

---

# Settlement Agreement

---

Between the **Commerce Commission** and **The Co-operative Bank Limited**

## Settlement agreement dated 21-11-2025

### Parties

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

**The Co-operative Bank Limited**, a duly incorporated co-operative company having its registered office at Level 2, PwC Centre, 10 Waterloo Quay, Pipitea, Wellington, 6011, New Zealand (**Co-operative**).

(collectively, the **Parties**).

### 1 Introduction

1.1 In December 2021, Co-operative advised the Commission that it had commenced an internal investigation into the amounts of its fees, but that its investigations were at an early stage. Further updates were provided to the Commission from 5 May 2022 onwards, with the Co-operative confirming to the Commission in November 2022 that the outcome of the review was that:

- (a) it had identified potential issues relating to the charging of certain credit and default fees under the Credit Contracts and Consumer Finance Act 2003 (**Act**);
- (b) these potential issues included that some fees were set at levels higher than the retroactive modelling of the cost amounts for carrying out the activities to which the fees related; and
- (c) it intended to commence a remediation programme as a result of the review, with a pilot remediation exercise having started in October 2022, (the **Self Report**).

1.2 The Commission conducted an investigation into Co-operative for potential breaches of the Act in relation to the matters described in the Self Report (**Investigation**). Co-operative supplied further information to the Commission concerning the matters covered by the Self Report during the course of the Investigation.

1.3 As a result of the Investigation, the Commission has filed a proceeding in the High Court (**Proceeding**). The Proceeding alleges that Co-operative breached:

- (a) section 41 of the Act, by charging unreasonable credit and default fees; and
- (b) section 9C(1) of the Act, which requires compliance with the lender responsibility principles, through failing to exercise the care, diligence

and skill of a responsible lender under s 9C(2)(a)(ii)–(iii) of the Act when setting its credit and default fees.

- 1.4 The Parties have reached a settlement regarding the matters arising out of the Self Report and Investigation, and to be determined in the Proceeding, on the terms set out in this Agreement.
- 1.5 The particular fees at issue in the Proceedings are Co-operative's:
  - (a) Home Loan Establishment Fee;
  - (b) Restructure Fee (also referred to in the relevant period as the Home Loan Top Up Fee);
  - (c) Home Loan Variation Fee;
  - (d) Revolving Credit Facility Fee;
  - (e) Early Repayment Fee (also referred to in the relevant period as the Early Full/part Repayment Fee);
  - (f) Security Discharge Fee (also referred to in the relevant period as the Full or Partial Mortgage Discharge Fee);
  - (g) Mortgage Discharge Fee (also referred to in the relevant period as the Mortgage Discharge (where no loan balance) Fee);
  - (h) Rates Demand Fee;
  - (i) Personal Loan Establishment Fee;
  - (j) Vehicle Loan Establishment Fee;
  - (k) Overdraft Facility Fee; and
  - (l) Cash Advance Fee (also referred to in the relevant period as the Fair Rate Credit Card Cash Advance Fee),(together, the **Relevant Fees**).
- 1.6 The breaches primarily arose from Co-operative, in the period prior to November 2021, failing to undertake regular robust reviews and failing to have adequate processes in place to ensure its fees complied with the fee provisions in the Act. Co-operative also failed to amend some of the Relevant Fees in some circumstances where it knew or ought to have known that they were not set in accordance with the fee provisions.
- 1.7 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 Amended 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) **Amended Statement of Claim** means the amended statement of claim attached as **Schedule 1** to this Agreement;
- (f) **Commission** means the Commerce Commission;
- (g) **Costs Contribution** means the voluntary payment by Co-operative to the Commission provided for in clause 4.5;
- (h) **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;
- (i) **Defaulting Party** has the meaning as set out in clause 8.1;
- (j) **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;
- (k) Dollar amounts stated are in New Zealand dollars;
- (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 Report;
- (n) **Notice of Admissions** means the notice of admissions attached as **Schedule 2** to this Agreement;
- (o) **Notifying Party** has the meaning set out in clause 8.1;
- (p) **Party** means any party to this Agreement;
- (q) **Penalty Hearing** means the hearing or fixture in the Proceeding at which the Commission and Co-operative will ask the Court to approve the order set out in clause 4.4;
- (r) **Penalty Judgment** means a judgment of the Court determining the pecuniary penalty payable by Co-operative 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;

- (s) **Person** extends to non-natural persons and includes any association of persons whether incorporated or not;
- (t) **Proceeding** means the civil proceeding filed by the Commission in the High Court of New Zealand against Co-operative (CIV-2025-485-266), and includes any appeals from that proceeding;
- (u) **Self Report** means the self report by Co-operative to the Commission as described in clause 1.1;
- (v) **Co-operative** means The Co-operative Bank Limited; and
- (w) **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 Co-operative made in the Amended Statement of Claim and the Proceeding; and
  - (b) any claims that could have been made by the Commission against Co-operative, or any current or former officer, employee or director of Co-operative, under the Act in relation to or arising from matters referred to in the Self Report and/or disclosed to the Commission during the Investigation.
- 3.2 The Parties agree to resolve the Investigation and Proceeding by:
  - (a) the Commission filing the Amended Statement of Claim within one Working Day of the execution of this Agreement;
  - (b) the next Working Day, Co-operative filing the Notice of Admissions together with the joint memorandum provided for in clause 4.1;
  - (c) Co-operative paying any pecuniary penalty in accordance with clause 4; and
  - (d) otherwise on the basis set out in this Agreement.
- 3.3 The admissions made by Co-operative 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 Co-operative or any current or former officer, employee or director of Co-operative, in connection with matters that are subject of the Proceeding, Investigation and Self Report.

- 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 Co-operative 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, Co-operative 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 Co-operative will:
- (a) circulate to the other a draft of any submissions or memorandum they propose to file in relation to the Agreed Recommended Penalty at least 10 Working Days before that party is to file the submissions or memorandum with the Court;
  - (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; and
  - (c) consider in good faith any 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 Co-operative agree and undertake that:
- (a) the Agreed Recommended Penalty for the Admitted Causes of Action is a final penalty of \$2.482 million;
  - (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 \$3.65 million–\$4 million; and
    - (ii) Co-operative will submit that an appropriate starting point is in the range of \$3.3 million–\$3.65 million;

- (d) they will make written and oral submissions recommending to the Court that it adopt a starting point of \$3.65 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 32 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 Co-operative agreeing to pay the Costs Contribution and that there should therefore be no order as to costs.
- 4.5 Co-operative will make a voluntary contribution of \$100,000 (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 Amended Statement of Claim; and
  - (b) the following matters, which are not included in the Amended Statement of Claim but which may properly be the subject of submissions by either Party:
    - (i) the detail in paragraphs 1.1 and 1.2 of this Agreement;
    - (ii) that, in the context of and since the 2021 fees review undertaken by the Co-operative, it has implemented system, process and control improvements to ensure that its fees comply with the CCCFA and that regular robust reviews are undertaken on an ongoing basis;
    - (iii) the work and cost involved in Co-operative's remediation;
    - (iv) the fact that, following its self-report, Co-operative fully cooperated with the Commission's investigation;
    - (v) the fact that, following the Commission filing the Proceeding and further engagement with the Commission, Co-operative conducted further remediation;
    - (vi) that Co-operative agreed to settle the Proceeding on terms acceptable to the Commission;
    - (vii) details of Co-operative's membership structure, size and profitability, including in comparison to other New Zealand financial institutions;
    - (viii) the fact that there have been personnel changes at Co-operative over time, including from the time of the 2021 fees review; and

- (ix) the fact that Co-operative has not previously been found to have breached the Act.

## **5 Payment of penalty and Costs Contribution**

- 5.1 If the High Court imposes the Agreed Recommended Penalty in the Penalty Judgment, Co-operative 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 Co-operative 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, Co-operative or the Commission, as applicable, shall pay to the other any difference between the amount paid by Co-operative 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, Co-operative 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 Co-operative 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 Amended 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 Co-operative will not issue a public statement under clause 7.1 until after the Commission has issued the first public statement after the Amended Statement of Claim has been filed. When the Penalty Judgment is issued Co-operative 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 Amended Statement of Claim, the Admissions or the Penalty Judgment.
- 7.5 The Commission will give Co-operative one hour 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 Co-operative 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 Co-operative.
- 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.

## **8 Non-compliance with Agreement**

### **Default Notice for breaches of the Agreement**

- 8.1 If any Party (the **Notifying Party**) suspects or believes that the other 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, the other Party (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 Co-operative's Information may be confidential and/or commercially sensitive and/or subject to privilege.
- 9.4 The Commission may use Information provided by Co-operative 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 Co-operative in the following circumstances:
- (a) with Co-operative'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 1993); 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 Co-operative has provided to the Commission in relation to this Proceeding, including voluntarily or under compulsion, it will notify Co-operative of that request and consult with Co-operative 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 Co-operative 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]

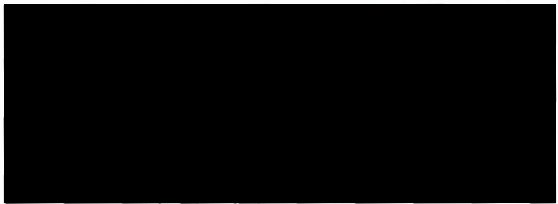
- (b) If addressed to Co-operative, by hand delivery or email to the following address:

The Co-operative Bank Limited  
Level 2, PwC Centre, 10 Waterloo Quay,  
Pipitea, Wellington 6011  
Attention: Karen Mace, Head of Legal & Regulatory  
Email: [REDACTED]

Copy to:  
Russell McVeagh  
Level 24, NTT Tower  
157 Lambton Quay  
Wellington 6011  
Attention: Emmeline Rushbrook  
Email: [REDACTED]

**Execution**

Signed on behalf of the  
Commerce Commission by:



Authorised signatory

Anne Callinan



Name

*In the presence of:*

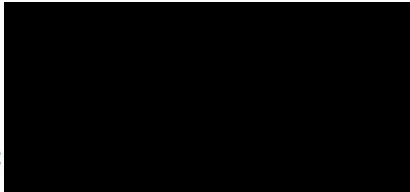
Witness Name: LUKE JAMES HUMPHRIES

Witness Address:



Witness Occupation: Solicitor

Signed on behalf of  
The Co-operative Bank Limited by:



Authorised signatory

MARK EDWARD WILKSHIRE

Name

*In the presence of:*

Witness Name: Karen Maree Mace

Witness Address:



Witness Occupation: Solicitor

Schedule 1: Amended Statement of Claim

In the High Court of New Zealand  
Wellington Registry

I te Kōti Matua o Aotearoa  
Te Whanganui-ā-Tara Rohe

CIV-2024-404-266

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 **The Co-operative Bank Limited** a duly incorporated  
company having its registered office at Level 2, PwC Centre,  
10 Waterloo Quay, Pipitea, Wellington, 6011, New Zealand

Defendant

---

## Amended Statement of Claim

[Date] 2025

---

# Amended Statement of Claim

The plaintiff by its solicitor says:

## 1 Parties

- 1.1 The Plaintiff, the Commerce Commission (**Commission**), is a body corporate established under section 8 of the Commerce Act 1986. Its functions include the enforcement of the Credit Contracts and Consumer Finance Act 2003 (**CCCFA**).
- 1.2 The defendant, The Co-operative Bank Limited (**Co-operative**):
- (a) is a co-operative company incorporated in New Zealand, having its registered office at Level 2, PwC Centre, 10 Waterloo Quay, Pipitea, Wellington, 6011, New Zealand;
  - (b) was incorporated on 16 November 1998 as The Public Sector Investment Society Limited;
  - (c) is a registered bank under the Reserve Bank of New Zealand Act 1989; and
  - (d) is New Zealand's eleventh-largest bank by total assets, holding \$3.648 billion in total assets for the quarter ending 31 December 2024.

## 2 Background: Co-operative's provision of credit

### *The Fees Provisions*

- 2.1 Subpart 6 of Part 2 of the CCCFA (**Fees Provisions**) came into force on 1 April 2005.
- 2.2 The Fees Provisions require that a consumer credit contract must not provide for a credit fee or a default fee that is unreasonable.
- 2.3 The Fees Provisions also provide, in relation to different kinds of fee, that when determining whether:
- (a) an establishment fee is unreasonable, regard must be had to whether the amount of the fee is equal to or less than the creditor's reasonable costs in connection with the application for credit, processing and considering that application, documenting the consumer credit contract, and advancing the credit; or the creditor's average reasonable costs of those matters;  
  
(the **Establishment Fees Provisions**)
  - (b) a credit fee, other than an establishment fee or a prepayment fee, is unreasonable:
    - (i) regard must be had to, in relation to the matter giving rise to the fee, whether the fee reasonably compensates the lender for the

costs incurred by it in order to carry out the activity to which the fee relates; and

- (ii) in determining whether the fee reasonably compensates the creditor for any such cost referred to in subparagraph (i) above, regard must be had to reasonable standards of commercial practice;

**(Credit Fee Provisions); and**

- (c) a default fee is unreasonable, regard must be had to:

- (i) in relation to the matter giving rise to the fee, whether the fee reasonably compensates the creditor for:

- (A) any cost incurred by the creditor;

- (B) a reasonable estimate of any loss incurred by the creditor as a result of the debtor's acts or omissions; and

- (ii) in determining whether the fee reasonably compensates the creditor for any cost and loss referred to in subparagraphs (A) and (B) above, reasonable standards of commercial practice.

**(Default Fee Provisions).**

*Co-operative's business as a creditor*

2.4 Co-operative's primary business is the provision of retail banking services. Those services include the provision of credit to consumer borrowers under consumer credit contracts, such as through home loans, personal loans, arranged overdrafts and the provision of credit cards.

2.5 Co-operative provides credit under consumer credit contracts (**Contracts**). The Contracts comprise terms set out in:

- (a) loan contracts and loan contract terms for home loans, personal loans, arranged overdrafts and credit cards; and

- (b) further terms set out in a brochure available in branches and published on Co-operative's website (**Fees Brochure**), which provides for the credit and default fees payable under the Contracts, what those fees are payable for, and the amounts of each.

2.6 Co-operative was a creditor, as that term is defined in the CCCFA, under the Contracts for home loans, personal loans, arranged overdrafts, and credit cards.

*Co-operative's compliance processes and pre-2021 fee reviews*

2.7 Co-operative has charged various credit and default fees since the Fees Provisions came into force on 1 April 2005. In the period from 1 July 2017 to 30 November 2021, its Fees Brochures provided for 24 distinct fees payable on consumer credit contracts; albeit the fees and their amounts have changed over that period.

2.8 Within Co-operative:

- (a) the bank's compliance programme placed responsibility for compliance with the Fees Provisions, at first instance, with Co-operative's Product Team;
- (b) the Product Team conducted various fee reviews from 2011 onwards, as pleaded at paragraph 2.11 below;
- (c) responsibility for approving the setting of new fees, or revising the amounts of credit or default fees, was held by the Assets and Liability Committee (ALCO);
- (d) ALCO included members of Co-operative's Product Team;
- (e) there was an expectation that, if a credit or default fee required revision, including to ensure compliance with the Fees Provisions, the Product Team would identify that and escalate the matter to the ALCO; and
- (f) the ALCO met weekly, and reported to Co-operative's board.

2.9 Throughout the relevant period:

- (a) the ALCO included members of Co-operative's Product Team, who were accordingly in a position to bring matters regarding Co-operative's compliance with the Fees Provisions to that committee for further consideration and action; and
- (b) was in a position to make enquiries of its own as to whether Co-operative was complying with the Fees Provisions.

2.10 Despite the matters pleaded at paragraphs 2.8 and 2.9 above, during the relevant period:

- (a) the Product Team identified instances where the credit and default fees Co-operative charged, or proposed to charge, were set at amounts that were higher than the transaction-specific costs that the Product Team had identified the Co-operative would incur, but did not escalate those matters to the ALCO;
- (b) the members of the Product Team who sat on the ALCO did not raise those instances with the rest of the committee;
- (c) the ALCO did not, at any point, initiate inquiries to determine whether Co-operative complied with the Fees Provisions;
- (d) some members of ALCO provided 6 monthly attestations confirming compliance with the Fees Provisions which were, in turn, relied upon in reporting to the Co-operative's board as to the bank's compliance with the Fees Provisions; and
- (e) in one such attestation, given in April 2020, a staff member noted fee reviews had not been regularly completed, but:
  - (i) that observation was not communicated to Co-operative's board;

- (ii) the staff member's concern was not acted upon at the time, however; and
  - (iii) separately to that concern, Co-operative commenced work later in 2020 to review the amounts of some of its fees (including the Personal Loan Establishment and Cash Advance Fees) albeit that this work was hampered by the COVID-19 pandemic, and was ultimately superseded by the 2021 Review (as each of those terms are relevantly defined below).
- 2.11 Co-operative's Product Team conducted reviews of the amounts of some of its fees on various dates between 2011 and 2021 (together, or as applicable, the **Fee Reviews**), as follows:
- (a) in September 2011 (**2011 Review**), when it assessed the amounts of various fees with reference to its costs, including by relying on information regarding the branch and corporate overhead costs it incurred specifically in 2004, with adjustments for inflation;
  - (b) in May 2012 (**2012 Review**), when it reviewed the fees charged on transactional accounts, and in so doing set the amount of one of its fees (a revolving credit facility fee):
    - (i) by reference to the amount charged by its competitors; and
    - (ii) without apparent regard to the fact that the revolving credit fee was a credit fee and so subject to the Fees Provisions;
  - (c) in 2015, when:
    - (i) in February (**February 2015 Review**), it reviewed the amount of one of its fees (an overdraft facility fee) by undertaking a review of its actual costs and making broad assumptions to determine the proportion of those costs that would be recovered through the fee; and
    - (ii) in April (**April 2015 Review**), it:
      - (A) identified that there was "further action required to ensure compliance as at 6 June 2015" in respect of the manner in which it set its credit and default fees; but
      - (B) ultimately endorsed the amounts of the fees it set in the 2011 Review, without apparent consideration as to whether that approach would satisfy the requirements of the Fees Provisions.
  - (d) in November 2016 (**2016 Review**), when it introduced a new fee (a cash advance fee):
    - (i) by reference to the amount of the fees charged by its competitors; and
    - (ii) without apparent regard to the fact that the cash advance fee was a credit fee and so subject to the Fees Provisions;

- (e) in November 2017 (**2017 Review**), when it:
- (i) reviewed the amounts of the fees it charged on home loans, including three new fees it proposed to introduce, to determine whether those fees had been set in accordance with the Fees Provisions;
  - (ii) identified, as a result of that exercise, that two fees had been set, and a further two fees were proposed to be set, at amounts which exceeded Co-operative's assessment of the transaction-specific costs it would incur; and
  - (iii) in respect of the two existing fees:
    - (A) the Product Team did not escalate those findings within the bank, including to the ALCO;
    - (B) instead, the Product Team engaged further with its external advisors on the costing methodology used; and
    - (C) continued to charge the higher amounts, notwithstanding the fact that the transaction-specific costs identified did not support the fees being set at that level;
  - (iv) in respect of the two new fees:
    - (A) ALCO conditionally approved the fees on 6 December 2016, subject to completion of a cost assessment for each;
    - (B) the Product Team completed that assessment, which included taking legal advice;
    - (C) the legal advice included (i) a sign-off letter which advised that the proposed new fees were "compliant with [Co-operative's] legal obligations"; and (ii) accompanying tables which showed that the proposed fee amounts exceeded the transaction-specific costs initially identified by Co-operative (by \$0.91 on a fee costed at \$74.09 and charged at \$75, and by \$5.81 on a fee costed at \$44.19 and charged at \$50, respectively); and
    - (D) Co-operative then began charging the two fees at those amounts which were higher than the transaction-specific costs identified.
- (f) in November 2019 (**2019 Review**), when it:
- (i) reviewed ten of the self-reported fees to determine whether they had been set in accordance with the Fees Provisions;

- (ii) identified that seven of those fees were at amounts which exceeded Co-operative's assessment of the transaction-specific costs it would incur; and
- (iii) in respect of those seven fees:
  - (A) the Product Team did not escalate those findings within the bank, including to the ALCO; and
  - (B) instead charged the higher amounts, notwithstanding the fact that those amounts exceeded the transaction-specific costs identified; and
- (g) between March - November 2021 (**2021 Review**), when it:
  - (i) conducted a review of all of its credit and default fees for the purposes of setting its fees for 1 December 2021 onwards using a new methodology and updated data on its costs which resulted in the reduction or removal of some of its credit and default fees;
  - (ii) determined that it had previously set some credit and default fees at amounts which were in breach of the Fees Provisions; and
  - (iii) commenced a subsequent exercise to determine the maximum amounts that it considered it was entitled to charge in accordance with the Fees Provisions for those fees, for each of the years 2017, 2019 and 2021, based on its contemporaneous costs in those periods.

#### **Particulars of paragraph 2.11**

The fees considered in each review and which are relevant to the allegations in this claim are pleaded in the causes of action in Parts 3 and 4 below.

- 2.12 In the 2021 Review, Co-operative conducted an accounting exercise, commonly referred to as "cost modelling", to determine what costs it incurred:
- (a) in carrying out activities required to establish loans;
  - (b) in carrying out the activities to which certain credit fees, other than establishment fees, related; and
  - (c) in relation to the matters giving rise to certain default fees.
- 2.13 Prior to the 2021 Review, Co-operative:
- (a) did not, or did not adequately, conduct cost modelling in setting the amounts of its fees;
  - (b) did not have adequate processes in place to ensure that it set the amounts of its credit and default fees in accordance with the Fees Provisions;

- (c) in respect of the Fee Reviews prior to the 2017 Review, set its fees using methods which risked materially overstating the maximum amounts Co-operative could have charged in accordance with the Fees Provisions; and
  - (d) in respect of the fees referred to in paragraphs 2.11(e)(iii) and 2.11(f)(iii), knew, or ought to have known, that the fees exceeded the costs it incurred in relation to the relevant activities; and therefore knew, or ought to have known, that it had not set the fees in accordance with the Fees Provisions.
- 2.14 Towards the end of the 2021 Review, the Product Team escalated the identified issues regarding its historic non-compliance with the fees provisions to Co-operative's board and senior leadership.
- 2.15 Following the 2021 Review, on 30 November 2021 Co-operative:
- (a) ceased charging some fees altogether; and
  - (b) reduced the amounts of a number of the fees it continued to charge.
- 2.16 In respect of the customers who were charged the fees referred to in paragraph 2.14 above, Co-operative has remediated customers who were charged the fees in the period from 6 June 2015 to 30 November 2021, paying total remediation comprised of approximately \$5.875 million in compensation for overcharged amounts, and approximately \$1.35 million in use of money interest, to 48,249 customers.
- 2.17 In December 2021, Co-operative advised the Commission that it had commenced an internal investigation into the amounts of its fees, but that its investigations were at an early stage. Further updates about the review and its findings were provided to the Commission from 5 May 2022 onwards.

*Proceeding*

- 2.18 On:
- (a) 30 August 2024, the Commission notified Co-operative that it intended to issue enforcement proceedings against it and completed further investigative steps in October 2024;
  - (b) 2 May 2025 the Commission filed this proceeding; and
  - (c) [date] the Commission filed this amended claim, which Co-operative intends to admit in its entirety.
- 2.19 The parties engaged in without prejudice discussions throughout the period between the dates in subparagraphs 2.18(a) to (c) culminating in the position in 2.18(c). Neither party has waived any privilege in those discussions.

**First cause of action: breach of lender responsibility principles by failure to review fees**

- 2.20 The Commission repeats Part 1 and paragraphs 2.1 to 2.19 above.

2.21 Co-operative was required to comply with the lender responsibility principles provided for in s 9C of the CCCFA in respect of the Contracts:

- (a) entered into on or after 6 June 2015; and
- (b) which were entered into prior to 6 June 2015, but were subsequently varied after that date;

(the LRP Contracts).

2.22 By virtue of the circumstances pleaded in paragraph 2.13 above, Co-operative failed to exercise the care, diligence and skill of a responsible lender:

- (a) before entering the LRP Contracts; and
- (b) in all subsequent dealings with borrowers under the LRP Contracts.

2.23 Co-operative thereby failed to comply with the lender responsibility principles.

**Wherefore the Commission seeks:**

(A) a declaration that in the period from 6 June 2015 to 30 November 2021, Co-operative breached ss 9C(1) and 9C(2)(a)(ii)-(iii) of the CCCFA.

### **3 The home loan fees**

*Co-operative offered home loans that provided for certain fees*

3.1 Co-operative provided home loans throughout the relevant period. The terms of those loans were set out in Contracts which provided for the terms of those loans and the fees payable in each case.

3.2 The Contracts for Co-operative's home loans provided for a number of fees, including:

- (a) a \$350 fee relating to the activities undertaken by Co-operative to establish the home loan (**Home Loan Establishment Fee**);
- (b) a \$200 fee relating to activities undertaken by Co-operative when it either provided additional credit under an existing loan, or restructured the terms of an existing loan (**Restructure Fee**);
- (c) a \$100 fee relating to activities required to process a variation to an existing home loan (**Home Loan Variation Fee**);
- (d) a monthly fee of \$7.50 relating to the activities required to administer loans with a revolving credit facility (**Revolving Credit Facility Fee**);
- (e) a \$100 fee relating to activities undertaken by Co-operative to process the changes required when a customer on a fixed term loan elected to make an early repayment of their loan, either in full or in part (**Early Repayment Fee**);
- (f) a \$75 fee for each security discharged whenever a customer on a fixed-term loan made an early repayment, in full or in part, relating to the

activities Co-operative undertook to discharge the security (**Security Discharge Fee**);

- (g) a \$50 fee relating to the activities undertaken by Co-operative to prepare a discharge settlement, at the point the customer had repaid their home loan in full (**Mortgage Discharge Fee**); and
- (h) a \$50 fee relating to activities undertaken by Co-operative following a local authority issuing a rates demand letter (**Rates Demand Fee**).

3.3 Of the fees referred to in paragraph 3.2 above:

- (a) the Home Loan Establishment and Restructure Fees were each establishment fees, as that term is defined in the CCCFA;
- (b) the Home Loan Variation, Revolving Credit Facility, Early Repayment, Security Discharge and Mortgage Discharge Fees were each credit fees, as that term is defined in the CCCFA; and
- (c) the Rates Demand Fee was a default fee, as that term is defined in the CCCFA.

3.4 Co-operative began charging the Security Discharge, Mortgage Discharge and Rates Demand Fees on 1 April 2018. The other fees referred to in paragraph 3.2 above have all been charged from dates prior to September 2011.

3.5 Following the 2021 Review, Co-operative:

- (a) reduced:
  - (i) the Home Loan Establishment Fee from \$350 to \$260;
  - (ii) the Mortgage Discharge Fee from \$50 to \$20;
  - (iii) the Rates Demand Fee from \$50 to \$25;
  - (iv) the Early Repayment Fee over time, from \$100 and ultimately to \$40; and
  - (v) the Security Discharge Fee from \$75 to \$35; and
- (b) ceased charging:
  - (i) the Restructure Fee;
  - (ii) the Home Loan Variation Fee; and
  - (iii) the Revolving Credit Facility Fee.

### **Second cause of action: the Home Loan Establishment Fee was unreasonable**

3.6 The Commission repeats Parts 1 and 2, and paragraphs 3.1 to 3.5 above.

- 3.7 Co-operative charged Home Loan Establishment Fees in the period from 6 June 2015 to 30 November 2021.
- 3.8 The CCCFA required the Home Loan Establishment Fee not to be unreasonable, in accordance with the Establishment Fees Provisions.
- 3.9 Co-operative:
- (a) charged Home Loan Establishment Fees of \$350 from a date prior to the 2011 Review;
  - (b) included the fee in the 2011 Review, and did not amend the amount of it at that time;
  - (c) identified in the 2017 Review, and again in the 2019 Review, that the fee exceeded the maximum amount of its identified transaction-specific costs (its costs having been identified at the time as being \$228 and \$332, respectively); but in each case, it failed to amend the amount of the \$350 fee in response; and
  - (d) conducted cost-modelling in the 2021 Review, which identified that the cost-justified fee for the activities to which the Home Loan Establishment Fee related would have been no more than:
    - (i) \$262.42 as of 2021;
    - (ii) \$247 as of 2020 and 2019; and
    - (iii) \$239 as of 2018 and 2017.
- 3.10 In light of the matters pleaded at paragraph 3.8 and 3.9 above:
- (a) the maximum amount Co-operative was permitted to charge as a Home Loan Establishment Fee during the relevant period was an amount that was less than \$350; and
  - (b) because its Contracts provided for a Home Loan Establishment Fee of \$350, Co-operative breached s 41 of the CCCFA.
- 3.11 In the:
- (a) period from 6 June 2015 to 30 November 2021, Co-operative charged Home Loan Establishment Fees to 2,905 customers, who were charged a total of \$1,039,850; and so were overcharged by at least \$260,200.18, based on the cost-modelling in the 2021 Review; and
  - (b) period from 20 December 2019 to 30 November 2021, Co-operative charged Home Loan Establishment Fees to 867 customers, who were charged a total of \$305,200; and so were overcharged by at least \$76,369.76, based on the cost-modelling in the 2021 Review.

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Home Loan Establishment Fees in consumer credit contracts in the period from 6 June 2015 to 30 November 2021; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Home Loan Establishment Fees Co-operative provided for in the period from 20 December 2019 to 30 November 2021.

**Third cause of action: the Restructure Fee was unreasonable**

- 3.12 The Commission repeats Parts 1 and 2, and paragraphs 3.1 to 3.5 above.
- 3.13 Co-operative charged Restructure Fees in the period from 6 June 2015 to 30 November 2021.
- 3.14 The CCCFA required the Restructure Fee not to be unreasonable, in accordance with the Establishment Fees Provisions.
- 3.15 Co-operative:
  - (a) charged Restructure Fees of \$200 from a date prior to the 2011 Review;
  - (b) included the fee in the 2011 Review, and did not:
    - (i) amend the amount of it at that time;
    - (ii) identify that different restructuring activities gave rise to different costs;
    - (iii) revisit the approach it proposed to take to Restructure Fees until 2022, after the 2021 Review had been completed.
  - (c) cost-modelled the fee in 2022, following the 2021 Review, when Co-operative identified that:
    - (i) the cost-justified fee in fact differed depending on whether Co-operative was:
      - (A) providing credit under an existing loan, in which case its transaction-specific costs exceeded the amount of the fee; or
      - (B) restructuring the terms of an existing loan (the fee payable in these circumstances being a **Relevant Restructure Fee**); and
  - (d) the 2022 cost modelling identified that the cost-justified fee for the activities to which the Relevant Restructure Fees related would have been no more than:
    - (i) \$70 as of 2021;
    - (ii) \$68.10 as of 2020 and 2019; and

(iii) \$64.60 as of 2018 and 2017.

3.16 In light of the matters pleaded at paragraph 3.14 and 3.15 above:

- (a) the maximum amount Co-operative was permitted to charge as a Relevant Restructure Fee during the relevant period was an amount that was less than \$200; and
- (b) because its Contracts provided for a Relevant Restructure Fee of \$200 in the relevant period, Co-operative breached s 41 of the CCCFA.

3.17 In the:

- (a) period from 6 June 2015 to 30 November 2021, Co-operative charged Relevant Restructure Fees to 990 customers, who were charged a total of \$198,350; and so were overcharged by at least \$128,927.50, based on the cost-modelling in the 2021 Review;
- (b) period from 20 December 2019 to 30 November 2021, Co-operative charged Relevant Restructure Fees to 243 customers, who were charged a total of \$48,000; and so were overcharged by at least \$31,200, based on the cost-modelling in the 2021 Review.

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Relevant Restructure Fees in consumer credit contracts in the period from 6 June 2015 to 30 November 2021; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Relevant Restructure Fees provided for in the period from 20 December 2019 to 30 November 2021.

**Fourth cause of action: the Home Loan Variation Fee was unreasonable**

3.18 The Commission repeats Parts 1 and 2, and paragraphs 3.1 to 3.5 above.

3.19 Co-operative charged Home Loan Variation Fees in the period from 6 June 2015 to 30 November 2021.

3.20 The CCCFA required the Home Loan Variation Fee not to be unreasonable, in accordance with the Credit Fees Provisions.

3.21 Co-operative:

- (a) charged Home Loan Variation Fees of \$100 from a date prior to the 2011 Review;
- (b) included the fee in the 2011 Review, and did not amend the amount of it at that time;
- (c) identified in the 2017 Review, and again in the 2019 Review, that the fee exceeded the maximum amount of its identified transaction-specific costs (its costs having been identified at the time as being \$46.25 and

\$64.50, respectively); but in each case, it failed to amend the amount of the \$100 fee in response; and

- (d) conducted cost-modelling in the 2021 Review, which identified that the cost-justified fee for the activities to which the Home Loan Variation Fee related would have been no more than:
  - (i) \$65 as of 2021;
  - (ii) \$54 as of 2020 and 2019; and
  - (iii) \$65 as of 2018 and 2017.

3.22 In light of the matters pleaded at paragraphs 3.20 and 3.21 above:

- (a) the maximum amount Co-operative was permitted to charge as a Home Loan Variation Fee during the relevant period was an amount that was less than \$100; and
- (b) because its Contracts provided for a Home Loan Variation Fee of \$100, Co-operative breached s 41 of the CCCFA.

3.23 In the:

- (a) period from 6 June 2015 to 30 November 2021, Co-operative charged Home Loan Variation Fees to 2,532 customers, who were charged a total of \$357,151; and so were overcharged by at least \$125,002.85, based on the cost-modelling in the 2021 Review; and
- (b) period from 20 December 2019 to 30 November 2021, Co-operative charged Home Loan Variation Fees to 1,285 customers, who were charged a total of \$125,600; and so were overcharged by at least \$43,960, based on the cost-modelling in the 2021 Review.

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Home Loan Variation Fees in consumer credit contracts in the period from 6 June 2015 to 30 November 2021; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Home Loan Variation Fees Co-operative provided for in the period from 20 December 2019 to 30 November 2021.

**Fifth cause of action: the Revolving Credit Facility Fee was unreasonable**

3.24 The Commission repeats Parts 1 and 2, and paragraphs 3.1 to 3.5 above.

3.25 Co-operative charged Revolving Credit Facility Fees in the period from 6 June 2015 to 30 November 2021.

3.26 The CCCFA required the Revolving Credit Facility Fee not to be unreasonable, in accordance with the Credit Fees Provisions.

- 3.27 Co-operative:
- (a) charged Revolving Credit Facility Fees of \$5 from a date prior to the 2011 Review;
  - (b) increased the fee to \$7.50 in the 2012 Review, based on the fees charged by competitors, and not on the requirements of the Credit Fee Provisions; and
  - (c) did not revisit the amount of the fee until 2022, after the 2021 Review had been completed.
- 3.28 As a result of the cost modelling it conducted in 2022, Co-operative identified that the cost-justified fee for the activities to which the Revolving Credit Facility Fee related would have been no more than:
- (a) \$1.66 as of 2021, 2020 and 2019; and
  - (b) \$1.60 as of 2018 and 2017.
- 3.29 In light of the matters pleaded at paragraphs 3.26 to 3.28 above:
- (a) the maximum amount Co-operative was permitted to charge as a Revolving Credit Facility Fee during the relevant period was an amount that was less than \$7.50; and
  - (b) because its Contracts provided for a Revolving Credit Facility Fee of \$7.50, Co-operative breached s 41 of the CCCFA.
- 3.30 In the:
- (a) period from 6 June 2015 to 30 November 2021, Co-operative charged Revolving Credit Facility Fees to 2,786 customers, who were charged a total of \$670,845; and so were overcharged by at least \$522,364.64, based on the cost-modelling in the 2021 Review;
  - (b) period from 20 December 2019 to 30 November 2021, Co-operative charged Revolving Credit Facility Fees to 1,755 customers, who were charged a total of \$214,898; and so were overcharged by at least \$167,333.52, based on the cost-modelling in the 2021 Review.

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Revolving Credit Facility Fees in consumer credit contracts in the period from 6 June 2015 to 30 November 2021; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Revolving Credit Facility Fees Co-operative provided for in the period from 20 December 2019 to 30 November 2021.

**Sixth cause of action: the Early Repayment Fee was unreasonable**

- 3.31 The Commission repeats Parts 1 and 2, and paragraphs 3.1 to 3.5 above.

- 3.32 Co-operative charged Early Repayment Fees in the period from 6 June 2015 to 30 November 2021.
- 3.33 The CCCFA required the Early Repayment Fee not to be unreasonable, in accordance with the Credit Fees Provisions.
- 3.34 Co-operative:
- (a) charged Early Repayment Fees of \$100 from a date prior to the 2011 Review;
  - (b) included the fee in the 2011 Review, and did not amend the amount of it at that time; and
  - (c) identified in the 2019 Review that the fee exceeded its identified transaction-specific costs, its costs having been identified at the time as being \$54.50; but failed to amend the amount of the \$100 fee in response.
- 3.35 Co-operative conducted cost-modelling in the 2021 Review, in which it identified that the maximum amount of its identified transaction-specific costs was \$111.16, comprised of:
- (a) a charge of \$35.40 (the **Depreciation Charge**) on the Early Repayment Fees it charged between 2019 to 2021, representing the cost to Co-operative arising from it:
    - (i) taking the total cost of system improvements, and implementing new loan repayment calculator software used to determine repayment amounts;
    - (ii) depreciating the value of that software to \$0 over the three year period from 2019 to 2021; and
    - (iii) dividing the annual depreciation amount by the number of times it expected to charge the fee in a given year; and
  - (b) a further \$75.76 in transaction-specific costs.
- 3.36 The Depreciation Charge:
- (a) was not a transaction-specific cost, in that Co-operative would incur the cost regardless of whether it carried out the activities to which the Early Repayment Fee related or not; and so that cost was not recoverable in accordance with the Fees Provisions; and further, or alternatively
  - (b) was so expensive – relative to the number of loans entered into; the functionality of the software; the period of time over which the cost was depreciated; and benefit customers derived from it, relative to the benefit Co-operative derived from it – that passing that cost on to borrowers was not consistent with reasonable standards of commercial practice.

- 3.37 On the basis of the 2021 Review, and excluding the Depreciation Charge, the cost-justified fee for the activities to which the Early Repayment Fee related would accordingly have been no more than:
- (a) \$75.76 as of 2021;
  - (b) \$75.18 as of 2020 and 2019; and
  - (c) \$50 as of 2018 and 2017.
- 3.38 In light of the matters pleaded at paragraph 3.33 to 3.37 above:
- (a) the maximum amount Co-operative was permitted to charge as an Early Repayment Fee during the relevant period was an amount that was less than \$100; and
  - (b) because its Contracts provided for an Early Repayment Fee of \$100, Co-operative breached s 41 of the CCCFA.
- 3.39 In the:
- (a) period from 6 June 2015 to 30 November 2021, Co-operative charged Early Repayment Fees to 5,402 customers, who were charged a total of \$796,500; and so were overcharged by at least \$193,071.60, based on the cost-modelling in the 2021 Review; and
  - (b) period from 20 December 2019 to 30 November 2021, Co-operative charged Early Repayment Fees to 2,034 customers, who were charged a total of \$285,000; and so were overcharged by at least \$69,084, based on the cost-modelling in the 2021 Review.

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Early Repayment Fees in consumer credit contracts in the period from 6 June 2015 to 30 November 2021; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Early Repayment Fees Co-operative provided for in the period from 20 December 2019 to 30 November 2021.

**Seventh cause of action: the Security Discharge Fee was unreasonable**

- 3.40 The Commission repeats Parts 1 and 2, and paragraphs 3.1 to 3.5 above.
- 3.41 Co-operative charged the Security Discharge Fee in the period from 1 April 2018 to 27 February 2022.
- 3.42 The CCCFA required the Security Discharge Fee not to be unreasonable, in accordance with the Credit Fees Provisions.

3.43 Co-operative:

- (a) proposed to introduce the Security Discharge Fee at or about the time of the 2017 Review;
- (b) identified, in the course of the 2017 Review, that a \$75 Security Discharge Fee would exceed its transaction-specific costs, it having identified that those costs were \$73.91; but introduced the fee at \$75 regardless;
- (c) identified in the course of the 2019 Review that its transaction-specific costs were \$80.49, and so were above the amount of the fee;
- (d) identified in the course of the 2021 Fee Review, that the maximum amount of the Security Discharge Fee it was entitled to charge in accordance with the Credit Fees provisions was \$74.90; and then rounded that amount up in its own favour, and continued to charge customers Security Discharge Fees of \$75 until 27 February 2022;
- (e) identified in February 2022 that the costs of unrelated activities had been included in its cost modelling for the Security Discharge Fee in the 2021 review; and that if such costs were excluded, the maximum amount it could charge in accordance with the Fees Provisions was:
  - (i) \$49.94 as of 2021;
  - (ii) \$57 as of 2020 and 2019; and
  - (iii) \$61 as of 2018;
- (f) following the point identified in February 2022, amended the amount of the Security Discharge Fee to \$50; and later revised it to \$45 from 1 March 2023.

3.44 In light of the matters pleaded at paragraph 3.42 to 3.43 above:

- (a) the maximum amount Co-operative was permitted to charge as a Security Discharge Fee during the relevant period was an amount that was less than \$75; and
- (b) because its Contracts provided for a Security Discharge Fee of \$75, Co-operative breached s 41 of the CCCFA.

3.45 In the:

- (a) period from 1 April 2018 to 27 February 2022, Co-operative charged Security Discharge Fees to 3,406 customers, who were charged a total of \$326,498; and who were, based on the cost-modelling in the 2021 Review, overcharged by an amount between:
  - (i) \$60,944.61 (if the fee had instead been \$61 throughout); and
  - (ii) \$109,090.86 (if the fee had instead been \$49.41 throughout); and

- (b) period from 20 December 2019 to 27 February 2022, Co-operative charged Security Discharge Fees to 2,045 customers, who were charged a total of \$186,092; and who were, based on the cost-modelling in the 2021 Review, overcharged by an amount between:
  - (i) \$44,662.08 (if the fee had instead been \$57 throughout); and
  - (ii) \$62,179.54 (if the fee had instead been \$49.94 throughout).

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Security Discharge Fees in consumer credit contracts in the period from 1 April 2018 to 27 February 2022; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Security Discharge Fees Co-operative provided for in the period from 20 December 2019 to 27 February 2022.

**Eighth cause of action: the Mortgage Discharge Fee was unreasonable**

- 3.46 The Commission repeats Parts 1 and 2, and paragraphs 3.1 to 3.5 above.
- 3.47 Co-operative charged Mortgage Discharge Fees in the period from 1 April 2018 to 30 November 2021.
- 3.48 The CCCFA required the Mortgage Discharge Fee not to be unreasonable, in accordance with the Credit Fees Provisions.
- 3.49 Co-operative:
  - (a) proposed to introduce the Mortgage Discharge Fee at or about the time of the 2017 Review;
  - (b) identified, in the course of the 2017 Review, that a \$50 Mortgage Discharge Fee would exceed its transaction-specific costs, which it had identified as being \$44.09; but introduced the fee at \$50 regardless;
  - (c) identified again in the 2019 Review that the fee exceeded its transaction-specific costs, which it had identified as being \$49.82; but continued to charge it at the same amount; and
  - (d) conducted cost-modelling in the 2021 Review, which identified that the cost-justified fee for the activities to which the Mortgage Discharge Fee related would have been no more than:
    - (i) \$20.10 as of 2021;
    - (ii) \$28 as of 2020 and 2019; and
    - (iii) \$42 as of 2018.

- 3.50 In light of the matters pleaded at paragraph 3.47 to 3.49 above:
- (a) the maximum amount Co-operative was permitted to charge as a Mortgage Discharge Fee during the relevant period was an amount that was less than \$50; and
  - (b) because its Contracts provided for a Mortgage Discharge Fee of \$50, Co-operative breached s 41 of the CCCFA.

- 3.51 In the:
- (a) period from 1 April 2018 to 30 November 2021, Co-operative charged Mortgage Discharge Fees to 400 customers, who were charged a total of \$25,200; and so were overcharged by approximately \$11,088, based on the cost-modelling in the 2021 Review; and
  - (b) period from 20 December 2019 to 30 November 2021, Co-operative charged Mortgage Discharge Fees to 237 customers, who were charged a total of \$15,000; and so were overcharged by approximately \$6,600, based on the cost-modelling in the 2021 Review.

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Mortgage Discharge Fees in consumer credit contracts in the period from 1 April 2018 to 30 November 2021; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Mortgage Discharge Fees Co-operative provided for in the period from 20 December 2019 to 30 November 2021.

**Ninth cause of action: the Rates Demand Fee was unreasonable**

- 3.52 The Commission repeats Parts 1 and 2, and paragraphs 3.1 to 3.5 above.
- 3.53 Co-operative charged Rates Demand Fees in the period from 1 April 2018 to 30 November 2021.
- 3.54 The CCCFA required the Rates Demand Fee not to be unreasonable, in accordance with the Default Fees Provisions.
- 3.55 Co-operative:
- (a) proposed to introduce the Rates Demand Fee at or about the time of the 2017 Review;
  - (b) identified, in the course of the 2017 and 2019 Reviews, that a \$50 Rates Demand Fee would be lower than its transaction-specific costs; and
  - (c) conducted cost-modelling in the 2021 Review, which identified that the cost-justified fee for the activities to which the Rates Demand Fee related would have been no more than \$29.

- 3.56 The cost-justified fee for the activities to which the Rates Demand Fee related would have been no more than:
- (a) \$28.78 as of 2021;
  - (b) \$38.64 as of 2020 and 2019; and
  - (c) \$39.91 as of 2018.
- 3.57 In light of the matters pleaded at paragraph 3.54 to 3.566 above:
- (a) the maximum amount Co-operative was permitted to charge as a Rates Demand Fee during the relevant period was an amount that was less than \$50; and
  - (b) because its Contracts provided for a Rates Demand Fee of \$50, Co-operative breached s 41 of the CCCFA.
- 3.58 In the:
- (a) period from 1 April 2018 to 30 November 2021, Co-operative charged Rates Demand Fees to 301 customers, who were charged a total of \$18,801; and so were overcharged by between \$3,794.04 to \$7,979.14 (if the fee had been either \$39.91 or \$28.78, respectively, throughout), based on the cost-modelling in the 2021 Review; and
  - (b) period from 20 December 2019 to 30 November 2021, Co-operative charged Rates Demand Fees to 148 customers, who were charged a total of \$8,450; and so were overcharged by between \$1,919.84 and \$3,586.18 (if the fee had been either \$38.64 or \$28.78, respectively, throughout), based on the cost-modelling in the 2021 Review.

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Rates Demand Fees in consumer credit contracts in the period from 1 April 2018 to 30 November 2021; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Rates Demand Fees Co-operative provided for in the period from 20 December 2019 to 30 November 2021.

## **4 Personal loan fees**

- 4.1 Throughout the relevant period, Co-operative provided credit through the provision of personal loans (including vehicle loans), arranged overdrafts, and credit cards. The terms of those loans were set out in Contracts which provided for the fees payable in each case.
- 4.2 Co-operative's Contracts provided for various personal loan fees, including the following:
- (a) a \$200 fee relating to the activities undertaken by Co-operative to establish a personal loan (**Personal Loan Establishment Fee**);

- (b) a \$200 fee relating to the activities undertaken by Co-operative to establish a vehicle loan (**Vehicle Loan Establishment Fee**);
  - (c) a monthly \$3.50 fee relating to the activities required to provide customers with arranged overdraft facilities (**Overdraft Facility Fee**); and
  - (d) a \$2 fee charged whenever a customer with a 'Fair Rate Credit Card' made a cash advance via an ATM or through online banking (**Cash Advance Fee**).
- 4.3 Of the fees referred to in paragraph 4.2 above:
- (a) the Personal Loan Establishment Fee and the Vehicle Loan Establishment Fees were each establishment fees, as that term is defined in the CCCFA;
  - (b) the Overdraft Facility Fee was a credit fee, as that term is defined in the CCCFA; and
  - (c) in the case of the Cash Advance Fee:
    - (i) where the cash advance was made by ATM, the only costs incurred by Co-operative were those charged to it by third-party intermediaries; and in those circumstances the fee was subject to s 45 of the CCCFA; and
    - (ii) in the case of cash advances made through online banking, the fee was a credit fee, as that term is defined in the CCCFA.
- 4.4 Co-operative began charging the Cash Advance Fee in November 2016. The other fees referred to in paragraph 4.2 above have all been charged from dates prior to September 2011.
- 4.5 Following the 2021 Review, Co-operative:
- (a) reduced the Personal and Vehicle Loan Establishment Fees from \$200 to \$155; and
  - (b) ceased charging the Overdraft Facility and Cash Advance Fees.

**Tenth cause of action: the Personal Loan Establishment Fee was unreasonable**

- 4.6 The Commission repeats Parts 1 and 2, and paragraphs 4.1 to 4.5 above.
- 4.7 Co-operative charged Personal Loan Establishment Fees in the period from 6 June 2015 to 30 November 2021.
- 4.8 The CCCFA required the Personal Loan Establishment Fee not to be unreasonable, in accordance with the Establishment Fees Provisions.

4.9 Co-operative:

- (a) charged Personal Loan Establishment Fees of \$200 from a date prior to the 2011 Review;
- (b) included the fee in the 2011 Review, and concluded in that review that the fee was cost-justified;
- (c) identified in the 2019 Review that the fee exceeded its identified transaction-specific costs, as the cost-justified amount it identified in that review was \$129; but failed to amend the amount of the fee in response; and
- (d) conducted cost-modelling in the 2021 Review, which identified that:
  - (i) the cost-justified fee for the activities to which the Personal Loan Establishment Fee related would have been no more than \$165 for loans originated in person at a branch, and \$154.41 for loans originated online; and
  - (ii) its transaction-specific costs across the period from 2017 to 2021 had ranged from \$109 (for FY 2019), \$119 (for FY17) to \$165 (for FY21); such that, throughout that period, the fee charged exceeded Co-operative's transaction-specific costs.

4.10 In light of the matters pleaded at paragraphs 4.8 and 4.9 above:

- (a) the maximum amount Co-operative was permitted to charge as a Personal Loan Establishment Fee during the relevant period was an amount that was less than \$200; and
- (b) because its Contracts provided for a Personal Loan Establishment Fee of \$200, Co-operative breached s 41 of the CCCFA.

4.11 In the:

- (a) period from 6 June 2015 to 30 November 2021, Co-operative charged Personal Loan Establishment Fees to 28,091 customers, who were charged a total of \$7,522,100; and so were overcharged, based on the cost-modelling in the 2021 Review, by an amount between:
  - (i) \$1,316,367.50 (if the fee had instead been \$165 throughout); to
  - (ii) \$3,422,555.50 (if the fee had instead been \$109 throughout);
- (b) period from 20 December 2019 to 30 November 2021, Co-operative charged Personal Loan Establishment Fees to 8,364 customers, who were charged a total of \$1,818,940; and so were overcharged, based on the cost-modelling in the 2021 Review, by an amount between:
  - (i) \$318,314.50 (if the fee had instead been \$165 throughout); and
  - (ii) \$827,617.70 (if the fee had instead been \$109 throughout).

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Personal Loan Establishment Fees in consumer credit contracts in the period from 6 June 2015 to 30 November 2021; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Personal Loan Establishment Fees Co-operative provided for in the period from 20 December 2019 to 30 November 2021.

**Eleventh cause of action: the Vehicle Loan Establishment Fee was unreasonable**

- 4.12 The Commission repeats Parts 1 and 2, and paragraphs 4.1 to 4.5 above.
- 4.13 Co-operative charged Vehicle Loan Establishment Fees in the period from 6 June 2015 to 30 November 2021.
- 4.14 The CCCFA required the Vehicle Loan Establishment Fee not to be unreasonable, in accordance with the Establishment Fees Provisions.
- 4.15 Co-operative:
  - (a) charged Vehicle Loan Establishment Fees of \$200 from a date prior to the 2011 Review;
  - (b) included the fee in the 2011 Review, and concluded at the time that the fee was cost-justified;
  - (c) identified in the 2019 Review that the cost-justified fee would have been no more than \$157; but failed to amend the amount of the fee in response; and
  - (d) conducted cost-modelling in the 2021 Review, which identified that:
    - (i) the cost-justified fee for the activities to which the Vehicle Loan Establishment Fee related would have been no more than \$153 in the 2017 financial year, and \$149.60 in the 2019 financial year; and
    - (ii) had increased to \$206 by the time of the 2021 Review.
- 4.16 In light of the matters pleaded at paragraph 4.14 and 4.15 above:
  - (a) the maximum amount Co-operative was permitted to charge as a Vehicle Loan Establishment Fee during the relevant period was an amount that was less than \$200; and
  - (b) because its Contracts provided for a Vehicle Loan Establishment Fee of \$200, Co-operative breached s 41 of the CCCFA.
- 4.17 In the:
  - (a) period from 6 June 2015 to 30 November 2021, Co-operative charged Vehicle Loan Establishment Fees to 811 customers, who were charged a

total of \$177,500; and so were overcharged by at least \$44,730, based on the cost-modelling in the 2021 Review;

- (b) period from 20 December 2019 to 30 November 2021, Co-operative charged Vehicle Loan Establishment Fees to 41 customers, who were charged a total of \$8,100; and so were overcharged by up to \$2,041.20, based on the cost-modelling in the 2021 Review.

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Vehicle Loan Establishment Fees in consumer credit contracts in the period from 6 June 2015 to 30 November 2021; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Vehicle Loan Establishment Fees Co-operative provided for in the period from 20 December 2019 to 30 November 2021.

**Twelfth cause of action: the Overdraft Facility Fee was unreasonable**

- 4.18 The Commission repeats Parts 1 and 2, and paragraphs 4.1 to 4.5 above.
- 4.19 Co-operative charged Overdraft Facility Fees in the period from 6 June 2015 to 30 November 2021.
- 4.20 The CCCFA required the Overdraft Facility Fee not to be unreasonable, in accordance with the Credit Fees Provisions.
- 4.21 Co-operative:
  - (a) initially charged Overdraft Facility Fees of \$3.50;
  - (b) reviewed the amount of the fee in the 2015 Review, and identified the fee was lower than its transaction-specific costs, which it had concluded were \$3.60;
  - (c) identified in the 2019 Review that the fee exceeded its transaction-specific costs, as the cost-justified amount it identified in that review was \$3.37; but failed to amend the amount of the fee in response; and
  - (d) conducted cost-modelling in the 2021 Review, which identified that the cost-justified fee for the activities to which the Overdraft Facility Fee related would have been no more than:
    - (i) \$1.31 as of 2021, 2020 and 2019; and
    - (ii) \$1.28 as of 2018 and 2017.
- 4.22 In light of the matters pleaded at paragraph 4.20 and 4.21 above:
  - (a) the maximum amount Co-operative was permitted to charge as an Overdraft Facility Fee during the relevant period was an amount that was less than \$3.50; and

- (b) because its Contracts provided for an Overdraft Facility Fee of \$3.50, Co-operative breached s 41 of the CCCFA.

4.23 In the:

- (a) period from 6 June 2015 to 30 November 2021, Co-operative charged Overdraft Facility Fees to 17,911 customers, who were charged a total of \$1,946,616; and so were overcharged by at least \$1,218,025.44, based on the cost-modelling in the 2021 Review; and
- (b) period from 20 December 2019 to 30 November 2021, Co-operative charged Overdraft Facility Fees to 8,522 customers, who were charged a total of \$513,086; and so were overcharged by at least \$321,045.24, based on the cost-modelling in the 2021 Review.

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Overdraft Facility Fees in consumer credit contracts in the period from 6 June 2015 to 30 November 2021; and
- (B) a pecuniary penalty under s 107A of the CCCFA, in respect of the unreasonable Overdraft Facility Fees Co-operative provided for in the period from 20 December 2019 to 30 November 2021.

**Thirteenth cause of action: the Cash Advance Fee was unreasonable**

4.24 The Commission repeats Parts 1 and 2, and paragraphs 4.1 to 4.5 above.

4.25 Co-operative charged Cash Advance Fees in the period from November 2016 to 30 November 2021.

4.26 The CCCFA required that:

- (a) in the case of Cash Advance Fees for ATM transactions, that the fee could not exceed the actual amount payable by Co-operative; and
- (b) in the case of Cash Advance Fees for online banking transactions, that the fee was not to be unreasonable, in accordance with the Credit Fees Provisions.

4.27 Co-operative:

- (a) introduced the Cash Advance Fee in November 2016;
- (b) did not review it until the 2021 Review as until that point it did not consider the fee to be a credit fee;
- (c) identified, during the 2021 Review, that:
  - (i) for ATM transactions, Co-operative's relevant costs were comprised entirely of amounts payable to third party intermediaries, totalling \$1.06 per transaction, since the fee had been introduced; and

- (ii) for online banking transactions, the cost-justified fee for the activities to which the Cash Advance Fee related was \$0.33, since the fee had been introduced.

4.28 In light of the matters pleaded at paragraphs 4.26 and 4.27 above:

- (a) the maximum amount Co-operative was permitted to charge as a Cash Advance Fee during the relevant period was:
  - (i) for ATM transactions, \$1.06; and
  - (ii) for online banking transactions, an amount that was less than \$2; and
- (b) because its Contracts provided for a Cash Advance Fee of \$2, Co-operative breached ss 41 and 45 of the CCCFA.

4.29 In the:

- (a) period from November 2016 to 30 November 2021, Co-operative charged Cash Advance Fees to 26,605 customers, who were charged a total of \$1,162,488; and so were overcharged, based on the cost-modelling in the 2021 Review, by between:
  - (i) \$546,369.36 (if the fee had instead been \$1.06 throughout); and
  - (ii) \$970,677.48 (if the fee had instead been \$0.33 throughout);
- (b) period from November 2016 to 30 June 2017, Co-operative charged Cash Advance Fees to 6,299 customers, who were charged a total of \$79,864; and so were overcharged, based on the cost-modelling in the 2021 Review, by between:
  - (i) \$37,536.08 (if the fee had instead been \$1.06 throughout); and
  - (ii) \$66,686.44 (if the fee had instead been \$0.33 throughout); and
- (c) period from 20 December 2019 to 30 November 2021, Co-operative charged Cash Advance Fees to 15,745 customers, who were charged a total of \$468,448; and so were overcharged, based on the cost-modelling in the 2021 Review, by between:
  - (i) \$220,170.56 (if the fee had instead been \$1.06 throughout); and
  - (ii) \$391,154.08 (if the fee had instead been \$0.33 throughout).

**Wherefore the Commission seeks:**

- (A) a declaration that Co-operative breached s 41 of the CCCFA by providing for unreasonable Cash Advance Fees, in respect of online banking transactions, in consumer credit contracts in the period from November 2016 to 30 November 2021;
- (B) a declaration that Co-operative breached s 45 of the CCCFA by providing for Cash Advance Fees, in respect of ATM transactions, which exceeded the amount payable by Co-operative to third parties in respect of the same; and

- (C) a pecuniary penalty under s 107A of the CCCFA, in respect of the Cash Advance Fees which were in breach of s 41 in the period from 20 December 2019 to 30 November 2021.

This document is filed by **Andrew David Luck**, solicitor for the plaintiff, of the firm Meredith Connell. The address for service of the plaintiff is Level 7, MC Centre, 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 Meredith Connell (attn. Andy Luck) at PO Box 90750, Victoria Street West, Auckland 1142; or
  - (ii) left at the solicitor's address as noted above (attn. Andy Luck).

**Schedule 2: Notice of admissions**

IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY

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

CIV-2024-404-266

BETWEEN

COMMERCE COMMISSION

Plaintiff

AND

THE CO-OPERATIVE BANK LIMITED

Defendant

---

NOTICE OF ADMISSIONS  
[X] 2025

---

---

Russell  
McAugh

E J Rushbrook | J B C Trezise  
P + [REDACTED]  
F + [REDACTED]  
PO Box 10-214, Wellington  
[REDACTED]

**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 amended statement of claim dated [DD MM] 2025.

Dated [x] 2025

---

E J Rushbrook | J B C Trezise  
Solicitors 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.