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Mr Phil Naylor
Chief Executive Officer
Mortgage and Finance Association of Australia
PO Box 604
NEUTRAL BAY NSW 2089

Dear Mr Naylor *Phil,*

I am writing in relation to the *Review of mortgage entry and exit fees* recently conducted by ASIC, with the assistance and participation of industry representatives. I would like to express my appreciation to the Mortgage and Finance Association of Australia for its involvement in this Review.

The Review found that mortgage fees, especially 'early termination' fees, represent a considerable cost to many mortgagees and may be also an impediment to switching. It identified a number of trends suggesting that current fee structures do not deliver the most competitive outcomes for banking consumers. I would welcome industry's consideration of, and response to, the Review's findings.

In particular, the Review found that 'early termination' fees are higher in Australia than in the US and the UK, and that some of these are not justified by the underlying cost of terminating the loan contract. It also found that higher 'early termination' fees are not necessarily offset by lower interest rates. In view of these findings, I would encourage those of your members that are lenders to review their existing fee structures, especially where exit fees are high relative to industry averages and might not reflect the underlying cost of terminating the loan.

In addition to 'early termination' fees, the Review found that lenders' mortgage insurance (LMI) may be a barrier to switching lenders, as lenders normally pass the associated cost on to borrowers. I would encourage lenders to take appropriate steps to minimise the extent to which LMI is a barrier to switching. Appropriate responses might include: allowing borrowers to capitalise the cost into the loan principal (rather than requiring an up-front payment); ensuring that any refund that is received by the lender when a borrower refinances is passed on in full to the borrower; and ensuring that borrowers are fully aware of the impact of LMI costs when they are comparing loan products, and before they sign up for a loan.

Aside from the actual costs of switching, the Review found that the complexity of the available home loan options and the way they are described makes it difficult for consumers to identify the applicable fees, and compare products. It also identified gaps in the existing disclosure requirements that might contribute to inadequate disclosure of these fees. Given the potential for these weaknesses to undermine the effectiveness of competition in the mortgage industry, I would encourage industry to examine methods of simplifying fee terminology and improving fee

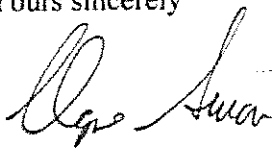
disclosure. The Review cites efforts being undertaken in the UK as a possible reference for Australia.

The Review also highlighted some issues arising from the increasingly important role of mortgage brokers in addressing consumers' borrowing needs. An example is the impact of conflicts of interest in the advice provided by brokers to consumers, where the advice may be driven more by the commissions payable to the broker than by the consumer's genuine needs. I am aware that your organisation is actively addressing such problems through a variety of approaches, such as codes of conduct, member education and disciplinary measures for inappropriate conduct. I fully support your efforts in this respect, and urge you to carefully consider ASIC's Review and take any action that may be appropriate to address the issues it raises.

As I have stated previously, I am committed to an industry-based solution to remove impediments to switching, including the issues raised in the Review. However, I am also prepared to consider the regulatory options that will be available to the Government following the implementation of the Council of Australian Government's decision that the Commonwealth will assume responsibility for the regulation of mortgage credit and advice.

I have also written to representatives of the Australian Bankers' Association, ABACUS - Australian Mutuals, the Australian Finance Conference and Australia's major banks on this issue.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Wayne Swan', written in a cursive style.

WAYNE SWAN