

Settlement Agreement

Reserve Bank of New Zealand

ASB Bank Limited

Settlement Agreement dated 12 December 2025

Parties

Reserve Bank of New Zealand, a body corporate continued by s 8 of the Reserve Bank of New Zealand Act 2021 having its main office at 2 The Terrace, Wellington 6011 (**Reserve Bank**); and

ASB Bank Limited, a duly incorporated company having its registered office at Level 2, ASB North Wharf, 12 Jellicoe Street, Auckland 1010 (**ASB**),

(together, the **Parties**).

Introduction

- A The Reserve Bank is one of the supervisors under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**Act**).
- B ASB is a registered bank. The Reserve Bank is ASB's supervisor under the Act.
- C As a result of what the Reserve Bank found during an on-site inspection of ASB to monitor compliance with its obligations under the Act, the Reserve Bank commenced an investigation of ASB's compliance with its obligations under the Act (**Investigation**). Between 30 August 2024 and 30 September 2025, the Reserve Bank issued three notices under s 132 of the Act requiring ASB to provide various documents and information.
- D The Reserve Bank has formed the view that ASB has breached its obligations under the Act to establish, implement, or maintain a fully-compliant AML/CFT compliance programme in a number of respects, adequately conduct ongoing customer due diligence, report suspicious activities within the time required by the Act, conduct compliant enhanced customer due diligence, and terminate business relationships when required. The Reserve Bank has determined that the appropriate enforcement response is the initiation of civil proceedings and on 12 December 2025 will file civil proceedings in the High Court against ASB seeking an order that ASB pay a civil pecuniary penalty for its contraventions.
- E The Parties have agreed to settle all matters that were the subject of the Investigation on the terms set out in this Agreement.
- F Subject to any non-publication orders, this Agreement may be made public by the Reserve Bank (including on the Reserve Bank's website) following the public release of the Penalty Judgment.

1 Interpretation

1.1 For the purposes of this Agreement:

- (a) **Act** means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;

- (b) **Admitted Causes of Action** means the admitted causes of action contained in the Statement of Claim;
- (c) **Agreed Recommended Penalty** means the pecuniary penalty defined in clause 2.2(d);
- (d) **Agreement** means this settlement agreement and the schedules attached to it;
- (e) **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;
- (f) **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;
- (g) **Defaulting Party** has the meaning as set out in clause 8.1;
- (h) Dollar amounts stated are New Zealand dollars;
- (i) **Enforcing Party** has the meaning set out in clause 8.7
- (j) **Information** includes all information, documents, material and evidence of any kind whatsoever, including all oral, written and electronic material in relation to the Investigation and the Proceeding;
- (k) **Investigation** has the meaning set out in paragraph C of the Introduction;
- (l) **Joint Memorandum of Counsel** means the joint memorandum of counsel attached as **Schedule 3** to this Agreement;
- (m) **Notice of Admissions** means the notice of admissions attached as **Schedule 2** to this Agreement;
- (n) **Notifying Party** has the meaning set out in clause 8.1;
- (o) **Party** means any party to this Agreement and **Parties** means both parties to this Agreement;
- (p) **Penalty Hearing** means any hearing or fixture in the Proceeding at which the Reserve Bank and ASB will ask the Court to approve the order set out in clause 3.6;
- (q) **Penalty Judgment** means the judgment of the Court determining the pecuniary penalty payable by ASB in the Proceeding;
- (r) Person extends to non-natural persons and includes any association of persons whether incorporated or not;
- (s) **Proactive Media Statement** means a public statement which does not respond to a request made by news media or comprise a communication to ASB's customers or other stakeholders that is reasonably necessary for the conduct of ASB's business;
- (t) **Proceeding** means the claim to be commenced on filing the Statement of Claim on 12 December 2025, and includes any appeals;

- (u) **Public Comment** means a statement to any person other than the entities listed in clause 6.1 about the Investigation, Statement of Claim, the Notice of Admissions or this Agreement, and includes a Proactive Media Statement, media release or market disclosure that is required to satisfy ASB's obligations under applicable laws and/or ASB's obligations under applicable listing rules;
- (v) **Reserve Bank's Costs** has the meaning set out in clause 3.9;
- (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 rule 1.3 of the High Court Rules 2016.

2 Resolution

- 2.1 The Parties have reached a full and final settlement of all claims under the Act against ASB or any current or former officer, employee, or director of ASB, arising out of the Investigation and Statement of Claim.
- 2.2 The Parties agree to resolve the Proceeding by:
 - (a) executing this Agreement by 12 December 2025;
 - (b) on 12 December 2025, the Reserve Bank filing the Statement of Claim;
 - (c) before 10am on 15 December 2025, ASB filing the Notice of Admissions and the Joint Memorandum of Counsel;
 - (d) the Parties recommending that the Court impose a civil pecuniary penalty under s 90 of the Act of \$6.731m in respect of ASB's admitted breaches, in accordance with clause 3.6 of this Agreement (**Agreed Recommended Penalty**);
 - (e) ASB paying the civil pecuniary penalty ordered in any Penalty Judgment;
 - (f) ASB paying the Reserve Bank's Costs; and
 - (g) otherwise on the basis set out in this Agreement.
- 2.3 The admissions made by ASB 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.
- 2.4 The Reserve Bank will not commence further proceedings under the Act against ASB or any current or former officer, employee or director of ASB, in connection with the Investigation, the Statement of Claim, and the Proceeding.
- 2.5 For the avoidance of doubt, nothing in this Agreement shall be construed as:
 - (a) resolving any past, continuing, or future contraventions of the Act arising in relation to the Investigation about which the Reserve Bank does not have reasonable notice;

- (b) resolving any past, continuing or future contraventions of any other Act; or
- (c) preventing the Reserve Bank from commencing or continuing any civil or criminal proceedings against ASB or any other person in respect of the matters described in clauses 2.5(a) and (b).

3 Imposition of the Agreed Recommended Penalty

Statement of Claim, Notice of Admissions and Joint Memorandum of Counsel

- 3.1 On the same day as the execution of this Agreement, ASB will sign and provide to the Reserve Bank the Joint Memorandum of Counsel attached as **Schedule 3**.
- 3.2 On 12 December 2025, the Reserve Bank will file the Statement of Claim referred to at clause 2.2(b).
- 3.3 On 15 December 2025, once signed by the Reserve Bank, ASB will file the Joint Memorandum of Counsel referred to at clause 3.1 with the Notice of Admissions referred to at clause 2.2(c).
- 3.4 The Parties will cooperate and use all reasonable endeavours to ensure that the Penalty Hearing proceeds on the first available date after 2 March 2026 that the Court proposes that is convenient to counsel.
- 3.5 For the avoidance of doubt, in accordance with the Notice of Admissions, the Reserve Bank may seal judgment on the Admitted Causes of Action in accordance with rules 11.11 and 15.16(3) of the High Court Rules 2016.

Agreed Penalties and content of submissions

- 3.6 The Parties agree that:
 - (a) the Agreed Recommended Penalty for the Admitted Causes of Action is a final penalty of \$6.731m;
 - (b) the Agreed Recommended Penalty is an appropriate pecuniary penalty in view of the conduct and the circumstances;
 - (c) they will make written and oral submissions recommending to the Court that it adopt:
 - (i) a starting point of \$8.975m, broken down by cause of action as follows:
 - (A) failure to establish, implement, or maintain a fully-compliant AML/CFT compliance programme (relating to compliance with customer due diligence requirements): \$1.85m;
 - (B) failure to establish, implement, or maintain a fully-compliant AML/CFT compliance programme (relating to setting out what ASB needs to do, or continue to do, to manage and mitigate the risks of ML/TF): \$1.3m;

- (C) failure to establish, implement, or maintain a fully-compliant AML/CFT compliance programme (relating to monitoring and managing compliance with procedures, policies, and controls): \$1.85m;
 - (D) failure to adequately conduct ongoing customer due diligence: \$1m;
 - (E) failure to report suspicious activities in accordance as required by s 40 of the Act: \$1.7m;
 - (F) failure to conduct compliant enhanced customer due diligence: \$1.1m; and
 - (G) failure to terminate business relationships when required: \$175,000;
- (ii) a discount of 25% for ASB's co-operation and constructive engagement with the Reserve Bank, and early resolution of the Proceeding;
- (d) they will not seek in any way to suggest or argue to the Court that a different penalty should be imposed; and
- (e) they will otherwise support the Agreed Recommended Penalty before the Court.

3.7 The Parties agree that matters relating to ASB's culpability are as described in the Statement of Claim.

Consultation on submissions

3.8 The Reserve Bank and ASB will:

- (a) circulate to each other a draft of any submissions or memorandum they propose to file in relation to the Agreed Recommended Penalty at least seven Working Days before that Party is to file the submissions or memorandum with the Court;
- (b) provide any comments on submissions or a memorandum received in accordance with clause 3.8(a) not more than three 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 submissions or memorandum.

Costs

3.9 The Parties agree that ASB will pay the Reserve Bank's costs by:

- (a) contributing \$200,000 toward its internal investigative costs; and
 - (b) paying \$140,000, being its external legal costs
- (together, the **Reserve Bank's Costs**).

- 3.10 The Parties agree that neither Party will seek any other costs award in the Proceeding, other than costs arising:
- (a) from any breach of this Agreement;
 - (b) following the service of a Default Notice in accordance with clause 8.3; and/or
 - (c) in respect of a matter referred to in clause 2.3.

Co-operation

- 3.11 The Parties will, in all other steps, co-operate to secure the just, speedy, and inexpensive determination of the Proceeding.

4 Payment of Penalty and Costs

- 4.1 If the Court imposes the Agreed Recommended Penalty in the Penalty Judgment, ASB will pay the amount of the Agreed Recommended Penalty, together with the Reserve Bank's Costs, into the bank account(s) nominated by the Reserve Bank within 15 Working Days of the Penalty Judgment.
- 4.2 If the Court does not impose the Agreed Recommended Penalty in the Penalty Judgment, then ASB will pay the amount of any pecuniary penalty ordered by the Court together with the Reserve Bank's Costs within 15 Working Days 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. For the avoidance of doubt, the Reserve Bank's Costs will be payable within 15 working days of the Penalty Judgment in all cases.
- 4.3 If a Penalty Judgment is then issued by an appellate Court, ASB (on the one hand), or the Reserve Bank (on the other hand), as applicable, shall pay to the other Party any difference between any pecuniary penalty paid by ASB in accordance with clause 4.2 and the amount ordered by the appellate Court into the bank account nominated by the Reserve Bank or ASB. For the avoidance of doubt, if no pecuniary penalty has been paid by ASB when a Penalty Judgment is issued by an appellate Court, this difference will be the total amount ordered by the appellate Court. The payment will be made within 15 Working Days of the date of the appellate judgment or within any other time period specified by the appellate judgment, whichever is later.
- 4.4 If a stay of the Penalty Judgment is granted pending determination of an appeal, ASB agrees to pay interest as prescribed by the Interest on Money Claims Act 2016 on any amount it has to pay to the Reserve Bank under clause 4.3. Interest will accrue from the date of the Penalty Judgment until payment is made in full.
- 4.5 For the avoidance of doubt, if the Reserve Bank is required to refund any amount under clause 4.3, the only interest to be paid is that actually earned, if any, on the amount to be refunded.

5 Time ceases to run for limitation purposes

- 5.1 The Parties agree that, in relation to any matters pleaded in the Statement of Claim, time ceases to run and does not begin to run for limitation purposes from the date of this Agreement until the final determination of the Proceeding.

6 Confidentiality and comment

Comment on settlement of Proceeding

- 6.1 Either party may, at any time, disclose the terms of this Agreement to:
- (a) any Government Minister;
 - (b) a public agency;
 - (c) to the Commonwealth Bank of Australia;
 - (d) to the extent reasonably necessary to its lawyers, insurers, or auditors;
or
 - (e) as required by law.
- 6.2 On or after 15 December 2025, either Party may make a Public Comment.
- 6.3 In relation to any Public Comment that is a Proactive Media Statement or market disclosure, the Party making the Proactive Media Statement or market disclosure will provide a copy of it to the other Party 24 hours in advance of the statement being published publicly (i.e. beyond the entities listed in clause 6.1).
- 6.4 Any such copy of the Proactive Media Statement or market disclosure provided in accordance with clause 6.3 must be kept strictly confidential by the recipient Party until such time as the disclosing Party publishes it publicly.
- 6.5 Nothing in clause 6.3 prevents a party from providing a copy of a Proactive Media Statement or market disclosure to any of the entities listed in paragraph 6.1 before it is published publicly if it is provided to, and held by, that entity on the basis that it will be held on the same terms as a recipient Party under clause 6.4.
- 6.6 The Parties will not otherwise disclose the terms of this Agreement prior to the outcome of the Penalty Hearing.

Comment after release of Penalty Judgment

- 6.7 Either Party may make a Public Comment in relation to this Agreement or the outcome of the Penalty Hearing after the public release of the Penalty Judgment.
- 6.8 In relation to any Proactive Media Statement or market disclosure made under clause 6.7, the Party making the Proactive Media Statement or market disclosure will provide a copy of the statement to the other Party 24 hours in advance of the statement being made unless disclosure is legally required earlier. Thereafter, the Parties will be able to make a Public Comment subject only to compliance with clause 6.9.

Comments to be consistent with Penalty Judgment, Statement of Claim, Notice of Admissions and Agreement

- 6.9 Subject to clause 2.3, no Party will make any Public Comment that is inconsistent with the Penalty Judgment, the Statement of Claim, the Notice of Admissions or this Agreement.

Purpose of provision of advance copy of Public Comment

- 6.10 The Parties agree that the purpose of providing an advance copy of any Proactive Media Statement or market disclosure to the other Party is only to allow the other Party to have advanced notice so as to inform its own position (and not for approval).

7 Appeals from the Penalty Judgment

- 7.1 If the Court imposes the Agreed Recommended Penalty, no Party may appeal or apply to recall or set aside the Penalty Judgment on the basis that the Agreed Recommended Penalty should not have been imposed.
- 7.2 If, following submissions from the Parties consistent with clause 3.6, the Court imposes any penalty that differs from the Agreed Recommended Penalty, either Party may appeal the Penalty Judgment.
- 7.3 In the event that an appeal is brought under clause 7.2:
- (a) the terms of this Agreement will remain binding on the Parties, including, for the avoidance of doubt, clause 3.6; 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.

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; and

- (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, and 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**).

Notifying Party may take steps or commence proceedings following 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 (without limitation):
 - (i) by sealing judgment on the Admitted Causes of Action and seeking determination of a penalty in respect of the Admitted Causes of Action;
 - (ii) by applying to set aside or appeal from or enforce the Penalty Judgment; and
 - (iii) in the case of the Reserve Bank, by adding any additional causes of action against ASB in the Proceeding that the Reserve Bank considers appropriate;
 - (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; or
 - (d) terminate the Agreement.
- 8.5 If the Notifying Party takes further steps in the Proceeding pursuant to clause 8.4, the Defaulting Party may take any further steps in the Proceeding without restriction. Clauses 5.1, 9.1, 9.2, 9.4 to 9.14 continue in full force and effect notwithstanding that any Party has terminated, or has purported to terminate, this Agreement.
- 8.6 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

- 8.7 If ASB fails to make all or part of the payment referred to in clause 4.1 within the time specified, after first providing seven Working Days for ASB to rectify that breach, the Reserve Bank (the **Enforcing Party**) is entitled to:
- (a) enforce the Penalty Judgment;

- (b) claim interest as prescribed by the Interest on Money Claims Act 2016 on the balance payable until the penalty (or difference owing) and any costs at clause 3.9 are paid in full; and
 - (c) its costs, including its legal costs on a solicitor-client basis, arising from the failure to comply with clause 4.1.
- 8.8 Nothing in clause 8.7 limits the ability of the Enforcing Party to also issue a Default Notice in accordance with clauses 8.1 to 8.3 above.
- Effect of Default Notice on Penalty recommendation**
- 8.9 If a Default Notice has been given by the Reserve Bank, in any subsequent penalty hearing in the Proceeding the Reserve Bank may submit that:
- (a) the Agreed Recommended Penalty included discounts for cooperation, remorse and cost savings to the public;
 - (b) the breach of the Agreement demonstrates:
 - (i) a lower level of cooperation by ASB;
 - (ii) a lack of remorse on behalf of ASB; and
 - (iii) reduced cost savings to the public; and
 - (c) the Court should impose a higher pecuniary penalty than the Agreed Recommended Penalty to reflect an appropriate, lower level of discount.

9 General

Entire agreement

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

No misrepresentation arising from Information provided

- 9.3 The Parties acknowledge that neither Party has been induced to enter the Agreement by any representation made in, or in connection with, any Information provided by the other Party. Accordingly, neither Party may cancel the Agreement or be entitled to damages on account of any misrepresentation

alleged to arise from or in connection with the provision of such Information (whether under the Contract and Commercial Law Act 2017 or otherwise).

Use and disclosure of Information

- 9.4 The Reserve Bank may use Information provided by ASB for the purpose of carrying out any of the Reserve Bank's functions or obligations under any enactment, but may not disclose such Information to any third party other than in accordance with clauses 9.5 and 9.9 below.
- 9.5 Subject to legal professional privilege and settlement privilege, the Reserve Bank may disclose Information provided by ASB in the following circumstances:
- (a) to witnesses, solicitors, barristers and other advisers or consultants retained by the Reserve Bank in proceedings related to the Investigation;
 - (b) to any Court in the Proceeding, or any other Reserve Bank-initiated proceeding related to the Investigation, including proceedings instituted in accordance with clause 8.4;
 - (c) as the Reserve Bank otherwise considers necessary or desirable with ASB's prior written consent;
 - (d) in accordance with its functions and powers under the Act; or
 - (e) 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).
- 9.6 The Reserve Bank 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 that ASB has provided to the Reserve Bank in relation to this Proceeding or Investigation, including voluntarily or under compulsion, it will notify ASB of that request at least five Working Days before responding to the request.
- 9.7 For the avoidance of doubt, the Reserve Bank may use any Information provided by ASB for such purposes as are reasonably necessary to give effect to the Agreement.
- 9.8 Any Party may use Information provided by the other Party in proceedings instituted in accordance with clause 8.4 except Information that has been provided by a Party on a without prejudice basis.
- 9.9 Subject to clause 9.5 and 9.6, if the Reserve Bank wishes to disclose to a third party any Information provided to it by ASB during the Investigation or in the Proceeding, or if any third party requests from the Reserve Bank disclosure of such Information, the Reserve Bank will use its best endeavours to notify ASB and provide ASB with a reasonable opportunity to oppose such a request, including by Court action.

Amendments in writing

- 9.10 No amendment to this Agreement will be effective unless it is in writing and signed by both Parties.

Authorities

- 9.11 Each person executing this Agreement warrants that he or she has the full authority to enter into this Agreement and bind the Party for which he or she purports to enter into this Agreement.

Severance

- 9.12 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.

Parties to bear their own costs

- 9.13 Each Party will meet its own expenses incurred in the course of performing its obligations under this Agreement, other than as provided for under clause 3.9.

Governing law

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

Further assurances

- 9.15 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

- 9.16 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

- 9.17 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 Reserve Bank, by hand delivery or email to the following address:

Reserve Bank of New Zealand
2 The Terrace

Wellington Central
Wellington 6011
New Zealand

Attention: Kerry Beaumont, Director Enforcement & Resolution

Email: Kerry.Beaumont@rbnz.govt.nz

Copy to:

Meredith Connell
Level 7, MC Centre
Auckland Central 1010

Attention: Sam McMullan
Milan Djurich

Email: sam.mcmullan@mc.co.nz
milan.djurich@mc.co.nz

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

Bell Gully
Level 14
Deloitte Centre
1 Queen Street, Auckland
New Zealand

Attention: Blair Keown

Email: Blair.Keown@bellgully.com

Execution

Signed by and on behalf of
Reserve Bank of New Zealand



.....

Authorised signatory

Kerry Beaumont

.....

Name

Signed by and on behalf of
ASB Bank Limited



.....

Authorised signatory

Victoria Short

.....

Name

Schedule 1: Statement of Claim

In the High Court of New Zealand
Auckland Registry

I te Kōti Matua o Aotearoa
Tāmaki Makaurau Rohe

CIV-2025-404-3682

Between

Reserve Bank of New Zealand a body corporate
continued by s 8 of the Reserve Bank of New Zealand Act 2021
having its main office at 2 The Terrace, Wellington 6011

Plaintiff

And

ASB Bank Limited a duly incorporated company having its
registered office at Level 2, ASB North Wharf, 12 Jellicoe
Street, Auckland 1010

Defendant

Statement of claim

12 December 2025

MC.

Sam McMullan | Milan Djurich
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DX CP24063
T: +64 9 336 7500
Sam.McMullan@mc.co.nz |
Milan.Djurich@mc.co.nz

Statement of claim

The plaintiff by its solicitors says –

Parties

- 1 The plaintiff, the Reserve Bank of New Zealand (**Reserve Bank**):
 - (a) is a body corporate continued under s 8 of the Reserve Bank of New Zealand Act 2021;
 - (b) has its main office at 2 The Terrace, Wellington 6011; and
 - (c) is the AML/CFT supervisor under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**Act**) responsible for registered banks.
- 2 The defendant, ASB Bank Limited (**ASB**):
 - (a) is a duly incorporated company, being incorporated on 16 August 1988;
 - (b) is a wholly-owned subsidiary of ASB Holdings Limited, which is itself a wholly-owned subsidiary of the Commonwealth Bank of Australia;
 - (c) has its registered office at Level 2, ASB North Wharf, 12 Jellicoe Street, Auckland 1010;
 - (d) is a registered bank; and
 - (e) is a reporting entity under the Act.

ASB Designated Business Group

- 3 ASB is part of a designated business group along with seven other entities.
- 4 The members of the designated business group rely on:
 - (a) ASB's AML/CFT programme and related policies and standards; and
 - (b) ASB to ensure that they comply with obligations under the Act to the extent permitted by s 32 of the Act.

ASB's business

- 5 For the period:
 - (a) 1 July 2019 to 30 June 2020, ASB:
 - (i) reported annual interest income of approximately \$4.07 billion;
 - (ii) reported a net profit after tax of approximately \$958 million;

- (iii) as at 30 June 2020, had assets valued at approximately 105.2 billion, which according to the Reserve Bank, represented approximately 17.6 per cent of industry assets;
 - (iv) had a business relationship with 2,110,941 customers; and
 - (v) engaged in approximately 914 million transactions with a total value of approximately \$5.36 trillion.
- (b) 1 July 2020 to 30 June 2021, ASB:
- (i) reported annual interest income of approximately \$3.5 billion;
 - (ii) reported a net profit after tax of approximately \$1.32 billion;
 - (iii) as at 30 June 2021, had assets valued at approximately \$112.6 billion, which according to the Reserve Bank, represented approximately 18.1 per cent of industry assets;
 - (iv) had a business relationship with 2,139,030 customers; and
 - (v) engaged in approximately 1.05 billion transactions with a total value of approximately \$5.5 trillion.
- (c) 1 July 2021 to 30 June 2022, ASB:
- (i) reported annual interest income of approximately \$3.6 billion;
 - (ii) reported a net profit after tax of approximately \$1.47 billion;
 - (iii) as at 30 June 2022, had assets valued at approximately \$121.5 billion, which according to the Reserve Bank, represented approximately 18.3 per cent of industry assets;
 - (iv) had a business relationship with 2,171,798 customers; and
 - (v) engaged in approximately 1.06 billion transactions with a total value of approximately \$6.02 trillion.
- (d) 1 July 2022 to 30 June 2023, ASB:
- (i) reported annual interest income of approximately \$5.8 billion;
 - (ii) reported a net profit after tax of approximately \$1.56 billion;
 - (iii) as at 30 June 2023, had assets valued at approximately \$126.9 billion, which according to the Reserve Bank, represented approximately 18.8 per cent of industry assets;
 - (iv) had a business relationship with 2,295,835 customers; and
 - (v) engaged in approximately 1.192 billion transactions with a total value of approximately \$4.45 trillion.

- (e) 1 July 2023 to 30 June 2024, ASB:
 - (i) reported annual interest income of approximately \$7.57 billion;
 - (ii) reported a net profit after tax of \$1.45 billion;
 - (iii) as at 30 June 2024, had assets valued at approximately \$127 billion, which according to the Reserve Bank, represented approximately 18.6 per cent of industry assets;
 - (iv) had a business relationship with 2,356,241 customers; and
 - (v) engaged in approximately 1.2 billion transactions with a total value of approximately \$4.44 trillion.

- (f) 1 July 2024 to 30 June 2025, ASB:
 - (i) reported annual interest income of approximately \$7.73 billion;
 - (ii) reported a net profit after tax of approximately \$1.45 billion;
 - (iii) as at 30 June 2025, had assets valued at approximately \$135.2 billion, which according to the Reserve Bank, represented approximately 18.8 per cent of industry assets;
 - (iv) had a business relationship with 2,357,003 customers; and
 - (v) engaged in approximately 1.21 billion transactions with a total value of approximately \$5.6 trillion.

The Act's requirements

- 6 Under the Act, ASB is required to (among other things):
- (a) have a written risk assessment that:
 - (i) identifies the money laundering and terrorism financing (**ML/TF**) risks ASB is reasonably expected to face in the course of its business by having regard to the factors set out in s 58(2) of the Act;
 - (ii) describes how ASB will ensure the risk assessment remains current; and
 - (iii) enables ASB to determine the level of risk involved in relation to relevant obligations under the Act and its regulations;

 - (b) have an AML/CFT programme that is based on its risk assessment and includes adequate and effective procedures, policies and controls for (among other things):
 - (i) complying with customer due diligence requirements (including ongoing customer due diligence and account monitoring);
 - (ii) reporting suspicious activities;

- (iii) setting out what ASB needs to do, or continue to do, to manage and mitigate ML/TF risks; and
 - (iv) monitoring and managing compliance with, and the internal communication of and training in, those procedures, policies, and controls;
- (c) regularly review its risk assessment and AML/CFT programme;
 - (d) have its risk assessment and AML/CFT programme audited as required under the Act or at any other time at the request of the AML/CFT supervisor;
 - (e) conduct enhanced customer due diligence on customers in the circumstances described in s 22 of the Act;
 - (f) undertake account monitoring in order to ensure that the business relationship and transactions relating to that business relationship are consistent with ASB's knowledge about the customer and the customer's business and risk profile, and identify grounds for reporting a suspicious activity;
 - (g) make suspicious activity reports in respect of suspicious activities as defined in s 39A of the Act; and
 - (h) where, in relation to a customer, ASB is unable to conduct customer due diligence in accordance with subpt 1 of Part 2 of the Act:
 - (i) not establish a business relationship with the customer;
 - (ii) terminate any existing business relationship with the customer;
 - (iii) not carry out an occasional transaction or activity with or for the customer; and
 - (iv) consider whether to make a suspicious activity report.

ASB's AML/CFT framework

AML/CFT programme

- 7 At all relevant times, ASB had an AML/CFT programme.
- 8 ASB's AML/CFT programme includes (among other documents):
 - (a) a risk appetite statement, which establishes ASB's core risk principles;
 - (b) an AML/CFT policy, which establishes ASB's minimum AML/CFT policy principles;
 - (c) an AML/CFT Framework Standard, which sets out the policies, procedures and controls ASB uses to ensure it aligns with all principles of the ASB AML/CFT policy (**Framework Standard**); and

- (d) various standards or standard operating procedures which relate to specific obligations under the Act, including:
 - (i) an enhanced customer due diligence standard;
 - (ii) an ongoing customer due diligence standard;
 - (iii) a standard operating procedure for suspicious activity reporting; and
 - (iv) a standard operating procedure for AML transaction monitoring.

9 ASB periodically updated and amended its AML/CFT programme, resulting in different versions of that document or its various parts, including in response to issues identified by the Reserve Bank and independent auditors.

Customer risk rating

10 At all relevant times, ASB utilised a composite customer risk rating model (**Risk Rating Model**).

11 The Risk Rating Model is intended to facilitate:

- (a) the application of appropriate customer due diligence measures; and
- (b) increased monitoring of those customers assessed as posing a heightened ML/TF risk.

12 Under the Risk Rating Model, customer attributes are scored and weighted in order to obtain a composite ML/TF risk score.

13 At all relevant times, ASB's Framework Standard provided that:

- (a) all customers who exceed a defined 'heightened risk' threshold score will be recorded on the High Risk Customer Register;
- (b) a 'heightened customer risk' flag is available to prioritise transaction monitoring alerts and to support ML/TF risk reporting and analysis;
- (c) customers who exceed a higher 'AML Customer Alert' threshold will be alerted to ASB's Financial Crime Operations (**FCO**) team for a proactive customer and/or account review; and
- (d) if the customer is deemed to pose an unacceptable level of risk, a recommendation is made to the customer's portfolio managing business unit to terminate the business relationship with the customer.

Account/Transaction monitoring

Automated account/transaction monitoring

14 At all relevant times, ASB had an automated, centralised transaction monitoring system known as Predator (**Predator**), which used rules to detect certain behaviours or patterns of activities of customers with whom ASB had

- 18 Prior to April 2021, TM Alerts were classified as being High Priority Alerts if:
- (a) the transaction which generated the alert was undertaken by:
 - (i) a high risk customer based on the Risk Rating Model;
 - (ii) a politically exposed person; or
 - (iii) a person in respect of whom ASB had previously made a suspicious activity report;
 - (b) one of four Predator Rules was engaged, all of which related to potential terrorism financing.
- 19 In April 2021, ASB introduced a rule risk rating methodology to triage TM Alerts based on a customer's risk rating only.
- 20 Between April 2021 and 1 June 2024:
- (a) ASB characterised TM Alerts as being High Priority Alerts on the basis of customer risk only;
 - (b) TM Alerts were classified as being High Priority Alerts if the transaction which generated the alert was undertaken by the kind of customer set out at paragraph 18(a) above; and
 - (c) in all other cases, TM Alerts were classified as being a Standard Priority Alert.
- 21 Transactions relating to terrorism financing and child exploitation present a high ML/TF risk.
- 22 Notwithstanding paragraph 21 above, between April 2021 and 1 June 2024, TM Alerts relating to terrorism financing and child exploitation were not characterised as being High Priority Alerts unless the transaction which generated the alert was undertaken by a person of the kind specified in paragraph 18(a) above.
- 23 From 1 June 2024, TM Alerts relating to terrorism financing and child exploitation were characterised as High Priority Alerts irrespective of the risk status of the customer who undertook the transaction giving rise to the TM Alert.

Manual account/transaction monitoring

- 24 At all relevant times, ASB's AML/CFT programme provided for the making of unusual activity reports as a means of manual account monitoring (**UARs**).
- 25 The purpose of a UAR is to escalate potentially suspicious activities for further analysis.
- 26 All UARs are required to include the following information:
- (a) a customer name;
 - (b) a transaction amount and date;

- (c) a description of the transactions and/or activities;
- (d) a clear statement as to what the unusual activity is; and
- (e) an explanation as to how the transaction differs from the customer's usual account or transaction activity, including what about the customer's behaviour raises concerns.

Timeframes for resolving TM Alerts and UARs

27 At all relevant times, ASB's AML/CFT programme required it, through its FCI team, to resolve TM Alerts and UARs within specified timeframes.

28 The timeframes for resolving TM Alerts and UARs are known as service level agreements (**SLA timeframes**).

TM Alert SLA timeframes

29 At all relevant times, the SLA timeframes for resolving TM Alerts were, for:

- (a) Standard Priority Alerts, within [REDACTED] from the date of the alert; and
- (b) High Priority Alerts, within [REDACTED] from the date of the alert.

30 Where a High Priority TM Alert is not resolved within the SLA timeframe, it is escalated to FCI team management.

UAR SLA timeframes

31 Between at least 8 December 2019 and 17 June 2024, the SLA timeframes for resolving UARs were, for UARs made by:

- (a) [REDACTED] (**Standard Priority UAR**), [REDACTED] (and [REDACTED] from 8 November 2023); and
- (b) [REDACTED] (**High Priority UAR**), [REDACTED].

32 From 17 June 2024, ASB's AML/CFT programme has required it to resolve all UARs within [REDACTED].

Ongoing customer due diligence

33 Between 6 September 2019 and 1 February 2021, ASB's AML/CFT programme required ongoing customer due diligence to be conducted (inter alia) on high risk customers every 18 months.

34 From 1 February 2021, ASB's AML/CFT programme required ongoing customer due diligence to be conducted on a customer in the following circumstances:

- (a) whenever a 'mandatory trigger event' occurs; and
- (b) in addition to mandatory trigger events:

- (i) for high risk customers, periodically at set frequencies; and
- (ii) for low and medium risk customers, whenever:
 - (A) a 'material change trigger' occurs; and
 - (B) any ad hoc review trigger is required by the business.

35 A mandatory trigger event includes:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

36 From 1 February 2021, ASB's AML/CFT programme specified the following types of high risk customer:

- [REDACTED]
- [REDACTED]

(c) trusts domiciled outside of New Zealand, and trusts with foreign beneficial owners (**Foreign Trusts**);

- [REDACTED]
- [REDACTED]
- [REDACTED]

37 Between 1 February 2021 and 30 September 2024:

- (a) in the absence of a mandatory trigger event, ASB was required to conduct ongoing customer due diligence:
 - (i) [REDACTED] in respect of the types of customers specified at paragraph 36(a), (b) and (d) above; and
 - (ii) on a sample basis in respect of Foreign Trusts, but no more than once in a three-year period;
- (b) ASB conducted ongoing customer due diligence on Foreign Trusts in accordance with the policy set out at paragraph 37(a)(ii) above by selecting and reviewing a monthly sample of 28 Foreign Trusts from those which had not been reviewed within the preceding three years.

Particulars

- (a) Reserve Bank onsite inspection report dated 13 December 2023.

Reporting suspicious activities

38 At all relevant times, ASB's AML/CFT programme provided for the making of suspicious activity reports as required by the Act.

39 At all relevant times, ASB adopted the following approach to reporting suspicious activities arising from TM Alerts:

(a) [REDACTED]
[REDACTED]

(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

40 At all relevant times, ASB's AML/CFT programme required it to conduct enhanced customer due diligence on a customer in respect of whom a suspicious activity report had been made.

Predator

Adoption of Predator for transaction monitoring purposes

41 Prior to 30 November 2011, Predator's primary function was as a system for detecting credit card fraud.

42 On 30 November 2011, ASB's board determined to adopt Predator as ASB's transaction monitoring system, subject to obtaining independent external assurance. Of the options considered, Predator was identified as:

- (a) enabling implementation by June 2013 when the Act was to come into force;
- (b) involving a low level of technical complexity;
- (c) offering the highest flexibility and control for rule changes;
- (d) utilising local support; and
- (e) providing the most cost effective solution.

43 In December 2011, ASB engaged PricewaterhouseCoopers (**PwC**) to undertake an independent review of the use of Predator for AML/CFT account monitoring purposes.

- 44 On 3 February 2012, PwC provided its report to ASB (**2012 PwC Report**), which identified the following matters (among others):
- (a) the process followed in selecting Predator as a transaction monitoring solution for AML/CFT purposes was robust and in line with standard bank processes for solutions selection;
 - (b) no constraints, risks or issues were identified that would have a significant impact on the operational use of Predator for AML/CFT transaction monitoring in the short to medium term of two to five years;
 - (c) ASB should conduct a review of alert volumes and staffing requirements to reduce the risk that the monitoring team is overwhelmed by the volume of alerts generated and subsequently fail to meet regulatory requirements for suspicious activity reporting time limits;
 - (d) AML/CFT monitoring in Australia indicated that the rules and scenarios required to monitor for AML/CFT purposes were likely to become more sophisticated in the future than supported by Predator at the time, such that ASB should regularly monitor the status and availability of a more sophisticated transaction monitoring solution used by the Commonwealth Bank of Australia and move to this platform when it becomes appropriate for business needs;
 - (e) some more complex monitoring rules were not necessarily supported by Predator, including high risk customer requirements, and politically exposed persons and sanctions; and
 - (f) the performance and scalability of Predator was likely to meet ASB's requirements at the time, with sufficient volume available for the next two to three years of combined AML/CFT and fraud operation.
- 45 Following delivery of the 2012 PwC Report, ASB adopted Predator as its transaction monitoring system.
- 46 In June 2013, Predator became ASB's transaction monitoring system.
- 47 From June 2013, Predator could not display:
- (a) TM Alerts that were older than 13 weeks; and
 - (b) more than 4,500 TM Alerts.
- 48 TM Alerts that could not be displayed for the reasons set out in paragraph 47 above were stored on an archive platform of Predator for a maximum period of three years (**Predator Archive**).
- 49 TM Alerts needed to be manually extracted from Predator Archive before they could be reviewed.
- 50 On a date unknown to the plaintiff prior to 14 June 2021, Predator's maximum display capacity was increased to 9,000 TM Alerts.

Identification of issues with Predator

Prior to 12 December 2019

- 51 From 30 July 2015, ASB was aware of limitations with Predator's function as a transaction monitoring system, including its capacity to hold TM Alerts.

Particulars

- (a) IS-035543, made on 30 July 2015.

- 52 From 6 July 2017, ASB was aware of issues with Predator's performance, including:

- (a) TM Alerts not being resolved within SLA timeframes; and
(b) Predator's prioritisation of TM Alerts relating to customers in respect of whom ASB had previously made a suspicious activity report being faulty;

and, between 6 July 2017 and 1 October 2019, recorded in its issue management system attempts to address those issues.

Particulars

- (a) ASB Audit and Assurance team's June 2017 independent audit report dated 25 August 2017.

- (b) IS-069247, made on 6 July 2017.

- (c) IS-099831, made on 2 August 2019.

- (d) IS-100394, made on 19 August 2019.

- (e) IS-102367, made on 1 October 2019.

- 53 In 2017, ASB's Audit and Assurance team independently audited ASB's AML/CFT Programme for the period February 2015 to February 2017 (**2017 Audit**).

- 54 On 25 August 2017, the Audit and Assurance team issued a report on the 2017 Audit (**2017 Audit Report**).

- 55 The 2017 Audit Report identified the following matters (among others):

- (a) there were limitations with Predator as it was not specifically designed for the purpose of AML/CFT-related transaction monitoring;
(b) the Predator flag indicating that a TM Alert relates to a customer in respect of whom ASB had previously made a suspicious activity report was not operating and had not been operating since Predator's inception, such that TM Alerts of this kind had not been prioritised for review;
(c) centralised TM Alert practices were not performed in a timely manner in accordance with internal SLA timeframes;

- (d) during the audit period:
 - (i) 32 per cent of all TM Alerts were closed over the [REDACTED] SLA timeframe; and
 - (ii) for politically exposed persons and high-risk customers, 82 per cent and 53 per cent of TM Alerts, respectively, were closed over the [REDACTED] SLA timeframe applicable at the time;
- (e) Predator was limited to holding a maximum of 4,500 open TM Alerts, and once this figure was reached, excess alerts would be automatically archived and required manual extraction for investigation.

56 ASB's senior management was aware of the issues and limitations referred to at paragraphs 51 and 52 above from 25 August 2017.

From 12 December 2019

57 On 8 October 2019, ASB engaged Ernst & Young (**EY**) to conduct an independent validation of ASB's transaction monitoring daily reconciliation process after ASB self-identified an issue with transactions potentially not being appropriately processed by Predator (**EY Validation**).

58 On 4 February 2020, EY provided ASB with its independent validation report (**2020 Validation Report**). The 2020 Validation Report gave the reconciliation process a "marginal rating" meaning that controls were operating but required improvement in the short term to ensure that all risks were being managed appropriately.

59 The 2020 Validation Report identified the following matters (among others):

- (a) in respect of ASB's manual reconciliation process:
 - (i) ASB did not have a:
 - (A) prescribed process for fix prioritisation based on a comprehensive compliance risk assessment involving all relevant stakeholders;
 - (B) systematic action-tracking process in terms of issue aging versus assigned priority; and
 - (C) defined process to manually extract and rerun individual transactions confirmed as missing in Predator to identify whether these transactions may have resulted in TM Alerts requiring investigation;
 - (ii) it was recommended that ASB consider:
 - (A) creating a robust process for risk-assessing and deciding on identified defects;
 - (B) risk-assessing current open fixes, specifically for missing transactions, and fast-track their implementation; and

- (C) include the AML transaction monitoring daily reconciliation control as an agenda item in appropriate risk and control-related forums;
- (b) in respect of Predator:
 - (i) from an AML transaction monitoring perspective, Predator was “unusual” in that it made matching transactions with TM Alerts unnecessarily complex as it lacked unique transaction identifiers; and
 - (ii) it was recommended that ASB consider:
 - (A) building an instance of Predator dedicated solely to AML-related transaction monitoring, which was fed directly by back-end systems of record; and
 - (B) a phased implementation of a new AML-related transaction monitoring system.

60 ASB recorded the 2020 Validation Report’s findings as three new issues in its issue management system, including:

- (a) the issue set out at paragraph 59(a) above, which was recorded on 5 February 2020 (**Predator Reconciliation Issue**); and
- (b) the issue set out at paragraph 59(b) above, which was recorded on 29 April 2020 (**Predator Upgrade Issue**).

Particulars

- (a) IS-107146 and IS-110004.

61 The Predator Reconciliation Issue and the Predator Upgrade Issue meant that ASB was exposed to additional ML/TF risk beyond that to which it would otherwise have been exposed if it had a fully effective functioning account monitoring system.

62 ASB’s senior management became aware of the Predator Reconciliation Issue and the Predator Upgrade Issue.

63 From at least 4 February 2020, ASB was aware that Predator:

- (a) was inadequate as an AML/CFT-related transaction monitoring system;
- (b) was not fit for purpose; and
- (c) required replacement.

Particulars

- (a) 2020 Validation Report.
- (b) 2020 Request for Proposal – AML Transaction Monitoring Solution, undated but with a submission closing date of 4 December 2020.

- (c) Financial Crime Compliance Plan FY21, dated 3 July 2020.
 - (d) Minutes of 7 September 2020 meeting of ASB's AML/CFT Transaction Monitoring Working Group.
 - (e) IS-131889, made on 14 June 2021.
 - (f) ASB Audit and Assurance team's 16 September 2022 Transaction Monitoring Audit report.
- 64 On 26 May 2020, GBG Australia Pty Ltd, Predator's vendor, informed ASB that Predator would not be supported after 5 March 2021.
- 65 Notwithstanding paragraph 64 above, ASB determined to:
- (a) continue using Predator; and
 - (b) internally support Predator after it was no longer supported by its vendor because the new version that was being supported by the vendor did not have the same functionality that ASB's version of Predator had developed over time.
- 66 Between 24 June 2022 and 8 July 2022, ASB's Audit and Assurance team audited ASB's transaction monitoring function (**2022 TM Audit**).
- 67 On 16 September 2022, the Audit and Assurance team issued a report on the 2022 TM Audit (**2022 TM Audit Report**).
- 68 The 2022 TM Audit Report recorded the following transaction monitoring-related issues that were known to ASB:
- (a) ASB's data flow architecture did not allow ASB to ensure that all of the bank's activities were sufficiently covered by its transaction monitoring processes, as identified in the 2020 Validation Report, and no interim remediation measures had been put in place due to staff capacity issues and the prioritisation of other financial crime compliance projects relating to prescribed transaction reports and sanctions repatriation;
 - (b) Predator's technical limitations required ASB to use alternative tools to implement certain transaction monitoring rules, none of which were fit for purpose and which limited ASB's ability to implement and manage the required transaction monitoring rules effectively and efficiently; and
 - (c) ASB faced a backlog of TM Alerts which, as at 30 April 2022, stood at 14,497 unresolved TM Alerts, of which the Standard Priority Alerts in that backlog had an average age of 86 calendar days, exceeding the [REDACTED] SLA timeframe for such alerts, and the High Priority Alerts in the back log had an average age of around one working day, which was within the [REDACTED] SLA timeframe for such alerts.
- 69 The 2022 TM Audit Report identified the following key findings:
- (a) ASB's High Priority TM Alert classification did not consider all relevant risk factors, and alerts that were flagged as terrorism financing and child exploitation by Predator Rules, of which there were 522 open alerts as

at 30 June 2020 with an average age of 95.6 calendar days, were not treated as high priority;

- (b) ASB had no framework or monitoring oversight to ensure a consistent approach to red flag indicators that are appropriate for transaction monitoring but not able to be carried out through standard transaction monitoring processes; and
- (c) transaction monitoring rules monitored outside of the Financial Crime Compliance (**FCC**) and FCO teams were not being assessed as part of existing quality assurance controls.

Attempts to replace Predator

70 Between August 2020 and February 2021, ASB:

- (a) began a new “Transaction Monitoring and Reporting Stream” to consider options for implementing a new transaction monitoring system; and
- (b) completed a request for proposals process with a number of vendors of transaction monitoring systems, and subsequently began a vendor selection assessment.

71 On 22 February 2021, ASB’s FCC Executive Strategy Group put the transaction monitoring system upgrade on hold for 12 months:

- (a) until other significant FCC projects that required dedicated financial crime expertise were delivered, including
 - (i) a strategic Customer Risk Scoring Model; and
 - (ii) the repatriation of politically exposed persons and sanctions screening solutions as required by BS11;
- (b) due to ASB having insufficient specialist resource and capability in its platforms to deliver the upgrade while safely absorbing the amount of change represented by all projects.

Particulars

(a) Minutes of 22 February 2021 meeting of FCC Executive Strategy Group.

72 Between February 2020 and July 2022, ASB also attempted to build an instance of Predator dedicated solely to AML/CFT-related transaction monitoring (**Predator AML**). However, by July 2022, ASB:

- (a) was unsuccessful in its attempt to build Predator AML due to failures during user acceptance testing; and
- (b) paused further work on Predator AML to enable prioritisation of a prescribed transaction reporting maturity uplift.

Particulars

- (a) ASB's 8 November 2024 response to the Reserve Bank's s 132 notice.
 - (b) Agenda and information pack for 22 July 2022 meeting of the FCC Executive Strategy Group.
- 73 Between December 2022 and March 2024, ASB selected, and negotiated commercial terms with, a vendor for a transaction monitoring system replacement for Predator.
- 74 On:
- (a) 19 August 2024, ASB held a two-hour workshop with the Reserve Bank to explain ASB's approach to the implementation of the transaction monitoring system replacement for Predator and has provided quarterly updates since then; and
 - (b) 20 August 2025, ASB represented that the transaction monitoring system replacement for Predator comprises an end-to-end Oracle AML-specific transaction monitoring system and includes:
 - (i) a dedicated financial crime data lake;
 - (ii) end-to-end data lineage to demonstrate completeness, accuracy and security of data;
 - (iii) new reconciliations, load assurance and data quality rules built across all key data sources;
 - (iv) a strategic rules engine to support ongoing transaction monitoring rule deployment; and
 - (v) an online workflow tool to support investigation processes.
- 75 As at 12 December 2025, Predator's replacement has not been fully implemented. The first phase of implementation occurred in September 2025 with the deployment of the Oracle analytical environment to provide interim risk mitigation and a new workflow tool to facilitate alert investigation. All transaction monitoring rules are scheduled to be removed from Predator by April 2026.
- Repeated risk acceptance of known Predator issues*
- 76 From at least 4 February 2020, the additional ML/TF risks presented by the Predator Upgrade Issue and Predator Reconciliation Issue have been accepted by ASB despite knowledge that the issues they represent have not been fully resolved.
- 77 On a number of occasions since 4 February 2020, ASB made an active decision to accept the additional ML/TF risks presented by the Predator Upgrade Issue and Predator Reconciliation Issue for a nominated period of time:

- (a) on 16 September 2020, for 12 months because Predator AML would be built to improve data lineage and associated reconciliation controls, despite the fact that:
 - (i) Predator AML had been paused due to resource constraints; and
 - (ii) ASB had recorded that, with respect to the Predator Upgrade Issue, there was a limited implied compliance risk but fixes for transaction monitoring purposes could be applied reactively which suggested an acceptance of extended periods of potential non-compliance;
- (b) on 13 September 2021, for six months because that it was estimated that Predator AML was to go live in October 2021. By September 2021, an interim solution to provide ongoing assurance on transactions failing to reconcile had been implemented;
- (c) on 29 March 2022, for six months because Predator AML had not passed user acceptance testing and was de-prioritised in favour of a prescribed transaction reporting maturity uplift; and
- (d) on 27 September 2022, for 12 months because of ongoing work required by the prescribed transaction reporting maturity uplift, resulting in a new transaction monitoring solution not being prioritised at the time.

Particulars

- (a) Issue PDF report for IS-107146 dated 11 August 2020.
- (b) Issue Closure/Extension/Risk Acceptance Authorisation Form regarding IS-110004, due on 30 September 2020.
- (c) Issue Closure/Extension/Risk Acceptance Authorisation Form regarding IS-107146, due on 24 December 2020.
- (d) Internal email correspondence between:
 - (i) 1 and 16 September 2020;
 - (ii) 8 and 13 September 2021;
 - (iii) 25 and 29 March 2022; and
 - (iv) 22 and 27 September 2022.

78 On 4 August 2023, a new high rated issue was recorded on ASB's issue management system, which incorporated all transaction monitoring-related issues that could be addressed through a Predator system replacement (**Global TM Issue**).

Particulars

- (a) IS-151178.

- 79 The Global TM Issue encompassed the Predator Upgrade Issue and Predator Reconciliation Issue. Therefore, on:
- (a) 4 September 2023, the Predator Reconciliation Issue was closed; and
 - (b) 5 March 2024, the Predator Upgrade Issue was closed.
- 80 The Global TM Issue is intended to remain open until the strategic “go-live” of the replacement for Predator.

Particulars

- (a) ASB’s 8 November 2024 response to the Reserve Bank’s s 132 notice.

TM Alert backlog

Increase in TM Alerts

- 81 As a consequence of Predator’s limitations, it:
- (a) was unable to apply sophisticated transaction monitoring rules; and
 - (b) operated simple Predator Rules which generated high TM Alert volumes with high rates of false positives.

Particulars

- (a) Financial Crime Compliance Plan FY21, dated 3 July 2020.
- (b) 10 February 2023 paper prepared for ASB’s Executive Risk Committee.
- (c) ASB’s 8 November 2024 response to the Reserve Bank’s s 132 notice.

- 82 In or around March 2019, ASB introduced “off-Predator” rules (**Off-Predator**), which:

- (a) were a collection of transaction monitoring rules run outside of the Predator system and were directly linked to underlying data sources;
- (b) stored and managed TM Alerts arising from their operation outside of the Predator system;
- (c) were similar to the Predator Rules; and
- (d) applied a similar investigative approach to resulting TM Alerts as those arising from the operation of Predator.

- 83 ASB introduced Off-Predator to address the high volume of false positives generated by a specific Predator rule.

- 84 In or around September 2019, ASB introduced new Predator Rules to expand the scope of ASB’s transaction monitoring coverage, leading to an increase in TM Alerts.

- 85 Between September 2019 and 8 February 2024, ASB experienced a backlog of TM Alerts, the resolution of which exceeded its SLA timeframes (**TM Backlog**). 99.5% of the TM Backlog from 12 December 2019 involved standard priority TM Alerts.
- 86 From at least 5 December 2019, ASB's senior management was aware of the TM Backlog.

Particulars

- (a) Minutes of 5 December 2019 meeting of ASB's AML/CFT Transaction Monitoring Working Group.
- (b) Financial Crime Compliance Plan FY21, dated 3 July 2020.
- (c) 10 November 2020 paper prepared for ASB's Executive Leadership Team.
- (d) 15 March 2021 and 19 July 2021 FCO quarterly reports to the Financial Crime Risk Committee.
- (e) 20 September 2021 paper prepared for the Financial Crime Risk Committee.
- (f) 9 March 2022 FCO quarterly report to the Financial Crime Risk Committee.
- (g) 6 April 2022 paper prepared for ASB's FCC Executive Leadership Team.
- (h) 26 April 2022 paper prepared for ASB's Board Risk and Compliance Committee.
- (i) 13 May 2022 [REDACTED] Report to the Executive Risk Committee.
- (j) 19 July 2022 paper prepared for ASB's Board Risk and Compliance Committee.
- (k) 18 November 2022 [REDACTED] Report to the Executive Risk Committee.
- (l) 2 February 2023 paper prepared for ASB's Board Risk and Compliance Committee.
- (m) 10 February 2023 paper prepared for ASB's Executive Risk Committee.

Reduction in TM Backlog and notification to the Reserve Bank

- 87 Between 2019 and April 2022, ASB employed 20 additional full-time equivalent staff members for the purpose of clearing the TM Backlog.
- 88 From April 2021, a training process was implemented to improve the efficiency by which suspicious activity reports were submitted in an attempt to free up capacity for analysts to investigate TM Alerts. The training was conducted by analysts who were assigned to training new starters.

- 89 On 25 January 2022, a short form triage review process was implemented to enable analysts to focus on TM Alerts that were less likely to be false positives. Dashboards were also introduced over time to track all workstreams to the relevant SLA timeframe so as to manage and reduce the TM Backlog. A process was also introduced to identify instances in which TM Alerts were at risk of exceeding the relevant SLA timeframe so they could be prioritized.
- 90 On 7 June 2022, ASB engaged Deloitte New Zealand, who subcontracted with Deloitte Touché Tohmatsu India LLP (**Deloitte India**), to provide operational support to supplement the capacity of the FCI team, including to investigate TM Alerts and clear the TM Backlog. Over time, Deloitte India's contracted support increased to six full time analysts for the purposes of clearing the TM Backlog.
- 91 From August 2022, ASB employed the following additional full time staff for the purpose of clearing the TM Backlog:
- (a) in August 2022, six full-time equivalent staff members;
 - (b) in January 2023, 13 full-time equivalent staff members;
 - (c) in December 2023, 13 full-time equivalent staff members; and
 - (d) in January 2024, three full-time equivalent staff members.
- 92 On 20 February 2023:
- (a) the FCC Risk Committee adopted a proposal to close 1,418 TM Alerts without review, and review only 10 per cent of a sample of 4,020 TM Alerts with the balance to be closed without review based on a methodology that had been developed by financial crime analytics and business assurance (**TM Backlog Remediation Proposal**); and
 - (b) ASB disclosed the TM Backlog to the Reserve Bank.
- 93 In March 2023, all TM Alerts in Predator that sat outside of SLA timeframes were transferred to a designated SharePoint site so they could be worked while simultaneously reducing alerts within the maximum display capacity set out at paragraph 50 above.
- 94 From 3 April 2023, ASB began implementing the TM Backlog Remediation Proposal by closing TM Alerts which were the subject of the proposal (**Bulk Closed Alerts**).
- 95 Between 5 and 17 April 2023, ASB advised the Reserve Bank of its approach to clearing the TM Backlog by providing it with an amended version of the TM Backlog Remediation Proposal, based on a finalised methodology which recorded:
- (a) the bulk closure of 2,701 TM Alerts without review; and
 - (b) a review of 427 TM Alerts from a sample of 3,116 TM Alerts, with the balance to be closed without review.
- 96 On 29 August 2023, the Reserve Bank notified ASB that it did not consider the bulk-closure proposal outlined in the TM Backlog Remediation Proposal appropriate.

- 97 On 6 September 2023, ASB engaged Emagine Consulting UK Limited (**Emagine**) to provide operational support to supplement the capacity of the FCI team, including by investigating and resolving TM Alerts, effectively taking over from Deloitte India. Emagine's contracted support included a local line manager, 11 senior analysts and an AML senior manager.
- 98 On 16 October 2023, ASB re-opened the Bulk Closed Alerts.
- 99 On or around 8 February 2024, ASB cleared the TM Backlog.
- 100 At the time of clearing the TM Backlog, ASB's Transaction Monitoring team's:
- (a) business as usual resource comprised:
 - (i) 50 approved full-time equivalent staff members; and
 - (ii) 32 actual full-time equivalent staff members;
 - (b) remediation resource comprised 11 approved, and actual, full-time equivalent staff members.
- 101 Between March and April 2024, ASB employed a further 25 full-time equivalent staff members into the FCI team to ensure alerts were able to be sustainably managed within SLA timeframes. Since February 2024, ASB has represented to the Reserve Bank that it has not had any TM Backlog and all TM alerts have been resolved within SLA timeframes.

Reserve Bank engagement

2019 on-site inspection

- 102 Between 4 and 8 November 2019, the Reserve Bank undertook an on-site inspection of ASB's compliance with the Act (**2019 On-site Inspection**).
- 103 On 18 March 2020, the Reserve Bank provided ASB with its report following the 2019 On-site Inspection (**2019 On-site Inspection Report**). The 2019 On-site Inspection Report noted:
- (a) the 2019 On-site inspection was a positive engagement with open and constructive conversations held throughout the inspection; and
 - (b) a strong commitment to compliance was evident throughout all levels of ASB's management.
- 104 The 2019 On-site Inspection Report relevantly identified the following matters (among others):
- (a) ASB's Risk Rating Model had failed to appropriately categorise certain customers as high risk, which prevented those customers from being subjected to appropriate ongoing customer due diligence;
 - (b) not all of ASB's high risk customers may have been subject to regular ongoing customer due diligence reviews, such as trusts;

- (c) ASB relied on transaction monitoring and material change triggers to identify high risk activity by some high risk customers, such as trusts; and
- (d) ASB was required to consider its approach to ongoing customer due diligence as part of its review of the Risk Rating Model, and to ensure that approach was appropriately risk based.

105 ASB was aware that the 2019 On-site Inspection could not be relied on to detect every instance of non-compliance with the Act.

2023 on-site inspection

106 Between 1 and 12 May 2023, the Reserve Bank undertook an on-site inspection of ASB's compliance with the Act (**2023 On-Site Inspection**).

107 On 13 December 2023, the Reserve Bank provided ASB with its report following the 2023 On-site Inspection (**2023 On-site Inspection Report**). The 2023 On-site Inspection Report expressed appreciation for the level of preparation and engagement from ASB and acknowledged ASB's contribution throughout the entire on-site inspection process and the constructive dialogue with Reserve Bank supervisors.

108 The 2023 On-site Inspection Report relevantly identified the following matters (among others):

- (a) ASB's TM Backlog was identified as being a material breach of s 57(1)(g) of the Act;
- (b) the following deficiencies in ASB's compliance with the Act were relevantly identified (among others):
 - (i) in respect of ASB's prioritisation of TM Alerts:
 - (A) TM Alerts for terrorism financing and child exploitation were not being triaged as High Priority Alerts unless associated with a high risk customer, despite this issue being raised in the 2022 TM Audit Report; and
 - (B) there existed an inability to alter the prioritisation of TM Alerts relating to terrorism financing and child exploitation due to Predator's limitations;
 - (ii) ASB had failed to rectify known issues with the Risk Rating Model failing to reflect the number of high risk customer types that ASB deals with despite this issue being raised in the 2019 On-site Inspection Report;
 - (iii) in respect of ongoing customer due diligence on Foreign Trusts:
 - (A) ASB had taken an inadequate approach to ongoing customer due diligence on Foreign Trusts, whereby a monthly sample of 28 Foreign Trusts that had not been subject to ongoing customer due diligence within the preceding three years would be selected for review; and

(B) the consequence of ASB's approach was that not all Foreign Trusts would be subject to ongoing customer due diligence within any three-year period;

(iv) ASB's procedures for forming suspicion as a result of a UAR were inadequate as the SLA timeframe for resolving such reports was [REDACTED] which risked suspicious activity reports being filed outside of the three-working-day timeframe under the Act.

109 ASB was aware that the 2023 On-site Inspection could not be relied on to detect every instance of non-compliance with the Act.

110 The 2023 On-site Inspection Report required ASB to remediate the issues set out at:

(a) paragraphs 108(a), 108(b)(i), 108(b)(iii) and 108(b)(iv) by 30 June 2024; and

(b) paragraph 108(b)(ii) by 30 September 2024.

ASB remediation

111 On 21 January 2025, ASB advised the Reserve Bank that it had remediated the issues identified in the 2023 On-site Inspection Report by the dates specified within that report.

112 Specifically, ASB had taken the following actions (among others):

(a) the FCI team's resource had been further increased by 50 per cent (25 full-time equivalent staff members) in March and April 2024;

(b) ASB had enhanced reporting of TM Alerts to monitor for early signs of SLA timeframes being at risk, and had implemented reviews of resourcing to meet TM Alert volumes;

(c) ASB had updated TM Alert metrics to have senior management oversight;

(d) the TM Backlog was cleared on 8 February 2024 and TM alerts had remained within SLA timeframes;

(e) ASB's TM Alert prioritisation standard operating procedure had been updated to include 'Very High/High Risk' alerts as High Risk Alerts and therefore subject to the High Risk Alert SLA timeframe, with such alerts being prioritised and tracked through a TM dashboard;

(f) the sampling approach to ongoing customer due diligence on Foreign Trusts had been removed from ASB's ongoing customer due diligence standard, [REDACTED] and [REDACTED]

(g) ASB had updated its review processes for UARs whereby all UARs would be triaged on the day that they are submitted to identify whether urgency or objective suspicion exists, and they would be closed within [REDACTED]

Reserve Bank investigation

- 113 On 18 March 2024, the Reserve Bank notified ASB that it had commenced an investigation into ASB's compliance with the Act.
- 114 As part of its investigation, the Reserve Bank issued notices under s 132 of the Act requiring that ASB provide certain records, documents or information to the Reserve Bank (**Notices**) on:
- (a) 30 August 2024, requiring ASB to provide various records, documents or information in respect of, among other things, its transaction monitoring systems and processes, the TM Backlog, ASB's prioritisation of TM Alerts and categorisation of high risk customers, and its unusual and suspicious activity reporting (**First Notice**); and
 - (b) 3 July 2025 and 30 September 2025, respectively, requiring ASB to produce various records, documents or information in respect of its TM Alerts, UARs, suspicious activity reporting and ongoing customer due diligence on Foreign Trusts for the period December 2019 to February 2024 (**Second Notice** and **Third Notice**).
- 115 ASB responded to the:
- (a) First Notice on 8 November 2024;
 - (b) Second Notice on 7 and 21 August 2025; and
 - (c) Third Notice on 14 October 2025.

ASB's contraventions

Failure to adhere to SLA timeframes

TM Alerts

- 116 Between 12 December 2019 and 28 February 2024 (**Relevant Period**), ASB failed to resolve the following TM Alerts within the relevant SLA timeframe:
- (a) 120,771 Standard Priority Alerts involving transactions totalling approximately \$11.62 billion; and
 - (b) 595 High Priority Alerts involving transactions totalling approximately \$492.7 million.
- 117 During the Relevant Period, the average time to resolve TM Alerts was:
- (a) for Standard Priority Alerts, approximately 50 calendar days; and
 - (b) for High Priority Alerts:
 - (i) 5.6 working days, but
 - (ii) for the High Priority Alerts set out at paragraph 116(b), 46 working days.

- 118 During the Relevant Period, the longest period of time that the TM Alerts set out at paragraph 116 above remained unresolved was:
- (a) for Standard Priority Alerts, 1,301 calendar days; and
 - (b) for High Priority Alerts, 521 working days.

UARs

- 119 During the Relevant Period, ASB failed to resolve the following UARs within the relevant SLA timeframe:
- (a) 1,322 Standard Priority UARs involving transactions totalling approximately \$33.19 million; and
 - (b) 326 High Priority UARs involving transactions totalling approximately \$33 million.
- 120 During the Relevant Period, the longest period of time that the UARs set out at paragraph 119 above remained unresolved was:
- (a) for Standard Priority UARs, 654 calendar days; and
 - (b) for High Priority UARs, 638 calendar days.

Ongoing customer due diligence on Foreign Trust customers

- 121 During the Relevant Period, ASB had:
- (a) between 2,126 and 2,658 Foreign Trust customers at the end of each calendar month; and
 - (b) a total of 3,666 Foreign Trust customers.
- 122 During the Relevant Period, ASB's Foreign Trust customers engaged in the following transactions:
- (a) from 9 to 31 December 2019, 24,695 transactions totalling approximately \$246.8 million;
 - (b) in 2020, 276,094 transactions totalling approximately \$1.72 billion;
 - (c) in 2021, 299,608 transactions totalling approximately \$2.49 billion;
 - (d) in 2022, 285,068 transactions totalling approximately \$3.02 billion;
 - (e) in 2023, 274,243 transactions totalling approximately \$4.19 billion; and
 - (f) between 1 January 2024 and 28 February 2024, 42,084 transactions totalling approximately \$479.09 million.

- 123 During the Relevant Period, ASB conducted ongoing customer due diligence on the following numbers of Foreign Trust customers:
- (a) from 9 to 31 December 2019, one customer who engaged in 44 transactions totalling \$121,332.40;
 - (b) in 2020, three customers who engaged in 404 transactions totalling approximately \$86.24 million;
 - (c) in 2021, 323 customers who engaged in 15,382 transactions totalling approximately \$112.65 million;
 - (d) in 2022, 362 customers who engaged in 18,724 transactions totalling approximately \$108.83 million;
 - (e) in 2023, 308 customers who engaged in 56,273 transactions totalling approximately \$195.16 million; and
 - (f) between 1 January 2024 and 28 February 2024, 57 customers who engaged in 1,264 transactions totalling approximately \$1.81 million.

124 During the Relevant Period, ASB:

- (a) started conducting ongoing customer due diligence on 1,042 Foreign Trust customers, of whom:
 - (i) 622 successfully had ongoing customer due diligence completed on them; and
 - (ii) 421 exited the business relationship with ASB prior to ongoing customer due diligence being completed;
- (b) did not conduct ongoing customer due diligence on 2,624 Foreign Trust customers (**OCDD Foreign Trusts**).

125 During the Relevant Period, the Foreign Trust customers referred to at paragraph 124(b) above engaged in 655,115 transactions totalling approximately \$9.37 billion.

Suspicious activity reporting

126 ASB filed, later than three working days, 1,373 suspicious activity reports arising from TM Alerts and UARs resolved outside of SLA timeframes during the Relevant Period, comprising (**Late SARs**):

- (a) 1,046 suspicious activity reports arising from Standard and High Priority TM Alerts involving transactions totalling approximately \$26.8 million; and
- (b) 327 suspicious activity reports arising from Standard and High Priority UARs involving transactions totalling approximately \$33.91 million.

- 127 During the Relevant Period:
- (a) issues occasionally arose with the operation of ASB's transaction monitoring rules in Predator that may have resulted in a Predator Rule not running;
 - (b) once an issue was resolved, the rule would be re-run over the impacted time period to ensure no transactions went unscreened;
 - (c) if an alert was generated in relation to a transaction when the rule was re-run, and that transaction had not previously been the subject of a TM Alert, the transaction would be loaded into a 'backwash' file and reviewed (**Backwash TM Alerts**); and
 - (d) Backwash TM Alerts were not subject to ASB's SLA timeframes.

- 128 During the Relevant Period:
- (a) 1,352 Backwash TM Alerts were generated;
 - (b) ASB made 63 suspicious activity reports arising from Backwash TM Alerts (**Backwash SARs**); and
 - (c) the Backwash SARs involved transactions totalling approximately \$31.24 million.

Enhanced customer due diligence and terminating business relationships

- 129 During the Relevant Period, ASB's processes required enhanced customer due diligence to be conducted on the customers who engaged in the transactions that resulted in the Late SARs and the Backwash SARs, within 90 days of submitting a suspicious activity report in respect of those customers.
- 130 ASB failed to conduct enhanced customer due diligence on 1,061 customers within 90 days of filing a Late SAR or Backwash SAR in respect of them (**SAR Customers**).
- 131 The SAR Customers engaged in transactions totalling approximately \$70.9 million which gave rise to a suspicious activity report.
- 132 As a result of the specific failure identified in paragraph 130 above, ASB was required to terminate its business relationship with the SAR Customers.
- 133 ASB did not terminate its business relationships with the SAR Customers when required.

The Reserve Bank's case

- 134 The Reserve Bank's case is not that ASB was directly involved in money laundering, child exploitation or the financing of terrorism at any time.

First cause of action: civil liability act – failure to establish, implement, or maintain an AML/CFT programme as required by ss 56(1) and 57(1)(c) of the Act – compliance with customer due diligence requirements (including ongoing customer due diligence and account monitoring)

135 The plaintiff repeats paragraphs 1 to 134 above.

136 A failure to comply with any AML/CFT requirement constitutes a civil liability act giving rise to liability to pay a pecuniary penalty to the Crown.

137 The obligation to establish, implement, and maintain an AML/CFT programme that complies with the requirements of ss 56 and 57 of the Act is an AML/CFT requirement under the Act.

138 From at least 12 December 2019 until 30 September 2024, ASB failed to:

- (a) establish;
- (b) implement; or
- (c) maintain —

an AML/CFT programme that complied in all respects with the requirements in ss 56(1) and 57(1)(c) of the Act, which relate to ASB’s compliance with customer due diligence requirements, including ongoing customer due diligence and account monitoring.

Particulars

(a) Paragraphs 29, 31, 33, 34, 36, 37, 59(b)(i), 69(a), 81(b), 85, 108(a), 108(b)(iii), and 116 to 120 are repeated.

139 ASB was or should have been aware that it did not have an AML/CFT programme which complied in all respects with the requirements in ss 56(1) and 57(1)(c) of the Act from:

- (a) in respect of its failure to adhere to SLA timeframes, 5 December 2019 when ASB’s failure to resolve TM Alerts within SLA timeframes was noted by its Transaction Monitoring Working Group; and
- (b) in respect of its ongoing customer due diligence settings for high risk customers like Foreign Trusts, 18 March 2020 when ASB received the 2019 On-site Inspection Report.

140 ASB did not:

- (a) begin materially remediating its failure to adhere to SLA timeframes until June 2022; and
- (b) fully remediate all of the failures pleaded in paragraph 138 above until:
 - (i) in respect of its failure to adhere to SLA timeframes, 8 February 2024 when ASB cleared the TM Backlog; and

- (ii) in respect of its ongoing customer due diligence settings for high risk customers like Foreign Trusts, 30 September 2024 when ASB remediated the breaches and deficiencies raised in the 2023 On-site Inspection Report.

141 Due in whole or in part to the failures pleaded in paragraph 138 above, ASB:

- (a) did not:
 - (i) resolve all TM Alerts and UARs during the Relevant Period within relevant SLA timeframes;
 - (ii) identify, or identify in a sufficiently timely manner, all customers in respect of whom ongoing customer due diligence should have been conducted;
 - (iii) conduct, or conduct in a sufficiently timely manner, ongoing customer due diligence on customers in all circumstances where it should have been;
 - (iv) identify, or identify in a sufficiently timely manner, all customers in respect of whom enhanced customer due diligence should have been conducted;
 - (v) conduct enhanced customer due diligence on customers in all circumstances where it should have been;
 - (vi) identify all customers in respect of whom a suspicious activity report should have been made in a sufficiently timely manner to make a report as required by the Act; and
 - (vii) make, or make within the specified timeframes under the Act, a suspicious activity report in all circumstances where it should have been made;
- (b) engaged in transactions totalling:
 - (i) approximately \$12.17 billion, which were the subject of TM Alerts or UARs during the Relevant Period resolved outside of SLA timeframes; and
 - (ii) approximately \$9.37 billion with the OCDD Foreign Trusts during the Relevant Period, which were not subject to ongoing customer due diligence.

Particulars

- (a) Paragraphs 116 to 120, 123, 124(b), 125 to 128, 130 and 131 are repeated.

Accordingly, the plaintiff seeks:

- (a) a pecuniary penalty against ASB in such sum as the Court considers just; and
- (b) costs.

Second cause of action: civil liability act – failure to establish, implement, or maintain an AML/CFT programme as required by ss 56(1) and 57(1)(f) – setting out what ASB needs to do, or continue to do, to manage and mitigate the risks of ML/TF

142 The plaintiff repeats paragraphs 1 to 137 above.

143 From at least April 2021 until 1 June 2024, ASB failed to:

- (a) establish;
- (b) implement; or
- (c) maintain —

an AML/CFT programme that complied in all respects with the requirements in ss 56(1) and 57(1)(f) of the Act, which relate to setting out what ASB needs to do, or continue to do, to manage and mitigate the risks of ML/TF.

Particulars

(a) Paragraphs 20 to 23, 69(a) and 108(b)(i) are repeated.

144 ASB was or should have been aware that it did not have an AML/CFT programme which complied in all respects with the requirements in ss 56(1) and 57(1)(f) of the Act from 16 September 2022 when ASB received the 2022 TM Audit Report.

145 ASB did not remediate the failures pleaded in paragraph 143 above until 1 June 2024, when it began characterising TM Alerts relating to terrorism financing and child exploitation as High Priority Alerts which were subject to the High Priority Alert SLA timeframe.

146 As a consequence of the failures pleaded in paragraph 143 above:

- (a) not all high risk TM Alerts were subject to the High Priority Alert SLA timeframe;
- (b) ASB failed to:
 - (i) identify all customers in respect of whom enhanced customer due diligence should have been conducted;
 - (ii) conduct enhanced customer due diligence on customers in all circumstances where it should have been;
 - (iii) identify all customers in respect of whom a suspicious activity report should have been made in a sufficiently timely manner to make a report as required by the Act; and
 - (iv) make, or make within the specified timeframes under the Act, a suspicious activity report in all circumstances where it should have been made;

- (c) ASB's practice of prioritising TM Alerts based on customer risk rating, rather than rule risk rating, was an ineffective form of account monitoring.

Accordingly, the plaintiff seeks:

- (a) a pecuniary penalty against ASB in such sum as the Court considers just;
and
- (b) costs.

Third cause of action: civil liability act – failure to establish, implement, or maintain an AML/CFT programme as required by ss 56(1) and 57(1)(l) – monitoring and managing compliance with procedures, policies, and controls

147 The plaintiff repeats paragraphs 1 to 137 above.

148 From at least 12 December 2019 until 12 December 2025, ASB failed to:

- (a) establish;
- (b) implement; or
- (c) maintain —

an AML/CFT programme that complied in all respects with the requirements in ss 56(1) and 57(1)(l) of the Act, which relate to monitoring and managing compliance with ASB’s procedures, policies, and controls.

Particulars

- (a) Paragraphs 44, 59(a)(i), 59(b)(i), 61, 63, and 76 to 81 are repeated.

149 ASB was aware of some of Predator’s limitations at the time it determined to adopt it for transaction monitoring purposes in 2012.

Particulars

- (a) Paragraphs 44 and 45 are repeated.

150 ASB was made aware of Predator’s limitations and/or the fact it was not fit for purpose on a number of occasions before, and during, the Relevant Period.

Particulars

- (a) Paragraphs 44, 51, 52, 55, 56, 59, 62, 63, 65 and 68(b) are repeated.

151 ASB has not yet remediated all of the failures pleaded in paragraph 148 above.

152 The failures pleaded in paragraph 148 above were:

- (a) not fully mitigated by any interim controls put in place by ASB to address issues with Predator in part, the result of:
 - (i) inadequate resourcing by ASB of its transaction monitoring team; and
 - (ii) decisions taken by ASB to prioritise other financial crime-related projects notwithstanding the issues with Predator of which ASB was aware;
- (b) a significant cause of the TM Backlog.

153 As a consequence of the failures pleaded in paragraph 148 above, ASB had an inadequate transaction monitoring system during, and after, the Relevant Period in light of:

- (a) its position as a registered bank;
- (b) the volume of transactions it undertakes;
- (c) the number of customers it has; and
- (d) its size and financial means.

Accordingly, the plaintiff seeks:

- (a) a pecuniary penalty against ASB in such sum as the Court considers just;
and
- (b) costs.

Fourth cause of action: civil liability act – failure to adequately conduct ongoing customer due diligence as required by s 31 of the Act

154 The plaintiff repeats paragraphs 1 to 136 above.

155 The obligation to adequately conduct ongoing customer due diligence is an AML/CFT requirement under the Act.

156 During the relevant period, ASB failed to undertake adequate ongoing customer due diligence in respect of the OCDD Foreign Trusts.

Particulars

(a) Paragraphs 33, 34, 36, 37, 108(b)(ii), 108(b)(iii), 121 to 123, 124(b) and 125 are repeated.

157 Due in whole or in part to the failures pleaded in paragraph 156 above, ASB:

(a) failed to:

(i) regularly review the OCDD Foreign Trusts' account activity and transaction behaviour, or any customer due diligence information previously provided by the OCDD Foreign Trusts; and

(ii) could not ensure that the business relationship and the transactions relating to the OCDD Foreign Trusts were consistent with ASB's knowledge about the OCDD Foreign Trusts and their business and risk profile;

(b) engaged in transactions totalling up to approximately \$9.37 billion with the OCDD Foreign Trusts during the Relevant Period which were not subject to adequate AML/CFT controls.

Accordingly, the plaintiff seeks:

(a) a pecuniary penalty against ASB in such sum as the Court considers just; and

(b) costs.

Fifth cause of action: civil liability act – failure to report suspicious activities as required by s 40 of the Act

158 The plaintiff repeats paragraphs 1 to 136 above.

159 Under s 40 of the Act, ASB was required to report to the Commissioner of Police all suspicious activities as soon as practicable, but no later than three working days, after becoming aware of all circumstances from which a reasonable reporting entity would form a suspicion of the kind defined in s 39A of the Act.

160 In the specific circumstances pleaded in this claim, ASB failed to make, within the required time, the Late SARs and Backwash SARs.

Accordingly, the plaintiff seeks:

- (a) a pecuniary penalty against ASB in such sum as the Court considers just;
and
- (b) costs.

Sixth cause of action: civil liability act – failure to conduct enhanced customer due diligence as required by subpart 1 of Part 2 of the Act

161 The plaintiff repeats paragraphs 1 to 136 above.

162 The obligation to conduct enhanced customer due diligence in the circumstances described in s 22 of the Act is an AML/CFT requirement under the Act.

163 ASB was required to carry out enhanced customer due diligence on all customers who it considered presented a level of risk such that enhanced customer due diligence should apply, including customers in respect of whom ASB had previously made a suspicious activity report.

164 ASB was required to carry out enhanced customer due diligence on the SAR Customers.

165 In the specific circumstances pleaded in this claim, ASB failed to conduct compliant enhanced customer due diligence on the SAR Customers as required by the Act.

Accordingly, the plaintiff seeks:

- (a) a pecuniary penalty against ASB in such sum as the Court considers just; and
- (b) costs.

Seventh cause of action: civil liability act – failure to terminate business relationships as required by s 37 of the Act

- 166 The plaintiff repeats paragraphs 1 to 136 above.
- 167 The prohibitions provided for in s 37 of the Act, if customer due diligence is not conducted in accordance with the Act, are an AML/CFT requirement under the Act.
- 168 The prohibitions provided for in s 37 of the Act mean that ASB was required to terminate its existing business relationship, and to not establish a business relationship, with any customer in respect of whom it was unable to conduct enhanced customer due diligence in accordance with subpart 1 of Part 2 of the Act.
- 169 In the specific circumstances pleaded in this claim, ASB failed to terminate an existing business relationship when required with the SAR Customers.

Accordingly, the plaintiff seeks:

- (a) a pecuniary penalty against ASB in such sum as the Court considers just; and
- (b) costs.

This statement of claim is filed on behalf of the plaintiff by its solicitor **Sam Stephen McMullan** whose address for service is at the offices of Meredith Connell, Level 7, 8 Hardinge Street, Auckland.

Documents for service on the Plaintiff may be left at that address for service or may be:

- (a) posted to the Solicitor at PO Box 90750, Victoria Street West, Auckland 1142; or
- (b) left for the Solicitor at a document exchange for direction to DX CP24063; or
- (c) transmitted to the Solicitor by facsimile to +64 9 336 7629; or
- (d) emailed to the solicitor at litigation@mc.co.nz, with a copy sent to sam.mcmullan@mc.co.nz.

Schedule 2: Notice of Admissions

In the High Court of New Zealand | I Te Kōti Matua o Aotearoa
Auckland Registry | Tāmaki Makaurau Rohe
CIV 2025-404-

Between **Reserve Bank of New Zealand**, a body corporate
continued by s 8 of the Reserve Bank of New Zealand Act 2021
having its main office at 2 The Terrace, Wellington 6011
Plaintiff

And **ASB Bank Limited**, an incorporated company having its
registered office at Level 2, ASB North Wharf, 12 Jellicoe Street,
Auckland 1010
Defendant

Notice of admissions

15 December 2025

Bell Gully

B A Keown / M C Staines
Counsel for the defendant
Blair.Keown@bellgully.com / meggan.staines@bellgully.com

1 Queen Street
PO Box 4199
Auckland 1140
+64 9 916 8800

The Defendant, by its solicitors, 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 and not for any purpose outside of this proceeding, the Defendant admits the facts pleaded and causes of action in the plaintiff's statement of claim dated 12 December 2025.

B A Keown / M C Staines
Counsel for the defendant
15 December 2025

This document is filed by Blair Keown, of Bell Gully, solicitor for the defendant. The address for service of the defendant is Level 14, Deloitte Centre, 1 Queen Street, Auckland 1140.

Documents for service on the defendant may be left at that address or may be:

- (a) posted to the solicitor at PO Box 4199, Auckland 1140; or
- (b) emailed to the solicitor under HCR 6.6(2)(b)(ii) provided that the email is less than 25MB and sent to both blair.keown@bellgully.com and meggan.staines@bellgully.com.

Documents served on the defendant should be marked for the attention of B A Keown and M C Staines.

Schedule 3: Joint Memorandum of Counsel

**In the High Court of New Zealand
Auckland Registry**

**I te Kōti Matua o Aotearoa
Tāmaki Makaurau Rohe**

CIV-2025-404-

Under the Anti-Money Laundering and Countering Financing of
Terrorism Act 2009

Between **Reserve Bank of New Zealand** a body corporate
continued by s 8 of the Reserve Bank of New Zealand Act 2021
having its main office at 2 The Terrace, Wellington 6011

Plaintiff

And **ASB Bank Limited** a duly incorporated company having its
registered office at Level 2, ASB North Wharf, 12 Jellicoe
Street, Auckland 1010

Defendant

Joint memorandum of counsel

15 December 2025

MC.

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Joint memorandum of counsel

May it please the Court

- 1 This memorandum is filed jointly by counsel for the Reserve Bank of New Zealand (**Reserve Bank**) and for ASB Bank Limited (**ASB**).
- 2 On 12 December 2025, the Reserve Bank filed a statement of claim alleging seven causes of action against ASB under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**Act**).
- 3 The parties have entered into a settlement agreement to resolve this matter. Filed alongside this memorandum is a notice of admissions dated 15 December 2025.
- 4 The parties have agreed in accordance with r 8.4(3) of the High Court Rules 2016 that initial disclosure following the filing of the Reserve Bank's statement of claim is not required.
- 5 As part of the settlement, the parties have agreed to jointly approach the Court to seek the imposition of a pecuniary penalty at an agreed level.
- 6 The parties therefore respectfully seek the following directions:
 - (a) a 1.5-hour hearing is to be scheduled for determination of the appropriate pecuniary penalty (on the first available date after 2 March 2026, in consultation with counsel as to their availability);
 - (b) the Reserve Bank's penalty submissions are to be filed 15 working days prior to the hearing; and
 - (c) ASB's penalty submissions are to be filed five working days prior to the hearing.
- 7 To assist the Court with scheduling a penalty hearing, counsel are able to accommodate any hearing date other than the following:
 - (a) 5, 6 and 10 March 2026; and
 - (b) 13 and 14 April 2026.

Order sought

- 8 In addition to the directions above, the parties jointly seek the Court's leave under s 47(1) of the Act for the Reserve Bank to disclose information to the Court relating to the fact that ASB made suspicious activity reports, as referred to in the statement of claim (**Disclosure Order**).¹

¹ Disclosure of this information is limited by ss 46(1)(c) and 47(1) of the Act.

- 9 The parties seek the Disclosure Order on the grounds that the information relating to ASB’s making of suspicious activity reports is directly relevant to the fifth cause of action (which alleges a failure to report suspicious activities within the timeframe specified in s 40 of the Act), and the Court’s understanding of the consequences of two further admitted breaches under the Act (being the first and second causes of action, which relate to establishing, implementing, and maintaining a compliant AML/CFT programme). Disclosure to the Court of the information in respect of which the parties seek the Disclosure Order is therefore necessary in the interests of justice.
- 10 For completeness, the parties note that a disclosure order of the same scope as that sought at paragraph 8 above was made by this Court in *Department of Internal Affairs v SkyCity Casino Management Ltd* and *Department of Internal Affairs v Christchurch Casinos Ltd*.²

Date: 15 December 2025

.....
Sam McMullan | Milan Djurich
Counsel for the plaintiff

.....
Blair Keown | Meggan Staines
Counsel for the defendant

² *Department of Internal Affairs v SkyCity Casino Management Ltd* [2024] NZHC 2780; *Department of Internal Affairs v Christchurch Casinos Ltd* [2025] NZHC 2208.