introducing new customer relationship management software.

161 It is not clear the basis on which the modernisation of core systems can be characterised as 'delayed', and what level of investment in core systems in recent years would have been considered appropriate.

162 The Commission appears to place weight on the fact that core systems are fully depreciated as indicating under-investment. But depreciation is not a good proxy for the useful life of a core platform, e.g. ANZ's capitalisation policy would likely result in a recapitalisation period of 5 or 7 years, [REDACTED] In any event, the key point, as above, is that ANZ *has* been heavily and consistently investing in its core system.

163 Further, even setting aside the investment described above, the Commission's comment that 'the major banks and Kiwibank… have yet to complete core systems upgrades, despite the resources available to them'[113] also ignores that funding is not the only impediment to upgrading core systems.

164 In ANZ's experience, work on core systems is affected by an overall limit on its capacity to undertake major transformational and change projects, which cannot be resolved by increased funding alone. For example, there are limits on the number of experienced people available nationally and internationally and there is intense competition for these resources.

165 There are also limits in the volume of change which can be safely managed and absorbed by our staff, customers, and financial systems in any given period. We have hundreds of interlinking systems. The more changes we make the more complex regression testing becomes and the higher the likelihood of operational incidents. We carefully and proactively manage our change load through [REDACTED] The United Kingdom's TSB's disastrous IT upgrade of 2018, which left up to 1.9m customers locked out of their accounts, demonstrates the need for the utmost care when upgrading IT systems.[114]

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113 Draft report at [9.15].

114 See at: https://www.theguardian.com/business/2018/jun/06/timeline-of-trouble-how-the-tsb-it-meltdown-unfolded

Fintech's entry and expansion in New Zealand

166 ANZ does not consider that the evidence shows banks are seeking to negatively impact the entry and expansion of fintechs.

167 As a starting point, any suggestion that there is a lack of fintechs in New Zealand, particularly relative to our size and scale, is not substantiated. The fact that there may be examples of specific entities that have struggled to make headway does not prove otherwise. Figure 4 shows a fuller perspective from the Technology Investment Network Report, New Zealand Fintech Insights Report 2022.[115] While not all of these entities will be fintechs of the type the Commission has in mind, the number and range of relevant market participants suggest conditions of entry and expansion are conducive to fintechs' presence.

Figure 4: Fintech in New Zealand in 2022

Source: Fintech.org.nz

168 The Commission identifies six impediments specific to fintechs seeking to provide personal banking services.[116] Of those, the Draft report links the impediment of opening and maintaining a business bank account to the conduct of banks.[117] ANZ disagrees with this draft finding, at least with respect to its own conduct.

115 Pages 12-13, see above at footnote 64. The next version of this report will be published in May 2024.

116 Draft report at [9.36].

117 Draft report at [9.36.1].

169 The Commission itself acknowledges that internal bank processes and guidance do not support the perception that banks are restricting fintechs' ability to compete by limiting their access to business bank accounts.

170 ANZ partners with a range of large and small financial technology providers which provide a wide variety of products and services. ANZ partners with entities such as [REDACTED] and many more. We also currently provide support, including enabling (within our risk appetite) access to third party payment providers, we cover this further in the Open Banking section (Section 6). Our support also includes providing agency services to a number of financial institutions (including fintechs) that compete directly with ANZ in the following sectors:

170.1 New Zealand registered banks

170.2 special purpose card/wallet providers, and

170.3 cross border payment providers.

171 Each institution dealing with a fintech must assess the risks in accordance with the institution's processes and guidance. ANZ works with financial technology providers the same way as it does with any other business. The size and the risks associated with each new customer can vary greatly. All customers, including fintechs, are assessed on a case-by-case basis. In relation to each entity, ANZ's assessment aims to understand relevant aspects of the business such as the precise nature of the business model, and how the entity interacts with its customers.

172 The fact that a fintech would compete with ANZ is not taken into account as an adverse factor when considering whether to open an account with that fintech.

173 Regarding the other impediments to entry and expansion identified in the Draft report ANZ notes those impediments relate principally to constraints imposed by regulation, rather than banks themselves. We discuss these in Section 5 below.

5. REGULATION IS A KEY FEATURE OF THE MARKET, AND POLICY GOALS MUST BE CAREFULLY CALIBRATED

174 Banking operates under a prudential regulatory framework designed to minimise systemic risks to New Zealand, reflecting its critical importance to individuals and the healthy functioning of New Zealand's economy. The stability of the financial system can be threatened by the failure of both large and small deposit takers as has been seen in New Zealand and overseas.

175 It is critical that competition policy is calibrated correctly within New Zealand's overall prudential policy in a way that ensures New Zealand's overall interests are protected.

176 This section of the submission provides additional information and evidence to support the objective of ensuring this calibration of policy goals is correct.

Capital requirements

177 As noted in our submission on the Preliminary Issues Paper, the relationship between competition, stability and economic growth is not straightforward – in some instances these concepts may be mutually reinforcing, but there can also be tension between them. Capital requirements have a clear purpose: financial stability,[118] which is critical to ensuring a stable and trusted banking system.

178 ANZ acknowledges that capital requirements also have the potential to shape market outcomes and these impacts are worthy of consideration in the market study, and worthy of consideration on an ongoing basis by the Reserve Bank. ANZ also agrees with the Commission's approach of providing its competition-focused insights to the Reserve Bank for weighing in its work relating to prudential capital. However, ANZ disagrees with the Draft report's preliminary assessment of the way the capital requirements affect competition.

179 ANZ notes that the Reserve Bank's capital review was a robust five-year process that considered international research and experiences, the New Zealand market environment and feedback from many stakeholders. New Zealand banks are now over two years into the seven-year period to transition to the new requirements. The major New Zealand banks (as defined by the Commission) have been the most impacted by the early stages of the transition period, with the domestic-systemically important bank (**D-SIB**) buffer and increase in the scalar applied to risk weighted assets calculated under the IRB approach being the significant changes to date. The larger historical differential between standardised and IRB requirements has been eroded by the increased scalar, risk weight floor and D-SIB buffer, which was the Reserve Bank's intention.

180 The Draft report discusses both the current framework for capital requirements, and comments on the potential future framework under the Deposit Takers Act 2023 (**DTA**). The Draft report notes that the Reserve Bank will undertake a review of its prudential standards as part of its obligations under the DTA. ANZ will engage with the Reserve Bank as part of that process. Accordingly, below we make only limited comments on the current framework. We consider that the Draft report incorrectly

[118] Draft report at [7.12].

characterises some aspects of the capital requirements framework and its impact on competition.

The Internal Ratings-Based approach is internationally recognised and approved

181 The Internal Ratings-Based (**IRB**) approach was introduced under the internationally accepted Basel II framework. Prior to the IRB, risk-weighting was a blunt exercise. As the Reserve Bank observed in its recent capital review:[119]

> For example, all residential mortgages were given a 50% risk weight. It is argued that the blunt approach gave banks incentives to seek out riskier lending opportunities. They could, for example, undertake high-margin, high-LVR mortgage lending without the requirement for any more capital than for low-margin, low-LVR mortgage lending. By using their internal models to assess riskiness, banks can more comprehensively take into account the detailed characteristics of each loan, so that higher-risk lending translates into a requirement for more regulatory capital.

182 The Institute of International Finance has argued that a standardised approach to risk weighting skews portfolios towards riskier exposures, which can create a systemic risk (i.e., which would not promote stability) and promote herd behaviour (i.e., which would not promote competition).[120]

183 The standardised approach is a comparatively blunt assessment that needs to be fit for use over a broad range of economic conditions. It will not reflect the current economic environment. In contrast, the IRB is a more sensitive method that reflects the particular lending risks associated with a loan. It requires a more granular assessment, taking into account a wider range of factors to more accurately identify the risk. The IRB approach is also a more dynamic tool which means that it is better placed to respond to changing market environments and portfolio risk practices. As set out below, ANZ's IRB model can result in a higher capital requirement than the standardised approach depending on the economic environment.

184 Given the IRB's dynamic analysis, we do not accept the Commission's assertion that certain loan types (for example, first mortgages with LVRs below 80%) 'have sufficiently clear characteristics that there should be no difference in capital holdings between the standardised and IRB approaches, reflecting that such loans are consistently low risk irrespective of the lender'.[121] To the contrary, the risk characteristics for such loans can be impacted by attributes such as financial position and account behaviour.

185 Different banks have different risk appetites and credit settings, different levels of diversification and different exposures, so it is difficult to say that there is a standard risk posed by a home loan that means that banks should hold a standardised amount of capital. Where banks do have IRB models, ANZ expects differences across IRB models due to facts such as the methodology used, portfolio characteristics and data and definitions. Larger portfolios provide stronger statistical significance. Banks need to demonstrate to the Reserve Bank that IRB models and

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[119] Reserve Bank *Review of the Capital Adequacy Framework for locally incorporated banks: calculation of risk weighted assets Consultation Paper* (7 December 2017) at [11].

[120] Reserve Bank *Review of the Capital Adequacy Framework for locally incorporated banks: calculation of risk weighted assets Consultation Paper* (7 December 2017) at [13].

[121] Draft report at [7.59.2.1].

their drivers are appropriate and that they continue to perform when they are in use.

186 The Reserve Bank has considered an argument that banks should hold the same amount of capital for home loans and said:[122]

> The idea that a given loan has the same risk (and so capital needs) irrespective of which bank's portfolio it's in is intuitively appealing. However, the credit risk of a loan to a bank will depend on the other loans in the bank's portfolio, due to diversification. For example, given the relative geographic concentrations in their respective portfolios, all else equal a marginal mortgage loan in Taranaki will be a riskier proposition for TSB than it would be to ANZ. In this way, greater diversification can justify a lower overall capital requirement.

187 The draft report recommends the Reserve Bank considers whether some loan types (e.g., first mortgages with LVRs below 80%) have sufficiently clear characteristics that there should be no difference in capital holdings between the standard and IRB approaches, reflecting that such loans are consistently low-risk irrespective of the lender. ANZ wishes to highlight that [REDACTED] of ANZ's $115 billion mortgage portfolio (including off-balance sheet) has an LVR below 80%. This represents a large number of New Zealanders who have a diverse range of personal circumstances and characteristics which impacts their ability to repay a loan and therefore present different levels of risk.

The 85% floor is not a ceiling

188 We do not agree with the Draft report's characterisation of the 85% floor as giving IRB banks a 'capital discount' of 15%.[123] This characterisation is incorrect.

189 First, as set out above the IRB approach is not a discount but is considered a more accurate risk assessment that is sensitive to the economic conditions and characteristics of the loan. In its draft findings that the IRB model approach creates an uneven playing field, the Commission has not taken into account the cost of obtaining and maintaining IRB accreditation in its assessment. ANZ makes a considerable annual investment to maintain its IRB accreditation, allowing better understanding of the risks within our portfolio. ANZ is required to develop and maintain IRB models, each of which can take a number of years to develop and require Reserve Bank approval. Once implemented, ANZ needs to conduct ongoing maintenance, monitoring, and validation of each IRB model. Additionally, ANZ needs to ensure ongoing compliance with the regulatory requirements for IRB accreditation.

190 Second, the IRB banks are required to apply a scalar to calculated IRB risk-weighted assets (**RWA**). This was initially introduced at 1.06 by the Basel Committee, to give prudential supervisors 'a level of comfort about the capital impact of the new framework'.[124] As part of the recent capital review, the Reserve Bank increased the scalar to 1.2, in conjunction with the 85% floor. This exceeds the scalar applied by the Australian Prudential Regulation Authority to New Zealand's IRB RWA, which is 1.1.

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122 Reserve Bank *How much would the Capital Review proposals 'level the playing field' for mortgages?* (10 September 2019) at [14] (memorandum starts on p.11).

123 Draft report at [7.40.1].

124 Reserve Bank *Setting an output floor for the IRB approach* (7 November 2018) at p.4.

191 In setting the scalar the Reserve Bank noted:[125]

> A combination of a more moderately calibrated scalar and output floor is a better way of achieving the desired outcome than relying only on one tool or the other to reduce the gap to standardised.
>
> Increasing the scalar from today's 1.06 could do most of the heavy lifting in terms of reducing the gap between average IRB and standardised outcomes, while fully preserving the risk differentiation of the IRB approach.
>
> The output floor would then serve as a backstop to raise the RWA of any outlier banks, if that is still needed once a higher scalar is applied.

192 Although not the primary objective of the capital review, it is clear that the Reserve Bank expressly considered the impacts to competition of their proposal. The Reserve Bank aimed to reduce the average difference in RWA outcomes between the IRB approach and the standardised approach through the combination of increased IRB scalar and standardised risk weight floor. The Reserve Bank's assessment for the mortgage portfolio found that in conjunction with the 2% D-SIB buffer, that IRB banks capital requirements would be 103% of standardised banks' requirements for mortgages.[126]

193 Third, the 85% floor is just that – a floor without a ceiling. We note that under ANZ's IRB approach in 2023, our risk-weighted assets required us to hold capital at approximately 91% of the standardised approach (before the additional D-SIB buffer was applied).[127] In addition, ANZ's capital requirements for a loan may be considerably above the 85% floor and can exceed the standardised risk weighting. For example:

193.1 ANZ's personal loan portfolio would hold a lower RWA under the standardised approach than it does under our IRB approach. ANZ currently holds a [REDACTED] risk weight for the non-defaulted exposure, whereas the standardised approach would result in a 100% risk weight

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[125] Reserve Bank *Setting an output floor for the IRB approach* (7 November 2018) at p 8.

[126] Reserve Bank *How much would the Capital Review proposals 'level the playing field' for mortgages?* (10 September 2019) at [12] (memorandum starts on pg 11).

[127] ANZ Bank New Zealand Limited *Annual Report and Registered Bank Disclosure Statement* (for the year ended 30 September 2023), pg 99: compares the risk weighted assets calculated for compliance purposes (under the IRB) with a calculation under the standardised approach as follows:

Effect of standardised floor on total risk-weighted exposures for credit risk

	Risk weighted assets	
As at 30 September 2023	Calculated for compliance purposes NZ$m	Calculated using standardised approach NZ$m
Exposures subject to the IRB or slotting approaches[1]	**66,873**	98,055
Credit risk supervisory adjustment[1]	**22,384**	n/a
Subtotal[1]	**89,257**	98,055
Standardised floor at 85% of standardised RWA	**n/a**	83,347
IRB and slotting RWA with standardised floor applied	**89,257**	83,347
Exposures subject to the standardised approach	**4,825**	
Total credit risk	**94,082**	

1 RWA calculated for compliance purposes includes a scalar of 1.2 as required by BPR 130 *Credit Risk RWAs Overview.*

As is seen in this table, the $89,257 IRB sub-total RWA is 91.03% of the RWA that would be required under the standardised approach.

193.2 for riskier loans, IRB risk weights can exceed standardised risk weights. For example, the highest IRB risk weight for an ANZ mortgage in March 2024 was [REDACTED] (we note a relatively small amount of lending is at this high risk weight), whereas the maximum risk weight for mortgages under the standardised approach is 100%

193.3 for revolving credit accounts such as ANZ Flexi, ANZ's IRB model will apply the RWA calculation to the entirety of the undrawn portion. In contrast, the standardised approach will only require the RWA to be applied to 50% of the undrawn amount, and

193.4 when ANZ models stress testing scenarios, the average portfolio risk weight increases. IRB risk weights tend to be more sensitive to a change in risk than standardised.[128] This means that the minimum capital requirements may not reflect the actual capital held by banks.

194 We note that New Zealand's floor is already conservative when compared to regulatory floors in other geographies. The Basel III standard implements a staged increase across five years from a 50% floor (1 January 2022) to a 72.5% floor (1 January 2027).[129] In many countries, including Australia, the floor is set at 72.5%.

Commission's calculations of capital requirements

195 We also do not agree with the analysis in paragraphs 7.44-7.50 of the Draft report (which seeks to illustrate the impact on the level of capital held for a $1m loan by the major banks compared to the smaller banks before and after the introduction of the 85% floor). In particular:

195.1 in respect of Table 7.2, the D-SIBs would also be required to hold additional capital for the 2% D-SIB buffer. This would be approximately $6,340, taking account of the higher IRB scalar. This means that the D-SIB banks are required to hold approximately $245 *more* CET1 capital per loan than the smaller banks (using the Commission's assumptions in paragraph 7.46). As the Commission noted in paragraph 7.51, this per-loan difference would effectively be multiplied across portfolios, and

195.2 the calculations are based on an average observed during 2017-2022, which does not reflect either the current economic circumstances, or the individual circumstances of each IRB bank. For example, ANZ's current mortgage risk weight is 33.19%, which would require CET1 capital of $38,169, leading to a difference of $4,381 before the D-SIB buffer is accounted for. The D-SIB buffer requires ANZ to hold an additional $6,638, approximately $2,257 *more* CET1 capital than the smaller banks.

The D-SIB 2% buffer should not be put aside

196 As part of its analysis of the impact of capital requirements on competition, the Commission commented that the 2% D-SIB buffer should be put aside, as this is

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[128] Stress test results are used in setting Board and Management minimum capital ratio triggers, if ANZ were to fall back to those ratios the Board/management would be required to take action to restore capital ratios to an acceptable level.

[129] Bank for International Settlements, Basel Committee on Banking Supervision *High-level summary of Basel III reforms* (December 2017) at p.12 (Table 5).

targeted at systemic risk rather than equalising capital requirements across IRB and non-IRB banks.[130] We do not agree with this comment.

197 From a competition policy perspective, and assuming the goal is a level playing field, the question is whether – in effect – banks receive competitive advantages through capital settings. This must be an aggregate assessment where the question is what the capital requirements of both IRB banks (which are also D-SIB banks) and non-IRB banks are. Shareholders will expect a return on the total capital held, regardless of the driver for the capital requirement. The D-SIB buffer is relevant because it is a cost borne by those banks that the smaller banks are not required to bear.

Depositor Compensation Scheme

198 The Reserve Bank's consultation process on the Levy Framework for the Depositor Compensation Scheme (**DCS**) is ongoing, and ANZ will engage with the Reserve Bank. However, ANZ does not agree with the Commission's draft finding that smaller deposit takers may be at a relative disadvantage under a composite risk-based approach, nor that the cost of the DCS will fall disproportionately on those providers.[131]

199 Customers choose where to place their deposits based to a large degree on trust and confidence in the entity taking the deposit. We agree with a proportionate approach to regulation (as set out in the Reserve Bank's Proportionality Framework), and that in appropriate areas flexible regulation can encourage growth and innovation.

200 We consider the Commission's comment that the proposed DCS Levy Framework is 'imposing the greatest burden on those least able to bear that burden'[132] is a misdescription. The larger banks will provide the majority of DCS funding under any proposed approach. In addition, the larger banks are separately subject to the Reserve Bank's Open Bank Resolution regulation (**OBR**) and its associated pre-positioning and ongoing costs. The intent of the OBR policy is to reduce the need for DCS funding to be applied to the larger banks, which means that even though the larger banks will provide the majority of the DCS funding there are additional protections to prevent their customers from ever calling upon it.

201 ANZ agrees with the Reserve Bank's view that it is appropriate for smaller deposit takers to bear proportionately higher costs.[133] These entities will gain the most from the DCS; the DCS will make it easier for those deposit takers to attract deposits and they will not have to offer as high deposit interest rates as they otherwise would.[134]

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[130] Draft report at [7.42.3] and [7.60].

[131] Draft report at [7.100] and [7.102].

[132] Draft report at [7.104].

[133] Reserve Bank *Depositor Compensation Scheme Regulations* (11 March 2024) at pp. 11-12.

[134] Draft report at [7.103]. The failure of a small deposit taker can create contagion risks among other deposit takers in the same sector, particularly if they are seen as being subject to lighter regulation. Adverse economic circumstances can also lead to a number of small deposit taker failures at once, if they are similarly subject to lighter regulation. See for example:

1. the U.S. regional bank failures (and near failures) created by the failure of Silicon Valley Bank (**SVB**) – prompting a 'flight to safety' of deposits away from regional banks and requiring U.S. regulators to provide extraordinary support above the usual deposit protection limits. SVB was

202 The Commission has queried that view, referring to the conclusion from the Australian Competition and Consumer Commission (**ACCC**) that 'there is a perception that large banks are perceived as safer even though all authorised deposit takers are covered by the same compensation scheme'.[135] However, the ACCC report attributes this perception to low consumer awareness of the Australian Government's Financial Claims Scheme and consumer sentiment that a large bank would be bailed out by the Government.[136] We would suggest that the appropriate measure to address this would be ensuring clear communications to consumers of both the DCS and OBR in New Zealand.

203 The submission of the New Zealand Banking Association (**NZBA**), which includes ANZ and many small banks as members, observed:[137]

> Taking a risk-based approach to formulating the levy framework is necessary to help ensure equitable treatment of all deposit takers. Deposit takers with elevated risk profiles should be subject to higher levies. All other things being equal, such elevated risk profiles lead to an increased likelihood of collapse …
>
> Flat rate levies provide minimal incentive to limit risk taking behaviours as deposit takers will incur the same levy irrespective of risks they incur. Taking risk into account when creating the levy framework should seek to reduce risk-taking behaviour, as such behaviour would invariably result in higher levy payments.

204 It is important that the levy reflects the risk associated with the deposit taker – without this the DCS has the potential to create a moral hazard for consumers to seek out the higher returns associated with riskier deposit takers, safe in the knowledge that the industry as a whole will be providing them with insurance through the DCS. This would not achieve a genuinely level playing field from a competition perspective and could also result in a reduction in financial stability.

AML/CFT Act

205 ANZ is fully supportive of the policy and purpose underpinning the AML regime. It helps ensure that New Zealand is – and is considered to be – a safe place to do business, it seeks to protect consumers, and provides systems and protections for all participants in the financial sector.

206 The regime is complex and designed by intention to be risk-based and not overly prescriptive. The risk-based nature of the regime means different reporting entities may apply aspects of the regime differently to suit their own risk appetite or method of operation. Given the differing risk profiles, individual entity assessments are necessary.

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considered a relatively smaller bank in that market and was subject to reduced regulation because of it, and

2. the failure of a number of finance companies in New Zealand in and around 2008.

135 Draft report at [7.105].

136 ACCC *Retail Deposits Inquiry Final Report* (December 2023) at p.22 and p.45.

137 NZBA *Submission to The Reserve Bank of New Zealand – Te Pūtea Matua on the Levy Framework for the Depositor Compensation Scheme* (25 September 2023) at [19].

Fintechs

207 We do not agree with the suggestion in the Draft report that AML/CFT legislation acts as an obstacle to fintech businesses as an industry. ANZ assesses fintechs on a case-by-case basis, depending on the nature of their business and their risks, which is the same assessment ANZ conducts for other businesses that are similarly classified. This assessment includes considerations such as the precise nature of the fintech's business model, how it interacts with its customers, how money is moved and how the fintech is involved in the movement of that money, the types of controls it has in place, and its regulated status.

208 ANZ's risk appetite encompasses sector/exposure/industry risk, AML/CFT risk and other governance risks. Fintechs will be onboarded where they fit within that risk appetite, as with other businesses.

209 ANZ provides banking and agency services to a number of fintech providers, for example [REDACTED] Each bank will have its own risk appetite settings for various sectors/industries. This is appropriate and consistent with both commercial operations and the AML/CFT regime.

210 The Commission has indicated that its preliminary recommendation is that the Government should reduce the barriers imposed by the AML/CFT regime on banks working with fintechs. ANZ's view is that:

210.1 it is inappropriate to lessen AML/CFT standards for a specific sector, absent a risk-based assessment that the same standards are not relevant to fintechs. For example, certain sectors of the economy are subject to simplified due diligence, which reflects their low AML/CFT risk.[138] Lessening AML/CFT standards for the fintech sector would risk undermining the policy purposes underpinning this critical regulation, and

210.2 ANZ would be supportive in principle if the Commission were instead proposing to recommend reducing the risks associated with fintechs by, for example, implementing a licensing framework for high-risk sectors.[139] Any such framework would need to be appropriately robust to ensure that banks are able to rely on it. Accordingly, a code of practice and licensing framework would require further analysis to ensure that:

(a) they remain consistent with both domestic *and* international expectations

(b) the licensing body is properly accountable for its decisions under the AML/CFT regulation

(c) the framework for licencing ensures both robust assessment at the initial stage and ongoing assessment in order that the licencing can be relied upon (and continue to be relied upon)

[138] For example, Government entities and listed companies.

[139] Draft report at [9.53]-[9.54] and [10.30].

(d) the code of practice and framework recognise that specific businesses will have specific commercial risk considerations that may differ from any framework established, which may require a more stringent approach, and

(e) there is a safe harbour/exemption regime for those who rely on the licensing body.

Other customers

211 ANZ has implemented innovations designed to improve customers' experience of providing AML due diligence ('Know Your Customer'). AML requirements can now be fulfilled remotely by most New Zealand customers who have appropriate identification. However, we recognise that AML still creates friction for customers seeking to open accounts with new providers.

212 There is a proposal in respect of the Digital Identity Framework, but this is still at an early stage and may not be able to address all of the natural frictions that exist in this area. ANZ would support further consideration of using a digital identifier and the adoption of a digital identity service. ANZ will continue to engage with the Ministry of Justice and our AML/CFT Supervisor on this topic.

Other legislation

213 In its advocacy for increasing competition, the Commission does not appear to have considered the relative risks of market participants in several areas. For example, in the Draft report the Commission lists regulation that it considers has 'advantaged banks over other types of providers'.[140] However, many of the regulations it has referred to relate to the safekeeping of money for a third party (or third parties, or for public purposes), which do not otherwise control where the money is deposited and are not intending to make a risk/reward evaluation or investment. For this purpose, we submit it is generally appropriate for a conservative approach to be taken to minimise the risk of loss of that money, and as noted elsewhere Non-Bank Deposit Takers are typically smaller and riskier entities.

Reducing overlapping and unduly prescriptive regulatory burdens will aid competition

214 We agree with the Commission that the overall regulatory burden is high; and that there are many and complex regulatory requirements. The Draft report also sets out a list of overlapping regulatory and/or supervisory regimes. We agree with the Commission that the overlapping regulatory regimes it has identified[141] create inefficiencies.

215 We support the Government's announced review of the CCCFA, as part of a wider review of financial services regulations. In particular, we support its intended aims of simplifying licensing requirements, and reducing overlapping regulations and duplicative regulator scope, which should have the effect of reducing the regulatory burden without negatively impacting the stability of the financial system or

[140] Draft report at [7.107].

[141] Draft report at [7.112]-[7.113].

consumer protection.[142] ANZ will engage with that process with the Government and regulators.

Access to Exchange Settlement Account System accounts

216 Lastly, the Commission has commented on access to Exchange Settlement Account System (**ESAS**) with the Reserve Bank, and agency banking. As the Commission notes, the Reserve Bank is currently undertaking a review of its ESAS access policy and criteria, in light of the Financial Market Infrastructure Act, which may allow wider direct ESAS access.[143] ANZ will continue to work with the Reserve Bank through that review.

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142 Draft report at [7.115].

143 Draft report at [9.55]-[9.61].

6. ANZ IS COMMITTED TO CONTRIBUTING TO THE DEVELOPMENT OF OPEN BANKING IN NEW ZEALAND

217 We consider that open banking is likely to positively impact the supply of banking services. We support open banking and believe it will make it easier and faster for ANZ to work with third parties and deliver on our ambition of helping customers improve their financial wellbeing.[144]

218 Open banking is about giving customers control over their information and who they choose to share it with. We believe that open banking has the potential to:[145]

218.1 facilitate additional innovation by both existing market participants and new entrants including banks, fintechs and other non-bank competitors, and

218.2 allow the automation of some aspects of the digital switching process. In turn, that will improve customers' ability to share personal information. This is likely to improve customers' multi-bank relationships by providing customers with financial data aggregating services.

219 The Draft report outlines in detail the ongoing regulatory processes for Payments NZ's authorisation application for the API Centre, the Reserve Bank and Commission's involvement in Payment NZ's governance review for its Next Generation work, and the Commission's consultation on whether the interbank payments network should be designated under the Retail Payments Systems Act 2022. These processes are taking place simultaneously with the market study. ANZ will engage with the Commission in those parallel processes and does not discuss these points in this submission.

220 ANZ is also engaging with the legislative process in respect of the Customer and Product Data Bill. This regulation is critical to establishing an efficient and trusted framework for consumers data sharing. ANZ will not traverse its submissions from that process in this section, but we make a limited number of additional comments below.

The development of Open Banking in New Zealand

221 The Commission has set out four minimum requirements for open banking to succeed, namely:[146]

221.1 standardised application programming interfaces (**APIs**)

221.2 partnering with third parties to use APIs

221.3 participation by third parties to develop products and services leveraging open banking APIs, and

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[144] See at: https://bluenotes.anz.com/posts/2022/01/anz-open-banking-data-finance-technology-innovation-new-zealand

[145] ANZ's submission on the Preliminary Issues Paper at [99].

[146] Draft report at [9.83].

221.4 confidence by both consumers and banks that the system operates safely and securely.

222 We agree that these are necessary for open banking to be a success. As set out below, we also believe that both the CDR and approval of Payment NZ's authorisation application will be important in achieving these requirements.

223 ANZ and other market participants have already undertaken significant work over a number of years to progress open banking. Our approach has been to open safely and progressively. This has allowed ANZ to work with particular third parties to create the operational framework (e.g., how we onboard, how we mitigate financial crimes and how customers are protected) to allow specific open banking services to be implemented. We have provided information to the Commission previously on our developments in this area, for example with Worldline Online EFTPOS, which has allowed us to test and improve our processes as part of market readiness.

224 We also have other data sharing agreements which may move to an open banking context once the frameworks are established. It is our understanding that aside from Singapore, there is no other jurisdiction where banks have, ahead of regulation, collaborated with third parties to progress and develop an open banking framework and opened up access to payments and customer data. ANZ is proud that the New Zealand banking industry has led the charge.

225 In addition, ANZ is ready to meet our 30 May 2024 deadline from the API Centre for delivery of our Payment Initiation implementation plan. Accordingly, from 30 May 2024, we will be able to start working with third parties in respect of open banking payment transfer propositions.

226 We are also on track to meet our 30 November 2024 deadline for our Account Information implementation plan.[147]

227 We are currently developing communications to educate and provide greater clarity on how third parties can connect to ANZ.

228 It is also important to recognise that developing open banking is complex, and even in countries where there is regulation, it has taken many years and required a high degree of collaboration between regulators, industry subject matter experts and third parties. Success is not only about speed to market, it also requires trust, innovation and long-term growth. We can learn from the experiences in international jurisdictions where creating an open data ecosystem takes time and collaboration:

228.1 when we look at the European experience with open banking it has demonstrated that uptake will take time. For example, in the United Kingdom, the proportion of digitally active banking customers who use open banking reached 14% by January 2024 – more than five years after it was initiated by the Competition & Markets Authority.[148] It appears that the primary drivers of open banking use are small businesses, where penetration has reached 18% (in comparison to retail penetration at 13%). This trend potentially reflects the importance of cloud accountancy packages. In

[147] See at: https://www.apicentre.paymentsnz.co.nz/standards/implementation/minimum-open-banking-implementation-plan/

[148] Open Banking Limited, The Open Banking Impact Report (March 2024).

comparison, only 2% of digital consumers in France, Spain, Germany and Italy had used open banking by 2022 (the comparable figure in the United Kingdom at this point was 9.2%),[149] and

228.2 due to data security concerns, the focus in the United Kingdom remains on ensuring the safety and security of the data shared within that system. It is important that in developing its system, New Zealand takes appropriate steps to ensure the security and maintain confidence of consumers to use the system.

229 Government and industry must work together to ensure the success of open banking. ANZ agrees with the Commission that the Government must work with the industry to ensure a coordinated and complementary development of open banking, a digital identity framework and innovation in the payments system.[150] In ANZ's view, New Zealand should aim for a system that is customer-centric and secure with appropriate customer protections. Material next steps to facilitate open banking will include:

229.1 the determination by the Commission on the pending application for Payments NZ's authorisation. In the absence of this authorisation, participants are unable to collaborate with other industry members on developing the operational tools necessary to progress open banking. We have had to build end-to-end on-boarding capabilities in isolation and within our own existing risk appetites. If granted, parties will then be able to discuss with each other how best to achieve these goals. The decision is due by the Commission in July 2024, and we look forward to the outcome of that process, and

229.2 a statutory CDR framework. A CDR framework is important scaffolding for an open data economy, which will include open banking. Our customers rightly expect ANZ to protect their personal information; we take this responsibility seriously. As noted in ANZ's submission on the Preliminary Issues Paper, given the sensitivity of handling customers' information it is critical to ensure that the open banking regime is effective and secure:[151]

(a) currently, in order for third party propositions to advance and for ANZ to share information, we enter into a bilateral contract. Third parties must align with our expectation to provide good customer outcomes and have robust customer and data protection protocols in place

(b) a CDR and associated regulatory framework should provide a central accreditation agency for third parties and a safe harbour position for ANZ and other banks to rely on. It should ensure customers understand the concepts involved in open banking and ensure clarity in relation to the roles and responsibilities of each party. Customers must be able to make informed and explicit decisions to participate and know how they will be protected if things go wrong. Officials began to work on a CDR in December 2019;[152] we are still awaiting the introduction of a Bill to the House. We support the progress on the CDR, and

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149 Open Banking Limited, The Open Banking Impact Report (March 2024).

150 Draft report at [9.84].

151 ANZ's submission on the Preliminary Issues Paper at [100].

152 Draft report at [9.88].

(c) we are still awaiting the digital identity framework. ANZ supports the Government's work in this area to achieve alignment between the Digital Identity Trust Services Framework Act 2023 and the work of the API Centre and the CDR.

230 The Commission has asked stakeholders for any comments we may have on what is needed to achieve alignment and maintain and accelerate momentum toward open banking.[153] In our view three main considerations are needed:

230.1 *collaboration*: collaboration will be the key to developing open banking. This is a complex issue, and we need to ensure that the industry, regulators and Government are all working together to ensure open banking is safe, and our priorities are aligned to maximise stakeholders' time and money. Balancing customers' expectations and protections with the risks and costs of participation is important

230.2 *customer protections*: there is a focus in the Draft report on speed and the need to move quickly towards open banking. The balance to this is needing safety and the right process. Customer protections are essential to create and sustain trust in the system, and trust is critical to the success of any open banking regime. If settings are too low then there is a risk that customer trust will erode and therefore adoption will be limited, and

230.3 *customer outcomes*: there needs to be a clear view of what outcomes are being sought for customers, how they are implemented at the regulatory level, and a clear roadmap developed to work on those outcomes collaboratively. ANZ is supportive of right-sized regulation to support the industry's efforts and allow us to collectively work to ensure open banking is a success.

[153] Draft report at [9.125.1].

7. IMPROVING OUTCOMES FOR CERTAIN CONSUMER GROUPS

231 ANZ acknowledges the various findings the Commission has made regarding certain consumer groups. ANZ agrees that some consumer groups can find it difficult to access personal banking services, and Māori in particular are likely to experience unique barriers.[154] ANZ is committed to improving the experiences of Māori and vulnerable groups of people.

232 The Commission's draft findings highlight the issue that some consumer groups are not able to experience the full benefits of New Zealand's competitive personal banking services.[155] To address these issues and as a provider of personal banking services, ANZ is committed to:

232.1 improving the experience of Māori consumers and this is embedded in our Te Ao Māori Strategy, 'Tākiri-ā-Rangi'

232.2 continuing work to reduce barriers for lending on Māori freehold land

232.3 reducing the access barriers experienced by vulnerable groups of people through a range of initiatives that may impact the ability of vulnerable groups of people to access personal banking services, and

232.4 finding solutions for vulnerable groups of people to access personal banking services, including exploring the availability of basic bank accounts.

Improving the experience of Māori and addressing unique barriers

233 ANZ agrees that some Māori consumers are likely to experience certain barriers to accessing personal banking services disproportionately, and that there are some barriers that are unique to Māori.[156] As set out in our Preliminary Issues Paper submission and reflected in the Commission's Draft report,[157] ANZ considers these issues are accentuated by:

233.1 the design of personal banking services and products including standardised rules around use of credit reports and the difficulties of certain models of land ownership including under Te Ture Whenua Māori Act 1993

233.2 financial institutions' generally limited understanding of Māori culture and lack of reliable data regarding Māori customers, reducing financial institutions' ability to engage with Māori customers effectively or produce offerings that target the Māori economy, and

233.3 access to digital banking services and limitations on digital infrastructure in rural areas.

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[154] Draft report at [2.73], [3.10] and Attachment D.

[155] Draft report at chapter 3.

[156] Draft report at [3.10].

[157] Draft report at [3.13].

Improving our understanding of Māori culture

234 ANZ is committed to improving its understanding of Māori culture and ensuring it reflects the customers it is serving. A direct example of this is our Te Ao Māori Strategy, 'Tākiri-ā-Rangi', which focuses on institutional improvements, such as improving ANZ's cultural competency, Te Reo language skills, and Māori representation within ANZ.

235 It also focuses on changes in services and product offerings, including adjusting our risk appetite and policies to enable Māori to leverage and better use collectively owned land. Tākiri-ā-Rangi enables ANZ to deal with the access issues identified by the Commission, as well as gaining an understanding of the wider Māori economy. We consider there are four key parts of Tākiri-ā-Rangi that engage directly with the issues identified by the Commission:[158]

235.1 Kia Hanga i te Whare: promotes cultural competency, Māori language skills and recruiting Māori staff to ensure ANZ is best able to reflect and understand its Māori customers

235.2 Nga Tupua: requires ANZ to consider how we think, operate and present ourselves, including a requirement to incorporate Te Ao Māori concepts and increase our use of Te Reo in documents

235.3 Kōkiri Tahi: supports work by ANZ to increase access to lending on collectively owned land, as well as running financial literacy programmes for customers, and

235.4 He Kete Aroha: sets an ambitious goal of creating Aotearoa's most comprehensive database of Māori economic activity and will result in ANZ improving the data we collect, store and process to better understand Māori customers.

236 This work, coupled with the initiatives we have put in place to support vulnerable communities in rural areas or with a lack of access to digital infrastructure (discussed further below) reflects our commitment to improving outcomes for impacted Māori consumers.

Access to lending on Māori freehold land

237 ANZ recognises complications can exist in relation to this lending on Māori freehold land, depending on the ownership structures or desired uses of the land. These may act as hinderances to obtaining lending.

238 ANZ's existing policies provide for borrowing against general freehold land in collective Māori ownership and Māori freehold land. The arrangements currently in place with existing customers in relation to Māori freehold land are bespoke. They reflect the specific requirements and situation of each group of land owners.

239 We agree a uniform approach by the sector is necessary to accelerate progress on this issue. ANZ welcomes further engagement on these issues.

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[158] Draft report at [3.13].

Impact on Māori trusts

240 The AML regime is risk-based and flexible, which means it enables decisions based on an analysis of the factual situation rather than a blanket/blunt application of rules. The ownership structure of Māori land trusts is typically widely held, which means that from an AML perspective no one natural person owns more than 25% of the property held in trust. This means that the applicable AML test involves identifying who has effective control of the trust.

241 AML/CFT Supervisors are currently revising the Beneficial Ownership Guideline, which contains a helpful recognition for widely-held, co-operative types of organisations. We anticipate this may provide useful guidance for Māori land trusts.

Certain groups of consumers are not experiencing the full benefits of competition

242 ANZ recognises the Commission's drafting finding that certain groups of consumers are likely to experience financial exclusion more than other consumers.[159]

243 ANZ acknowledges the Commission's finding that vulnerable groups of consumers are facing specific issues relating to:[160]

243.1 access to bank accounts

243.2 overdrafts leading to difficulties in switching

243.3 regulation leading to greater financial exclusion

243.4 access to face-to-face banking at physical branches, and

243.5 financial literacy.

244 ANZ has been working to improve the experiences of particular customer segments including rural, Pacific, older, and Māori populations, disability groups and Women's Refuge to improve their access to and engagement with personal banking services through a variety of initiatives, including:

244.1 an ongoing relationship with Age Concern and help them support older customers (including by funding training programmes)

244.2 actively and extensively supporting customers' use of digital channels, including 'how to' resources and enhancements of digital channels, and

244.3 ensuring we have staff with a range of language capabilities in the call centre.

245 There had been significant work done on drafting Vulnerability Principles via the NZBA, however with the introduction of the CoFI legislation, this was seen as overriding these principles. ANZ is now applying that work to consider vulnerability in the context of CoFI, using the FMA guidance on vulnerability and the CoFR as our main source of information.

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[159] Draft report at [2.73].

[160] Draft report at [2.75].

246 ANZ agrees with the Commission's draft recommendation that solutions to these issues require policy makers, regulators and the industry to work collectively.[161]

[161] Draft report at [D7].

8. DRAFT RECOMMENDATIONS

Draft Recommendation		**ANZ Responses**
1	The Reserve Bank should review its prudential capital settings to ensure they are competitively neutral and smaller players are better able to compete	If the Commission makes this recommendation, ANZ will engage constructively with the Reserve Bank. We have provided comments on the capital requirements in Section 3.
2	Kiwibank's owners should consider what is necessary to make it a disruptive competitor, including how to provide it with more access to capital	ANZ has no comment on this recommendation, other than we consider Kiwibank to already be a disruptive competitor.
3	Government should set clear deadlines and work with industry to ensure open banking is fully operational by June 2026	ANZ supports progressing open banking for the reasons given above in Section 6. ANZ is on target to meet agreed industry market readiness dates (30 May 2024 for Payments and 30 November 2024 for Data Sharing). ANZ remains committed to the industry-led approach to open banking in New Zealand through Payments NZ's API Centre. ANZ has supported Payments NZ's application to the Commission for an authorisation to develop an accreditation framework. We agree that industry and the Government need to work together to achieve alignment and maintain and accelerate momentum toward open banking. We need to agree on the industry's priorities and desired outcomes, and a road map for how we will deliver against those priorities and outcomes. ANZ also supports the need for synchronisation of the various aspects of an open data economy, including open banking. As noted in Figure 9.1 of the Draft report, there are many elements to delivering open banking (a number of which are in the control of the Government). We acknowledge the Commission's focus on the need for a deadline, including a desire for open banking to be fully operational by June 2026. As above, we are committed to timely progress, while noting that speed to market needs to be balanced with having a system that is fit for purpose, and that is safe and trusted.

<table>
<tr><th colspan="2">Draft Recommendation</th><th>ANZ Responses</th></tr>
<tr><td>4</td><td>The Government should reduce the barriers imposed by the AML/CFT regime on banks working with fintechs</td><td>
ANZ supports efforts to make the requirements and obligations of the AML regime transparent and understandable. This extends to the Enhanced Due Diligence requirements for businesses classified as high-risk under the legislation.
It is important that the regime should continue to assess AML/CFT requirements on a risk-based assessment, so as not to undermine the regime's role in ensuring New Zealand is a safe place to do business.
In this regard, we consider the recommendation as currently framed to be flawed. The AML/CFT regime should balance the desire to reduce barriers against the need to ensure the regime is robust. Therefore, ANZ instead supports, in principle, the Government exploring the Ministry of Justice's recommendations that AML/CFT supervisors should develop a code of practice to on-board high-risk businesses and develop a licensing framework for those sectors. ANZ comments that:

The purpose and policy behind AML/CFT is profoundly important to the public of New Zealand, the financial sector, the economy more broadly, and the global view of New Zealand as a safe place to do business. Care must be taken in shifting the dial and the impacts carefully considered.
Any code of practice and licensing framework will require careful consideration and analysis to ensure that:
<ol type="a">
they remain consistent with both domestic and international expectations
the licensing body is properly accountable for its decisions under the AML/CFT regulation
the framework for licencing ensures both robust assessment at the initial stage and ongoing assessment in order that the licencing can be relied upon (and continue to be relied upon)

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Draft Recommendation		**ANZ Responses**
		d. the code of practice and framework recognise that specific businesses will have specific commercial risk considerations that may differ from any framework established, which may require a more stringent approach, and e. there is a safe harbour/exemption regime for those who rely on the licensing body.
5	The Reserve Bank should use its new decision-making framework under the DT Act to explicitly and transparently consider competitive effects	If the Commission makes this recommendation, ANZ will engage constructively with the Reserve Bank.
6	The Reserve Bank should explicitly and transparently articulate how it is applying the purposes and principles of the DT Act to its Deposit Compensation Scheme levy advice	ANZ appreciates the Commission's contribution to the development of this regime (noting our views on the substance of the draft contribution, as set out above in Section 3). If the Commission makes this recommendation, ANZ will engage constructively with the Reserve Bank.
7	The Reserve Bank should consider broadening access to ESAS accounts	If the Commission makes this recommendation, ANZ will engage constructively with the Reserve Bank. We have provided comments on ESAS accounts in Section 3.
8	The Government should amend the DT Act to allow the Reserve Bank to promote competition, rather than maintain competition	ANZ is neutral on changing the DTA reference from 'maintaining competition' to 'promoting competition'. We observe that section 4 of the DTA contains several principles that the Reserve Bank is required to take into account as part of a carefully calibrated regulatory policy.
9	The Government and policy makers should seek competitive neutrality across banks and other providers in their decision-making wherever possible	ANZ agrees that competitive neutrality is an appropriate consideration to be carefully calibrated along with the other goals of particular regulation. ANZ supports the Government's announced review of financial service regulations.
10	The CCCFA should be competitively neutral with respect to home loan refinancing to make it easier for consumers to switch providers	ANZ supports the Government's announced review of the CCCFA, as part of a wider review of financial services regulations. In particular, we support its intended aims of simplifying licensing requirements, and reducing overlapping and duplicative regulator scope, which should have the effect of reducing the regulatory burden without negatively impacting the

	Draft Recommendation	ANZ Responses
		stability of the financial system. ANZ will engage with that process with the Government and regulators.
11	Industry should create an enhanced switching service with Government oversight	ANZ supports further development of Payment New Zealand's switching process.
12	Home loan providers should present offers in a readily comparable manner	ANZ supports providing customers with information that helps them to make informed decisions. However, we would welcome greater clarity from the Commission about exactly what it is proposing. Lenders are already required to make significant disclosure to customers under the CCCFA and are under obligations to ensure that information is presented in a way that it not confusing for customers. Any changes that related to the way that the cost of home loans was disclosed to customers would need to be made in a way that: a. is consistent across the industry to ensure comparability b. is useful (and not confusing) for customers c. reflects the terms of the agreement with the customer, and d. meets existing disclosure obligations.
13	Mortgage lenders should pro-rate all clawbacks for adviser commissions and cash incentives	ANZ is open to pro-rating clawbacks of commissions from advisors and cash contributions from consumers diminishing on a linear basis and calculated monthly. Implementing this recommendation will require technology and systems change and it would be important to ensure that there is a sufficient lead-in period to ensure proper testing.
14	The FMA should produce guidance and monitor advisers' compliance with their duties under the FMCA	ANZ broadly agrees with the recommendation that the FMA should produce guidance and monitor advisers' compliance with their duties under the FMCA.

	Draft Recommendation	ANZ Responses
15	Industry and Government should prioritise work to reduce the barriers to lending on Māori freehold land	ANZ supports the Commission's draft recommendation that the industry and Government prioritise work to reduce barriers for lending on Māori freehold land. We recognise complications can exist in relation to this lending on this type of land, depending on the ownership structures or desired uses of the land. These may act as hindrances to obtaining lending. ANZ's existing policies provide for borrowing against general freehold land in collective Māori ownership and Māori freehold land. The arrangements currently in place with existing customers in relation to Māori freehold land are bespoke. They reflect the specific requirements and situation of each group of land owners. We agree a uniform approach by the sector is necessary to accelerate progress on this issue. We are supportive of the suggestion that frameworks and models used successfully by providers could be shared with other market participants. ANZ also welcomes the Māori Land Court's practice note regarding lending on Māori freehold land as a helpful contribution to work in this area. ANZ welcomes further engagement on these issues.
16	Industry and Government should prioritise ensuring widespread availability of basic bank accounts	ANZ is open to exploring the Commission's draft recommendation that industry and Government prioritise availability and awareness of basic bank accounts. ANZ has guidelines on how to provide basic banking services (ANZ does not have a basic bank account product). In our experience a one size fits all approach does not work. Government and industry would need to carefully address practical considerations for vulnerable customers (e.g., where access or usage of the bank account would not be in the customer's best interest, where provision of an account conflicts with employment obligations, and AML/CFT issues), and how to approach existing policies and exclusions.

9. ATTACHMENT E

247 In Attachment E the Commission has made comments in respect of international money remitters based on its exploratory research. The Commission observes that:

247.1 these providers do not form part of the market study because they are not relevant to understanding the wider competitive dynamics for personal banking services, and

247.2 the information it has analysed is several years old or may not be directly relevant to the New Zealand context and so should be treated accordingly.

248 In light of the Commission's position that these providers fall outside the scope of the market study, and there has been no engagement, we do not comment on Attachment E. However, we agree that the information is out of date and flawed in several material respects and accordingly reserve our position. We consider that Attachment E should be removed from the Final report.