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Patrick Colmer
General Manager
Foreign Investment and Trade Policy Division
ANCP for the OECD Guidelines for Multinational Enterprises
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Mr Colmer,

ANZ is pleased to provide a submission to the Australian National Contact Point on the May 2010 *Terms of Reference for an Update of the OECD Guidelines for Multinational Enterprises (ToR)*.

In May 2007, ANZ publicly announced its support for the OECD Guidelines for Multinational Enterprises ('the Guidelines') as a comprehensive framework to guide our approach to responsible business management. As a part of this process, we mapped our internal policies and procedures against the Guidelines and sought to strengthen those areas where gaps were identified – such as human rights risks in our supply chain and our operations outside of our core markets.

While the ToR raises a number of issues, ANZ's submission will focus on those most relevant to our business. These relate primarily to how the Guidelines should be applied in the context of specific instances relating to lending and investing activities.

The ToR suggests that the update should investigate the potential introduction of specific provisions in the Guidelines to assist in their application to multinational financial institutions. ANZ also understands that some stakeholders are seeking to clarify the "Investment Nexus" criteria and its application for financial institutions – indeed ANZ has been the subject of two complaints¹² where it was alleged that there was an investment nexus.

¹ http://www.ausncp.gov.au/content/reports_newsletters/downloads/reports/ANZ_Statement.pdf
http://www.med.govt.nz/templates/MultipageDocumentPage_39068.aspx

² Both of these complaints related to ANZ's provision of financial services to the PNG operations of the Malaysian company Rimbunan Hijau. The first complaint was referred to the Australian National Contact Point which made its finding in October 2006. A similar complaint was then referred to the New Zealand Contact Point which made its finding in March 2008, which was based on the October 2006 ACP finding.

As you would appreciate, ANZ does not have capacity to direct or control those companies with which it has a banking relationship. ANZ's financial services are typically provided on a fee-for-service basis, either as direct fees, or alternatively, interest charges on debt.

This position is supported by the Australian National Contact Point finding to the 2006 complaint:

"...financial services, including the bank guarantee, are provided on a fee-for-service basis These facts have led the ANCP to conclude that it would be difficult to characterise ANZ's financial links with ... as an investment as intended by the Guidelines."

While ANZ does not have "operational control" of companies with which we have a banking relationship, we do actively seek to uphold the requirements of the Guidelines in our lending decisions in two ways.

Firstly, ANZ assesses our Institutional clients to determine their social, environmental and governance performance. This is done when onboarding new customers, as well as at the time of our annual review of existing clients. We also undertake further assessment whenever material transactions arise. This forms an important part of our due diligence processes and allows us to engage those clients that best align with our responsible lending commitment.

Secondly, where issues do arise, either during the annual review or through other means such as information provided by external stakeholders, ANZ seeks to encourage resolution of those issues by the client through the latter's active engagement with relevant stakeholders. While some stakeholders have requested that ANZ discontinue its relationship with particular clients, our preferred approach has been to understand our clients' commitment and capacity to sustainably manage their businesses.

Our experience has been that where a strong and trusted banking relationship exists, we can encourage and support our clients to address issues which may arise. However, the process of consultation and any subsequent remedial action can take some time.

Inevitably there will also be cases where clients choose a course of action which may not satisfy the concerns of all stakeholders. In these cases, ANZ seeks to understand the individual client's decision and then separately, may make its own determination about the relationship. Of course, the markets in which we operate are highly competitive and clients are typically able to source financial services relatively simply from other banks. Whether another financial institution would be as committed to responsible banking as ANZ is of course not a matter we can comment on.

The ToR also points to the Equator Principles as a potential reference point to clarify the application of the Guidelines to multinational financial institutions.

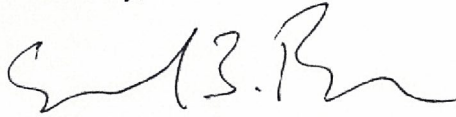
It is important to note that the Equator Principles only apply to project finance, being a method of funding where the financial institution uses the project itself as security for the exposure, as well as the revenues generated by the project for repayment. This type of project specific is different to other types of finance in that it gives banks a greater insight into the social, environmental and governance issues faced by the project, including the mitigating strategies the project sponsor will use to address them.

However, this does not mean that a bank has operational control over the project. The Equator Principles only provides a financial institution with a consistent methodology to assess social and environment risks with a project to enable it to determine whether to participate in a project. Similarly, it allows ANZ to better understand a client's efforts to manage social, environmental and governance issues with their projects.

As such, project financing, as with alternative types of financing, limits ANZ's ability to direct or control project sponsors. Instead ANZ must seek to support and encourage sponsors to implement better practices.

Should you wish to discuss this submission further or require additional information, please contact Shane Lucas, Head of Sustainable Development, on (03) 8654 6273 or shane.lucas@anz.com.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'G. Brown', with a stylized flourish at the end.

Gerard Brown
Group General Manager, Corporate Affairs
Australia and New Zealand Banking Group Limited