SHAYNE ELLIOTT | Chief Executive Officer

15 May 2017

**By Email**

Mr James Kelly
Principal Adviser
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Mr Kelly,

Following the briefing by Treasury on Thursday, 11 May regarding the major bank tax announced in the Federal Budget, attached is ANZ's submission covering the design and implementation of the new tax.

The issues identified in the submission are significant and ANZ believes the extremely tight implementation timetable being targeted by Government increases the economic and financial system risks associated with the new tax.

We propose that the implementation timetable should be extended to allow sufficient time for the design of the legislation to be properly considered prior to the first payment due for the September 2017 quarter.

ANZ has previously highlighted its concerns about the tax based on the impact it will have on the cost of customer lending and the impact on shareholder returns. We note:

- **Increased cost of funding.** ANZ estimates that ~85% of its liabilities will be impacted by the new tax. This includes the majority of funding for customer lending in Australia.

- **Lower shareholder returns.** ANZ paid ~80% of its profits (~$4.7 billion) in the 2016 financial year to shareholders as fully-franked dividends to our ~550,000 shareholders, 95% of which are retail shareholders.

In this submission, we also highlight the impact the tax will have on the international competitiveness of major banks and the potential for conflict with other regulatory measures designed to improve system resilience.

- **Reduced international competitiveness.** While ANZ understands the Government's objectives regarding domestic competitiveness, the current proposal gives large foreign banks a significant competitive advantage over major Australia banks in domestic and offshore markets across a range of institutional banking products and services. ANZ recommends the new major bank tax should be applied to the domestic liabilities of all banks operating in Australia with global liabilities above $100 billion.

- **Potential regulatory conflicts.** The design and implementation phase needs to adequately consider how the major bank tax interacts with other regulatory objectives. For example:
  - Given the Government has stated that the new tax reflects a charge for the perceived benefit that major banks derive from an implicit government guarantee, it would be appropriate to re-think the need for any new bank loss-absorption framework in Australia.

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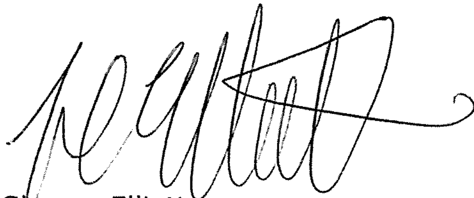
- Banks that independently strengthen their liquidity should not be disadvantaged by the new tax. ANZ proposes that an exemption is made for the amount of any liquidity buffers that a bank maintains to ensure compliance with regulatory minimums.

In these circumstances, we believe it is critical that the design and implementation of the tax is considered carefully. We also welcome Treasurer Morrison's statements on ABC Insiders on Sunday, 14 May that the Coalition Government has no plans to increase the rate of the tax above 6 basis points. This is very important in terms of investor confidence in Australia.

For its part, ANZ is committed to rebuilding trust with Parliament and the wider community. We have shown ourselves to be a constructive participant in the discussion about the major banks and we are committed to doing more to ensure we meet customer and community expectations.

Yours sincerely,



Shayne Elliott
Chief Executive Officer

ANZ

**Proposed Australian Bank Liability Tax**

**Policy Design and Implementation**

It is important that the design and calculation methodology for the new tax is well-considered in order to avoid unintended consequences for Australians and the economy.

The extremely tight implementation timeframe being targeted by Government increases the risks associated with the new tax initiative. Given the first measurement date of the tax is expected to be 30 September 2017, ANZ is concerned that legislation is being rushed and believes that the implementation timetable should be extended to allow sufficient time for the design of the legislation and its implications to be properly considered prior to the first payment due for the September 2017 quarter.

This should include completion of a regulatory impact assessment that considers the proposal's economic consequences, interaction with other regulatory objectives, anti-competitive implications and possible implications for domestic financial market operations.

In terms of the calculation methodology for the proposed tax, ANZ agrees with the objective of simplicity. However, the calculation methodology must also take into account the inherent complexities of bank balance sheets in order to reduce the risk of unintended consequences.

Some specific observations and recommendations relating to the design and calculation of the bank liability tax are set out below. ANZ notes that these comments have been prepared based on the limited detail contained in the 2017/18 Budget Papers and the tight timeframe available for consideration.

| # | Issue | Comments |
|---|---|---|
| 1 | Interaction with other regulatory objectives | • Consideration should be given to how the bank liability tax interacts with other regulatory objectives to ensure there are no unintended consequences for financial system resilience and competition<br>• In particular, given that the Government has stated that the new tax reflects a charge for the perceived benefit that banks derive from an implicit government guarantee, it would be appropriate to re-think the need for any bank loss-absorption framework in Australia.<br>• If banks are paying a fee through a new tax for a perceived government guarantee, there would be little economic benefit of applying a new loss-absorption framework that required Australian banks to pay higher premiums to foreign investors for the funding required to finance the borrowing requirements of Australian households and businesses<br>• Consideration of the bank liability tax should also be re-opened in the future to the extent that any other further relevant regulatory changes are implemented<br>• Consultation with financial services regulators including APRA and the RBA is recommended prior to finalising the policy design |
| 2 | Unintended consequences for bank and system liquidity | • In its current form, the Government's proposal would tax liabilities raised to fund the High Quality Liquid Assets (HQLA) which are the cornerstone of liquidity resilience introduced under the Basel 3 reforms at both a bank and system level. ANZ believes that this is inconsistent with other regulatory objectives and that, at a minimum, an exemption should be made for the amount of any liquidity buffers that a bank operates with to ensure compliance with regulatory minimums. |

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| | | • Consideration should also be given to possible unintended consequences for liquidity conditions in markets for Australian Commonwealth Government Securities (ACGS) and Semi-Government securities. For example, applying the tax to repurchase agreements on a gross basis rather than a net basis may result in reduced market-making activity in government securities markets. It may also cause bid-offer spreads in government securities markets to widen (noting that these markets already operate on very thin margins) |
| 3 | Anti-competitive aspects relative to foreign banks | • The current proposal gives foreign banks a competitive advantage over Australian banks in domestic and offshore markets across a range of products and services, including:<br>  ◦ deposit markets both locally and offshore where Australian banks compete on a global basis to attract customer funds and strengthen liquidity profiles; and<br>  ◦ derivative markets that are used to help Australian companies hedge financial market risks<br>• It is recommended that if a new bank liability tax is implemented it should be applied to the domestic liabilities of all banks operating in Australia with global liabilities above $100bn. |
| 4 | Derivatives | • Application of the tax to gross derivative liabilities would cause a pricing distortion in derivatives markets.<br>• Australia's major banks use these markets to facilitate capital flows and hedging of financial market risks for our Australian customers.<br>• ANZ proposes that derivative liabilities should be permitted to be appropriately netted. |
| 5 | Avoid "double-taxing" | • The design of the bank liability tax should incorporate a principle of avoiding double-taxation.<br>• For example, liabilities in offshore branches that are subject to foreign taxes in those jurisdictions should be exempted in order to avoid double-taxing those liabilities both in Australia and the foreign jurisdiction in which they are raised. Double-tax outcomes could eventuate due to the same liabilities being taxed twice as a result of corporate structure.<br>• Further detail and time is required to be able to consider this issue more fully and appropriately. |
| 6 | Operational matters | • The development and implementation of any new regulatory report takes a minimum of 12-18 months. Existing reports should be utilised to the extent possible. Any requirement to implement a new report should consider any adverse implications for the timing and delivery of other existing regulatory reporting changes.<br>• The inherent volatility of bank balance sheets (largely driven by customer activities and movements financial market rates) should be taken into account when designing anti-avoidance measures. Careful consideration of the calculation methodology should limit the need for extensive anti-avoidance provisions and burdensome and unnecessary compliance requirements. |