



28 April 2020

## **We're here to help — managing ANZ lending and security transactions during Covid-19 Alert Level 3**

While we're in Alert Level 3, we understand you may still not be able to meet our usual requirements in lending and security transactions.

We want to be flexible, so we can help our customers when they need us the most. But we also need to protect our customers and ANZ from risk.

We outline below what processes will apply for ANZ lending and security transactions during Covid-19 Alert Level 3. If there is a situation we don't address, please call us on [number] and we'll see how we can help. Once we move to Alert Level 2, we expect our usual settlement processes (as set out in our Letter of Instructions and General Instructions for Solicitors) will apply — we'll communicate again if this isn't the case.

### **Fraud is on the increase, so please be vigilant**

Sadly, we're aware of an increase in fraudsters trying to take advantage of the Covid-19 situation. Fraudsters may call, email, or text and pretend to be from legitimate organisations to try and access your money or persuade you to download malicious software to your computer or phone.

Fraudsters may also use the lack of face to face interaction to impersonate customers, to obtain money from loans or ask you to receive and transfer funds for them. It's important to stay vigilant. Please always check that the person you're dealing with is the customer. You may want to do things like ask for a video chat and have the customer show you their identification.

### **Completing property settlements**

As you'll be aware, at Alert Level 3 there are still restrictions on how people can move about.

. . The New Zealand Law Society has previously communicated to practitioners suggesting that property settlements be delayed until after the Alert Level drops below Alert Level 2. That position is also reflected in guidance published by the Ministry of Justice:

<https://www.justice.govt.nz/about/news-and-media/covid-19-news/guidance-for-lawyers-about-property-settlements>

Although there may be more opportunity to move during Alert Level 3, we still support delaying settlement where possible — it's the right thing for our customers and our communities. If settlement will be delayed, please let us know and provide an updated settlement date.

Where settlement will proceed, and the customer intends to move house, please let us know as soon as possible, to avoid delays. We will rely on you to give appropriate legal advice to the customer about their responsibilities under Alert Level 3. We will only settle on the understanding that the customer will not breach Alert Level 3.

## **Changes to a borrower's financial situation**

If you're acting for us in a property settlement and become aware a customer's financial circumstances have been materially adversely affected due to Covid-19, please ask the customer to contact us immediately.

As a responsible lender, we will need to consider whether we can continue to provide finance. We will work with the customer to understand their circumstances and what options may be available. In some cases, we may be able to suggest changes to the loan's structure that may help provide the customer with temporary relief. We must, however, meet our lender responsibilities under the Credit Contracts and Consumer Finance Act 2003.

We also strongly suggest the customer seek legal advice about whether they can cancel the sale and purchase agreement, as this may be a better option for them.

## **Providing legal advice under our Letter of Instructions**

Under our Letter of Instructions and General Instructions for Solicitors, you must provide legal advice to various parties in lending and security transactions. That obligation does not change during Alert Level 3.

You are able to consider how best to provide that advice. We don't require that you give legal advice face to face. You may consider a range of options, including providing advice over the phone, by video chat like Skype, or by email. However, please take extra care to consider whether the method you use is appropriate for the customer involved and will allow them to ask questions or understand the advice being given.

## **Signing an A&I form**

We do not require a copy of the signed A&I form anymore. However, we suggest you follow the approach outlined by LINZ in the A&I requirements and Electronic Signing of Documents Interim Guideline 2020: <https://www.linz.govt.nz/regulatory/01247>.

## **Signing a solicitor's certificate**

We will still need a solicitor's certificate for lending and security transactions. You can sign the certificate electronically by applying a digital signature within the certificate.

If you don't have a digital signature, then in your cover email back to us confirm that you and your firm give and are bound by the undertakings and certifications in our solicitor's certificate. Attach a copy of that solicitor's certificate to your email with the other documents to be returned to us.

## **Signing loan and security documents**

Please note, the options below only apply if the customer is unable to sign and return documents before settlement. If the customer is still able to sign and return documents, you should have them do so.

### ***Preferred option: use electronic execution platforms***

We recommend you consider using an electronic or digital execution platform where possible.

There are a range of options available. Where possible, our preference is for you to use the Auckland District Law Society's Secure Digital Signing process. You can find more information about this electronic platform at [www.adls.org.nz](http://www.adls.org.nz) – see 'webforms and digital signing'.

The customer will need to meet the costs of using those services.

If you use an electronic execution platform, confirm in your email returning the executed document to us which service was used, that the relevant parties added a signature or name to the relevant documents required, and that electronic execution was witnessed where required. Please also confirm that you followed the guidelines or procedures required by that electronic execution platform.

We will rely on your undertaking in your solicitor's certificate that the documents are enforceable to mean that they are enforceable where signed using that service.

### ***Unable to use electronic execution platforms***

If you are unable to use an electronic execution platform, please use the list of options below as a waterfall approach — work through the list and pick the first option that works for the customer depending on what they have available to them.

If it's not possible to use any of the options below, please contact us and let us know why and we'll work with you on whether there are alternatives.

#### ***1. Customer can print and scan***

Please have the customer print, sign, scan, and then email the full document to you. You may wish to watch or support the customer to do this using video chat. Forward that signed document to ANZ.

In forwarding the document, please attach the customer's full email to you, as we may need this for evidence reasons. We suggest asking the customer to send you the documents separately to avoid any privileged or personal information in their discussions with you being included in error.

You should not amend your solicitor's certificate if this option is used, as you should be able to confirm the documents signed in this way are enforceable.

#### ***2. Customer can print but not scan***

Please have the customer print and sign the document. Have the customer take a photo of the front page, signing page, and any other pages where they filled in information. You may wish to watch or support the customer to do this using video chat.

Have the customer email the full document and the photos to you, noting in their email that they have signed and agree to be bound by the documents, and then forward that email to ANZ.

In forwarding the document, please attach the customer's full email to you, as we may need this for evidence reasons. We suggest asking the customer to send you the documents and photos separately to avoid any privileged or personal information in their discussions with you being included in error.

You should not amend your solicitor's certificate if this option is used, as you should be able to confirm the documents signed in this way are enforceable.

You must also advise the customer they must return a signed document to you when possible. Once you receive the signed document, you must email it to us.

### **3. *Customer can't print, but has an electronic signature they can use***

Have the customer attach their electronic signature to the document and return the full document to you by email, noting in their email that they have signed and agree to be bound by the documents. You may wish to watch or support the customer to do this using video chat. Forward that email to ANZ.

In forwarding the document, please attach the customer's full email to you, as we may need this for evidence reasons. We suggest asking the customer to send you the documents separately to avoid any privileged or personal information in their discussions with you being included in error.

You should not amend your solicitor's certificate if this option is used, as you should be able to confirm the documents signed in this way are enforceable.

## **What to do if a document needs to be witnessed**

You can witness the customer sign by video or skype call.

To do this, you will need to have the customer show you the document they will be signing, and then you will need to see them take the steps to execute outlined above. They may need to share their computer screen to do this, or use a second device.

In an email to us, you will need to confirm that on [date]:

- you used [video method] to watch [name] enter the [agreement type] with ANZ
- [name] showed you the [agreement type] and you saw them affix their signature
- Your full legal name is [witness name], your address is [address], and your occupation is [occupation].

Otherwise, an adult over 18 years old, in the same household, may witness the customer taking the steps to execute outlined above. That person must not also be a borrower or security provider and must otherwise meet the requirements for a witness. That person will need to separately email you with the confirmation above (unless the witness completes the witnessing requirements in the documents using an electronic execution platform).



### **Providing original documents**

For some transactions, we ask for an original document to be returned to us before settlement in our Letter of Instructions.

If there are difficulties returning those documents during Alert Level 3, have the customer sign the documents as outlined above, and then ask the customer to return those to you as soon as Alert Level 3 ends.

### **Transferring funds into Trust Account prior to settlement**

If settlement will go ahead and the customer needs to transfer funds to you for settlement, we suggest asking those customers to electronically transfer the funds to your Trust Account in the days leading up to settlement, rather than relying on a Same-Day Cleared Payment (SCP) on the day of settlement. If you do require a SCP, please contact us as soon as you can to avoid delays.

### **Completing GTIR tax self-certification forms**

Customers should call the ANZ Contact Centre, as we may be able to complete a self-certification form over the phone for some customers.

Alternatively, we can accept forms that the customer has printed, signed, and scanned or that were executed using an electronic execution platform or using an electronic signature. We are unable to accept self-certification forms signed in any other ways.

### **Documents that ANZ must sign**

We're also working from home, and our staff will be unable to print, sign, and scan documents. We can provide email confirmations that ANZ will be bound by the document provided or use an electronic signature. However, if you urgently need a document to be signed by ANZ, then we may consider using an electronic document execution platform. The customer must meet ANZ's costs in doing so.