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## 21-226MR NAB to pay \$18.5 million penalty for fee disclosure statement failures

The Federal Court has ordered National Australia Bank Limited (NAB) to pay an \$18.5 million penalty for failures relating to misleading fee disclosure statements.

The Court also declared NAB contravened its obligations as an Australian financial services licence holder to act efficiently, honestly and fairly by failing to have procedures and systems in place to provide timely and effective fee disclosure statements.

ASIC Deputy Chair Sarah Court said, 'NAB's system failures resulted in significant fee disclosure failures over an extended period. This caused harm to customers as the inaccurate information meant they couldn't make informed decisions about the financial services they were paying for.

'The penalty of \$18.5 million handed down to NAB is a timely reminder to financial services licensees to ensure they meet their obligations to their clients.'

The Court found NAB breached the law on numerous occasions when it:

- charged fees for personal advice without giving customers compliant fee disclosure statements;
- failed to provide fee disclosure statements to clients within the time required;
- made false or misleading representations to clients in fee disclosure statements about the amount clients had paid for services and the services which clients had received.

The Court also found NAB had not established or maintained systems and procedures to identify whether:

- services were provided in accordance with client service agreements;
- its fee disclosure statements were compliant; and
- it was prohibited from charging service fees.

'Customers need to have confidence in their financial services providers that they will be charged correctly for the services they receive and given accurate and timely information,' concluded Deputy Chair Court.

In her decision, Justice Davies observed that fee disclosure statement obligations 'are specific consumer protection measures enacted for the safeguard of the interests of clients subject to ongoing fee arrangements and they are strict obligations, underscoring the seriousness of the contravening conduct.'

The Court acknowledged NAB's efforts to make early admissions of liability and took this into account in determining penalty. This is the first penalty imposed by the Court for fee disclosure statements failures under the Corporations Act.

NAB has been ordered to pay ASIC's costs.

View the [full judgment](#).

## Background

The \$18.5 million penalty relates to fees disclosure statement failures. NAB's failure to act efficiently, honestly and fairly through its failure to maintain adequate compliance systems and controls did not attract a civil penalty at the time the failure occurred. Breach of this obligation became subject to a civil penalty in March 2019. ASIC commenced these proceedings in December 2019 ([19-360MR](#)).

On 28 November 2019, ASIC released Report 636 Compliance with the fee disclosure statement and renewal notice obligations ([19-325MR](#)). As noted by Report 636, FDSs are intended to help customers understand what services they have paid for, what services they have received and how much those services cost, and to enable them to make more informed decisions about whether their ongoing fee arrangements with their adviser should continue. Not issuing or issuing late or defective FDSs deprive customers of an opportunity to make those important decisions.

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