



NZX Release

19 July 2024

Class Action Update – Court of Appeal Decision

As previously disclosed, proceedings were served on ASB Bank Limited (ASB) on 29 September 2021 by plaintiffs seeking to bring a representative (class action) proceeding against ASB in the High Court of New Zealand. The proceedings relate to ASB's compliance with parts of the Credit Contracts and Consumer Finance Act 2003 (CCCFA) which requires variation disclosure to be issued when customers and ASB make agreed changes to loan agreements captured under the CCCFA.

On 23 and 24 April 2024, the New Zealand Court of Appeal heard ASB's appeal from an earlier High Court decision permitting the plaintiffs to pursue their claims as an opt-out representative proceeding on behalf of a class. On 19 July 2024, the Court of Appeal confirmed the earlier Court's decision to allow the plaintiffs to bring the action against ASB as an opt out representative action.

The parties have until 16 August 2024 to apply to the Supreme Court of New Zealand for permission to appeal against the Court of Appeal's decision.

The plaintiffs' class definition covers all customers who had a home or personal loan with ASB between 6 June 2015 and 18 June 2019 covered by the CCCFA and who were not provided with compliant variation disclosure. Given this definition and the fact that issues raised in the claim have not been determined by the Courts before, the size of the class is unknown. However, the class and the allegations made in the proceedings would potentially cover hundreds of thousands of loans.

In their claim, the plaintiffs argue that ASB is not entitled to retain any interest or fees paid by any class member for the period during which it is alleged that ASB did not provide, and has not provided, compliant variation disclosure under the CCCFA. ASB denies that the relief sought by the plaintiffs is available to them and is vigorously defending the proceedings.

It is not possible to determine the ultimate impact of this claim, if any, on ASB.

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For further information, please contact:

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