

SUBMISSION TO THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT ON THE EXPOSURE DRAFTS OF THE UPDATED CREDIT CONTRACTS AND CONSUMER FINANCE REGULATIONS 2004 AND RESPONSIBLE LENDING CODE

Prepared by Maxim Institute Researcher 'Alapasita Teu

1. Maxim Institute is an independent, public policy think-tank, promoting the dignity of every person, in a New Zealand characterised by freedom, justice, and compassion.
2. The changes outlined in the Exposure Drafts of the updated Credit Contracts and Consumer Finance Regulations 2004 and Responsible Lending Code provide further clarity on how lenders can conduct reasonable lender inquiries and subsequently, responsible lending practices. Clarifying the parameters for comprehensive affordability assessments by lenders ensures there is a consistent, and a more definitive, communication around responsible lending practices, and less obscurity around lender responsibility.
3. **Maxim Institute supports the proposed changes outlined in the Exposure Drafts** and particularly commend the recent amendments to the Credit Contracts and Consumer Finance Act (CCCFA) 2003 that aim to enhance borrowers' protection and responsible lending, as well as reducing harmful lending.
4. Our recently released research—Beyond the Shadow of Debt: Shining a light on high-cost lending <https://www.maxim.org.nz/article/beyond-the-shadow-of-debt/> identified that for many New Zealanders the consumer credit lending experience is generally positive, with many credit lenders complying with regulations. Credit law reforms, including the recent changes to regulations, signal a commitment from the Government to ensure lenders are diligent in their duty of care towards consumers.
5. Despite the current credit laws, however, many vulnerable families and communities continue to be exploited through irresponsible and harmful lending practices, most often through short-term high-cost loans. A Business, Economics and Research Limited (BERL) report on the harms of high-cost lending highlighted 98 percent of borrowers with high-cost loans utilising FinCap (a financial mentoring service) often had a median of six debts.¹

¹ Sam Green, Nick Robertson, and Dr. Ganesh Nana, "The harm from high cost lending: The case for increased and improved regulation." 2019.

Of the borrowers² aged 24 over, 50 percent had at least one debt with Work and Income New Zealand, and 27 percent identified high-cost loans as a cause of financial distress.³

6. The amendments outlined in the Exposure Drafts, along with recent changes to consumer credit regulations, have gone some way toward increasing protection for borrowers and ensuring a safer consumer credit lending environment for individuals, whānau, and communities. But regulatory gaps remain. That is, opportunities for lending practices contribute to financial hardship and allow unmanageable debt to continue. We need to do better. Policy change is necessary to remove these regulatory gaps. Maxim Institute is encouraged to see that these Exposure Drafts endeavour to close these gaps.
7. It is imperative that any policy development aimed at refining and streamlining lending practices upholds the protection and dignity of all borrowers. Therefore, the Exposure Draft process, both at present and in future, needs to ensure the intention of the recent changes to the CCCFA 2003 are upheld and sustained at all stages of responsible lending regulation development and implementation.
8. In summary, we support the presented changes to the updated Credit Contracts and Consumer Finance Regulations 2004 and Responsible Lending Code. We commend the recent amendments to the CCCFA 2003 and work being done to maintain responsible, fair, and safe lending practices that promotes the dignity of all borrowers.

For any queries or further clarification please contact 'Alapasita Teu.

Privacy of natural persons

PO Box 49 074, Roskill Sth, Auckland 1445



² Data based on 2017 database of FinCap clients/individuals engaging with FinCap's budget/financial mentoring services. Of the 13,600 clients, 16 percent (n=830) were identified as having high-cost loans.

³ Green et al, "The harm from high cost lending," 29