

26 June 2024

Submitted via: guidancefeedback@comcom.govt.nz

Consultations
Commerce Commission
Wellington

Re: Self-reporting Guidance for Lenders – consultation draft

The regulator should have timely visibility of lending issues which can cause significant harm to the wellbeing of borrowers. FinCap supports guidance for lenders to self-report potential or clear breaches of the Credit Contracts and Consumer Finance Act (**CCCFA**) or other relevant consumer laws.

FinCap welcomes the opportunity to comment on the Self-reporting Guidance for Lenders – consultation draft (**The Draft**). We generally support the expectations around self-reporting set out in the guidance and detail some recommended additions in this submission.

Examples of trends that should become ‘early flag’ reporting

The Draft should include more examples of ‘red flags’ that should prompt a lender to consider raising an early flag of a potential breach with the Commerce Commission before looking further to confirm if it is a breach. Financial mentors appreciate and utilise the ‘*Red flags; A credit law guide for consumer advisers helping people in debt.*’¹ Some of the ‘Red flags’ in that document could be used as examples of issues a lender should look out for and self-report as potential breaches.

We also specifically recommend that lenders be guided to self-report where significant amounts of borrowers are defaulting on loan repayments within a few months of the credit contract commencing. This should be seen as a sign that the lender may not be making reasonable inquiries as to whether the loan will be affordable as required under the CCCFA. Guidance towards more proactive reporting of potential breaches like this would have the effect of further encouraging directors to check their systems are working to deliver responsible lending.

Publishing remedies and self-reporting for public scrutiny

Timely publication by the lender and Commerce Commission of what self-reports have been made, and what has been done to address any issues, would increase our confidence that the enforcement system is robust. We recommend that The Draft also be expanded to say that both the lender and the Commerce Commission should act transparently and publish the details of self-reports as well as updates on what actions both parties have taken to ensure issues for borrowers are addressed. Where the follow up actions are robust, these timely publications will boost public confidence in the enforcement system. Where there are not robust follow up actions but this is transparent, there will be the opportunity for scrutiny towards better outcomes.

About FinCap

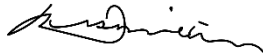
FinCap (the National Building Financial Capability Charitable Trust) is a registered charity and the umbrella organisation supporting the 185 local, free financial mentoring services across Aotearoa.

¹ See: https://comcom.govt.nz/_data/assets/pdf_file/0025/267370/Red-Flag-information-sheets-October-2021.pdf

These services supported over 69,000 whānau facing financial hardship in 2023. We lead the sector in the training and development of financial mentors, the collection and analysis of client data and encourage collaboration between services. We advocate on issues affecting whānau to influence system-level change to reduce the causes of financial hardship.

Please contact Jake Lilley, senior policy advisor at FinCap on 027 278 2672 or at jake@fincap.org.nz to discuss any aspect of this submission.

Ngā mihi,

A handwritten signature in black ink, appearing to read 'Ruth Smithers', with a stylized flourish at the end.

Ruth Smithers
Chief Executive
FinCap