

Corrective Notice ordered by the Federal Court of Australia

ANZ's conduct in making misleading representations where there were reasonable grounds to believe services would not be provided.

On 26 October 2022, O'Callaghan J of the Federal Court of Australia (in proceeding VID 734 of 2021) ordered ANZ to pay a pecuniary penalty of \$25 million to the Commonwealth of Australia for its conduct in relation to the Breakfree package product (**Breakfree Package**) and offset accounts offered by ANZ (**Offset Accounts**).

Customers who took up a Breakfree Package (**Breakfree Customers**) paid an annual fee to ANZ. In exchange for that annual fee, Breakfree Customers were entitled to fee waivers and interest rate discounts on eligible ANZ products, including home loans, credit cards and transaction accounts (**Breakfree Benefits**). The Breakfree Package also entitled Breakfree Customers to bonus interest, discounts or fee waivers on optional ancillary products (**Breakfree Ancillary Benefits**). Customers with Offset Accounts (**Offset Customers**) are entitled to reductions in the interest charged on eligible home and commercial loans linked to an ANZ Offset Account, calculated by reference to the balance in their Offset Account (**Offset Benefits**).

Over the period from the mid-1990s to 22 September 2020 (for Offset Customers) and March 2003 to 30 September 2021 (for Breakfree Customers) (**Relevant Period**), ANZ failed to apply certain Breakfree Benefits, Breakfree Ancillary Benefits or Offset Benefits to certain customer accounts in accordance with the applicable terms and conditions. The Court found that over the Relevant Period a total of approximately 689,099 customer accounts were detrimentally affected by ANZ's conduct. ANZ has made or is in the process of making remediation payments totalling approximately \$211,512,939.80 to impacted customers. This figure comprises the amounts charged in error, interest and compensation reflecting the time value of money (**TVM**).

The Court ordered ANZ to pay the pecuniary penalty because, between 10 December 2015 and 30 September 2021 (**Penalty Period**), ANZ was found to have made false or misleading representations to customers that ANZ had, and would continue to have, adequate systems and processes in place to administer the Breakfree Benefits and the Offset Benefits in accordance with the applicable terms and conditions.

During the Penalty Period, ANZ made 155,868 false or misleading representations to customers regarding the systems and processes in place to administer the Breakfree Benefits and Offset Benefits. Over this period, a total of 180,959 customer accounts were detrimentally affected by ANZ's conduct. ANZ has made or is in the process of making remediation payments totalling \$33,813,608.47 (inclusive of interest and compensation reflecting TVM) to impacted customers.

ANZ co-operated with ASIC during its investigations, admitted the contraventions and has remediated, or is in the process of remediating, those customers affected by the conduct described above.

This Corrective Notice has been paid for by ANZ pursuant to the Court's orders.

Further information

For further information, visit ASIC's media release [here](#).

See the Court's judgment [here](#).