David Clark unveils changes to responsible lending rules aimed at curbing unintended consequences of the Credit Contracts & Consumer Finance Act

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The following statement was issued by Commerce and Consumer Affairs Minister David Clark early on Friday morning.
The update to the responsible lending rules follows criticism of **changes to the Credit Contracts and Consumer Finance Act** as recently as December 1 last year.
The proposed changes should take effect by early-June.

Govt updates responsible lending rules

- Clarifying that when borrowers provide detailed breakdown of future living expenses there is no need to inquire into current living expenses from recent bank transactions.
- Removal of regular 'savings' and 'investments' as examples of outgoings that lenders need to inquire into
- Clarifying that the requirement to obtain information in ‘sufficient detail’ only relates to information provided by borrowers directly rather than relating to information from bank transaction records.
- Providing alternative guidance and examples for when it is ‘obvious’ that a loan is affordable

The Government is making practical amendments to responsible lending rules to curb any unintended consequences being caused by the Credit Contracts and Consumer Finance Act (CCCFA), Minister of Commerce and Consumer Affairs, David Clark announced today.
The Act, which came into effect on December 1, 2021 requires lenders to follow a robust process and ensure that lending is affordable and suitable.
“The amendments we are making are informed by the feedback I received from banks, other lenders and consumers and sit comfortably within the intent of the Act,” David Clark said.
"These initial changes ensure borrower-ready Kiwis can still access credit while we continue to protect those most at risk from predatory and irresponsible lending.
“There is no question that the banks, budget advisers and Government are all on the same page when it comes to supporting the intention of the law – we want to stop vulnerable people from finding themselves with unaffordable debt.
“Following my meetings with the banks at the end of last month to hear their concerns, I detected little enthusiasm for wholesale changes to the Act, but instead a preference for some practical amendments to be made to ensure the purposes of the legislation are best met.
“Meanwhile, a broader investigation, led by MBIE and the Council of Financial Regulators, into the early implementation of the CCCFA amendments is ongoing.
“Thus far investigations have thrown up no reasons to believe the CCCFA is the main driver in reduced lending. The Reserve Bank’s December figures highlight seasonal variation as a prominent contributor. In fact, December 2021 was still above trends from the same month in 2017, 2018 and 2019.

“It is also important to note that banks may be managing their lending more conservatively and this is likely due to global economic conditions. And that a number of factors affecting the market have occurred at the same time as the CCCFA changes, including increases to the OCR, LVR changes and an increase in house prices and local government rates.

“It must be stressed, today’s changes are not the final word and any further changes to credit laws and the Responsible Lending Code will be considered as part of the remainder of the investigation which is due next month,” David Clark said.

Notes:

- The proposed initial changes to the regulations and Responsible Lending Code, agreed to by Cabinet, are:
    - Removing regular 'savings' and 'investments' as examples of outgoings that lenders need to inquire into when assessing the borrower's future expenses.
    - Clarifying that when borrowers provide a detailed breakdown of their future living expenses, and these are benchmarked against robust statistical data, there is no need to also inquire into their current living expenses from recent bank transactions.
    - Clarifying that where lenders choose to estimate future expenses from recent bank transaction records, they are permitted to obtaining information about how their current expenses are likely to change once the contract is entered into.
    - Clarifying that the requirement to obtain information in ‘sufficient detail’ only relates to information provided by borrowers directly (e.g. ensuring that expense categories on application forms are sufficiently detailed) rather than relating to information from bank transaction records.
    - Providing further guidance on when a lender needs to allow for a ‘reasonable surplus’ (the amount left over when the borrower’s estimated expenses are subtracted from their income) and how lenders should set surplus requirements.
    - Providing alternative guidance and examples for when it is ‘obvious’ that a loan is affordable, such that a full income and expense assessment is not required