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Financial Markets Policy
Ministry of Business, Innovation & Employment
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To whom it may concern,

REVIEW OF THE FINANCIAL ADVISERS ACT 2008 AND THE FINANCIAL SERVICE PROVIDERS (REGISTRATION AND DISPUTE RESOLUTION) ACT 2008

Retail NZ is a trade association representing retailers in New Zealand. We have around 5,000 members that together account for around 65 per cent of New Zealand's total retail sales revenue. A number of our members offer consumer credit generally on behalf of third party lenders. Our brief submission focusses on the intersection between the Financial Advisers Act 2008 (FAA) and the Credit Contracts and Consumer Finance Act 2003 (CCCFA).

In our view the current review of the FAA provides an ideal opportunity to simplify the legislation for retail businesses that offer consumer credit and remove what appears to be an overlap which may require providers of advice about credit contracts to comply with two legislative regimes. While it has not been raised in the Options Paper, we would like to see a more thorough review of the scope of the FAA, particularly given the tightening of regulations specific to credit contracts since the Act came into force.

Credit Contracts and Consumer Finance Act (CCCFA)

Credit contracts are specifically regulated by the CCCFA. The CCCFA recently underwent a major overhaul with the changes coming into effect in 2015. A set of lender responsibility principles were established and a code of practice was produced providing practical guidance to lenders. The CCCFA is enforced by the Commerce Commission.

The Financial Advisers Act (FAA)

The Financial Advisers Act (FAA) is enforced by the Financial Markets Authority and regulates a wide range of insurance and financial investment advisors. It also regulates credit contracts which are included as a Category 2 financial product under this Act. This in effect means that credit contracts are covered by two legislative regimes.

Our recommendation

We strongly recommend that credit contracts be removed from the scope of the FAA.

As the Financial Services Federation notes in its submission, credit contracts are mentioned only once in the Options Paper and only in passing because they are category 2 products for the purposes of the FAA. The Options Paper does not raise any issues with credit contracts and the issues that are raised in the paper are not relevant to credit contracts.

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Formerly known as:

The New Zealand Retailers
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The updated CCCFA, the Responsible Lending Code and the Commerce Commission are providing a high level of protection for the industry and consumers in relation to credit contracts. It is therefore sensible and timely to remove credit contracts from the FAA.

Retail NZ supports of the Financial Services Federation submission.

Yours sincerely,
Redacted

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