

18 June 2024

Submitted via: [consumer@mbie.govt.nz](mailto:consumer@mbie.govt.nz)

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

**RE: Fit For Purpose Consumer Credit Legislation Discussion Document**

I strongly support the recommendations in the submission made by FinCap regarding this Discussion Document.

**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 largely 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, as have the range of financial products and lenders.

**Support of FinCap’s General Comments**

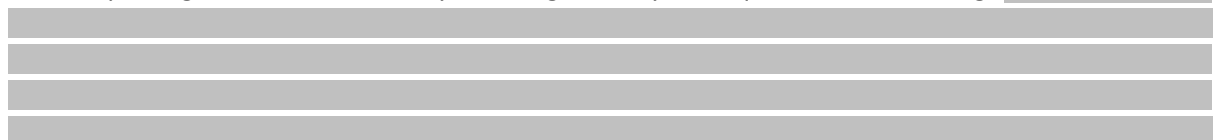
*Transition between Commerce Commission and Financial Markets Authority*

It is essential that investigations and actions continue, and potentially accelerate, should the FMA take over responsibilities. A frustration for financial mentors, and their clients, is the time it takes to both get an investigation underway and for the investigation to be concluded.

FinCap’s “principles for better financial services enforcement” should be regarded as the minimum to protect all borrowers.

*Bring all lenders causing harm into CCCFA affordability assessments.*

Buy Now Pay Later (“BNPL”) issues are well-explained in FinCap’s submission. In particular, the use of credit reporting in lieu of affordability checking is totally inadequate and misleading. Privacy of natural persons



have a student loan, which would have made things even worse. Centrix observations have been that one-in-ten BNPL payments had been missed. The recently-announced receivership of Laybuy pointed to credit losses and fraudulent activity as reasons (amongst others) for its demise. The use of affordability assessments would reduce the pain inflicted on both the borrowers and the lenders.

Phone handsets and ongoing plans are often the first debts that borrowers take on. As a financial mentor, it is not unusual for most younger clients to have this type of debt (which often they don't recognise as such) with the second most prolific debt in this demographic being BNPL accounts (often multiple).

#### *Prohibit disabling devices/immobilisers as collection tools in vehicle lending*

Lenders always explain these as “protections” against theft, however they are never, in my experience, discretionary and typical insurance products will provide this protection. They are always mandatory and, as FinCap points out, have a cost to install (typically added to the amount borrowed) and with ongoing rental fees – see the attached example of a car finance loan. Clients will “choose” to make vehicle repayments rather than pay for essentials (food, rent, etc). The use of disabling devices/immobilisers to force payments is, in my view, immoral.

#### *The CCCFA should better prevent “debt overhang” arising*

To reiterate what FinCap submitted, debt overhangs, where unaffordable lending has been proven, are a massive systemic issue which dispute resolution services will not rule on. The Commerce Commission has, I understand, sought guidance on this issue with a prosecution it is taking against a vehicle finance company. The CCCFA should be amended to address this major shortcoming.

#### *Make changes where the CCCFA is enabling rather than helping remedy family harm issues*

I would extend FinCap and Good Shepherds' recommendations to include debts taken on by clients in their name only but clearly for the sole benefit of their partner (whose credit would never be acceptable).

#### *Debt collection*

There is a wide range of differences between the multiple debt collectors active in New Zealand. Consistency of practice and rules surrounding debt collection would be helpful. It is not uncommon for threats of asset seizure, court action and issuing credit defaults to appear in communications sent to borrowers .

FinCap's two recommendations are supported.

#### **Responses to consultation questions:**

FinCap's responses are all supported. Additional comments are added where appropriate.

#### *Q1*

I think this is a convenient excuse for lenders to use with the ultimate aim being to reduce their compliance with the CCCFA. I would want lenders to provide specific examples to back up this claim. It is generic and systemic issues that will lead to liabilities.

*Q2*

A general observation is that larger lenders, e.g. banks, seem to have taken the due diligence duty and personal liability more seriously despite their lending being lower risk, e.g. mortgages.

*Q3*

No additional comments.

*Q4*

No additional comment.

*Q5*

No additional comment.

*Q6*

No additional comment.

*Q7*

No additional comment.

*Q8*

No additional comment.

*Q9*

No additional comment.

*Q10*

No additional comment.

*Q11*

No additional comment.

*Q12*

No additional comment.

*Q13*

No additional comment.

*Q14*

No additional comment.

*Q15*

Agents of lenders, particularly involving car loans, typically do not provide (nor necessarily understand) information on the add-on products that are available from the lenders. They pressure borrowers to “close the deal” with all add-on products (which are part of the resulting debt) being included. I would doubt that many borrowers take the time (or are permitted to take the time) to read and understand loan and associated documents/products.

*Q16*

No additional comment.

*Q17*

No additional comment.

*Q18*

No additional comment.

*Q19*

No.

*Q20*

Not applicable.

*Q21*

Not applicable.

*Q22*

No additional comment.

*Q23*

No additional comment.

*Q24*

Not applicable.

*Q25*

No additional comment.

Q26

No additional comment.

Q27

No additional comment.

Q28

No additional comment.

Q29

No additional comment.

Q30

No additional comment.

Q31

Agree with FinCap comments on other alternatives and particularly seeking assistance from financial mentors.

Q32

Positive. We see fewer clients with high-cost loans and payday lenders have either gone or reduced their interest rates to 49.95%, but typically no lower. Reducing the threshold to 30% (I had suggested to Minister Bayly that I considered loans in excess of 20% to be high cost) will be positive. The reality is, for a person to need to access a high cost loan their credit rating is likely to be very low and their financial capability poor.

Q33

It is not unusual for a client to have used up all less-expensive lending (or having been refused additional accommodation) and then need to access higher-cost alternatives as a last resort. I have just taken on a new client whose most recent debts have interest rates of 49.95% and it has only taken a minor change in circumstances to see these as unaffordable with the amounts owing now higher than the original loan.

Q34

I was interested in the comment by a former high-cost lender that reducing the threshold would, amongst other things, make loans uneconomic. This may be, and intuitively is, because the loan loss provisions for high-cost loans are substantially greater than for other forms of lending.

Q35

Unsure.

*Q36*

Strongly support 30%, although would prefer lower.

*Q37*

Not applicable.

*Q38*

Those accessing high-cost loans will generally be desperate and vulnerable. Those unable to access credit other than high-cost loans need to seek input from the likes of financial mentors to assist them with their financial situation.

*Q39*

My preference would be 20%. The lending will generally still be profitable, depending on the lender's circumstances, but much of the interest rate (as it is for credit cards) may be to cover loan losses.

*Q40*

The current provisions have seen the demise of payday lending. I recall clients with multiple payday loans ranging from 100% to 407%. There was never a good outcome for these clients and financial mentors are gratified to not see these sorts of loans presenting.

*Q41*

Please see the attachments for a typical car finance case which involved poor lending practices, overpriced vehicles, add-on products, and an immobiliser.

*Q42*

No additional comment.

*Q43*

No additional comment.

*Q44*

No additional comment.

*Q45*

Yes. Prohibit them.

*Q46*

I support FinCap's comments.

## Conclusion

Thank you for considering my submission. Please contact me on Privacy of natural persons [REDACTED] to discuss any aspect of this submission further.

Ngā mihi,

David Verry

Privacy of natural persons  
[REDACTED]

Financial Mentor  
North Harbour Budgeting Services & Auckland Central Budgeting