

# Submission on *Exposure draft of updated Credit Contracts and Consumer Finance Regulations 2004 and Responsible Lending Code*

## Your name and organisation

<b>Name</b>	Barry Allan (Associate Professor)
<b>Organisation (if applicable)</b>	Faculty of Law, Otago University
<b>Contact details</b>	Privacy of natural persons

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## Responses to questions

1	Do you agree with the way that the draft Regulations are phrased? If not, what changes would you make?
	I do not agree with the proposed change to reg 4AE – the definition of listed outgoings. This would delete investments and savings from the definition. Regulation 4AE(4)(d) only includes regular or frequent outgoings which a borrower is unable or unwilling to cease after entering an agreement. So, any payments towards investments or savings which are discretionary ought not to be taken into account anyway. If they are not payments the borrower can cease if a loan is granted, then the continuing need to make these payments will compromise the borrower's ability to service the lending in exactly the same way as any other unavoidable payment obligation. The proposed amendment will see borrowers either breach their obligations in respect of the saving or investment or expose them to a risk of serious hardship where income is not enough to meet both commitments.
2	Do you agree with the way that the guidance relating to expenses is communicated in the Draft Code? If not, how do you suggest it is improved?
3	Are there other practices for estimating expenses that the Code should endorse?
4	Is the new wording in the Draft Code on how lenders may apply a reasonable surplus to comply with regulation 4AF(2)(b)(i) relating to changes to expenses clear? If not, how do you suggest it is improved?
5	Do you have any other proposals for additional guidance on surpluses?
6	Is the updated guidance and examples on 'obvious' affordability helpful? If not, how could they be improved?
7	Do you have any other proposals for additional guidance and examples for 'obvious' affordability?
8	Would any of these initial changes require changes to lender systems before they could come into force? If so, what are the likely timeframes for making these changes?

## Other comments

The major problems reported in the media with discretionary expenses being taken into account and causing lenders to decline lending are not addressed by the proposed regulations or changes to the Responsible Lending Code.