10 June 2024

Submitted via: consumer@mbie.govt.nz

Consumer Policy
Building, Resources and Markets
Ministry of Business, Innovation & Employment
Wellington

RE: Guidance for lenders on assessing affordability: draft changes to the Responsible Lending Code Discussion Document

I support the recommendations in the submission made by FinCap's.

I deal with many clients who have been provided with loans that were unaffordable, both at the time they were made and subsequently. The provision of these loans has put them into hardship or made their hardship worse. Without compulsory guidelines, that come with regulation, I have no doubt that some lenders will take advantage of this situation and put people into financial difficulties. As is usual, this may not become immediately obvious but will manifest itself within a few months of the regulatory changes.

By way of background, loans that I have successfully challenged under the regulations are:

- Failure to analyse income properly – not considering excessive (and unsustainable) overtime being worked, the "cashing-up" of holidays and noting that KiwiSaver contributions have been suspended.
- Failure to analyse expenditure. Not asking sufficient questions, even with bank statements at hand, to identify the likes of payment support to family in the Pacific Islands and locally, ongoing medical/pharmaceutical needs, underestimating the costs of basics (food, petrol, utilities, clothing/shoes and communication needs) and other financial obligations the clients have.
- The use of models to estimate expenditure when these are both not up to date (in terms of cost of living increases) and not checked against available information (such as bank statements).
- The use of agents, e.g. car yards for car finance, to source documents and "guide" clients through the application process. Agents such as this are heavily conflicted in this regard.
- Inevitably clients fall into arrears on such arrangements.

An example of such lending is attached.

Of most concern, and as pointed out in paragraph 7 of the Discussion Document, "Although the Code [the Responsible Lending Code] is secondary legislation, it is not binding."

As such, I strongly support FinCap's recommendations for clear guidance.

Introducing Myself

I am a volunteer with two budget services, North Harbour Budgeting Services and Auckland Central Budgeting. I have been a financial mentor for sixteen years. I am now retired but worked as a banker for thirty years.

My clients range from those earning no income (inmates at Paremoremo Prison) to households earning over $200,000 per annum. This latter group of clients is more recent and the result of mortgage interest rate increases.

My volunteer work includes working one on one with clients (individuals and households) as a financial mentor, assisting them with their budget challenges, and as a community educator. An example of the latter is (currently) undertaking seminars for all of the Auckland Correctional sites for people who are on parole or undertaking community service.

In the time I have been financial mentoring it is evident that the complexities and challenges faced by our clients have increased markedly. So much more work is having to be done challenging unaffordable lending, with lenders often being quite obstructive and/or very tardy in their dealings with us. An observation would be that dispute resolution schemes and the Commerce Commission often take some time to deal with the issues we constantly bring to their attention.

Responses to Consultation Questions

To reiterate, I support all FinCap's recommendations.

I have comments and examples in addition to FinCap's as detailed below.

Q1

Under necessities I regard a basic mobile phone and plan (or prepay) as essential.

Of concern is that Buy Now Pay Later inclusion in the CCCFA has not been progressed, noting that one credit agency has reported that 10% of Buy Now Pay Later clients have missed payments.

Q2

Observations would be that sensitised interest rates and a "buffer" margin can be totally inadequate in a rising interest rate market. For example, banks have typically sensitised mortgage lending by adding circa 2.0% to the then rates – all fixed rates that have come off when originally set at around, say, 3.0% will have now been reset and rates around 7.0% are now typical.

With regard to credit cards, it is noted that minimum repayments are typically 2%, 3% or 5% of each month's loan balance. A 2% minimum credit card repayment, assuming no further use of that card, is likely to take over 5 years to pay off.

Q3

Ensuring that the likes of revolving credit contracts are checked for affordability as required for other loans.

Q4

No additional comment.

Q5

No additional comment.

Q6

No additional comment.

Q7

As mentioned earlier, a basic mobile phone and plan should be included as a necessity.

Q8

In addition to the fines mentioned in FinCap's submission, the identification of Work & Income debt repayments, student loan repayments, tax obligations (tax arrears and provisional tax payments) and family loan repayment agreements are suggested.

Q9

No additional comment.

Q10

FinCap's submission in this regard is strongly supported noting the previous comment regarding missed repayments.

Q11

Lenders need to show that they have discussed expenditure reductions with the borrower and that the borrower has acknowledged the discussion, noting that not all borrowers will adhere to the discussion.

Q12

I have concerns around the use of credit reports as the sole information inquiry for the **likelihood of repayment.** This has been suggested for Buy Now Pay Later, which has yet to be brought into the CCCFA. Credit reports can be woefully inadequate in the information provided, particularly as debts to Government Departs are not included and due to many creditors not providing information to the credit agencies. I attach an example for one of my clients.

Q13

No additional comment.

Q14

No additional comment.

Q15

Care needs to be taken when using information provided to a lender by a financial adviser or intermediary. Some agents, e.g. car yards acting for lenders, do not provide accurate information as it does not suit their purpose to do so. In any situation where a financial adviser of intermediary has a pecuniary interest in a loan being made (whether through a commission, fee or the sale of a product) the information provided by them needs to be subject to further scrutiny or care by the lender.

Q16

No additional comment.

Q17

The lowest risk lending is generally on mortgages. I wrote to Minister Bayly in February acknowledging the need for easing of the CCCFA requirements for mortgages but only on the basis that the other inquiries banks (in particular) made for mortgages were more extensive/robust and also having the added reliance on LVRs and, in time, Debt to Income Ratios. All other lending should be subject to robust scrutiny and, to repeat myself again, the potential use of just credit reports for Buy Now Pay Later is fraught with risk.

The redefinition of “high-cost” credit contracts is welcomed, however I regard interest rates in excess of 20% per annum to be high cost. This comment was also made to Minister Bayly.

Q18

No additional comment.

Q19

The keeping of records should be sacrosanct. Disclosure on demand should also be made to financial mentors acting on behalf of/working with borrowers. Financial mentors often encounter lenders being obstructive and/or tardy when providing information.

Q20

No additional comment.

Q21

No additional comment.

Q22

No additional comment.

Q23

No additional comment.

Conclusion

Thank you for considering my submission. Please contact me on 021-927-578 or at david.verry@nhbudgeting.org to discuss any aspect of this submission further.

Ngā mihi,

David Verry

David Verry

Financial Mentor
North Harbour Budgeting Services & Auckland Central Budgeting