**Instructions for this sample template v1**

The yellow sections are guidance for filling out the document. Delete the yellow text when you have finished writing your submission.

**The bolded sections are headings. Keep the bold so it’s easy for the committee to see what you support/want to change in the bill.**

The non-highlighted text are examples of what you could say in your submission. You can adapt these sections as you wish but keep the main points.

You can remove some sections if you don’t want to submit on them and add in other sections. We strongly encourage you to keep the section on interest rate caps.

We encourage you to add stories after the relevant sections. You don’t have to add a story for every point but please make sure you add a story about excessive interest rates. This is going to have the most impact on the Committee members (Members of Parliament). Stories can be italicised so that they are separate from the main body of the submission.

**Submission to the Finance and Expenditure Select Committee**

**on the**

**Credit Contracts Legislation Amendment Bill**

To the Finance and Expenditure Committee

Select Committee Office

Parliament Buildings

WELLINGTON 6011

Date:

Name:

Position (if any):

Organisation:

Address:

Phone: Cell-phone:

This is where you clarify whether you want to speak to your submission at Select Committee. We encourage you to choose the first option – *We wish to make an oral submission to the Committee*. If you are based outside of Wellington requests to be heard means that the Committee might consider coming to your area to hear submissions. You can always say no later.

We wish to make an oral submission to the Committee.

OR

We do not wish to make an oral submission to the Committee

**Introducing our organisation and community**

This is where you introduce your service: key service statistics, how long the agency has been around, the range of services you provide.

For example:

We are grateful for the opportunity to submit on the Credit Contracts Legislation Amendment Bill. We are submitting on behalf of [insert the name of your organisation].

We have provided free, culturally aware budgeting advice to families and individuals for over fifty years. Over the past 12 months we have provided detailed financial capability and budgeting services to xxx clients, who arrive in our service with an average debt of $xx.

xx% of those clients presented with debts specifically related to consumer credit such as car loans, truck shops, personal loans, credit cards and payday loans. Of this xx% presented with high-cost, short-term loans or payday loans. Our service sees the harm from predatory, high cost and irresponsible lending every day.

We support our clients in the best way we can but are limited by what we can do when there are so many harmful products in the market that are making life worse for our clients. If these products were better regulated, it means we could spend more time working with our clients to improve their financial capability and budgeting skills and less time getting them out of the bad situations caused by predatory, high cost and irresponsible lending. It would mean that the families that we work with have more money to spend on their essentials.

This is where you describe the community that you serve, for example, Rotorua, Dunedin, Mangere and describe the issues that you see in your community.

For example:

Our service is based in [insert the name of your service]. Our town experiences low wages and limited opportunities for employment. The main street in our town centre has three loan companies and no bank. Truck shops are regularly seen on the streets in our neighbourhood. We have strong community and the potential for people to come together to find alternatives. But it is difficult for good businesses and community initiatives to compete against predatory lenders.

**Summary of our submission**

This is where you summarise your message

For example:

We are grateful for the opportunity to submit on the Credit Contracts Legislation Amendment Bill. The primary purpose of the Credit Contracts and Consumer Finance Act 2003 is “to protect the interests of consumers in connection with credit contracts, consumer leases, and buy-ack transactions of land”.

The changes in the Bill increases the protections for consumers from predatory lending in a range of way. We warmly support these changes. The effort to change the law recognises that the changes made in 2015 including the Responsible Lending Principles and Responsible Lending Code have not been enough to address irresponsible lending and the harm caused by high cost loans.

However, this Bill as it is currently drafted, still does not adequately address the harm caused to consumers by predatory, high cost loans and irresponsible loans. We are particularly concerned about the absence of an interest rate cap in this Bill to protect people from making expensive repayments which frequently drive them into a debt spiral.

An interest rate cap combined with the limit on the cost of borrowing already in the Bill would mean that weekly repayments are lower. That means that more are funds available to support children/tamariki, and pay for the essentials of life.

We also make a range of other proposals to strengthen the legislation. They include:

* A ban on retail truck shops
* More effective enforcement
* Stronger regulation of debt collection

This is where you provide detailed comment on aspects of the Bill, including those sections you think need to be changed.

**Tackling excessive interest rates and debt spirals**

**Limit on the cost of borrowing**

We support the 100% cap on the cost of borrowing. The repayment cap is a welcome move to stopping debt spirals from high cost short term loans. This idea has been successful in Australia and the United Kingdom, but it has always been accompanied by other measures.

**The need for an interest rate cap**

Excessive interest rates have been a subject for concern for many years. We were heartened when the Minister of Commerce Kris Faafoi announced a review into the Credit Contracts and Consumer Finance Act, signalling that the review would consider an interest rate cap. The financial capability and budgeting sector submitted heavily in favour of an interest rate cap to MBIE’s Discussion Paper. However, we were disappointed when the proposals by the Government only included a limit on the cost of borrowing and not an interest rate cap.

The limit to the cost of borrowing is just a starting point. In the United Kingdom and Australia this measure not been introduced by itself. It has always been accompanied by other measures. Financial hardship is caused before loans get to the 100% repayment cap, because of excessive interest rates that mean that loans escalate very fast and people are paying significantly more in interest and fees than they are in principal of the loan. This can happen well before the loan reaches the 100% limit on the cost of borrowing.

Therefore, the Bill must include an interest rate cap. We ideally would like an interest rate cap that removes the ability of high cost lenders to operate in the market.

However, we acknowledge the concerns about access to credit. Therefore, we ask the committee to introduce an interest rate which restricts how fast high cost loans increase in size like they have in the United Kingdom or Australia.

Both systems have their merits and we should investigate what would work best for New Zealand. This would mean that the families that we work with are spending less money on interest payments and more money to spend on essentials such as food and housing.

**Debt spirals from loans under 50% per annum**

Debt spirals are not only caused by high cost short term lending. Other loans that have interest rates of under 50% per annum also cause debt spirals; such as car loans, truck shop purchases and personal loans. We ask the committee to expand the scope of the proposed cap on the total cost of borrowing to cover other expensive loans/loans above 30% p.a. at least.

**Limiting the percentage of income that can be spent on high cost loans**

We recommend that no more than 10% of a borrower’s income should go towards paying high cost loans. Often financial hardship is caused because a significant portion of a person’s income is going to paying off high cost loans. The mechanism to support this would be a loan register so that lenders are aware of loans from other organisations. This would work alongside affordability assessments.

In Australia they cap the percentage of a person’s income that can be committed to high cost short term lending to 20% if they are a Centrelink client. This has had a significant impact on reducing the harm from high cost short term lending. There is a Bill that has been drafted that will reduce this to 10%.

**Limiting the number of roll overs**

The number of high cost short term loans a borrower can take out in one year should be limited to ensure that borrowers are not rolling over the loans. This could be enforced by a register. Rollover loans mean that borrowers are in a debt spiral. The United Kingdom limits to the number of rollovers that can be made on high cost short term loans. As the Bill intends to prevent debt spirals, this is a vital policy.

*Give an example, e.g. a story of how an expensive loan caused harm, especially if repayments weren’t more than 100% of the original value of the loan. Ideally focus on a payday loan that didn’t reach the 100% repayment cap.*

*You can also give an example of the impact of a loan which wasn’t short term which cost the client a significant amount to repay such as a car loan.*

**Truck shops and mobile traders**

**Banning mobile traders**

We support a total ban on mobile traders. We have noticed that the Bill defines mobile traders. The definition allows the Bill to ban mobile traders. They practices they undertake and the deliberate targeting of vulnerable communities causes substantial harm.

**Including mobile traders under the credit contracts law**

If mobile traders are not banned, we support the provision that means that certain types of credit arrangements such as those made by mobile traders can be made consumer credit contracts. Often mobile traders and truck shops have layby arrangements that are not currently considered credit contracts. This ensures that these traders will have to comply with the same laws as other lenders offering credit contracts.

*Give an example, e.g. a story of harm caused by a mobile truck or a mobile trader or explain the damage caused by the operations of trucks in your community.*

**Enforcement**

We support all the changes to the Bill regarding enforcement. There needs to be strong incentives for firms to follow the law.

We support pecuniary penalties, compliance orders, statutory damages and compensation for irresponsible lending. They are helpful additions so that the Commerce Commission to take enforcement against lenders.

The provision that allows statutory damages equalling fees already paid fees plus interest when there has been a breach of an affordability assessment, is a particularly good addition.

Strict liability offences are necessary to hold lenders to account without needing to meet a certain legal standard if they fail to carry out an important obligation. These actions such as failing to carry out affordability assessments and offering extensions of credit.

We often refer cases to dispute resolution schemes. This is good for individual outcomes. However, there needs to be a way to speed up the processes of getting enforcement through the Commerce Commission. At the moment it takes years for predatory and irresponsible lenders to be prosecuted for breaches of the Credit Contracts and Consumer Finance Act, while harm continues to occur.

*Give an example of where you tried to get enforcement action against irresponsible lending but were not able to or an example of where enforcement action should have been taken for irresponsible lending.*

**Fit and Proper Person’s test**

We support the Fit and Proper Person’s test for creditors, mobile traders, and their controlling owners, directors and senior managers.

Fit and proper person requirements are good because lenders are held to a standard to act appropriately. This means that every lender under consumer credit contracts will need to satisfy the Commerce Commission that they are fit and proper to hold their respective positions.

It is good that this has included mobile traders because mobile traders often close when enforcement action is taken against them and reopen under new names, continuing to operate in our community. This makes enforcement against these types of lenders easier.

**Debt Collection**

We support the disclosure requirement in the Bil. It is good because it sets out the rights and obligations of the debtor.

While we understand that debt collection law might be outside the scope of the current Bill, we would encourage the Select Committee to recommend changes to debt collection law as a matter of urgency. Stronger law to control debt collection is required, and New Zealand is already significantly behind comparable countries.

Debt collectors should be regulated to prevent predatory collection practises. The law should cover contact, privacy and harassment issues. Harassment and high costs of collection are causing extreme emotional and financial harm to borrowers. People caught up in the process of debt collection are often vulnerable. The process of frequent and oppressive contact by debt collection companies can have very negative effects on the mental health of borrowers.

In Australia, the United Kingdom and the United States, extensive rules govern the way in which debt collectors can carry out their business. Many debt collectors currently active in New Zealand operate under the Australian regime and would not be disadvantaged by facing similar law in New Zealand.

*Give an example of how debt collection impacts on clients. Issues you may want to cover: mental health, threatening letters or behaviour, very large fees.*

**Affordability Assessments**

We support the strengthening of the current principle that lenders must make reasonable inquiries with a borrower so that the payments will not cause them substantial hardship. We support the change that lenders will need to verify information provided by borrowers.

We support the change that requires records to be keep about inquiries and those records to be made available to the Commerce Commission, the borrower, the guarantor, or the relevant dispute resolution scheme on request. Borrowers often find it difficult to get information about their loan and the assessments made which makes it more challenging to identify whether there has been a case of irresponsible lending.

Affordability assessments also need to be made when lines of credit such as credit cards or mobile trader accounts are extended.

Prescriptive affordability assessments will mean fewer borrowers will be taking out loans they will not be able to afford. If there was an interest rate cap, lenders would not make as much money and would thus be more careful about who they lent money to and are likely to be even more careful with their affordability assessments. This goes alongside affordability assessment.

*Give as an example of a story where you saw a poor affordability assessment or a loan was clearly not affordable for your client. This could include situations where multiple loans were given. Show the harm caused by the poor affordability assessment*

**Reasonable Fees**

We support the strengthening of the current rules in the Credit Contracts Consumer Finance Act around reasonable fees. We support the requirements that creditors keep records about how fees are calculated and to make these records available to the Commerce Commission or the relevant dispute resolution scheme. Even though fees are not allowed to be reasonable we still see unreasonable fees. Therefore, we support measures to make it easier to enforce the current rules around unreasonable fees.

*Give an example or unreasonable fees that you have seen at your service.*

**Advertising**

Advertising for high cost short term loans should be banned. These products are extremely harmful. Advertising is often targeted at vulnerable communities through radio and the internet. Advertising for high cost short term loans should be regulated like other harmful products such as tobacco, where the social harm of the product is recognised.

We support the amendment that disclosure must be in the language that a loan was advertised in.

We support the strengthening of the advertising standards for all loans.

*Give an example or unreasonable fees that you have seen at your service.*

**After Pay and emerging issues**

After Pay and equivalent post-pay schemes must be treated like credit contracts. They are a form of consumer credit and should be regulated as such, whether interest is charged. Of particularly concern is absence of affordability assessments when people apply for credit through these schemes.

*Give an example of case which you have handled.*

**Other issues**

*Add any other issues that you think the Committee needs to consider.*

*For example:*

We advocate for an obligation to be placed on financial services providers to cooperate with financial mentors and budgeting services in defined ways, such as referrals to MoneyTalks, individual services, provision of contact information to enable more effective advocacy.

**Conclusion**

Thank you for considering our submission. We appreciate the extensive consultation that has taken place on this issue in 2017 by the Ministry of Business, Innovation and Employment. We think the changes are necessary to prevent harm to vulnerable consumers. We ask the committee to introduce all the amendments in this Bill. We also ask that the members of the Finance and Expenditure Select Committee strongly advocate for the introduction of an interest rate cap. This means that this law will have the intended effect of protecting consumers and help prevent borrowers from getting into the kind of harm that they are currently experiencing from high cost loans.