

Commerce Commission lender webinar - Opening Speech, Sarah Bartlett, Acting GM Credit

July 2024

Kia ora koutou katoa, nau mai haere mai,

Welcome to our July lender webinar on Hardship.

I'm pleased you've joined us today.

For those I haven't met yet, my name is Sarah Bartlett, and I am the Acting General Manager of the Credit Branch here at the Commission. I joined the Commission in March 2023 having spent 15 years in the financial services industry in various legal and regulatory roles. I feel privileged to be leading the team in the important work we do for New Zealand consumers.

Thank you to those who joined our first webinar back in March. We are intending to hold these every few months online. As always, keep letting us know what you think of them because we want these webinars to be useful to you.

They are part of our commitment to working with you on what I think is a shared goal - that all New Zealanders can have confidence that when they borrow money, they can do so safely.

That means the topics we will cover over the year will range from refreshers on your obligations under the CCCFA as well as insights from our team on trends they are seeing from complaints and investigations.

We are keen to hear from you and will respond to as many questions as possible. We will also publish and send out any links to resources and answers to questions after the webinar through our next pānui due to go out this month.

First, I want to give you an update on the Minister's announcements earlier in the year on the regulatory roles and responsibilities related to the CCCFA, as I know that you are keen to know what this will mean for you.

As you know the Minister of Commerce and Consumer Affairs publicly communicated reforms to streamline financial services in New Zealand. These reforms include approval to transfer responsibilities under the CCCFA from the Commission to the Financial Markets Authority. Minister Bayly signalled back in January the plan to transfer the CCCFA function as part of moving the Reserve Bank and the FMA into more of a pure 'twin peaks' financial services regulation model.

The reforms are being undertaken in a two-phased approach:

- Phase 1 has focused on revoking the detailed regulations that support the way lenders need to ensure that lending is affordable, as well as several other targeted and more minor changes that have taken effect already.
 - Amendments revoking the prescriptive affordability assessment obligations in the Regulations take effect on 31 July.
 - MBIE has also published revised guidance in chapter 5 of the Responsible Lending Code to support lenders to responsibly ensure lending is affordable once the affordability regulations have been revoked. These also take effect on 31 July and are available on MBIE's website.
 - Regulations to align certain jurisdictional rules for the four approved financial dispute resolution schemes. The Dispute Resolution Scheme rules regulations will be in place by 18 July

- Phase 2 focuses on potential legislative reform, including
 - transferring regulatory responsibility for the CCCFA from the Commission to the FMA
 - potential reforms to the CCCFA disclosure obligations, and the liability settings for directors and senior managers as well as examining the effectiveness of the CCCFA's high-cost credit provisions
 - MBIE is also undertaking a targeted review of Conduct of Financial Institutions – CoFI obligations
 - As well as looking at ways of improving consumer access to and effectiveness of the financial dispute resolution system.

MBIE has recently consulted on the wider financial services reform and you may have made a submission as part of that process.

At this stage there is not too much more to be said on the transfer, but we will keep you informed as appropriate, as we are working closely with the FMA on how the transfer will be implemented. We can say that the Commission is committed to its regulatory role in relation to the CCCFA and ensuring a seamless transition of the function to the FMA. We will also update you once further decisions have been made on the law reform and will aim to address changes to the affordability regulations as a deep dive topic at future webinars.

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The other thing I want to update you on is the outcome of a case stated proceeding the Commission brought under section 100A of the Commerce Act 1986 regarding pawnbroking contracts. That section enabled the Commission to ask the High Court questions to clarify the application of the law the Commission enforces. The Commission asked six questions to clarify the status of pawnbroking contracts under the CCCFA. The National Pawnbrokers Association of New Zealand joined with the Commission as a respondent in the proceedings and made submissions on four of the six questions. The matter was heard in August 2023 and in April this year the High Court agreed with the Commission that typical pawnbroking contracts have the necessary elements to be considered consumer credit contracts under the CCCFA. Among other things this means pawnbrokers need to be certified by the Commission and registered on the FSPR.

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And finally, you may have seen we recently sought feedback on our draft Self-reporting Guidance to help lenders understand the process to follow when reporting potential breaches of the CCCFA and/or Fair Trading Act 1986 and the consideration that will be given to the self-report by the Commerce Commission. Thank you to those who provided feedback. There is no legal requirement for lenders to report errors to the Commission but for those that wish to this guidance is designed to assist lenders in understanding when and how to make a self-report and address some questions that lenders may have. We will look to publish the final version soon.

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To keep up to date with all the changes happening in our space, I encourage you to sign up to our quarterly lender pānui if you haven't already. The pānui also provides updates on actions we have taken because of notifications as well as updates on the Commission's work, including themes around what we are currently doing in the compliance and investigations space.

Thank you again for joining us today. I'm sure you will find the session useful.

Nga mihi nui