



FINANCIAL SERVICES FEDERATION

9 November 2022

Financial Markets Team
Building, Resources and Markets
Ministry of Business, Innovation and Employment.

By email: financialconduct@mbie.govt.nz

Consultation paper: Exposure draft regulations on sales incentives under new conduct regime

The Financial Services Federation (FSF) is grateful to the Ministry of Business, Innovation and Employment (MBIE) for the opportunity to comment on the Consultation paper: Exposure draft regulations on sales incentives under new conduct regime.

By way of background, the FSF is the industry body representing the responsible and ethical finance, leasing and credit-related insurance providers of New Zealand. We now have nearly 90 members and affiliates providing these products to more than 1.7 million New Zealand consumers and businesses. The latest list of our members is attached as Appendix A and data relating to the extent to which FSF members contribute to New Zealand consumers, society and business is attached as Appendix B.

You will see from the attached membership list, that a large proportion of FSF members are Non-Deposit-Taking Lending Institutions (NDLIs) who are not within the scope of the Financial Markets (Conduct of Institutions) Amendment Act 2022 (CoFI Act). However, the FSF does have several Non-Bank Deposit Takers (NBDTs) and credit-related insurance providers as members, and it is on their behalf that this submission is being made.

Introductory comments:

As the FSF stated in the introduction to our recent submission on the Discussion paper: Financial institution licensing fees under new conduct regime, the FSF has been strongly and consistently opposed to the entire CoFI Act since it was first mooted. It has always been the FSF's view that sufficient other mechanisms and licenses existed or were in the process of being enacted or implemented that would regulate the conduct of financial institutions and that any conditions relating to conduct could be incorporated into one of the existing licenses already held by financial institutions without requiring a separate conducting licensing regime. That position has not changed.

As we have also said repeatedly, the FSF particularly disagrees with the application of the CoFI Act to NBDTs and small credit-related insurance providers such as those members represented by the FSF. In our view, no evidence exists to demonstrate that such small financial entities actually cause poor customer outcomes or exhibit poor conduct such as to justify the application of the conduct regime to them and we have provided substantial evidence to the contrary.

Therefore, and to avoid repeating ourselves, we refer officials to the full text of the Introductory comments the FSF made to our submission on the Discussion paper: Financial institution licensing fees under new conduct regime on 26 October 2022.

The FSF will now turn its attention to answering the questions raised in the Consultation paper.

1. Do you consider that the draft regulations give effect to Cabinet’s decision to prohibit sales incentives based on volume or value targets? If not, why not?

As the Consultation paper clearly states, consultation has already taken place on the approach to take to regulating sales incentives and Cabinet has made their decision with respect to this following that consultation.

On that basis, therefore, the FSF agrees that the draft regulations give appropriate effect to the Cabinet decision to prohibit sales incentives based on volume or value targets.

2. Do you have any comments on the examples chosen of a prohibited incentive and a non-prohibited incentive?

The FSF considers that the examples provided in the exposure draft regulations are helpful in providing a guide as to what would be considered to be a prohibited incentive and what would be considered to be a non-prohibited one.

3. Do you have any other comments on the way the draft regulations define prohibited incentives?

The FSF has no further comment to make in respect to this.

4. Do you have any comments on the definition of ‘relevant person’ in relation to a financial institution or an intermediary?

Given that Cabinet’s policy decision has been made that the prohibition on giving incentives to a ‘relevant person’ has already been made and that Cabinet further decided that the prohibition would apply to a financial institution or an intermediary’s employees, agents and intermediaries (excluding senior managers and executives), the FSF believes that the draft Regulations adequately capture these decisions.

5. Do you have any comments on the application of the draft regulations to senior managers and executives?

The FSF does not believe that the draft regulations adequately imply that senior managers and executives of financial institutions will be exempt from the prohibition on incentives. Draft regulation 237C(2)(a) defines a 'relevant person' as being "*an employee of the financial institution;*" which could mean any employee of the institution including a senior manager or executive. It does not specify that the employee should be "involved in the provision of the financial institution's relevant services or associated products" as the regulations 237C(2)(b) and (c) do with respect to intermediaries or agents of the financial institution.

Given that the FMC Act only captures a person who is (directly or indirectly) involved in the provision of the service or the products and that the specific definition of 'involved' in the FMC Act means either arranging the contract or giving regulated financial advice, the FSF believes that the draft regulation 237C(2)(a) should be reworded to say: "*an employee that is involved in the provision of the financial institution's relevant services or associated products*". This is both consistent with the following two regulations – 237C(2)(b) and (c) – and provides sufficient clarity that senior managers and executives are excluded from the prohibition on incentives unless they are actually 'involved'.

6. Do you have any other additional general comments on the exposure draft regulations? For example, do you see any unintended consequences arising from the draft regulations in relation to any other matters? Are there any areas where the application of the draft regulations is unclear and could benefit from additional examples or guidance?

The FSF has no further comments to make on the exposure draft regulations and can see no unintended consequences arising from them in relation to any other matters. The FSF also has no further areas to suggest where the draft regulations could be made clearer other than the suggestion made in the answer to question 5 above.

Once again, the FSF is grateful for the opportunity to comment on the draft regulations. Please do not hesitate to contact me if there is anything further you wish to discuss.



Lyn McMorran
EXECUTIVE DIRECTOR



FINANCIAL SERVICES FEDERATION

Appendix A - FSF Membership List as at October 2022

Non-Bank Deposit Takers, Specialist Housing Lenders, Leasing Providers	Vehicle Lenders	Finance Companies/ Diversified Lenders	Finance Companies/ Diversified Lenders, Insurance Premium Funders	Credit-related Insurance Providers, Affiliate Members	Affiliate Members (incl) Credit Reporting, Debt Collection Agencies
<p>Basecorp XCEDA (B)</p> <p>Finance Direct Limited <ul style="list-style-type: none"> ➤ Lending Crowd </p> <p>Gold Band Finance <ul style="list-style-type: none"> ➤ Loan Co </p> <p>Mutual Credit Finance</p> <p><u>Credit Unions/Building Societies</u></p> <p>First Credit Union</p> <p>Nelson Building Society</p> <p>Police and Families Credit Union</p> <p><u>Specialist Housing Lenders</u></p> <p>Basecorp Finance Limited</p> <p>Liberty Financial Limited</p> <p>Pepper NZ Limited</p> <p>Resimac NZ Limited</p> <p><u>Leasing Providers</u></p> <p>Custom Fleet</p> <p>Euro Rate Leasing Limited</p> <p>Fleet Partners NZ Ltd</p> <p>ORIX New Zealand</p> <p>SG Fleet</p>	<p>AA Finance Limited</p> <p>Auto Finance Direct Limited</p> <p>BMW Financial Services <ul style="list-style-type: none"> ➤ Mini ➤ Alpha Alpha Financial Services </p> <p>Community Financial Services</p> <p>Go Car Finance Ltd</p> <p>Honda Financial Services</p> <p>Kubota New Zealand Ltd</p> <p>Mercedes-Benz Financial</p> <p>Motor Trade Finance</p> <p>Nissan Financial Services NZ Ltd <ul style="list-style-type: none"> ➤ Mitsubishi Motors Financial Services ➤ Skyline Car Finance </p> <p>Onyx Finance Limited</p> <p>Scania Finance NZ Limited</p> <p>Toyota Finance NZ <ul style="list-style-type: none"> ➤ Mazda Finance </p> <p>Yamaha Motor Finance</p>	<p>Avanti Finance <ul style="list-style-type: none"> ➤ Branded Financial </p> <p>Basalt Group</p> <p>Blackbird Finance</p> <p>Caterpillar Financial Services NZ Ltd</p> <p>Centracorp Finance 2000</p> <p>Finance Now <ul style="list-style-type: none"> ➤ The Warehouse Financial Services ➤ SBS Insurance </p> <p>Future Finance</p> <p>Geneva Finance</p> <p>Harmony</p> <p>Humm Group</p> <p>Instant Finance <ul style="list-style-type: none"> ➤ Fair City ➤ My Finance </p> <p>John Deere Financial</p> <p>Latitude Financial</p> <p>Lifestyle Money NZ Ltd</p> <p>Limelight Group</p> <p>Mainland Finance Limited</p> <p>Metro Finance</p>	<p>Nectar NZ Limited</p> <p>NZ Finance Ltd</p> <p>Personal Loan Corporation</p> <p>Pioneer Finance</p> <p>Prosopa NZ Ltd</p> <p>Smith's City Finance Ltd</p> <p>Speirs Finance Group <ul style="list-style-type: none"> ➤ Speirs Finance ➤ Speirs Corporate & Leasing ➤ Yoogo Fleet </p> <p>Turners Automotive Group <ul style="list-style-type: none"> ➤ Autosure ➤ East Coast Credit ➤ Oxford Finance </p> <p>UDC Finance Limited</p> <p><u>Insurance Premium Funders</u></p> <p>Elantix Elantix Premium Funding NZ Ltd</p> <p>Financial Synergy Limited</p> <p>Hunter Premium Funding</p> <p>Qumulate Qumulate Premium Funding</p> <p>Rothbury Instalment Services</p>	<p><u>Credit-related Insurance Providers</u></p> <p>Protecta Insurance</p> <p>Provident Insurance Corporation Ltd</p> <p><u>Affiliate Members</u></p> <p>Buddle Findlay</p> <p>Chapman Tripp</p> <p>Credisense Credisense Ltd</p> <p>Credit Sense Pty Ltd</p> <p>Experian</p> <p>Experieco Experieco Limited</p> <p>EY</p> <p>FinTech NZ</p> <p>Finzsoft</p> <p>Happy Prime Consultancy Limited</p> <p>Landscape Landscape Ltd</p> <p>KPMG</p> <p>LexisNexis</p> <p>Motor Trade Association</p> <p>PWC</p> <p>Simpson Western</p>	<p>Verifier Australia</p> <p><u>Credit Reporting, Debt Collection Agencies.</u></p> <p>Baycorp (NZ) <ul style="list-style-type: none"> ➤ Credit Corp </p> <p>Centrix</p> <p>Collection House</p> <p>Debt Managers</p> <p>Debtworks (NZ) Limited</p> <p>Equifax (prev Veda)</p> <p>Illion (prev Dun & Bradstreet (NZ) Limited</p> <p>Quadrant Group (NZ) Limited</p> <p>IDCARE Ltd</p> <p>Total 89 members</p>



FINANCIAL SERVICES FEDERATION (FSF)

THE NON-BANK FINANCE INDUSTRY SECTOR - 2022



48%

NON-BANK

BANK

of personal consumer loans are financed by the **non-bank sector** represented by FSF members.

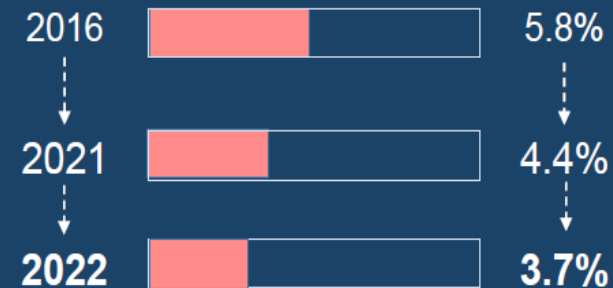
Setting industry standards for responsible lending, promoting compliance and consumer awareness.

Percent of Loan Requests Approved

46%



Percent of Loan Book in Arrears



KEY FACTS: THE NON-BANK FINANCE INDUSTRY SECTOR

FSF Members (as at 28 Feb 2022)

Number of Members	57
Number of Employees	3,561
Applications Processed	1,085,739
Loan Requests Approved	495,434
Percent of Loan Book in Arrears	3.7%

Bank Sector (as at 28 Feb 2022)

Value of Mortgage Loans	\$329B
Value of Consumer Loans	\$7.6B
Value of Business Loans	\$118B

Non-Bank Sector Share (as at 28 Feb 2022)

% of Total Mortgage Loans	0.4%
% of Total Consumer Loans	47.7%
% of Total Business Loans	5.9%

Insurance Credit Related (as at 28 Feb 2022)

Number of Employees	237
Number of Policies	311,409
Gross Claims (annual)	\$27.2M
Days to Approved Claim	20 days

Consumer Loans (as at 28 Feb 2022)

Total Value of Loans	\$8.1B
Number of Customers	1,699,683
Number of Loans	1,584,984
Monthly Instalments:	\$330M

Average Value of Loan:

Mortgage	\$171,932
Vehicle Loan	\$12,393
Unsecured	\$2,467
Other Security	\$5,754
Lease Finance	\$2,804

Average Monthly Instalment:

Mortgage	\$257
Vehicle Loan	\$463
Unsecured	\$144
Other Security	\$302
Lease Finance	\$241

Business Loans (as at 28 Feb 2022)

Total Value of Loans	\$7.3B
Number of Customers	136,830
Number of Loans	264,827
Monthly Instalments:	\$590M

Average Value of Loan:

Mortgage	\$443,784
Vehicle Loan	\$28,869
Unsecured	\$7,443
Other Security	\$32,374
Lease Finance	\$24,921

Average Monthly Instalment:

Mortgage	\$2,281
Vehicle Loan	\$1,064
Unsecured	\$799
Other Security	\$11,044
Lease Finance	\$939