



COVERSHEET

Minister	Hon Dr David Clark	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Certification of Consumer Credit Providers: Fees and other regulations	Date to be published	28 May 2021

List of documents that have been proactively released		
Date	Title	Author
15 April 2021	Certification of Consumer Credit Providers: Fees and other regulations	<i>Office of the Minister of Commerce and Consumer Affairs</i>

Information redacted

YES / NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

In Confidence

Office of the Minister of Commerce and Consumer Affairs

Chair, Cabinet Legislation Committee

CERTIFICATION OF CONSUMER CREDIT PROVIDERS: FEES AND OTHER REGULATIONS

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the:
 - 1.1 Credit Contracts and Consumer Finance (Certification) Amendment Regulations 2021; and
 - 1.2 Financial Service Providers (Registration) Amendment Regulations 2021.

Policy

- 2 The Credit Contracts Legislation Amendment Act 2019 (Amendment Act) amends the Credit Contracts and Consumer Finance Act 2003 (CCCFA) to strengthen the protections for borrowers against irresponsible and high-cost lending, and against predatory behaviour by mobile traders.
- 3 One way that the Amendment Act will protect borrowers is through the introduction of a certification requirement. This requires creditors and mobile traders to hold a certification from the Commerce Commission that their directors and senior managers are fit and proper persons. Businesses that are unable to satisfy this requirement will be unable to act as creditors in consumer credit contracts.
- 4 The proposed regulations give effect to some of the decisions of the Cabinet Economic Development Committee on 17 March 2021 in relation to the certification requirements [DEV-21-MIN-0032 refers].
- 5 The Credit Contracts and Consumer Finance (Certification) Amendment Regulations 2021 (CCCFA Regulations) introduce the following fees that can be charged by the Commerce Commission so that it may recover the costs it incurs when considering applications for certification:
 - 5.1 \$1044.00 (GST exclusive) per director and senior manager, or when there is a new director or senior manager appointed; and
 - 5.2 \$11.00 (GST exclusive) per director and senior manager (or when there is a new director or senior manager appointed) that will be charged on application for a Ministry of Justice Criminal Record Check.

- 6 The CCCFA Regulations require certified creditors to update the Commerce Commission if certain matters that might affect their certification have changed. This will ensure that the Commerce Commission has accurate and current information about those it regulates.
- 7 The Financial Service Providers (Registration) Amendment Regulations 2021 include a technical amendment to the Financial Service Providers (Registration) Regulations 2020 (FSP Regulations). The change specifies the information that creditors must provide to the registrar of the financial service providers register, and the information the registrar can publicly display. The Amendment Act included an amendment to the Financial Service Providers (Registration) Regulations 2010 to this effect. However, the 2010 regulations were revoked before the amendment came into force and it was not carried over.
- 8 The proposed regulations do not provide for the exemptions that were agreed to by Cabinet. I will bring a further paper to Cabinet with proposed regulations to give effect to these decisions. To wait for these further regulations to be drafted would unduly delay the making of these regulations, which would prevent the Commerce Commission from recovering the costs it incurs when considering applications for certification.

Timing and 28-day rule

- 9 The proposed Regulations will commence on 1 June 2021. This is the first day that the Commerce Commission can start accepting certification applications.

Compliance

- 10 The proposed regulations comply with:
 - 10.1 the principles of the Treaty of Waitangi;
 - 10.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 10.3 the principles and guidelines set out in the Privacy Act 2020;
 - 10.4 relevant international standards and obligations;
 - 10.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 11 There are no grounds for the Regulations Review Committee to draw the proposed regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 12 The draft regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 13 A Cost Recovery Impact Statement was prepared in accordance with the necessary requirements, and was submitted at the time that Cabinet approval was sought for the policy relating to the regulations [DEV-21-MIN-0032 refers].

Publicity

- 14 The Ministry of Business, Innovation and Employment (**MBIE**) will notify key affected stakeholders of the new regulations.

Proactive release

- 15 I intend to release this paper proactively, subject to any redactions consistent with the Official Information Act 1982, within 30 days. MBIE will publish a copy of this paper on its website.

Consultation

- 16 The Treasury and Parliamentary Counsel Office have been consulted on this paper and the draft Regulations. The Commerce Commission has been consulted on the draft Regulations.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 17 March 2021 the Cabinet Economic Development Committee agreed to various regulations that are necessary to support the implementation of the Credit Contracts Legislation Amendment Act 2019 [DEV-21-MIN-0032 refers];
- 2 **note** that the Credit Contracts and Consumer Finance (Certification) Amendment Regulations 2021 and the Financial Service Providers (Registration) Amendment Regulations 2021 will give effect to or support the decisions referred to in paragraph 1 above;
- 3 **authorise** the submission to the Executive Council of the Credit Contracts and Consumer Finance (Certification) Amendment Regulations 2021 and the Financial Service Providers (Registration) Amendment Regulations 2021;
- 4 **note** that the Credit Contracts and Consumer Finance (Certification) Amendment Regulations 2021 and the Financial Service Providers (Registration) Amendment Regulations 2021 will commence on 1 June 2021.

I N C O N F I D E N C E

Authorised for lodgement

Hon Dr David Clark

Minister of Commerce and Consumer Affairs

I N C O N F I D E N C E