



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

Financial services reforms

Wednesday 29 May 2024





MBIE Karakia

Tāwhia tō mana kia mau, kia māia

Ka huri taku aro ki te pae kahurangi,
kei reira te oranga mōku

Mā mahi tahi, ka ora, ka puāwai

Ā mātau mahi katoa, ka pono, ka tika

TIHEI MAURI ORA

TRANSLATION:

Retain and hold fast to your mana, be bold, be brave

We turn our attention to the future, that's where the opportunities lie

By working together we will flourish and achieve greatness

Taking responsibility to commit to doing things right

TIHEI MAURI ORA

MĀIA
BOLD & BRAVE

**PAE
KAHURANGI**
BUILD OUR FUTURE

MAHI TAHI
BETTER TOGETHER

**PONO
ME TE TIKA**
OWN IT



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Agenda

- Background to Financial Services Reforms
 - Fit-for-purpose consumer credit legislation discussion document
 - Questions
 - Fit-for-purpose financial services conduct regulation discussion document
 - Questions
 - Effective financial dispute resolution discussion document
 - Questions
 - General questions and wrap-up
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Background to Financial Services Reforms

Phase 1

- Aligned rules for financial dispute resolution schemes
- Revoked CCCFA prescriptive affordability regulations – being finalised on 31 July
- Updating the Responsible Lending Code

Consultation on the Responsible Lending Code closes 10 June

Phase 2

- Targeted review of the CCCFA and its high-cost credit provisions
- Transferring the CCCFA to the FMA
- Streamlining the CoFI regime, reviewing conduct licensing and other conduct regulatory requirements
- Improving the financial dispute resolution system

Submissions on Phase 2 discussion documents close 19 June



Fit-for-purpose consumer credit legislation

Part 1: Options to amend the CCCFA to enable the FMA to carry out its role effectively

- To what extent should directors and senior managers be personally liable in relation to due diligence obligations under the CCCFA?
- What regulatory approach is appropriate to support effective compliance with the CCCFA?

A. Liability settings

Option A1: Retain due diligence duty but remove restrictions on indemnities and insurance

Option A2: Remove due diligence duty for licensed lenders

Option A3: Retain status quo

B. Regulatory approach

Option B1 (preferred): Transition to a market services licence and apply associated powers for consumer credit

Option B2: Maintain fit and proper person certification for directors and senior managers

Part 2: Options to amend disclosure requirements

- What information should be disclosed to borrowers under the CCCFA, and when?
- How should information be disclosed?
- What should the penalties be for incomplete disclosure?

C. Amend disclosure requirements

C1: Maintain status quo (disclose a lot of information)	C2: Take a more targeted approach to identifying relevant information that will help consumers' decision-making	C3: Streamline and clarify information required to be disclosed without changing the approach
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D. How information must be disclosed

D1: Maintain status quo (in person, by post, by electronic methods specified by the borrower)	D2: Enable greater flexibility in disclosure methods, by lifting conditions for electronic disclosure
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E. Penalties for incomplete disclosure

E1 (preferred): Limit section 99(1A) to breaches that are material or have potential to mislead	E2: Limit on total liability under section 99(1A)	E3: Repeal sections 99(1A), 95A and 95B	E4: Maintain status quo
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Part 3: Review of High-Cost Credit provisions

- Should the high-cost credit provisions be extended to a broader range of loans?
- If so, what will the impact on the lending market and consumers be?
- Should any of the other 'high cost' lending provisions be amended (eg total cost of credit cap, daily rate cap)?
- Consumer survey

F. Options to amend the high-cost credit provisions

F1 (preferred): Expand the definition to contracts with an interest rate of 30% and above	F2: Expand the definition contracts with an interest rate of 45% and above	F3: Maintain status quo	F4 (preferred): Other high-cost provisions (eg total cost of credit cap, daily rate of charge, repeat borrowing provisions)
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Fit-for-purpose financial services conduct regulation



Discussion document structure

Part 1: Options for reforming the CoFI Act

- Which CoFI fair conduct programme requirements should be removed or amended, if any?
- What amendments should be made to the CoFI fair conduct principle, if any?

Part 2: Options for regulatory framework and powers

- Should it be mandatory for the FMA to issue a single conduct licence?
- How can the Reserve Bank and FMA work together more effectively?
- Does the FMA require additional powers to perform its role effectively?



Options for CoFI Act reform

A. Amending minimum requirements for fair conduct programmes

Option A1 (preferred): Removing or amending some minimum requirements	Option A2: Adding new minimum requirements re: <ul style="list-style-type: none">• fees and charges• consumer complaints	Option A3: Remove all minimum requirements	Option A4: Retain minimum requirements without change (<i>status quo</i>)
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Status quo:

Minimum requirements for fair conduct programmes include effective policies, processes, systems and controls for:

- enabling the financial institution to meet all its legal obligations to consumers
- designing and managing the provision of services and products to consumers
- identifying, monitoring and managing risks associated with conduct that fails to comply with the fair conduct principle

(etc)



Options for CoFI Act reform

B. Amending the fair conduct principle (s 446C)

Option B1 (preferred):

Keep the fair conduct principle open-ended (*status quo*)

Option B2:

Make the fair conduct principle definition exhaustive

Status quo

- Fair conduct principle = financial institutions must treat consumers fairly
- The requirement to treat consumers fairly **includes**:
 - paying due regard to consumers' interests
 - acting ethically, transparently and in good faith
 - assisting consumers to make informed decisions
 - ensuring that services and products are likely to meet the requirements and objectives of likely consumers (when viewed as a group)
 - not subjecting consumers to unfair pressure or tactics or undue influence



Options for CoFI Act reform

We are open to other suggestions
to improve the CoFI regime



The CoFI Act comes into force on 31 March 2025. Any amendments are likely to come into force in 2026.



Consolidating conduct licences

C. Consolidating conduct licences

Option C1 (preferred):

Make it mandatory for the FMA to issue a single conduct licence covering multiple market services

Option C2:

No change to legislation (although the FMA can still issue a single conduct licence by making operational changes) (*status quo*)



'Twin peaks' reliance

D. Enabling reliance on another regulator's assessment

Option D1 (preferred):

Amend legislation to enable the FMA and Reserve Bank* to rely on assessment by the other regulator when appropriate

**Note: Amendments to Reserve Bank legislation may not be within scope of this process*

Option D2:

Regulators continue to coordinate / collaborate on matters of interest to each other, without explicit legislative amendment (*status quo*)

We are open to other suggestions to improve the 'twin peaks' model



Ensuring FMA has effective tools

E. Possible additional tools for the FMA

Option E1:

Change in control approval requirement

Option E2:

On-site inspection without notice power

Option E3:

Expert report power

What are the advantages / disadvantages?
How should these tools be designed? (e.g. appropriate safeguards)



Effective Financial Dispute Resolution



Discussion document structure

Issue 1: Consumer awareness of and access to dispute resolution

- What are the barriers for consumers in accessing financial dispute resolution schemes?
- How could these barriers be addressed?

Issue 2: Enhancing scheme oversight through improved oversight and accountability

- Should changes be made to help ensure schemes are delivery effective and consistent services to their members and consumers?



Issue 1 – Consumer awareness of and access to dispute resolution

- Options include:
 - Requirements for financial service providers to improve how they communicate with consumers about complaints processes and dispute resolution (eg ensure that information is provided in a way that is clear and prominent).
 - An awareness campaign
 - Further collaboration between schemes to improve consumer accessibility (eg a ‘single front door’ 0800 number or website for consumers).
 - Other services that provide information, advice or navigation support to consumers (or those who support them such as financial mentors).
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Issue 2 - Enhancing scheme effectiveness through improved oversight and accountability

- Options include:
 - Requiring schemes to collect and report on key metrics.
 - Improving the consistency of independent reviews (e.g. government setting terms of reference).
 - Government setting further scheme rules to improve consistency and effectiveness across schemes.
 - Government appointing board members, or setting qualification criteria.
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Further questions



Next steps

- Written submission close at 5pm on 19 June 2024.
 - Feedback will be used to inform final government policy decisions on the reforms.
 - Further steps after that will depend on government legislative priorities.
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Make a submission

- <https://www.mbie.govt.nz/have-your-say/fit-for-purpose-financial-services-reform>
 - Consumer credit review: consumer@mbie.govt.nz
 - Financial services conduct regulation and Effective financial dispute resolution: financialmarkets@mbie.govt.nz
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MBIE Closing Karakia

Ka hiki te tapu
Kia wātea ai te ara
Kia turuki ai te ao mārama
Hui ē, Tāiki ē

TRANSLATION:

*Restrictions are moved aside
So the pathway is clear
To return to everyday activities
Enriched and unified.*



Ngā mihi nui