Regulatory Impact Statement

Regulations under the Credit Contracts and Consumer Finance Amendment Act to prescribe costs of borrowing information and a minimum repayment warning for credit card statements

Agency Disclosure Statement

1 This Regulatory Impact Statement has been prepared by the Ministry of Business, Innovation and Employment.

2 It considers options for implementing disclosure-related regulations under the amended Credit Contracts and Consumer Finance Act. These relate to the prescribed ‘costs of borrowing’ information that creditors must make publicly available, and the ‘minimum repayment warning’ that credit card providers must publish on all credit card statements. Regulations must be completed to implement these legislative provisions before they come into effect on 6 June 2015.

3 The options considered in this paper for prescribing the costs of borrowing information and minimum repayment warning are limited by the scope of the relevant legislative provisions and regulation-making powers of the Amendment Act.

4 The analysis is based largely on impacts identified in submissions received in response to a November 2014 discussion paper, and a review of existing cost of borrowing information on lenders’ web sites.

5 A constraint acting on the analysis of the options for both the ‘costs of borrowing’ information and minimum repayment warning is that, although the compliance costs are relatively certain, it is difficult to accurately estimate the benefits from each option. Similar initiatives introduced overseas have not yet been formally assessed. For the minimum repayment warning, the evaluation of the effectiveness of the warning used in the United States may not apply to New Zealand due to different repayment behaviours here, while the Australian and United Kingdom examples have not yet been assessed.

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Status Quo

6 The provision of consumer credit is important for the sound operation of a modern economy. Without the provision of credit, many purchases of goods and services would not occur. When consumer credit markets are working well, consumers can make informed choices about credit products. However, information asymmetry between lenders and borrowers can result in market failure where consumers enter into consumer credit contracts that they do not understand, or engage in repayment behaviour that is not in their best interests. It is important that lenders provide consumers with adequate information to enable them to make informed choices about consumer credit.

7 The Credit Contracts and Consumer Finance Amendment Act 2014 (the Amendment Act), passed on 6 June 2014, introduces significant reforms to the primary legislation governing consumer credit in New Zealand – the Credit Contracts and Consumer Finance Act 2003 (CCCFA). The updated purposes of the CCCFA include to protect the interests of consumers in relation to consumer credit contracts and to facilitate fair, efficient, and transparent credit markets in New Zealand. To assist consumers to make informed choices and address issues of information asymmetry between lenders and borrowers, the Amendment Act makes significant changes to the information disclosure regime to ensure that lenders provide borrowers with sufficient information.

8 Amongst other changes, the reforms to the information disclosure regime will require:

a. all lenders to make 'costs of borrowing' information publicly available; and

b. all credit card providers to include a 'minimum repayment warning' on credit card billing statements.

9 The Commerce Commission will be responsible for enforcing these new obligations when the Amendment Act comes into force. This paper analyses options for implementing these two reforms.

Prescribed costs of borrowing information

10 Section 9K of the Amendment Act requires all lenders to make information publicly available about all costs of borrowing for every class of credit contract they offer. The Amendment Act defines 'costs of borrowing' to include:

a. ***Credit fees***: fees payable by the borrower under the credit contract, such as establishment fees and prepayment fees;

b. ***Default fees***: fees or charges payable on a breach of the credit contract by a borrower or on the enforcement of a credit contract by a lender; and

c. ***Interest charges***: a charge occurring over time determined by applying a rate to an amount owing (and includes default interest charges).

11 The Amendment Act requires this information to be displayed on the lender's website (if it has one) and provided free of charge on request. Notice that this information is available free of charge on request must be provided in any publicly accessible premises, such as a branch.

12 The purpose of requiring lenders to make this information publicly available is to assist borrowers to easily compare credit products and to select a product that suits them. To achieve this, information will need to be current and provided at a level of detail that allows for meaningful comparison. It is also important to consider the costs and practicality to different types of lenders (offering different types of credit products) in providing this information.

13 The ‘costs of borrowing’ information which must be disclosed will be prescribed by regulations. Regulations will prescribe how the information to be disclosed and can prescribe the form (i.e. format) of the disclosure. This paper analyses options for the level of information to be disclosed and how that information is to be set out.

14 Currently there are approximately 1342 Financial Services Providers registered to provide credit under a credit contract (however, the true number of credit providers is likely to be larger as this figure does not include the number of credit providers that are currently unregistered). As noted above, all lenders will be required to disclose the costs of borrowing information, and lenders may incur compliance costs in disclosing this information.

Credit card minimum repayment warning

15 Most credit card providers provide monthly billing statements to consumers which include a ‘minimum repayment required’. This is the minimum amount that the consumer can repay by the due date to avoid being charged overdue or late payment charges. This minimum repayment can be as low as 2-3% of the outstanding balance and will only reduce the outstanding balance by a small amount.

16 Paying off a credit card balance by only making the minimum repayment each month substantially increases the time taken to repay the balance and increases the total interest paid. For example, repaying $5,000 in borrowings with a minimum 2% monthly repayment and a 20% interest rate would take around 25 years. Interest of around $16,000 would be charged over this period.

17 The tendency of consumers to focus only on short term costs and benefits means that some may choose to only make the minimum repayment listed on their balance even though this means it will take longer to repay the balance and cost them more in interest. The minimum repayment figure on monthly credit card statements therefore ‘anchors’ the impression that just paying this minimum is acceptable[1], which validates the consumer in making a repayment decision that is not necessarily in their best interests.

18 Section 19(1) (i) of the Amendment Act introduces a minimum repayment warning to be included on credit card billing statements. The purpose of a minimum repayment warning is to highlight to consumers the consequences of repaying a credit card balance by only making the minimum repayment each month. The minimum repayment warning will be prescribed by regulations.

19 Only lenders who provide credit cards will be required to include a ‘minimum repayment warning’ on credit card statements. Based on the information obtained through submissions, this type of product is offered by the major banks, some finance companies and some retailers (usually as agents for finance companies). Credit card providers will incur compliance costs in implementing the prescribed warning. The level of these compliance costs will depend upon the type of information required to be disclosed in the warning and must be balanced against a consideration of the likely benefits that the prescribed warning will provide to consumers.

[1] *Behavioural Economics and the Regulation of Consumer Credit*, Dr Richard Tooth, New Zealand Law Foundation, August 2012.

20 Credit card minimum repayment warnings have been introduced in various forms in Australia, the United States, and United Kingdom.[2] These international precedents have followed two broad approaches. The warnings adopted in Australia and the United States provide personalised calculated information on the billing statement, setting out how long it would take and how much it would cost to repay the current balance at the minimum repayment, and at a higher monthly payment necessary to clear the balance within a certain time. The warning used in the United Kingdom is a simple written warning statement outlining the general consequences of only making the minimum repayment.

21 This RIS analyses options for prescribing the minimum repayment warning, in particular, whether the minimum repayment warning should provide calculated information or be based on a written warning statement.

Problem Definition

22 As discussed above, the Amendment Act requires all lenders to make ‘costs of borrowing’ information publicly available and all credit card providers to include a ‘minimum repayment warning’ on credit card billing statements. These requirements will be implemented through regulations which will prescribe the ‘costs of borrowing’ information and the content and form of the minimum repayment warning.

23 Regulations must be completed before the provisions of the Amendment Act come into force by 6 June 2015 to give effect to the Amendment Act. If regulations are not in place by this date, it may still be possible for lenders to comply with the ‘cost of borrowing’ provisions of the Act (depending on statutory interpretation), but there would be considerable uncertainty about lenders’ obligations. Each lender may introduce their own way of complying with the provisions which could result in inconsistent approaches between lenders that may not provide the intended consumer benefits and meet the purposes of the amended CCCFA. If regulations are not in place by 6 June 2015 to prescribe the credit card minimum repayment warning, the provisions of the Act relating to the minimum repayment warning would not operate.

24 This paper analyses options for implementing these regulations, and considers the information to be prescribed for ‘costs of borrowing’ information and the credit card minimum repayment warning.

25 A discussion document was released for public consultation on 4 November 2014 seeking views on how the disclosure-related regulations under the Amendment Act are to be implemented. Submissions closed on 1 December 2014. Seventeen submissions were received, which inform the analysis of options within this paper.

Objectives

26 In prescribing the ‘costs of borrowing’ information and credit card minimum repayment warning, it is important to balance the need to provide consumers with sufficient and accessible information to enable them to make informed decisions (allowing consumers to compare credit offerings or make informed repayment decisions) against the need to limit unnecessary compliance costs and administrative complexity for lenders.

27 Officials consider that the options that best meet the objectives are most likely to achieve the updated purposes of the CCCFA, including to protect the interests of consumers and to facilitate the fair, efficient, and transparent credit markets in New Zealand.

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[2] Further information on these precedents can be found in **Annex One**.

Prescribed costs of borrowing information

28 The policy options for prescribing the 'costs of borrowing' information to be disclosed will be assessed against the following four objectives:

a. Is the prescribed information likely to be easily understood and easily accessed by consumers?

b. Is the prescribed information likely to support confident and informed decision-making by consumers?

c. Is the prescribed information able to be disclosed effectively and efficiently by different types of lenders and for different types of credit products?

d. Does the prescribed information minimise unnecessary compliance costs for lenders?

Credit card minimum repayment warning

29 The policy options for prescribing the minimum repayment warning will be assessed against the following four objectives:

a. Is the prescribed warning likely to be easily understood by consumers?

b. Is the prescribed warning likely to change repayment behaviour and support informed repayment decisions?

c. Is the prescribed warning able to be disclosed effectively and efficiently on credit card billing statements?

d. Does the prescribed warning minimise unnecessary compliance costs for lenders?

Options and Regulatory Impact Analysis

Prescribed costs of borrowing information

30 The three options considered in this paper for prescribing 'costs of borrowing' information essentially range from more to less prescriptive. The regulations can prescribe either specific information that needs to be disclosed, a specific form that the information needs to be presented in, or both.

Option One: Detailed information disclosure and prescribed format

31 Option One provides that regulations prescribe that the costs of borrowing information include detailed information which is presented in a specific table format. This approach would be similar to that required for standard home loan and credit card products in Australia.[3] The Australian approach requires specific words to be used for each category of information and that the information be set out in a prescribed table format.

32 Given the detailed and specific nature of the prescribed wording, the particular information and associated table format would need to be prescribed for different types of credit contracts.

[3] In Australia, "costs of borrowing"-type information is only required to be disclosed for standard home loan and credit card products.

*Option Two: Options for information disclosure and prescription as to accessibility (**preferred option**)*

33 Under Option Two, the regulations would not prescribe a specific form that cost of borrowing disclosure had to use, but would provide more detail about how each item to be disclosed (credit fees, default fees and interest charges) is presented.

34 For instance:

- where fees are determined by reference to a formula, lenders would be required to clearly describe the way the fee is calculated;
- where lenders specify a range of potentially applicable interest rates, the regulations would require lenders to set out the factors that a lender will consider in selecting a rate within the range.

35 In contrast to Option One, specific wording would not be prescribed for this purpose.

36 While there would be no prescribed format for disclosure, the regulations could prescribe a required level of accessibility on a lender's website. For instance, the prescribed information for each class of credit contract would need to be no more than two 'clicks' from the lender's homepage. Similarly, the information for each class of credit contract (i.e. credit fees, default fees and interest rates) would be required to be on the same page, or no more than one 'click' apart.

Option Three: Flexibility of information disclosure and no prescribed form of disclosure

37 Under Option Three, regulations would not prescribe how cost of borrowing information is presented, but would simply reiterate the information that is required by the Amendment Act (credit fees, default fees and interest rates).

38 This is the most flexible option. Lenders would decide how to provide the required information at their place of business and on their web site.

Analysis of Options:

Key:	
✓✓	Meets the policy objective
✓	Partially meets the policy objective
✘	Does not meet the policy objective

	Is the prescribed information likely to be easily understood and easily accessed by consumers?	Is the prescribed information likely to support confident and informed decision-making by consumers?	Is the prescribed information able to be disclosed effectively and efficiently by different types of lenders and for different types of credit products?	Does the prescribed information minimise unnecessary compliance costs for lenders?
Option One: Detailed information disclosure and prescribed format	✓ In some cases it may be useful for consumers to be provided with detailed information on each class of credit contract. However, there is a risk of information overload if the information is too detailed. Similarly, if different detailed information and a different table structure is provided for each class of credit contract, there is a risk that unnecessary complexity may be introduced because credit products in the same 'class' could be structured differently. In cases where the level of information to be disclosed is appropriate, the form of this information would support easy access and consumer understanding. Detailed prescription also means that lenders are not able to provide additional information in areas where they think it might assist consumer understanding.	✓✓ Requiring consistent content and form for this information would allow for easy comparability of credit offerings from different lenders.	✓ Some submitters suggested that a prescribed form would assist lenders to comply, but that the forms would need to be flexible. A prescribed form also risks becoming obsolete due to innovation and the development of new types of credit contracts.	✘ An individual lender offering many different types of credit contracts could face significant costs, in having to comply with prescriptive requirements for each type of agreement. Many lenders which already disclose some or all 'costs of borrowing' on their websites display that information in differing ways. Prescribing a specific table format for disclosure would result in significant costs for these lenders. Some submitters also noted that compliance costs would be greater if they were required to provide all the 'costs of borrowing' information for each type of credit contract in one place, as interest rates change much more regularly than fees.

Option Two: Options for information disclosure and prescription as to accessibility (Preferred Option)	✓✓ Because the information can be disclosed in a number of different ways, depending on how the credit product is structured, the information is likely to be easily understood by consumers. The form of this information would support easy access by consumers.	✓ Because information about interest rates and fees will be close together, consumers will be able to obtain the key information as to costs (in order to assist with informed decision-making) in one place. However, because lenders will be free to lay out the prescribed information however they like, and may choose different ways to disclose information where options are available, comparability of credit offerings from different lenders may not be as simple.	✓✓ The options for information disclosure allow for sufficient flexibility (in terms of information and format) for effective and efficient disclosure of the many different types of lenders and lending products.	✓✓ Lenders who currently disclose some or all 'costs of borrowing' on their websites display that information in differing ways. These lenders will face minimal compliance costs as the options for disclosure encompass current good practice. Lenders who do not currently disclose any 'costs of borrowing' on their websites will also face minimal compliance costs given the array of options for disclosure.
Option Three: Flexibility of information disclosure and no prescribed form of disclosure	✓ / ✗ Each lender would be able to introduce their own way of complying with the provisions, so there is likely to be significant variability in the disclosure of information by lenders. This may confuse consumers. For instance, lenders may provide inadequate information (e.g. including a fee called "letter fee" without any information on the circumstances in which the fee will be charged) or overly complex information (e.g. technical jargon). With no prescription as to the form of disclosure, some lenders could choose to 'bury' the information in their website (e.g. the information is only available through a link which is difficult to access).	✓ / ✗ Costs of borrowing information will be available to consumers to support them in making informed decisions. However, because lenders will have no guidance as to the layout or type of information, there is likely to be a significant amount of variability. For instance, lenders do not currently use consistent terminology. Comparability of credit offerings from different lenders could be difficult.	✓✓ Lenders would be able to choose the most effective and efficient means of disclosure for their individual circumstances.	✓✓ Because lenders would have flexibility in the content and form of the disclosure, lenders would be in a position to manage (and minimise) their own compliance costs.

39 Based on the analysis above, officials recommend that the prescribed ‘costs of borrowing’ information be based on Option Two: Options for information disclosure and prescription as to accessibility.

40 By prescribing some options for the particular information to be disclosed (where appropriate) and a required level of accessibility on a lender’s website, Option Two balances:

a. ***Consumer understanding***, by providing useful, but not unnecessarily detailed, information;

b. ***Consumer accessibility***, by providing some prescription as to the location of the information on a lender’s website;

c. ***Comparability***, by providing some level of consistency in disclosure;

d. ***Recognising credit product diversity***, by providing “options” for the way fees are disclosed (where appropriate) and not prescribing required wording; and

e. ***Minimising unnecessary compliance costs***, by giving lenders “options” as to the means of disclosure.

41 More broadly, officials recommend this option because it strikes an appropriate balance between supporting informed decision-making by consumers and minimising unnecessary compliance costs for lenders. This option meets the updated purposes of the CCCFA, including to protect the interests of consumers and to facilitate the fair, efficient, and transparent credit markets, while allowing a sufficient level of compliance flexibility for lenders.

42 The compliance costs involved in Option One may be justified if it is highly likely that the increased prescription would result in an increased number of consumers making better informed decisions. Given that the approach is novel internationally, there is limited data available on consumer decision-making behaviour in this type of regulatory setting. On this basis, officials are not convinced that the further prescription under Option One is justified without further data.

43 Officials will be monitoring the effectiveness of the credit law reforms, including the new requirement that all lenders disclose their “costs of borrowing” information. Officials are continuing to collect baseline information in order to evaluate the effectiveness of the reforms over time. The data being collected includes the information on interest rates and fees currently available on lenders’ websites, as well as survey responses asking whether consumers “shopped around” before choosing a particular lender.

44 *Recommendation: Prescribe ‘costs of borrowing’ information by providing options for information disclosure and prescription as to accessibility*.

Credit card minimum repayment warning

45 The four options considered in this paper for prescribing the form of the credit card minimum repayment warning fall under two broad options:

a. **A calculation-based minimum repayment warning** (Option One). This provides calculated information on how long it would take and how much it would cost to repay a balance by making only the minimum repayment each month, compared to making a larger monthly payment to clear the balance within a certain amount of time. Similar warnings have been used in the United States and Australia; or

b. **A written warning statement** (Options Two – Four). This type of warning does not provide calculations and may simply state the consequences of making the minimum repayment each month (Option Two) or may be supplemented with information on how the minimum repayment is calculated (Option Three) or provide a link to an online debt repayment calculator (Option Four).

Option One: A calculation-based warning (Australia and United States examples)

46 This type of warning sets out calculations in the statement which quantify how much it would cost and how long it would take to repay a balance by only making the minimum repayment each month, compared to making a larger monthly payment to clear the balance with a certain amount of time. Similar warnings are used in Australia and the United States (see **Annex One**).

47 Academic evidence from the United States[4] suggests that warning statements including calculated information may be more effective at changing repayment behaviour as the dollar figure costs and savings make it easier for the consumer to assess the consequences of only making the minimum repayment. Providing an alternative higher monthly repayment allows the consumer to focus on a repayment strategy that will allow them to clear their balance faster, and which will cost less in interest. This mitigates the 'anchoring' effect on repayment behaviour of listing a minimum repayment on billing statements.

48 The calculations provided are based on a range of assumptions, including that the consumer will add no additional purchases to the balance, that a single interest rate will apply to the entire outstanding balance and that this interest rate will not change during the repayment horizon.

Option Two: A simple written warning statement (United Kingdom example)

49 This warning does not provide calculated information but simply notes that it would cost the cardholder more, and take them longer, to repay their balance by only making the minimum repayment. A similar warning is currently in place in the United Kingdom, and is worded as follows:

"If you only make the minimum payment each month, it will take you longer and cost you more to clear your balance"

Option Three: A written warning statement including information on the way the minimum repayment is calculated

50 This warning is based on a written warning statement but also outlines the way in which the credit card provider calculates the minimum repayment. This is intended to highlight to the consumer that the minimum repayment only repays a very small part of the outstanding balance, so that by just making this payment it would take the consumer longer, and cost them more, to clear their balance.

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[4] *Minimum Payment Warnings and Information Disclosure Effects on Consumer Debt Repayment Decisions*, Linda Court Salisbury, Journal of Public Policy and Marketing, Vol. 33(1), Spring 2014.

51 This warning could be worded as follows:

"*The minimum repayment is calculated as **x%** of the outstanding balance, or **$x.xx**, whichever is greater (**plus…** other relevant amounts e.g. overdue amount, any amount necessary to reduce the balance to the credit limit, or any other agreed amount). If you only make this minimum repayment each month, it will take you longer and cost you more to pay off your balance.*"

*Option four: A written warning statement including reference to an online repayment calculator (**Preferred Option**)*

52 This written warning statement is based on a simple warning statement but also provides a link to an online repayment calculator which allows consumers to input their credit card statement details, including the applicable interest rate and outstanding balance, to calculate how long it would take, and how much it would cost them in interest, to repay their balance at different monthly repayment levels.

53 Sorted.org.nz, which is operated by the Commission for Financial Capability, currently provides a useful online credit card repayment calculator which could be referred to in the minimum repayment warning[5]. This calculator allows consumers to input their current balance, interest rate, and repayment amount to estimate how much it would cost and how long it would take to clear the balance by making their current monthly repayment. The consumer can then select different repayment amounts to estimate how much it would cost, how long it would take, and how much interest they would save if they made higher monthly repayments.

54 This warning could be worded as follows:

"*If you only make the minimum payment each month, it will take you longer and cost you more to pay off your balance. Visit www.sorted.org.nz/calculators/debt#tab-credit-card to calculate how you can pay off your credit card balance faster and pay less in interest.*"

[5] This is provided by Sorted.org.nz as part of a suite of online debt calculators designed to help consumers repay debt as fast as possible. The calculator can be found here: https://www.sorted.org.nz/calculators/debt#tab-credit-card

Analysis of Options:

Key:	
✓✓	Meets the policy objective
✓	Partially meets the policy objective
✘	Does not meet the policy objective

	Is the prescribed warning likely to be easily understood by consumers?	Is the prescribed warning likely to change repayment behaviour and support informed repayment decisions?	Is the prescribed warning able to be disclosed effectively and efficiently on credit card billing statements?	Does the prescribed warning minimise unnecessary compliance costs for lenders?
Option One: Calculation-based warning (Australia/US examples)	✓✓ The prescribed formats used in Australia and the United States set out the information in a clear and logical format that draws the consumer's attention to the dollar costs of the two repayment strategies.	✓ This warning provides personalised repayment calculations on the statement. Some academic evidence from the United States suggests that this type of minimum repayment warning that includes calculated information is more effective than simple warning statements at changing repayment behaviour. However, the relevance of the calculated information and its ability to change repayment behaviour may be limited by the range of assumptions the calculations are based on (e.g. that the cardholder will not make any more purchases – an unlikely assumption given that some may use their card daily or weekly). The information is also only relevant at the statement date. These assumptions may reduce the value of the information to consumers.	✘ Providing this calculated information on statements would be complicated by a range of factors including where different interest rates apply to the balance, or where deferred payment periods apply. Also, given that the calculations are based on the outstanding balance, there may be several circumstances where providing the warning is unnecessary (e.g. if the balance is nil or below a certain threshold). The calculations would also have to be kept updated for any changes in interest rates.	✘ Compliance costs for implementing a calculation-based warning similar to those used in the United States and Australia are likely to be higher than the other options. [redacted]

Option Two: Simple written warning statement (UK example)	✓✓ It is likely that the written warning statement would be easily understood by consumers.	✓ A written statement would draw the cardholder's attention to the general consequences of repaying a card balance by only making the minimum repayment each month. However, this warning is very general and also lacks the 'dollar cost' detail which may be most effective at changing repayment behaviour.	✓✓ This warning does not provide personalised calculations on the statement, so it can be provided in the same way on each billing statement.	✓✓ Compliance costs for implementing a written warning statement are likely to be significantly lower than Option One as this warning type avoids the costs of providing personalised calculations on each billing statement. [redacted]
Option Three: written warning including information on the minimum repayment calculations	× The rules for calculating the minimum repayment can be complex. Stating these rules exhaustively in the warning can complicate the warning and may confuse consumers.	✓ This warning highlights the general consequences of making the minimum repayment and highlights the small proportion of the balance that the minimum repayment represents. However, this warning does not provide any 'dollar cost' information on the consequences of making the minimum repayment or other repayment, which may be most effective at changing repayment behaviour. Also, the minimum repayment rules on their own may not provide intuitive information to consumers.	✓ This warning does not provide personalised calculations on the statement, so it can be provided in the same way on each billing statement. The minimum repayment rules in the warning will need to be updated if the minimum repayment calculations are adjusted by the card provider.	✓ Compliance costs of this warning statement will be slightly higher than Option Two due to the need to keep the minimum repayment information current.

Option Four: A written warning statement including reference to an online calculator (Preferred Option)	✓ The statement is likely to be easily understood by consumers and the link to the online calculator can be made easier to access by providing hyperlinks on online statements. Providing an online calculator avoids the simplifying assumptions of providing static calculations on a billing statement e.g. that no further purchases would be added. These assumptions may confuse consumers. However, the value of the additional calculated information relies on consumers taking the time to access the online calculator.	✓✓ This warning highlights the general consequences of making the minimum repayment and provides a link to a calculator that consumers can use to calculate how to repay their balance faster (and save interest). The sorted.org.nz credit card debt calculator also provides more information than the calculations under Option One. Importantly, the user can choose a range of preferred payment amounts to calculate the 'dollar cost' of different repayment strategies. This mitigates the 'anchoring' effect of the minimum repayment.	✓✓ This warning does not provide personalised calculations on the statement, so it can be provided in the same way on each billing statement. It will also not be affected by other offers such as interest-free periods or changes in interest rate.	✓✓ Compliance costs for lenders are likely to be relatively low as the warning can be included on all billing statements in the same way and it does not need to be updated to account for other offers or changes in interest rate. If the calculator provided by Sorted.org.nz is used, Government will not incur the additional costs of developing an online calculator.

55 Based on the analysis above, officials recommend that the prescribed minimum repayment warning for credit card statements be based on Option Four: a non-calculation based written warning statement which includes a link to an online repayment calculator.

56 The warning under Option Four highlights the general consequences of only making the minimum repayment each month (that it will cost more and take longer to repay the balance) and also provides an avenue for consumers to access calculated repayment information through the link to the online calculator. When accessed, the calculator provides an additional 'nudge' on repayment behaviour by highlighting in dollar terms the amount paid in interest at certain repayment levels, and the amount that can be saved by making higher monthly repayments.

57 Providing calculated information on the impact of different repayment strategies is designed to benefit consumers by encouraging them to alter their repayment behaviour to a strategy that will see them clear their balance faster, and pay less in interest. This mitigates the 'anchoring effect' of the minimum repayment on repayment behaviour. This makes Option Four more effective at influencing repayment behaviour than a simple statement warning of the general consequences of only making the minimum repayment (Option Two).

58 Option Four provides access to more information than the calculations provided under Option One, and the information available will likely benefit a larger proportion of consumers. Several submissions criticised the calculations provided under Option One as only being relevant to the small percentage of consumers who make the minimum repayment each month[6]. Card holders who consistently repay more than the minimum repayment may discard information on the consequences of making the minimum repayment as being irrelevant to them. An online repayment calculator provides information that also benefits cardholders who consistently repay more than the minimum monthly repayment as they can examine the interest, and time, they would save by making higher monthly repayments.

59 The online calculator provides consumers with useful quantified information without suffering from the assumptions that limit the effectiveness of providing calculated information in the billing statement itself (Option One). For example, the calculation-based warnings used in Australia and the United States assume that the cardholder will not add any further purchases to the balance. If the consumer makes additional purchases after receiving their billing statement, then these calculations provided in the statement become obsolete or misleading. Providing an online calculator avoids this assumption by allowing the cardholder to calculate the costs of repayment at any time.

60 Finally, the compliance costs for lenders in implementing Option Four are likely to be limited, as the information does not include personalised calculations so can be included on each billing statement in the same way. If a link to an existing online repayment calculator is referred to, such as the calculator provided by Sorted.org.nz, Government will not incur the additional costs of developing an online calculator.

[6] [redacted]

61 The compliance costs under Option Four are likely to be significantly lower than under Option One. Lenders strongly opposed Option One due to the significant initial compliance costs they argue they would incur in updating billing systems to generate personalised calculations and include these on billing statements. These costs may be justified if it is highly likely that the calculation-based warning under Option One would alter repayment behaviour. However, officials are unconvinced that the calculated warning information under Option One would change repayment behaviour given that these calculations are based on a range of assumptions which limits the value of the information to consumers. In addition, the benefits of the calculation-based warning used in the United States (and the supporting academic evidence[7]) are unlikely to extend to New Zealand given the different repayment behaviours exhibited by consumers here relative to the United States.[8] Because the benefits of this type of warning are so uncertain, officials are unconvinced that imposing the significant compliance costs under Option One would be justified.

62 A limitation of the proposed warning under Option Four is that the calculations are not provided on the billing statement itself, so the additional value of the calculations depends upon the assumption that consumers will access and use the online calculator. Officials have considered this limitation in evaluating the effectiveness of Option Four, and on balance, continue to prefer this option given the value of the information provided by the repayment calculator and the benefits that the calculator can provide to a range of consumers.

63 Officials have considered ways to mitigate this limitation by improving access to the calculator by providing the link as a hyperlink on online statements, and to make the link as succinct as possible to enable consumers who receive paper statements to easily type the link into a web browser. Officials will also work with the Commission for Financial Capability (who administers the Sorted.org.nz calculator) to monitor consumer use of the online repayment calculator and ensure it is being utilised by consumers.

64 Some low income credit card holders may not have access to the internet and, although they will be warned about the general consequences of making the minimum repayment by the warning statement, they may be unable to gain the additional benefit provided by the online calculator. Officials will carefully monitor and evaluate the effectiveness of the proposed warning at changing repayment behaviour among low-income credit card holders.

65 *Recommendation: Prescribe a minimum repayment warning based on a written warning statement which provides a link to an online calculator*.

Consultation

66 A discussion document seeking views on regulations under the amended CCCFA relating to disclosure (including costs of borrowing and the minimum repayment warning) was released for public consultation on 4 November 2014. Submissions closed on 1 December 2014. Seventeen submissions were received, which have informed the analysis of options in this paper.

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[7] *Minimum Payment Warnings and Information Disclosure Effects on Consumer Debt Repayment Decisions*, Linda Court Salisbury, Journal of Public Policy and Marketing, Vol. 33(1), Spring 2014.

[8] In New Zealand, between 3-8% of credit card holders make the minimum repayment each month. In the United States, around 13-14% of credit card holders only make the minimum repayment. Given these different repayment behaviours, it is likely that a warning similar to that used in the US (that is supported by US academic evidence above) would have lower benefits here.

Submitter's views – prescribed costs of borrowing

67 Banks and the New Zealand Association of Credit Unions were generally of the view that most (if not all) of the 'cost of borrowing' information proposed is already publicly available. Depending on the level of prescription required, non-bank lenders were generally of the view that while initial setup would involve compliance costs (e.g. staff training, professional compliance advice and costs resulting from system changes), ongoing costs would be minor.

68 Consumer groups were generally in support of the proposed information, noting that many consumers will likely find the approach useful. However, some groups suggested that it is likely to make little difference for consumers facing desperate circumstances or those with limited financial capability.

Submitter's views – minimum repayment warning

69 Submissions from lenders supported the non-calculation based written warning statement and strongly opposed the calculation-based warning. Primary reasons for opposing the calculation-based warning included that the calculations are based on a range of assumptions that limit the effectiveness of the calculations and that providing this calculated information on statements would require expensive changes to billing systems.

70 Submissions from consumer groups supported a calculation-based warning, arguing that the most effective way to change repayment behaviour would be to highlight the cost of only making the minimum repayment in dollar terms. However, one consumer group also recognised that the value of the calculations is undermined by a range of limiting assumptions.

Conclusions and Recommendations

Prescribed costs of borrowing information

71 For the 'costs of borrowing' information, officials recommend prescribing some options for the particular information to be disclosed (where appropriate) and a required level of accessibility on a lender's website. Officials are currently considering how to prescribe the appropriate level of accessibility.

72 Officials recommend this option because it strikes an appropriate balance between supporting informed decision-making by consumers and minimising unnecessary compliance costs for lenders. In other words, this option meets the updated purposes of the CCCFA, including to protect the interests of consumers and to facilitate the fair, efficient, and transparent credit markets, while allowing a sufficient level of compliance flexibility for lenders.

Minimum repayment warning

73 For the minimum repayment warning, officials recommend prescribing a written warning statement that highlights the general consequences of making the minimum repayment, and which includes a link to an online repayment calculator which allows consumers to calculate how much it would cost, and how long it would take, to repay their card balance at different repayment amounts. Officials are considering including a link to Sorted.org.nz's existing credit card debt calculator.

74 Officials recommend this option because it highlights the general consequences of making the minimum repayment and provides an avenue for consumers to calculate the costs of repaying their card balance at different repayment levels. Setting out the costs of various repayment strategies mitigates the anchoring effect of the minimum repayment on repayment behaviour by encouraging consumers to alter their repayment behaviour to a strategy that will see them clear their balance sooner and cost less in interest. The calculated information can also benefit consumers who repay more than the minimum monthly repayment as they can examine the interest, and time, saved by making higher monthly repayments.

75 This option also avoids the significant compliance costs that would be imposed on lenders if a calculation-based warning statement, similar to those used in Australia and the United States, was to be prescribed.

Implementation

76 The Credit Contracts and Consumer Finance Regulations 2004 will be amended to incorporate the recommendations in this paper. These regulations are being developed as part of the implementation of the wider reforms to consumer credit law under the Amendment Act.

77 Regulations to prescribe the ‘costs of borrowing’ information will be developed under section 138(1)(dc) of the Amendment Act which allows regulations to be completed to prescribe particular matters required to meet the disclosure obligations introduced under the Amendment Act.

78 Regulations to prescribe the minimum repayment warning will be developed under section 138(1)(ac) of the Amendment Act and will set out what information the warning must contain, how this must be presented, how any amounts are to be calculated, and any circumstances where the warning may not be required.

79 The regulations will come into force on 6 June 2015.

Monitoring, Evaluation and Review

80 Given that the likely benefits of the prescribed ‘costs of borrowing’ information and minimum repayment warning are difficult to estimate, officials intend to carefully monitor the impacts of these reforms on consumer behaviour to ensure that they are meeting expected outcomes.

Prescribed costs of borrowing information

81 As noted above, evidence will be collected as part of the overall monitoring of the reforms under the Amendment Act. The baseline data being collected includes the information on interest rates and fees currently available on lenders’ websites, as well as survey responses asking whether consumers “shopped around” before choosing a particular lender.

Minimum repayment warning

82 The minimum repayment warning has potential to benefit a range of credit card holders by altering repayment behaviour. The key outcome officials expect to see as a result is that the proportion of card holders only making the minimum repayment each month will decrease and that consumers will seek to repay their credit card balances at higher monthly repayments which decreases the time it takes, and the cost, of clearing their balances.

83 Officials are aware that achieving this outcome depends in part on the assumption that consumers will access and use the online repayment calculator to examine different repayment strategies and that some low income card holders may not have access to the online calculator. On balance, officials continue to support the proposed option given the benefit the calculator can provide to consumers. Officials have considered ways to improve access to the online calculator, and intend to closely monitor the way the calculator is used by consumers to ensure that the proposed option meets the key outcome above.

84 Given this potential limitation (and the fact that a similar repayment warning has not yet been used overseas) officials will closely monitor the impact of the prescribed warning and whether it is meeting the expected outcomes. Officials intend to undertake the following actions:

a. In assessing the effectiveness of the calculator, officials will work with the Commission for Financial Capability (which administers the Sorted calculator and collects detailed data on how this is used by consumers) to examine the number of consumers accessing and using the online calculator (including the number of consumers who are accessing the calculator from the link provided on the billing statement);

b. In assessing the effectiveness of the warning overall, officials will engage with major credit card providers to examine the impact of the prescribed warning on repayment behaviour, and whether the proportion of consumers making only the minimum repayment has decreased; and

c. Officials will engage with consumer groups to analyse whether the calculator is having an impact on the repayment behaviour of low-income card holders, and particularly whether low-income card holders are utilising the online calculator.

Annex One: Credit card minimum repayment warnings – international examples

Calculation-based warnings

United States

1. The United States enacted the Card Accountability, Responsibility and Disclosure (CARD) Act of 2009 in response to problems with subprime credit cards that arose during the Global Financial Crisis and concerns of information asymmetry relating to credit card statements. The reforms introduced by the CARD Act include a prescribed minimum repayment warning that outlines specific information and calculations that must be disclosed to the card holder in a prominent and conspicuous location on each paper and electronic billing statement. The following information must be included:

   a. A minimum payment warning statement which outlines that, if the card holder makes only the minimum payment each month, the card holder will pay more in interest and it will take longer to pay off the balance.

   b. Disclosure of how long it will take (and how much it will cost) to repay the balance at the minimum repayment.

   c. The monthly payments required and how much it will cost to repay the card balance in three years, and how much would be saved compared to only making the minimum repayment each month.

   d. A toll-free telephone number at which the consumer may receive information about accessing credit counselling and debt management services.

2. The Consumer Financial Protection Bureau (CFPB) provides the following example for how this information may be presented in a billing statement:

Minimum Payment Warning: If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:

If you make no additional charges using this card and each month you pay	You will pay off the balance shown on this statement in about	And you will end up paying an estimated total of
Only The Minimum Payment	10 Years	$3,284
$62	3 Years	$2,232 *(Savings = $1,052)*

If you would like information about credit counseling services, call 1-800-xxx-xxxx.

3. Where the minimum repayment amount exceeds the three-year repayment amount, the second line of the warning statement outlining the 3 year repayment alternative is not required.

4. The calculations made in the above minimum repayment warning are based on assumptions that the borrower pays the amount of the minimum payment mentioned in the statement of account each month, and that no other purchases or advances are added to the outstanding balance. It also assumes that the calculations made will be based on the interest rate in effect on the date of the statement.

5. Evidence suggests the CARD Act reforms have been successful at making credit card costs clearer to consumers. The Consumer Financial Protection Bureau, the Federal agency responsible for the CARD Act, conducted a survey of cardholders in February 2011 to test the effectiveness of the CARD Act reforms. Results indicated that 70 percent of cardholders had noticed that monthly statements now contain information about the consequences of making only minimum payments, and that 31 percent of cardholders who recall seeing the new information on their statement report that this information has caused them either to increase their payments or reduce their use of credit.[9]

Australia

6. Australia introduced a minimum payment warning for monthly credit card statements through regulations under the National Consumer Credit Protection (Credit Cards and Home Loans) Act 2011. This Act came into force on 1 July 2012 and introduced a range of reforms to credit cards including prescribing a minimum repayment warning closely based on the example in the United States CARD Act.

7. Under the National Consumer Credit Protection Amendment Regulations, the minimum repayment warning must be provided on the front page of the statement of account in the following form:

Minimum Repayment Warning: If you make only the minimum payment each month, you will pay more interest and it will take you longer to pay off your balance. For example:

If you make no additional charges using this card and each month you pay ...	**You will pay off the Closing Balance shown on this statement in about ...**	**And you will end up paying an estimated total of interest charges of ...**
Only the minimum payment	[period]	[total interest 1]
[repayment 2]	2 years	[total interest 2], a saving of [savings 2]

8. The Australian minimum repayment warning includes similar information to that provided by the United States CARD Act minimum repayment warning, and is based on the same assumptions. However there are some important differences:

   a. The Australian warning requires a calculation of the monthly payments, and subsequent interest savings of repaying the card balance in *two* years instead of three;

[9] *The CARD Act: One Year Later*, Consumer Financial Protection Bureau, February 2011.

b. The Australian warning outlines the *interest* that would be charged and saved under the two repayment strategies. The United States minimum repayment warning outlines the *total cost* to the consumer including interest and principal payments that would be paid under the two repayment strategies;

c. The Australian warning includes the contact details of the credit card provider which the consumer can use to contact the provider if they experience repayment difficulty. The United States warning includes the contact details of an independent credit counselling service.

Written warning statement

United Kingdom

9. The United Kingdom Lending Code, a self-regulatory Code for credit providers governed by the Lending Standards Board, outlines a written minimum repayment warning to be included on monthly credit card statements. The Lending Code was reviewed in 2013. Under the Lending Code a minimum repayment warning should be worded as follows:

   "*If you make only the minimum payment each month, it will take you longer and cost you more to clear your balance.*"

10. Although this minimum repayment warning is provided through a self-regulatory code, all major credit card providers in the United Kingdom currently subscribe to the requirements of the Lending Code and provide the 'minimum repayment health warning' on credit card statements.