

## MBIE releases its proposed changes to the Credit Contracts and Consumer Finance Regulations 2004 and the Responsible Lending Code for consultation

[Jan Etwell](#), [Scott Abel](#), [Lara Wood](#), [Rebecca Green](#), [Simon Jensen](#), [Aaron Ni](#), [Amman Bulchandani](#)

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On 6 April 2022, the Ministry of Business Innovation and Employment (MBIE) released two exposure drafts in relation to its proposed changes to the Credit Contracts and Consumer Finance Regulations 2004 (Regulations) and the Responsible Lending Code (Code) for public consultation. The two exposure drafts, the accompanying consultation paper, and the submission template can be found on [MBIE's website](#).

The two exposure drafts seek to give effect to [the initial decision by Cabinet on 11 March 2022](#) and propose to make the following changes to the Regulations and clarifications to the Code:

### Changes to the Regulations

- Remove "savings" and "investments" from the list of examples given in the definition of "listed outgoings" in regulation 4AE
- Amend regulation 4AK(2)(b) to clarify that the obligation to ensure that information used to make the initial estimate of expenses is obtained in "sufficient detail", applies only to the extent that the estimate is based on asking the borrower about his/her expenses under regulation 4AK(2)(a)(i).

### Clarifications to the Code

- Clarify that when lenders ask borrowers about their likely living expenses and these are benchmarked, there is no need to also inquire into (or verify) their current living expenses from recent bank transaction records
- Clarify that lenders can ask the borrower about whether and how their future expenses are likely to change, including where the lender relies on recent bank transaction records, and the lender can adjust the estimated expenses accordingly
- Clarify when a "reasonable surplus" is required, and how it should be determined
- Remove the current example of "obvious" affordability in the Code and replacing it with alternative guidance and examples.

In our view, the above changes and clarifications will have limited impact on addressing the concerns about recent changes to the affordability assessments required of lenders under the amended Regulations which have been the subject of extensive media interest.

Consultation on the above changes and clarifications is open for two weeks and closes on **Wednesday 20 April 2022**. Following feedback, the changes are expected to be in force in June.

As these initial changes are progressed, the parallel investigation (led by MBIE and in collaboration with the members of the Council of Financial Regulators) into the impact of recent changes to the Credit Contracts and Consumer Finance Act 2003 (Act) will continue. It is hoped that further, more substantive changes to the Act or Regulations may be identified in the report from that investigation, which is expected to be published by MBIE later this month.

## **Auckland**

188 Quay Street  
Auckland 1010

PO Box 1433  
Auckland 1140  
New Zealand

P: +64 9 358 2555

F: +64 9 358 2055

## **Wellington**

Aon Centre  
1 Willis Street  
Wellington 6011

PO Box 2694  
Wellington 6140  
New Zealand

P: +64 4 499 4242

F: +64 4 499 4141

## **Christchurch**

83 Victoria Street  
Christchurch 8013

PO Box 322  
Christchurch 8140  
New Zealand

P: +64 3 379 1747

F: +64 3 379 5659