Settlement Agreement

Between the **Commerce Commission** and **Nelson Building Society**

18867443_9

Settlement agreement dated 12 June 2026

Parties

Commerce Commission, a body corporate established under section 8 of the Commerce Act 1986 (the **Commission**); and

Nelson Building Society, an incorporated entity under the Building Societies Act 1965, having its registered office at 111 Trafalgar Street, Nelson, 7010 (**NBS**).

(collectively, the **Parties**).

1 Introduction

1.1 NBS formally self-reported to the Commission:

(a) in November 2023 that it had identified instances where it had not provided consumers and guarantors with the required disclosures under the Credit Contracts and Consumer Finance Act 2003 (**Act**) when changes were made to their loans (**Loan Change Issue**);

(b) in March 2024 that it had identified customers that had been overcharged interest on consumer loans (**Interest Overcharge Issue**);

(c) in November 2024 that it had identified:

(i) instances where it had not provided consumers with the required continuing disclosure under the Act (**Continuing Disclosure Issue**); and

(ii) a cohort of customers, who were all migrant workers on Recognised Seasonal Employer Limited Visas, who had been provided with consumer loans, without individual affordability or suitability assessments having been conducted for them (**Migrant Workers Issue**),

(together, the **Self Reports**).

1.2 The Commission conducted an investigation into NBS for potential breaches of the Act in relation to the matters described in the Self Reports (**Investigation**).

1.3 As a result of the Investigation, the Commission intends to file a proceeding in the High Court alleging that NBS breached s 9C(1) of the Act by failing to comply with the lender responsibility principles outlined in ss 9C(2)(a)(ii)-(iii) and (3)(a)(ii), and that it breached s 18 of the Act by failing to provide borrowers with the required continuing disclosure under the Act (**Proceeding**). The s 9C breaches arise principally from NBS's failure to have adequate systems and processes in place to prevent issues of the kind disclosed in the Self Reports.

1.4 The Parties have reached a settlement regarding the matters arising out of the Self Reports and Investigation, and to be determined in the Proceeding, on the terms set out in this Agreement.

1.5 After the release of the Penalty Judgment, this Agreement may be made public by the Commission (including on the Commission's website) as the Commission sees fit.

2 Interpretation

2.1 For the purposes of this Agreement:

(a) **Act** means the Credit Contracts and Consumer Finance Act 2003;

(b) **Admitted Causes of Action** means the causes of action in the Statement of Claim;

(c) **Agreed Recommended Penalty** means the pecuniary penalty set out in clause 4.4(a);

(d) **Agreement** means this settlement agreement and the schedules attached to it;

(e) **Commission** means the Commerce Commission;

(f) **Court** means the High Court of New Zealand or, on appeal, the Court of Appeal of New Zealand or the Supreme Court of New Zealand;

(g) **Costs Contribution** means the voluntary payment by NBS to the Commission provided for in clause 4.5;

(h) **Defaulting Party** has the meaning as set out in clause 8.1;

(i) **Default Notice** means a written notice issued under clause 8.3 by one Party giving notice that the other Party is in breach of the Agreement;

(j) Dollar amounts stated are in New Zealand dollars;

(k) **Entitled Party** means the Commission, NBS, and (in the event that regulatory responsibility for enforcing the Act is transferred to it) the Financial Markets Authority;

(l) **Information** includes all information, documents, material and evidence of any kind whatsoever, including all oral, written and electronic material in relation to the Proceeding;

(m) **Investigation** means the investigation initiated by the Commission following the Self Reports;

(n) **NBS** means Nelson Building Society;

(o) **Notice of Admissions** means the notice of admissions attached as **Schedule 2** to this Agreement;

(p) **Notifying Party** has the meaning set out in clause 8.1;

(q) **Party** means any party to this Agreement;

(r) **Penalty Hearing** means the hearing or fixture in the Proceeding at which the Commission and NBS will ask the Court to approve the order set out in clause 4.4;

(s) **Penalty Judgment** means a judgment of the Court determining the pecuniary penalty payable by NBS in the Proceeding (whether such judgment is delivered orally or in writing; and includes a results judgment issued with reasons to follow). Where a Penalty Judgment of a particular Court is specified, it is the judgment of that Court;

(t) **Person** extends to non-natural persons and includes any association of persons whether incorporated or not;

(u) **Proceeding** means the civil proceeding commenced on the Commission filing the Statement of Claim in the High Court of New Zealand, and includes any appeals;

(v) **Self Reports** mean the self reports by NBS to the Commission as described in clause 1.1;

(w) **Statement of Claim** means the statement of claim attached as **Schedule 1** to this Agreement; and

(x) **Working Day** has the definition set out in r 1.3 of the High Court Rules.

3 Resolution

3.1 The Parties have reached a full and final settlement of:

(a) the claims against NBS made in the Statement of Claim and the Proceeding; and

(b) any claims that could have been made by the Commission against NBS, or any current or former officer, employee or director of NBS, under the Act in relation to or arising from matters referred to in the Self Reports and/or disclosed to the Commission during the Investigation (as those terms are specifically defined in this Agreement).

3.2 The Parties agree to resolve the Investigation and Proceeding by:

(a) the Commission filing the Statement of Claim within one Working Day of the execution of this Agreement;

(b) the next Working Day, NBS filing the Notice of Admissions together with the joint memorandum provided for in clause 4.1;

(c) in respect of the Interest Overcharge Issue and the process described in paragraph [2.16] of the Statement of Claim, NBS reporting to the Commission and the Financial Markets Authority, six months from the execution of this Agreement and on an annual basis thereafter (with the final such report being provided at the point when that remediation process is completed), as to:

(i) the number of impacted CLP Loans that remain in force; and

(ii) within the period covered by the report, whether any of the impacted CLP Loans were changed in a way that may result in an additional remediation payment to any affected borrowers; and details of any amounts NBS has paid or intends to pay in those circumstances;

(d) NBS paying any pecuniary penalty in accordance with clause 4; and

(e) otherwise on the basis set out in this Agreement.

3.3 The admissions made by NBS are made only for the purposes, and in respect, of resolving the Proceeding, and are not made for the purposes, or in respect, of any other claims, actions, proceedings or investigations.

3.4 The Commission will close its Investigation upon the execution of this Agreement and will not commence, or continue further proceedings against NBS or any current or former officer, employee or director of NBS, in connection with matters that are subject of the Proceeding, Investigation and Self Reports (as those terms are specifically defined in this Agreement).

3.5 For the avoidance of doubt, nothing in this Agreement shall be construed as:

(a) resolving any past, continuing, or future contraventions of the Act of which the Commission does not have reasonable notice; or

(b) preventing the Commission from commencing or continuing any civil or criminal proceedings against NBS or any other person in respect of the matters described in clause 3.5(a).

4 Imposition of the Agreed Recommended Penalty

Progression to Penalty Hearing

4.1 At the same time as it files the Notice of Admissions, NBS will file a joint memorandum of the Parties requesting that a Penalty Hearing be fixed for the first available date which is at least 25 Working Days after the date of filing of the joint memorandum, subject to the availability of counsel.

4.2 The Parties will co-operate and use all reasonable endeavours to ensure that the Penalty Hearing proceeds on the first available date proposed by the Court.

Consultation on penalty submissions

4.3 The Commission and NBS will:

(a) circulate to the other a draft of any submissions or memorandum they propose to file in relation to the Penalty Hearing, to be circulated:

(i) in the Commission's case, 10 Working Days before the Commission is to file submissions or a memorandum with the Court whichever is earlier;

(ii) in NBS' case, 10 Working Days before NBS is to file submissions or a memorandum with the Court, whichever is earlier;

(b) provide any comments on a submission or memorandum received in accordance with clause 4.3(a) not more than 5 Working Days after receiving those submissions or that memorandum; with those comments to be strictly limited to identifying matters considered not to be consistent with the Statement of Claim, the Notice of Admissions and/or this Agreement; and

(c) consider in good faith any such comments that the other Party may have in connection with the submission or memorandum.

Agreed Recommended Penalty and content of penalty submissions

4.4 The Commission and NBS agree and undertake that:

(a) the Agreed Recommended Penalty for the Admitted Causes of Action is a final penalty of $825,500;

(b) the Agreed Recommended Penalty is an appropriate pecuniary penalty in view of the conduct and the circumstances;

(c) in their written and oral submissions, the Parties will indicate as follows regarding the range that is appropriate for a starting point:

(i) the Commission will submit that an appropriate starting point is in the range of $1.27 million–$1.4 million; and

(ii) NBS will submit that an appropriate starting point is the lowest end of that range, being $1.27 million;

(d) they will make written and oral submissions recommending to the Court that it adopt a starting point of $1.27 million, being the point of agreement arising from their respective submissions on the starting point;

(e) they will make written and oral submissions recommending to the Court that it apply a discount of 35 per cent to the starting point for all mitigating factors;

(f) they will otherwise support the Agreed Recommended Penalty before the Court; and

(g) they will advise the Court that they have resolved the issue of costs between themselves by NBS agreeing to pay the Costs Contribution and that there should therefore be no order as to costs.

4.5 NBS will make a voluntary contribution of $50,000 (including GST, if any) towards the Commission's costs arising in connection with the Investigation and the Proceeding.

4.6 The Parties agree that all material facts for the purposes of the Proceeding are:

(a) the matters described in the Statement of Claim; and

(b) the following matters, which are not included in the Statement of Claim but which may properly be the subject of submissions by either Party:

(i) the work involved in NBS's remediation and rectification, and the amount remediated;

(ii) the cost to NBS of carrying out remedial work;

(iii) the fact that NBS self-reported the conduct and cooperated with the Commission's investigation; acknowledged and accepted at the earliest possible stage that it had contravened the Act, and agreed to settle the Proceeding on terms acceptable to the Commission; and

(iv) that NBS has not previously been found in breach of the Act.

5 Payment of penalty and Costs Contribution

5.1 If the High Court imposes the Agreed Recommended Penalty in the Penalty Judgment, NBS will pay the amount of the Agreed Recommended Penalty in cleared funds into the bank account nominated by the Commission within 15 Working Days of the Penalty Judgment.

5.2 If the High Court does not impose the Agreed Recommended Penalty in the Penalty Judgment, then NBS will pay into the bank account nominated by the Commission any pecuniary penalty ordered by the High Court within 15 Working Days of the date of the Penalty Judgment unless, prior to the expiration of that period, a stay of the Penalty Judgment pending determination of an appeal is granted.

5.3 If a Penalty Judgment is issued by an appellate Court, NBS or the Commission, as applicable, shall pay to the other any difference between the amount paid by NBS in accordance with clause 5.2 and the amount ordered by the appellate Court, together with any costs awarded by the appellate Court, into the other's nominated bank account. The payment will be made within the time period specified by the appellate judgment, or if no time is specified, within 15 Working Days of the date the appellate judgment is issued.

5.4 If a stay of the Penalty Judgment is granted pending determination of an appeal, NBS agrees to pay interest as prescribed by the Interest on Money Claims Act

2016 on any amount it has to pay to the Commission under clause 5.3. Interest will accrue from the date of the Penalty Judgment until payment is made in full.

5.5 For the avoidance of doubt, if the Commission is required to refund any amount under clause 5.3, the only interest to be paid is that actually earned, if any, on the amount to be refunded.

5.6 NBS will pay the amount of the Costs Contribution in cleared funds into the bank account nominated by the Commission within 15 Working Days of the Penalty Judgment, whether or not the High Court imposes the Agreed Recommended Penalty.

6 Appeals from the Penalty Judgment

6.1 If the Court imposes the Agreed Recommended Penalty, no party may appeal or apply to recall or set aside that Penalty Judgment on the basis that the Agreed Recommended Penalty should not have been imposed.

6.2 If, following submissions from the Parties consistent with clause 4.4, the Court imposes a penalty that differs from the Agreed Recommended Penalty, any Party may appeal the Penalty Judgment.

6.3 In the event that an appeal is brought under clause 6.2:

(a) the terms of this Agreement will remain binding on the Parties, including, for the avoidance of doubt, clause 4.4; and

(b) the Parties will each bear their own costs on any appeal (subject to any order from the Court directing otherwise), and shall not apply for, or otherwise seek, costs to be ordered against the other.

7 Public statements

7.1 Subject to clauses 7.2, 7.3 and 7.4 below, any Party may issue a public statement at any time after the Statement of Claim is filed regarding the Investigation, the Proceeding, this Agreement, the Admissions and/or the Penalty Judgment. Any such statement will be made in good faith.

7.2 Prior to the release of the Penalty Judgment, no Party will make any public statement regarding the matters set out in clause 4.4.

7.3 NBS will not issue a public statement under clause 7.1 until after the Commission has issued the first public statement after the Statement of Claim has been filed. When the Penalty Judgment is issued NBS will not issue a public statement regarding the Penalty Judgment until the earlier of the Commission issuing a public statement regarding the Penalty Judgment, or 12 hours after the Penalty Judgment has been released.

7.4 No Party will issue any public statement that is inconsistent with this Agreement, the Statement of Claim, the Admissions or the Penalty Judgment.

7.5 The Commission will give NBS two hours of prior notice before issuing its first public statement in this matter as well as its first public statement following the

Penalty Judgment. The prior notice will be effected by the Commission providing NBS with an advance copy of the public statement that it proposes at that time to issue, but the Commission will not be obligated to consider or accept any comments on the proposed statement made by NBS.

7.6 Other than as provided for in clause 7.5 above, nothing in clauses 7.1 to 7.3 above requires either Party to provide advance notice of any public statement to the other Party. For the avoidance of doubt, responses to customer enquiries from customers (in NBS' case) or consumers (in the Commission's) are not a public statement subject to clauses 7.3 and 7.5 above.

8 Non-compliance with Agreement

Default Notice for breaches of the Agreement

8.1 If an Entitled Party (as applicable, the **Notifying Party**) suspects or believes that another Entitled Party (the **Defaulting Party**) is in breach of the Agreement, or will in the future breach the Agreement, the Notifying Party must notify the Defaulting Party in writing:

(a) of the grounds for the Notifying Party's view that a breach of the Agreement has occurred or will likely occur; and

(b) that the Notifying Party is contemplating issuing a Default Notice.

8.2 After notifying the Defaulting Party, the Notifying Party must:

(a) give the Defaulting Party a reasonable opportunity to:

(i) respond to the grounds for the Notifying Party's view that a breach of the Agreement has occurred or will occur;

(ii) take steps to remedy any breach of the Agreement that has occurred or would otherwise occur; and

(b) have regard to the Defaulting Party's response, the nature of the suspected breach and the remedial action taken, if any.

8.3 If the Notifying Party has followed the process in clauses 8.1 and 8.2, and the Defaulting Party fails to comply with any term of this Agreement, the Notifying Party may give written notice that the Defaulting Party is in breach of the Agreement (a **Default Notice**).

8.4 Following service of a Default Notice, the Notifying Party may:

(a) take any further steps in or relating to the Proceeding, including taking steps in accordance with clause 6 applying to set aside or appeal the Penalty Judgment;

(b) take any steps to enforce the obligations outlined in this Agreement;

(c) seek an award of costs in respect of the matter giving rise to the Default Notice; and/or

(d) terminate the Agreement.

8.5 The Parties agree that it shall not constitute a breach of this Agreement for either of them to make submissions in any Court, in any other proceedings, with respect to the relevance, weight or precedent value to be attributed to the Penalty Judgment.

Breach of obligation to pay pecuniary penalty

8.6 If a Party fails to make all or part of the payments referred to in clause 5 within the time specified, after first providing seven Working Days for the Party to rectify that breach, another Entitled Party (as applicable, the **Enforcing Party**) is:

(a) entitled to enforce the Penalty Judgment;

(b) entitled to claim interest as prescribed by the Interest on Money Claims Act 2016 on the balance payable until the penalty, or difference owing or any costs awarded under clause 5 are paid in full; and

(c) entitled to its costs, including its legal costs on a solicitor-client basis, arising from the failure to comply with clause 5.

8.7 Nothing in clause 8.6 limits the ability of the Enforcing Party to also issue a Default Notice.

9 General

Entire Agreement

9.1 This Agreement constitutes the entire understanding and agreement between the Parties in relation to the Self-Report, Investigation and the Proceeding, and fully supersedes any and all prior agreements, arrangements, representations or understandings (whether orally or in writing) between the Parties pertaining to the Self-Report, Investigation and the Proceeding.

9.2 The Parties represent and agree that:

(a) no oral contracts, arrangements, understandings, agreements or promises contrary to the terms of this Agreement exist;

(b) they have carefully read and fully understand all of the provisions of this Agreement, including the Schedules; and

(c) they are each voluntarily entering into this Agreement after having received independent legal advice.

Use and disclosure of Information

9.3 The Commission acknowledges that NBS's Information may be confidential and/or commercially sensitive and/or subject to privilege.

9.4 The Commission may use Information provided by NBS for the purpose of carrying out the Commission's functions or obligations under any enactment, but may not disclose such Information to any third party other than in accordance with clause 9.5 below.

9.5 The Commission may disclose such Information provided by NBS in the following circumstances:

(a) with NBS's prior written consent; or

(b) as required by law (including, for the avoidance of doubt, to comply with a request made under the Official Information Act 1982 or the Privacy Act 2020); or

(c) pursuant to section 99AA of the Commerce Act 1986.

9.6 The Commission agrees that, if it receives a request pursuant to the Official Information Act 1982 that covers or might cover and/or record or reveal all or some of the Information NBS has provided to the Commission in relation to this Proceeding, including voluntarily or under compulsion, it will notify NBS of that request and consult with NBS as to whether there are grounds for the requested material to be withheld under Part 1 of the Official Information Act 1982. The Commission will notify NBS at least 5 Working Days before responding to the request, if notwithstanding such consideration, it determines no grounds exist on which it may refuse to comply with the request.

Amendments in writing

9.7 No amendment to this Agreement will be effective unless it is in writing and signed by all Parties.

Authorities

9.8 Each person executing this Agreement warrants that they have the full authority to enter into this Agreement and bind the party for which they purport to enter into this Agreement.

Severance

9.9 Any provision in this Agreement that is unlawful will be severed and the remaining provisions remain enforceable, but only if the severed provision is not material to the purpose of this Agreement.

Governing law

9.10 This Agreement will be governed by, and construed in accordance with, the laws of New Zealand.

Further Assurances

9.11 The Parties agree to make all applications, execute all documents and do all acts and things as may be necessary to give effect to its obligations under this Agreement.

No waiver

9.12 Failure by a Party to enforce any provision of this Agreement at any time will not operate as a waiver of that provision in respect of that act or omission or any other act or omission.

Counterparts

9.13 The Parties may enter into this Agreement by signing any number of counterparts, each of which will be treated as an original. All of the counterparts taken together will constitute a single, binding and enforceable Agreement.

10 Communications

10.1 Any notice or communication pursuant to this Agreement will be delivered as follows:

(a) if addressed to the Commission, by hand delivery or email to the following address:

Commerce Commission
Level 12, 55 Shortland Street,
PO Box 105-222,
Auckland

Attention: Hillary Walker, Chief Legal Counsel – Credit
Email: Hillary.walker@comcom.govt.nz

Copy to:
Meredith Connell
Level 7, MC Centre, 8 Hardinge Street,
Auckland
Attention: Andy Luck
Email: [redacted]

(b) If addressed to NBS, by hand delivery or email to the following address:

Nelson Building Society
111 Trafalgar Street,
Nelson, 7010
Attention: Gina Dellabarca, Chief Executive
Email: [redacted]

Copy to:
Emmeline Rushbrook
157 Lambton Quay,
PO Box 10-214,
Wellington
Attention: Emmeline Rushbrook

Email: [redacted]

(c) If addressed to the FMA, by hand delivery or email to the following address:

Financial Markets Authority
Level 5, 2 Takutai Square
Britomart
Auckland
Attention: Margot Gatland
Email: [redacted]

Copy to:
Meredith Connell
Level 7, MC Centre, 8 Hardinge Street,
Auckland
Attention: Andy Luck
Email: [redacted]

Execution

Signed on behalf of the

Commerce Commission by: [redacted]

Authorised signatory

Anne Callinan

....

Name

In the presence of:

Witness Name: Sarah Téo

Witness Address: [redacted]

Witness Occupation: Solicitor

Signed on behalf of

Nelson Building Society by: [redacted]

Authorised signatory

[redacted]

Name

In the presence of:

Witness Name: Blair Andrew Gorman

Witness Address: [redacted]

Witness Occupation: Director

Schedule 1: Statement of claim

In the High Court of New Zealand
Wellington Registry

I Te Kōti Matua o Aotearoa
Te Whanganui-a-Tara Rohe

CIV-2026-485-

Under	Credit Contracts and Consumer Finance Act 2003
Between	**Commerce Commission** a body corporate established under section 8 of the Commerce Act 1986 having its offices at level 6, 44-52 The Terrace, Wellington **Plaintiff**
And	**Nelson Building Society** an incorporated entity under the Building Societies Act 1965, having its registered office at 111 Trafalgar Street, Nelson, 7010 **Defendant**

Statement of claim

12 June 2026

MC.

A Luck | M Hornblow
PO Box 90750, Victoria Street West, Auckland 1142
DX CP24063
T: [redacted]
[redacted]

18938175_7

Statement of claim

The plaintiff by its solicitor says:

1 The parties

The plaintiff

1.1 The plaintiff, the Commerce Commission (**Commission**), is a body corporate established under s 8 of the Commerce Act 1986 (**Commerce Act**). Its functions include enforcement of the Credit Contracts and Consumer Finance Act 2003 (**CCCFA**).

The defendant

1.2 The defendant, Nelson Building Society (**NBS**):

(a) is incorporated in New Zealand under the Building Societies Act 1965, having its registered office at 111 Trafalgar Street, Nelson, 7010, New Zealand;

(b) was established in 1862 and incorporated in 1881;

(c) is a non-bank deposit taker, as defined in s 5 of the Non-bank Deposit Takers Act 2013;

(d) is a member-owned mutual society, with eight branches across the South Island;

(e) carries on business providing retail banking services, including personal and commercial loans, current accounts and term deposits;

(f) relies exclusively on deposits from members to fund its lending activities; and

(g) in the relevant period for the proceeding, had up to approximately 4,858 customers (including co-borrowers) at any given time with whom it had entered into consumer credit contracts.

1.3 As to its financial performance, NBS:

(a) currently has total assets of approximately $1.07 billion;

(b) in the period from FY20 to FY23, reported before tax profits in the range of $8.6m to $17.5m. The average before tax profits in that period was approximately $13m;

(c) in FY24 and FY25 – when it had identified the issues pleaded in Parts 2 to 5 below and had spent sums upgrading its systems and remediating customers – it reported (respectively) a before tax loss of $7.1m and a before tax profit of $3.1m respectively; and

(d) has projected that it will achieve retained earnings of between [redacted] for each of the years in the period from FY26 to FY29 (inclusive), averaging approximately [redacted] in that period.

1.4 NBS has consistently made before-tax contributions to community organisations and initiatives. In the period from FY20 to FY25, such amounts ranged from \$660,810 to \$1,197,549 (with an average of approximately \$1m).

1.5 The projections pleaded at 1.3(d) above reflect a number of changes NBS has made to its business. One of those changes is a reduction in its consumer lending portfolio, including due to NBS ceasing to provide new CLP Loans (as defined below). NBS intends to continue providing new consumer credit to other segments of the market for consumer credit but not using the CLP product.

NBS' lending

1.6 Throughout the relevant period, NBS' business has included acting as a creditor under consumer credit contracts.

1.7 Since 6 June 2015, all creditors under consumer credit contracts have been required to comply with the lender responsibility principles set out in s 9C of the CCCFA.

CLP Loans

1.8 Throughout the relevant period, NBS offered a short-term loan, predominantly used for vehicle finance. These loans were referred to throughout as NBS' consumer loan product (a **CLP Loan**).

1.9 The CLP Loans were generally for a term of approximately five years, with the interest rate usually fixed for the whole term.

2 Issue 1: the Interest Overcharge Issue

Background

2.1 NBS provided CLP loans to borrowers throughout the relevant period. Where those loans were provided to consumer borrowers, the loans were consumer credit contracts for the purposes of the CCCFA (those being **Relevant CLP Loans**).

Particulars for paragraph 2.1

References to the "relevant period" in Part 2 of this statement of claim are to the period from 6 June 2015 to 1 July 2023.

2.2 When NBS provided borrowers with Relevant CLP Loans, the CCCFA required it to exercise the care, diligence, and skill of a responsible lender:

(a) before entering into an agreement to provide credit; and

(b) in all subsequent dealings with each borrower in relation to the loan agreement.

2.3 During the term of the Relevant CLP Loans, NBS was contractually required to calculate the interest owing on the contracts in accordance with the terms of the applicable loan agreement. Depending on the version of the loan agreement, the contractual position required NBS to calculate interest by one of the following methods:

(a) a calculation based on the actual unpaid balance each day;

(b) a calculation based on the average of the unpaid daily balance for the preceding month; or

(c) a calculation of interest daily using a daily rate, charged on the payment date.

This was the contractual position regardless of the borrower's repayment frequency (ie. whether they paid weekly, fortnightly, or monthly).

2.4 NBS used a lending system (Lending System), to determine the interest payable on CLP Loans. That system:

(a) has been used as NBS' primary lending platform since April 2014; and

(b) was configured so that the interest payable by the borrower was based on a monthly schedule calculated at the point the loan was entered into; rather than on the basis set out in paragraph 2.3.

2.5 The consequences of NBS configuring the Lending System in the manner described at paragraph 2.4(b) above were that:

(a) customers who had chosen to make repayments on a weekly or fortnightly basis were charged higher amounts in interest than NBS was entitled to charge; and

(b) customers who made changes to their loans which were not contemplated in the original loan schedule – namely, by changing to a weekly or fortnightly repayment frequency, increasing the amount of their regular repayments, or making a lump sum prepayment – were also overcharged.

2.6 The overcharged borrowers included borrowers (comprised of both primary and co-borrowers) under Relevant CLP Loans (those being the **Affected CLP Borrowers**).

NBS' failures

2.7 The issues pleaded above arose from the fact that:

(a) NBS did not undertake testing on the Lending System, either at the time it was implemented or subsequently, to determine whether it was correctly calculating interest on CLP Loans;

(b) NBS did not have systems in place to check whether customers would be charged the correct amount of interest:

(i) at the point the CLP Loans were provided, in the case of the issues with customers on shorter payment frequencies; and

(ii) at the point when a change of the kind pleaded at paragraph 2.5(b) above was made to a CLP Loan;

(c) NBS did not have processes, checks or controls in place to identify instances where customers were overcharged;

(d) NBS did not invest adequately in its systems and processes so as to ensure that compliance would be effected; and

(e) NBS failed to identify the issue for a period of years, including following a customer complaint (as pleaded at paragraph 2.13 below).

2.8 NBS could have and should have taken the steps pleaded at paragraphs 2.7(a)-(e) above from at least 6 June 2015, but did not.

2.9 On or about 1 July 2023, NBS ceased offering CLP Loans.

Harm

2.10 In the period from 6 June 2015 to 1 July 2023 there were up to 9,812 Affected CLP Borrowers affected by the issue, of whom at least 8,393 were overcharged by $854,183.19 as a result of the issue.

2.11 In the period from 20 December 2019 to 1 July 2023, there were up to 3,605 Affected CLP Borrowers affected by the issue, of whom at least 2,613 were overcharged by $215,981.32 as a result of the issue.

Particulars of paragraphs 2.10 and 2.11

In these paragraphs, the pleadings that there were "up to" given numbers of affected customers reflects the fact that some customers were overcharged in some respects and undercharged in others. The pleadings that there were "at least" the given number of customers reflects the number of cases where NBS positively identified that customers were still overcharged, net of any undercharges. The remaining customers are those where NBS has either confirmed there was not a net overcharge; or where NBS has not yet confirmed whether or not there was a net overcharge, as the relevant loans remained open as of 1 July 2023.

2.12 Of the Affected CLP Borrowers, there were 51 borrowers that subsequently made hardship applications to NBS. Those borrowers are not understood to have been placed into hardship on account of the issue alone.

Identification, self-report and resolution

2.13 NBS received a complaint from a customer who had made a lump sum repayment and had been affected by this issue in 2020. The complaint was resolved by frontline staff, but was not escalated to determine whether it raised wider issues within NBS.

2.14 NBS identified the potential issue in mid-2023 and investigated it through to late-2023. NBS also:

(a) first advised the Commission in November 2023 that it was investigating a likely issue with the way interest had been charged on CLP Loans, and that work was underway to understand and quantify the issue; and

(b) formally self-reported the issue to the Commission in March 2024, and provided further information on the scope of it subsequently, upon request.

2.15 NBS received another customer complaint about the issue in December 2023 (after NBS had begun to investigate).

2.16 NBS has remediated affected customers by refunding overpaid amounts and paying use of money interest. As the system configuration for calculating interest in the Lending System cannot be changed, NBS made an initial remediation payment to CLP Loan borrowers based on a forward forecast of potential overcharges, using assumptions made in the borrower's favour. This payment was designed to remove any overcharge impact going forward. NBS also continues to keep remaining CLP Loans under review, including through:

(a) appointing a centralised contact person responsible for all changes that affect customers, to ensure the interest calculation is correct;

(b) monthly reporting to check for particular changes to loans; and

(c) a final quality assurance process at the end of the loan term.

2.17 As at 3 June 2026, 309 impacted CLP Loans remained in force. NBS has informed these Affected CLP Borrowers of this issue and that their loans will be subject to final quality assurance. The last of the impacted CLP Loans is currently due to reach the end of its term in March 2029.

First cause of action: breach of s 9C(1) of the CCCFA – inadequate systems for charging customers

2.18 The Commission repeats Part 1 and paragraphs 2.1 to 2.17 above.

2.19 In the period from 6 June 2015 to 1 July 2023, by overcharging customers in the circumstances pleaded above, NBS failed to exercise the care, diligence, and skill of a responsible lender:

(a) before entering into Relevant CLP Loans; and

(b) in all subsequent dealings with each Affected CLP Borrower in relation to those loans.

2.20 NBS' failure pleaded at paragraph 2.19 above was the result of the failings pleaded at paragraphs 2.7, 2.8 and 2.13 above. The failings pleaded in those paragraphs:

(a) each separately constitute a failure by NBS to exercise the requisite care, diligence, and skill of a responsible lender; and further, or alternatively

(b) in combination constitute a failure by NBS to exercise the requisite care, diligence, and skill of a responsible lender.

Wherefore the Commission seeks:

(A) A declaration that, in respect of the Affected CLP Borrowers, NBS breached s 9C(1), by failing to comply with the responsible lending principles in ss 9C(2)(a)(ii) and (iii), of the CCCFA in the period from 6 June 2015 to 1 July 2023;

(B) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 20 December 2019 to 31 December 2020;

(C) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 1 January 2021 to 31 December 2021;

(D) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 1 January 2022 to 31 December 2022;

(E) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 1 January 2023 to 1 July 2023.

3 The Continuing Disclosure issue

Background

3.1 Throughout the relevant period, NBS offered loans, including CLP Loans and revolving credit loans (including arranged overdrafts), under consumer credit contracts (the **Relevant CD Loans**).

Particulars for paragraph 3.1

References to the "relevant period" in Part 3 of this statement of claim are to the period from 6 June 2015 to on or about 25 September 2024.

3.2 When providing Relevant CD Loans, the CCCFA required NBS to:

(a) exercise the care, diligence, and skill of a responsible lender, in all subsequent dealings with a borrower in relation to an agreement; and

(b) provide continuing disclosure to borrowers in accordance with the provisions of Part 2, Subpart 2.

3.3 Throughout the relevant period, NBS failed to provide continuing disclosure in circumstances where it was required, due to deficiencies in its systems and processes for providing that disclosure. The specific failings are as pleaded below.

The Frequency Issue

3.4 Subject to section 21 of the CCCFA, section 18 of the CCCFA required NBS to provide continuing disclosure statements every six months for the duration of the Relevant CD Loans.

3.5 NBS set up the Lending System (as pleaded in Part 2 above) to provide continuing disclosure statements on CLP Loans automatically every 12 months. That frequency was set:

(a) by NBS; and

(b) without regard to the requirements of the CCCFA as to how frequently continuing disclosure was to be provided.

3.6 From December 2021, NBS reconfigured Lending System to ensure that the provision of continuing disclosure for all Relevant CD Loans was set, and automatically provided, at the correct frequency. The exception was for revolving credit loans, where:

(a) the correct frequency was also configured within Lending System; but

(b) the provision of disclosure involved a manual step, in that the configuration had to be manually activated by an NBS staff member in order for the disclosure to be provided; and

(c) the manual activation described above did not always occur.

3.7 The frequency issue was fully resolved on or about 25 September 2024 upon NBS addressing the exception referred to in paragraph 3.6 above. In total the issue affected, at least once during the relevant period:

(a) approximately 11,899 individual borrowers (including co-borrowers) in the relevant period; and

(b) approximately 4,270 individual borrowers (including co-borrowers) in the period from 20 December 2019 to 25 September 2024.

Particulars for paragraphs 3.7

The figures pleaded in this paragraph are approximate and reflect NBS's assessment of the maximum number of times the relevant conduct may have occurred. NBS has not determined the exact figures, which may or may not be lower than those stated. Nonetheless, the parties are agreed that the pleaded figures, while approximate, are the relevant figures for the purposes of this proceeding only, including for the determination of the appropriate penalty.

The Content Issues

3.8 Section 19 of the CCCFA required NBS to include in the continuing disclosure statements for Relevant CD Loans the information set out in subsection (1).

3.9 In the period from 6 June 2015 NBS provided physical or electronic continuing disclosure on Relevant CD Loans through template disclosure documents, those being:

(a) a "lending statement", "consumer statement" or "NBS statement" (depending on the kind of loan; and as applicable, a **Statement**); and

(b) "loan account summary" or "consumer loan summary" (depending on the kind of loan, and as applicable, a **Summary**).

3.10 The template disclosure documents variously omitted information required to be disclosed to borrowers holding Relevant CD Loans. The omitted information was as follows:

(a) the amount and time for the next payment, which was omitted from:

(i) both the Statement and the Summary for approximately 5,992 Relevant CD Loans;

(ii) either the Statement or the Summary for a further approximately 7,851 such loans; and

(b) the following information, which was omitted from the Summaries for approximately 5,374 Relevant CD Loans:

(i) the date, description and amount of each advance during the statement period;

(ii) the date and amount of each interest charge;

(iii) the date and amount of each amount paid by the debtor;

(iv) the amount of the next instalment; and

(v) the annual interest rate during the statement period.

3.11 In addition, there were:

(a) 341 instances where Relevant CD Loans which were set up with internet banking access were not set up to be provided either a Statement or a Summary through that channel; and

(b) a further 623 Relevant CD Loans for which continuing disclosure was not received at all (whether by electronic banking or in hard copy).

3.12 The content issues were resolved on or about 25 September 2024. Overall those issues affected:

(a) approximately 13,424 individual borrowers (including co-borrowers) in the relevant period; and

(b) approximately 5,633 individual borrowers (including co-borrowers) in the period from 20 December 2019 to 25 September 2024.

Particulars for paragraphs 3.10 and 3.12

The figures pleaded in these paragraphs are approximate and reflect NBS's assessment of the maximum number of times the relevant conduct may have occurred. NBS has not determined the exact figures, which may or may not be lower than those stated. Nonetheless, the parties are agreed that the pleaded figures, while approximate, are the relevant figures for the purposes of this proceeding only, including for the determination of the appropriate penalty.

The Co-borrower Issue

3.13 Subject to section 21, pursuant to section 18 of the CCCFA, NBS was required to provide each individual borrower under a CD Loan with a continuing disclosure statement. Where there was a primary borrower and a co-borrower, and:

(a) those borrowers had provided NBS with the same address (which was the case approximately 80% of the time), NBS sent a single continuing disclosure statement to that address; and

(b) those borrowers had provided NBS with different addresses (which was the case in the remaining 20% of cases), NBS was required to send a continuing disclosure statement to each address.

3.14 NBS configured the Lending System so that:

(a) continuing disclosure statements were sent automatically, were addressed to all borrowers but for loans with multiple borrowers, were sent to the prime borrower at their address; and

(b) continuing disclosure statements would not be sent to a co-borrower who had provided a different address, unless a staff member manually selected an option for that to occur.

3.15 The manual step in paragraph 3.14 was not carried out in all cases.

3.16 The consequence of the above was that:

(a) in the relevant period, a total of approximately 621 co-borrowers under Relevant CD Loans that had provided a different address to the primary borrower were not sent continuing disclosure statements; and

(b) a total of approximately 213 co-borrowers under Relevant CD Loans who had provided a different address to the primary borrower were not sent statements in the period from 20 December 2019 to 25 September 2024.

Particulars for paragraph 3.16

The figures pleaded in these subparagraphs are approximate and reflect NBS's assessment of the maximum number of times the relevant conduct may have occurred. NBS has not determined the exact figures, which may or may not be lower than those stated. Nonetheless, the parties are agreed that the pleaded figures, while approximate, are the relevant figures for the purposes of this proceeding only, including for the determination of the appropriate penalty.

The causes

3.17 NBS' failures to provide the required continuing disclosure to the borrowers referred to at paragraphs 3.7, 3.12 and 3.16 above (together, the **Affected CD Borrowers**) were the result of:

(a) for all three issues, the fact that:

(i) NBS had not configured its systems to automatically provide the required continuing disclosure, at the required frequency and to the required people;

(ii) NBS did not, or did not adequately, review the disclosure it was in fact providing against the requirements of the CCCFA;

(iii) NBS did not have adequate systems, processes and controls to check whether customers were provided the required disclosure;

(b) in respect of the steps involving manual processes, the fact that:

(i) NBS' systems were not set up to provide all the required disclosure automatically;

(ii) NBS failed to direct staff, or to adequately direct staff, to follow the prescribed manual processes;

(iii) there were no adequate systems or processes in place within NBS to check whether those manual processes were being followed; and

(c) for each of the issues, and in respect of the causes of those issues pleaded at subparagraphs (a) and (b) above, the fact that NBS failed to identify the deficiencies for a period of years.

3.18 NBS could have and should have taken the steps pleaded at paragraphs 3.17(a) and (b) above from at least 6 June 2015, but did not.

Identification and resolution

3.19 NBS became aware of:

(a) the content issues in January 2023, and initiated a review of its documentation at that point; and

(b) the frequency and co-borrower issues in or about November 2023.

3.20 After identifying the issues:

(a) in or about March 2023, NBS introduced a project team that worked to remedy the issues; and

(b) on or about 25 September 2024, NBS amended its systems to provide the required disclosure.

Remediation

3.21 NBS has contacted Affected CD Borrowers with active loans who did not receive statements prior to 25 September 2024 regarding that issue.

Second cause of action: breach of s 18 of the CCCFA

3.22 The Commission repeats Part 1 and paragraphs 3.1 to 3.21 above.

3.23 In the period from 6 June 2015 to 25 September 2024, NBS failed to provide the Affected CD Borrowers with the continuing disclosure required by s 18 of the CCCFA, in the manner and to the extent pleaded above.

Wherefore the Commission seeks:

(A) A declaration that NBS breached s 18 of the CCCFA in the period from 6 June 2015 to 25 September 2024 to the extent described in paragraphs 3.1 to 3.21 above.

Third cause of action: breach of s 9C(1) of the CCCFA: failure to have adequate processes for providing continuing disclosure

3.24 The Commission repeats Part 1 and paragraphs 3.1 to 3.21 above.

3.25 In the period from 6 June 2015 to 25 September 2024, by failing to have adequate systems and processes in place to ensure it could provide continuing disclosure to the Affected CD Customers, NBS failed to exercise the care, diligence, and skill of a responsible lender in all subsequent dealings with those borrowers.

3.26 NBS' failure pleaded at paragraph 3.25 above was the result of the failings pleaded at paragraphs 3.17 and 3.18 above. The failings pleaded in those paragraphs:

(a) each separately constitute a failure by NBS to exercise the requisite care, diligence, and skill of a responsible lender; and further, or alternatively

(b) in combination constitute a failure by NBS to exercise the requisite care, diligence, and skill of a responsible lender.

Wherefore the Commission seeks:

(A) A declaration that NBS breached s 9C(1) by failing to comply with the lender responsibility principle in s 9C(2)(a)(iii) of the CCCFA in the period from 6 June 2015 to 25 September 2024 to the extent described in paragraphs 3.1 to 3.21 above;

(B) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 20 December 2019 to 31 December 2020;

(C) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 1 January 2021 to 31 December 2021;

(D) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 1 January 2022 to 31 December 2022;

(E) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 1 January 2023 to 31 December 2023;

(F) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 1 January 2024 to 25 September 2024.

4 The Loan Change issue

Background

4.1 Throughout the relevant period, NBS offered a range of loans, relevantly including residential mortgages (other than those on revolving facilities) and personal loans, under consumer credit contracts (the **Relevant Loans**).

Particulars for paragraph 4.1

References to the "relevant period" in Part 3 of this statement of claim are to the period from 6 June 2015 to 1 September 2023.

4.2 Throughout the relevant period, the Relevant Loans were changed in a variety of ways, by:

(a) refixing the interest rate;

(b) the borrower making additional repayments;

(c) changes to the amount and timing of the repayments; and/or

(d) changes to the loan term.

4.3 When providing borrowers with the Relevant Loans, the CCCFA required NBS to:

(a) exercise the care, diligence, and skill of a responsible lender, in all subsequent dealings with a borrower in relation to an agreement; and

(b) provide disclosure of changes to loans to borrowers and (where applicable) guarantors in accordance with the provisions of Part 2, Subpart 2.

4.4 Throughout the relevant period, where there was a change made to a Relevant Loan, NBS:

(a) did not have an automated system for providing the required disclosure; and until January 2023 did not have any centralised process for providing that disclosure; but

(b) instead, required staff (either at its various branches, or from January 2023, in its head office) to identify the requirement to provide the required disclosure, and then to provide it manually (either by letter or email).

4.5 Up until January 2023, NBS provided staff with a guide to show them when the required disclosure was required, the steps required to effect the change, and template disclosure letters to be sent to the borrower and, if applicable, the guarantor. There were otherwise no processes in place within NBS up until that time to ensure that disclosure was provided, or to check whether it had been provided, where there was a change made to a Relevant Loan.

4.6 In light of the matters pleaded at paragraphs 4.4(b) and 4.5 above, in a number of instances customers holding Relevant Loans, and guarantors under those loans, were not provided with the required disclosure (those being the **Affected Borrowers**).

4.7 Prior to April 2023, NBS did not have adequate record-keeping processes and did not systematically keep records, as a matter of course, of whether the required disclosure had been provided under the Relevant Loans.

NBS' failures

4.8 NBS' failure to provide the Affected Borrowers with the required disclosure arose from the fact that:

(a) NBS' systems were not set up to provide the required disclosure automatically, and instead relied on a manual process which was inherently prone to error;

(b) NBS relied on a manual process for providing the required disclosure, without:

(i) having adequate training to staff on the need to manually provide that disclosure when making changes to Relevant Loans;

(ii) having any proper record-keeping processes, or any organisational requirement for records to be systematically kept, to allow for NBS to check whether the required disclosure had been provided in those cases;

(iii) having any centralised system for recording whether the required disclosure had been provided;

(iv) having any other processes or controls in place to determine whether customers were receiving the required disclosure;

(c) NBS failed to invest adequately in its systems and processes so as to ensure that borrowers received the required disclosure; and

(d) NBS failed to identify the issue for a period of years.

4.9 NBS could have and should have taken the steps pleaded at paragraph 4.8 above from at least 6 June 2015, but did not.

Identification and resolution

4.10 NBS first identified the issue in January 2023, following an internal investigation into other matters. It then self-reported the issue to the Commission in November 2023.

4.11 After identifying the issue:

(a) in or about January 2023, NBS arranged for a project team to resolve the issue and to centralise the provision of disclosure;

(b) in or about September 2023, NBS introduced a system generated report and a quality assurance process, to facilitate the provision of the required disclosures; and

(c) in or about October 2023, NBS introduced a testing process and a quality assurance process, to identify instances where the required disclosures may not have been provided.

Harm and remediation

4.12 The consequence of the above was that:

(a) in the relevant period, NBS failed to provide the required disclosure to approximately 5,095 Affected Borrowers; and

(b) in the period from 20 December 2019 to 1 September 2023, the issues affected approximately 2,502 primary borrowers, and a further 1,009 co-borrowers.

Particulars for paragraphs 4.12

The figures pleaded in this paragraph are approximate and reflect NBS's assessment of the maximum number of times the relevant conduct may have occurred. NBS has not determined the exact figures, which may or may not be lower than those stated. Nonetheless, the parties are agreed that the pleaded figures, while approximate, are the relevant figures for the purposes of this proceeding only, including for the determination of the appropriate penalty.

4.13 NBS has undertaken a remediation exercise for the Affected Borrowers by:

(a) providing corrective disclosure to those with active loans; and

(b) making remediation payments with the individual amounts varying depending on the length and principal amount of the loan and which total approximately $3,115,230.

Fourth cause of action: breach of s 9C(1) of the CCCFA: failure to have adequate processes for providing disclosure of loan changes

4.14 The Commission repeats Part 1 and paragraphs 4.1 to 4.13 above.

4.15 In the period from 6 June 2015 to 1 July 2023, by failing to have adequate systems and processes in place to ensure it could provide the required disclosure to the Affected Borrowers, NBS failed to exercise the care, diligence, and skill of a responsible lender in all subsequent dealings with those borrowers.

4.16 NBS' failure pleaded at paragraph 4.15 above was the result of the failings pleaded at paragraphs 4.8 and 4.9 above. The failings pleaded in those paragraphs:

(a) each separately constitute a failure by NBS to exercise the requisite care, diligence, and skill of a responsible lender; and further, or alternatively

(b) in combination constitute a failure by NBS to exercise the requisite care, diligence, and skill of a responsible lender.

Wherefore the Commission seeks:

(A) A declaration that NBS breached s 9C(1) by failing to comply with the responsible lending principle in s 9C(2)(a)(iii) of the CCCFA in the period from 6 June 2015 to 1 July 2023 to the extent referred to in paragraphs 4.1 to 4.13 above;

(B) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 20 December 2019 to 31 December 2020;

(C) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 1 January 2021 to 31 December 2021;

(D) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 1 January 2022 to 31 December 2022;

(E) A pecuniary penalty under s 107A of the CCCFA in respect of the breaches of s 9C(1) in the period from 1 January 2023 to 1 July 2023.

5 The Migrant Workers issue

Background

5.1 As pleaded above, NBS offered CLP Loans under consumer credit contracts. When it did so, the CCCFA required NBS to:

(a) exercise the care, diligence, and skill of a responsible lender;

(b) make reasonable inquiries, before providing the loan, so as to be satisfied that it was likely that the borrowers would be able to make payments under the contracts without suffering substantial hardship (these being **Affordability Assessments**).

5.2 The borrowers to whom NBS provided CLP Loans included those introduced to it by a third party who undertook the steps pleaded below as NBS' agent (the **Broker**).

Arrangements with the Broker

5.3 In any case where a Broker identified a prospective borrower to whom NBS might provide a CLP Loan, NBS required the Broker to:

(a) estimate a prospective borrower's likely net financial position by gathering the relevant details of their income and expenses and verifying that with evidence;

(b) use a calculation spreadsheet, which included details of the borrowers' income and expenses, and any other debts they had, to determine which applications were to be referred to NBS; and

(c) upload the information gathered in the calculation spreadsheet to an online portal operated by NBS.

5.4 NBS then required its own staff to review the information provided to it in accordance with paragraph 5.3(c) above, including to determine whether it was sufficient to enable NBS to undertake an Affordability Assessment.

The issue

5.5 In the period from 12 September 2022 to 20 January 2023, a Broker introduced 37 prospective borrowers to NBS. NBS entered into CLP Loans with those borrowers to enable each of them to purchase vehicles (those being the **Affected AA Borrowers**).

5.6 The Affected AA Borrowers:

(a) were all migrants that entered New Zealand as part of an Accredited Employer immigration scheme;

(b) were all understood to be of either Sri Lankan, Bangladeshi or Filipino nationality;

(c) were all employed by the same employer, a contracting company, as part of the scheme; and

(d) were all on a Recognised Season Employer Limited Visa (**RSE visa**), albeit with differing start and end dates.

5.7 The vehicles purchased by the Affected AA Borrowers ranged from $19,990 to $20,990, and were purchased with various add-ons, including service packages and insurance.

5.8 In processing the Affected AA Borrowers' applications for credit:

(a) the Broker supplied NBS with the same set of financial information for all 37 borrowers, and so did not account for differences in the borrowers' personal financial position, or any other circumstances bearing on their ability to make the required repayments; and

(b) NBS accepted that information, and so:

(i) wrongly assumed that the migrant workers' circumstances were identical; and

(ii) did not request any further information or clarification from the Broker.

5.9 NBS then provided CLP Loans to the Affected AA Borrowers, without there having been an Affordability Assessment conducted into each borrower's individual circumstances. As result, no allowance was made for the fact that:

(a) some of the Affected AA Borrowers had not commenced their employment at the time they were provided with the CLP Loan; such that they were not in a position to make repayments from that date; and

(b) some of the Affected AA Borrowers' RSE Visas were due to expire prior to the end of their respective loan terms; such that it was unlikely that they would be in a position to make repayments from that point.

5.10 If they had been properly carried out, Affordability Assessments would have identified the matters pleaded at paragraphs 5.9(a)-(b) above.

Identification and resolution

5.11 In or about July 2023, NBS ceased offering CLP loans through Brokers.

5.12 In or about August 2024, NBS identified the issue through a wider review of its lending processes. It then self-reported the issue to the Commission in November 2024.

Harm and remediation

5.13 The full extent of the harm to the Affected AA Borrowers is not known, and may in each case have included harms that cannot be readily quantified.

5.14 As at the time of the self-report, of the Affected AA Borrowers whose loans remained active:

(a) seven of those borrowers were in arrears;

(b) 13 of the borrowers were in deferred arrears, because a payment was missed at the start of the loan, with payments since then having been made regularly; and

(c) four of the borrowers had surrendered their vehicles, which had been sold with a balance still owing to NBS.

5.15 NBS paid remediation to the Affected Borrowers totalling $395,999.69, with that sum comprised of:

(a) amounts written off the loans; and

(b) remediation payments comprised of the interest charged on the relevant loans, use of money interest, and an additional $5,550 as compensation.

Fifth cause of action: breach of s 9C(1) of the CCCFA: failure to conduct affordability assessments

5.16 The Commission repeats Part 1 and paragraphs 5.1 to 5.15 above.

5.17 In the period from 12 September 2022 to 20 January 2023, NBS failed to conduct Affordability Assessments so as to be satisfied that each of the Affected AA Borrowers would be able to make payments under the loan agreements without suffering substantial hardship.

Wherefore the Commission seeks:

(A) A declaration that, in respect of the Affected AA Borrowers, NBS breached s 9C(1) by failing to comply with the responsible lending principle in s 9C(3)(a)(ii) of the CCCFA in the period from 12 September 2022 to 20 January 2023;

(B) A pecuniary penalty under s 107A of the CCCFA in respect of those breaches of s 9C(1).

This statement of claim is filed on behalf of the Plaintiff by its solicitor **Andrew David Luck** of the firm Meredith Connell, whose address for service is at the offices of MC, Level 7, 8 Hardinge Street, Auckland 1010.

Documents for service on the Plaintiff may be:

(a) emailed to [redacted] or

(b) if email is not practical:

(i) posted to PO Box 90750, Victoria Street West, Auckland 1142 (attn. Andy Luck); or

(ii) sent to the address for service (attn. Andy Luck).

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

I TE KŌTI MATUA O AOTEAROA
TE WHANGANUI-Ā-TARA ROHE

CIV-2026-485-

UNDER	the Credit Contracts and Consumer Finance Act 2003
BETWEEN	**COMMERCE COMMISSION** a body corporate established under section 8 of the Commerce Act 1986 having its offices at level 6, 44-52 The Terrace, Wellington
	Plaintiff
AND	**NELSON BUILDING SOCIETY** an incorporated entity under the Building Societies Act 1965, having its registered office at 111 Trafalgar Street, Nelson, 7010
	Defendant

NOTICE OF ADMISSIONS
12 JUNE 2026

Russell McVeagh

E J Rushbrook
P [redacted]
F
PO Box 10-214
DX SX11189
Wellington

THE DEFENDANT BY ITS SOLICITOR SAYS:

For the purposes of rules 15.15 and 15.16 of the High Court Rules 2016, and only for the purposes of this proceeding, the Defendant admits the facts pleaded and the causes of action in the Plaintiff's statement of claim dated 12 June 2026.

Dated 12 June 2026

E J Rushbrook
Counsel for the Defendant

This document is filed by **Emmeline Julie Rushbrook**, solicitor for the defendant, of Russell McVeagh. The address for service of the defendant is Level 24, NTT Tower, 157 Lambton Quay, Wellington 6011.

Documents for service may be left at that address or may be:

(a) emailed to the solicitor at [redacted] and [redacted] or

(b) posted to the solicitor at PO Box 10-214, Wellington 6011; or

(c) left for the solicitor at a document exchange for direction to SX11189.