

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

Your name and organisation

Name	Privacy of natural persons
Organisation (if applicable)	Te Kāhui Inihua o Aotearoa/ The Insurance Council of New Zealand
Contact details	Privacy of natural persons

[Double click on check boxes, then select 'checked' if you wish to select any of the following.]

The Privacy Act 2020 applies to submissions. Please check the box if you do not wish your name or other personal information to be included in any information about submissions that MBIE may publish.

MBIE intends to upload submissions received to MBIE's website at www.mbie.govt.nz. If you do not want your submission to be placed on our website, please check the box and type an explanation below.

I do not want my submission placed on MBIE's website because... [Insert text]

Please check if your submission contains confidential information:

I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because... [Insert text]

Responses to questions

1	<p>Do you agree with the way that the draft Regulations are phrased? If not, what changes would you make?</p>
	<p>ICNZ supports the removal of “savings” and “investments” from the definition of listed outgoings in 4AE of the 2004 Regulations. It is only logical that savings and investments should not be considered in the same vein as a borrower’s other outgoings on expenses etc.</p> <p>In relation to the proposed amendment to Regulation 4AK (Lenders must do initial estimate of borrower’s likely relevant expenses), ICNZ endorses the response provided by the Financial Services Federation (FSF) in their submission on this consultation. We agree that the addition of the wording in the 2022 Regulations does not address the otherwise prescriptive nature of the requirements when an application for credit is received.</p>
2	<p>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?</p>
	<p>ICNZ does not believe that the guidance relating to expenses is helpful to lenders given that, as above, the Regulations it provides commentary on effectively remain unchanged. On the whole, the guidance relating to expenses appears to allow much more permissive behaviour than the drafting of the Regulations which means that they are of little use. If the Regulations remain prescriptive, those are what the lender must comply with.</p> <p>Separately, some aspects of the amended guidance appear to be contrary and confusing. In paragraph 5.4 in particular, the guidance states that where lenders have also obtained bank transaction records for another purpose, “lenders may choose not to use the records to estimate the amount of those expenses”. However, the guidance goes on to say that nor should the lender “close their eyes” to information in bank transactions. The logical result of these two statements, and to avoid risking liability for lending in circumstances credit should not have been provided, is that lenders will review bank transactions whenever that information is available.</p>
3	<p>Are there other practices for estimating expenses that the Code should endorse?</p>
	<p>No comment.</p>
4	<p>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?</p>
	<p>ICNZ agrees that the wording in the Draft Code relating to the application of reasonable surpluses is clear.</p>
5	<p>Do you have any other proposals for additional guidance on surpluses?</p>
	<p>No comment.</p>
6	<p>Is the updated guidance and examples on ‘obvious’ affordability helpful? If not, how could they be improved?</p>

ICNZ agrees that the updated guidance and examples on 'obvious' affordability are helpful. However, we disagree with the content of paragraph 5.27 and believe that where there is an existing relationship between a lender and borrower, credit scores and repayment history should be sufficient to allow for the use of the exception in 4AG.

7

Do you have any other proposals for additional guidance and examples for 'obvious' affordability?

No comment.

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?

No comment.

Other comments

--