

# EXPORT FINANCE AUSTRALIA: INDEPENDENT REVIEW OF OVERSEAS INFRASTRUCTURE FINANCING POWERS

ANZ SUBMISSION

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5 July 2021

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## INTRODUCTION

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1. ANZ welcomes the opportunity to contribute to the review into the operations of Export Finance Australia (**EFA**) following the 2019 amendments to the *Export Finance and Insurance Corporation Act 1991* (**Act**) (**Review**). We commend the work EFA is doing pursuing its mandate.
2. ANZ made a submission to the 2019 Senate Foreign Affairs, Defence and Trade Legislation Committee inquiry into the proposed amendments to the Act. We supported expansion of EFA's remit to support Australian companies in overseas infrastructure projects and for EFA to take into account national interest considerations. We observed this was consistent with the approach of leading offshore export credit agencies.<sup>1</sup>
3. ANZ has a presence in 12 markets throughout the Pacific including Papua New Guinea and in key economies across Asia. ANZ is a world leader in providing trade finance to exporting businesses. We were named the world's most innovative trade finance bank in 2021 and have now been Australia's top trade finance bank for 14 consecutive years.<sup>2</sup> Our trade finance team has over 500 people. We provide our customers with financing and risk management services, like commodity and foreign exchange hedging.
4. ANZ is the only Australian bank that has a team of export finance specialists dedicated to helping Australian exporters use the support of EFA. ANZ has a leading regional export finance business and more than 20 years' experience supporting Australian exporters in partnership with EFA, most recently in the food, agribusiness and tourism segments.
5. This submission comments first on the context for this review of EFA's overseas infrastructure financing power. Infrastructure projects take years from initiation to completion and in the Pacific usually have significant government involvement. EFA could consider raising awareness of their services and deepening engagement in the region. With this power and more recent proposed reforms, EFA's service is comparable to other leading export credit agencies (**ECA**). The 'Australian benefit' amendment to the Act is helping Australian firms though more could be done. We suggest the operation of the guarantee to co-lenders amendment does present difficulties deserving of the Review's attention.

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<sup>1</sup> [ANZ submission](#), 6 March 2019.

<sup>2</sup> See Global Finance Magazine 'World's Best Trade Finance Providers 2021' available at: <https://www.gfmag.com/magazine/february-2021/worlds-best-trade-finance-providers-2021>

## OVERSEAS INFRASTRUCTURE FINANCING

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6. The 2019 amendments to the Act granted EFA a new overseas infrastructure financing power allowing EFA to support regional infrastructure projects that have a broad national benefit for Australia, including Australian businesses. According to the explanatory memorandum (**EM**) to the Bill, this was to give effect to the Government's policy "to enhance Australia's role and attractiveness as a partner in regional infrastructure development"<sup>3</sup>. We make several observations about the context for judging success and offer suggestions.

### Building infrastructure takes time

7. The experience of borrowers and participating financial institutions (lenders) can offer some indication as to the impact of the policy to date. For ANZ, our engagement with EFA since 2019 has increased in the Pacific. EFA has looked to ANZ to partner in project opportunities in the Pacific. ANZ has also brought opportunities to EFA.
8. An assessment of the success of the EFA measures in supporting new infrastructure requires a longer time horizon. There is demand for infrastructure across the Pacific and scope for Australia, including through its export credit agency (**ECA**), to increase its role in partnering to deliver productive and sustainable infrastructure. At present there are relatively few projects that are commercially viable, in part due to Covid-19. Infrastructure development projects also typically take some years to move from inception to completion.
9. We understand EFA has completed three transactions in the Pacific under the overseas infrastructure power: two projects in Palau and another supporting [REDACTED] Fiji [REDACTED] (which ANZ is involved in).<sup>4</sup> We are aware that EFA has a role in several projects underway in Papua New Guinea. ANZ has not been engaged in these to date.

### Government sector involvement in infrastructure

10. Infrastructure projects in Pacific countries are often government-led, publically funded, and supplemented by government grants or multilateral loans or grants. Government state-owned enterprises may also be a party to off-take agreements.<sup>5</sup> Notwithstanding our increased level of activity with EFA, it can be challenging to identify infrastructure projects that can be supported by private sector lenders.

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<sup>3</sup> Export Finance and Insurance Corporation Amendment (Support for Infrastructure Financing) Bill 2019, Explanatory Memorandum.

<sup>4</sup> A fourth project is a windfarm in Vietnam.

<sup>5</sup> An agreement between the project company and the party buying what the project delivers.

## Options for raising awareness & collaboration

11. The Review could examine options for greater awareness raising in Pacific markets about EFA's function and availability of its services. ANZ coordinates with EFA to meet with potential project partners across the Pacific to discuss possible infrastructure proposals. Our network and presence in the Pacific is a source of infrastructure proposals. In our experience, a limited number of referrals come to EFA through Australia's embassies and high commissions in the region.
12. There may be opportunities for EFA to partner with other organisations in-country. We recognise there are a limited number of commercial banks operating in these countries with the necessary capability and that accessing local currency at a competitive rate can be a challenge. Pacific superannuation funds are sufficiently large and are well suited to investing in long term infrastructure assets. EFA might also discuss infrastructure projects with well-rated local corporates or multinational firms – for example operating utility services in the region.

## Comparison with peer ECAs

13. The Review may consider whether other services could be offered to enhance Australia's role in developing regional infrastructure. We note the Minister for Trade has recently announced that the Government will seek to expand EFA's powers to include investing equity in export-linked and infrastructure projects.<sup>6</sup> If this is done, EFA's functions will align with or match those of sophisticated ECAs in the region; for example, those from Korea and China.
14. Both Korean export credit agencies support the business activities of Korean companies by offering financial solutions to companies participating in overseas infrastructure projects. This includes:
  - performance guarantees and working capital for Korean engineering, procurement and construction (**EPC**) contractors;
  - export facilitation loans or export-related financial guarantees for eligible non-Korean project sponsors; and
  - equity investment alongside Korean investors in infrastructure project.

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<sup>6</sup> Minister for Trade, [media release](#), Reforms to Export Finance Australia, 24 June 2021.

15. China's two export credit agencies support overseas infrastructure, notably under Belt and Road Initiative regions, through bond facilities, insurance and guarantee cover, and direct lending. This can be provided to equipment and machinery (goods and services) exporters, EPC contracts and to bank who are financing overseas infrastructure projects.

## RESULTING IN AUSTRALIAN BENEFIT

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16. Item 5 of the 2019 Bill amends section 8 of the Act by adding the requirement that EFA perform its overseas infrastructure financing functions to "result in the maximum Australian benefits". This is a wide-ranging objective but includes supporting Australian companies in the region. In ANZ's experience, EFA's support for overseas infrastructure financing does bring direct benefits to Australian businesses, including ANZ.
17. We note that benefits to Australian companies have been mainly for Australian-based small and medium-sized businesses supplying goods and services to infrastructure projects in the Pacific. ANZ understands that there have been few instances to date of Australian companies being selected as the main contractor for these regional infrastructure projects.
18. A different challenge we have identified is that some Australian companies may be holding back from participating in project tender processes because of concerns about being paid. EFA could also play a role in supporting these Australian companies who wish to participate in projects but are concerned about foreign exchange shortages should they be successful in winning a project role. ANZ is discussing this with EFA.

## GUARANTEES TO CO-LENDERS

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19. Item 6 inserted a new section 18A into the Act allowing guarantees to co-lenders for overseas infrastructure development. We suggest the Review could examine the purpose and application of this provision. In ANZ's experience, there are limitations to EFA only being able to offer a guarantee to a lender to overseas infrastructure development where EFA is also a lender.
20. We understand advice from the Attorney-General's Department to be that section 18A requires EFA to participate as a co-lender if the other lender seeks a guarantee from EFA for a loan for overseas infrastructure development (under section 23A).
21. An alternate view presented to ANZ is that section 18A was not intended to *require* EFA to be a co-lender in order to provide a guarantee to another lender. The EM to the 2019 amendments does not shed light on the intended operation of this section. Section 18A mirrors the drafting of section 18, which covers EFA guarantees to co-lenders in relation to *export transactions*. However, under section 16, EFA can guarantee a lender's loan to Australian exporters (suppliers) with no co-lender required.

22. Requiring EFA to participate in overseas infrastructure projects as a co-lender where a guarantee is sought by another lender is problematic for several reasons. It is difficult for EFA to be a direct lender of local currency loans as it must source that local currency (e.g. Fiji dollars). This presents additional complexity and cost to the borrower. Where ANZ is involved, we have assisted with sourcing local currency for EFA.
23. A more complicated loan structure is required where EFA participates as a lender and a guarantor. This can be challenging in some countries where the legal profession is not experienced in preparing documentation for more complex financing arrangements. We see instances where Australian precedents are adapted for local use and difficulties arise in putting these in place. For example, syndicated loan transactions and shared security arrangements are rare in the Pacific. Where they are possible, they carry higher legal fees and ongoing transaction management costs. The borrower may not accept a proposal with these complexities and costs.
24. Finally, where EFA is a lender and a guarantor outside Australia, it may be subject to non-resident interest withholding tax. A borrower may not be willing to accept EFA passing on this additional cost. Co-lenders may also be required to absorb any tax on the guarantee fees.

**ENDS**