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)	New Zealand Finance Ltd trading as Grabaloan
Contact details	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?
	There are some double rules, for instance if the lender will base their assessment on detailed information obtained from the borrower on their income and expenses why should they also have to do another assessment matched against a robust unspecified benchmark. Exactly what benchmark and is this benchmark going to be readily available and standardised for the consistent for the industry.
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?
	When referring to obtaining a detailed expense as part of the application process this is not easy to achieve as applications are made online and not reasonable to expect someone making one of many online applications for loans to disclose their personal expenses in detail when they have no idea if they will qualify for a loan, and they have no relationship with the online lender. Experience shows requesting some general information on their financial position is the most the lender can expect. Getting more detailed information is stage two in the assessment process and we achieve this with the bank transaction affordability assessment.
3	Are there other practices for estimating expenses that the Code should endorse?
	When reviewing bank reports it becomes clear that people are individuals, and each account activity is quite different and is very difficult for the report to allocate transactions accurately and it takes considerable time to analysis each category for accuracy in allocation given that most bank reports will have between 500 and 1000 transactions in a 90 day period (keeping in mind cash is no longer used) and these transactions will include multiple internal transfers between multiple accounts for the purpose of managing expenses.
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?
	There is no clear direction relating to “surplus” it would be better if there were a standard amount or set percentage guide, for instance 2 weeks repayments measured against a weekly payment an example could be if repayments were $100 a week the weekly surplus should be $200
5	Do you have any other proposals for additional guidance on surpluses?
	At best all of the assessments done are an estimate of a borrower’s position, and there must be a balance between being mindful of looking at the borrower’s ability to make the repayments and the intrusive information we seek and at times it’s very hard to avoid doing this. For instance, asking a borrower is this or that transaction food or ongoing expense means we are involved in a line by line investigation and I get the impression these amendments do not intend this level of enquiry, (being stated the “lender should briefly review the bank report”) and that this is not the intention of the proposed changes

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?
	Obvious affordability should not rely solely on cash flow assessment as this ignores equity lending, which removes the ability of a borrower to leverage against a assets to meet other needs as this has always been a part of the lending products and is clearly discriminate certain demographics of our aged and otherwise limited earning community
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?
	We have already evaluated and developed process for the affordability assessment which we believe meets the intention of the changes, however they are a work in progress to meet both the lender's objective and be reasonable to the borrower.

Other comments

To protect the company from lending to borrowers who will have problems meeting their payments, there are a variety of levels to the assessment process other than meeting the affordability lending requirements. For instance when reviewing the bank report we will be looking at any dishonours in the account, what is the surplus between one wage period compared to the next, any deposits other than wages which may be the proceeds of other lending which may give a bigger picture of overspending or overcommitments, looking at overall debit and credits for the 90 day period, matching payslips to bank transactions and matching to the bank account name. comprehensive credit reports showing number of open accounts, account arrears, arrears on a 6, 12,24 month overall transactions basis, PPSR search to ascertain other lending, which is secured, or may be other joint accounts not showing on the bank reports

The Responsible Lending Code has done a good job of crystalising process and documentation and communication with borrowers, however the affordability assessment fails to recognize the lender has both their own interests and the borrowers at heart. A loan book where the borrowers are over extended and require additional resource to manage their account is not profitable to the lender, not to mention outright loss where the borrower defaults

Part of the issue which I am sure the regulator is aware is its not possible to create a lending policy which covers all the different types of lenders and borrowers and set the lending policy in place for some indefinite period. No finance company would ever think its lending policy is a set and forget with rigid sets of prescribed formulars which must be adhered.

Penalties for compliance will remain as a limiting consideration in the flexibility that lenders are prepared to expose themselves to, which means a culture exists where no matter what the affordable lending prescribes a conservative and restrained will impact the vast majority of borrowers who are caught up in the intention of supporting a number of borrowers who are overcommitted in their finances and expensive.

Since the introduction of the compliance of affordability there has been a noticeably increase in the number of applications and a much higher level of applications who do not have affordability, which could signal that some borrowers are taking the position of firing off as many finance applications as they can on the basis if they get approved and they don’t or can’t pay it’s the responsibility of the lender.

Rewarding this kind of attitude where a borrower does not need to act responsibly in overcommitments is clearly not in line with projects like Building Financial Capability - Ministry of Social Development and Commission for Financial Capability