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Principles, Prescription, and the Limits of Regulatory Design: Evaluating New Zealand's 2019 CCCFA Amendment

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ABSTRACT

This study evaluates the efficacy of New Zealand's 2019 Amendment to the Credit Contracts and Consumer Finance Act (CCCFA). The Amendment sought to eliminate predatory lending practices through the imposition of strict interest rate caps and prescriptive affordability assessments. Utilizing a qualitative analysis of policy documents, regulatory reviews, and market data, the research examines the regulatory environment across three phases: a principles-based regime (2015–2019), a prescriptive regime (2020–2024), and a recalibrated hybrid system (July 2024–present). In particular, this study focuses on "high cost loans" with an annual interest rate of 50% or higher. Framed by theories of credit rationing and substitution and situated within the fringe economy literature, the analysis reveals that while the pre-2019 principles-based framework failed to curb exploitation due to enforcement ambiguity, the subsequent shift to prescriptive regulation generated significant unintended consequences. Although high cost loans were eliminated entirely, the rigid application of affordability metrics caused defensive credit rationing that excluded low-risk, mainstream borrowers. Furthermore, high-cost lenders engaged in regulatory arbitrage by restructuring products to fall just below the 50% threshold. Vulnerable borrowers, meanwhile, may have migrated to unregulated alternatives within the fringe economy rather than mainstream credit, though population-level data to confirm this pattern definitively is not available. The study concludes that a binary choice between principles and prescription is insufficient. Instead, it proposes a risk-scaled regulatory framework—incorporating stricter lending limits with open banking and support for microfinancing and credit unions.

INTRODUCTION

In 2024, New Zealand completely eliminated high-cost lending: no loans of over 50% annual interest were granted, an outcome driven by the 2019 amendment to the Credit Contracts and Consumer Finance Act (CCCFA) of 2003. While this appears to reflect the Amendment's success in protecting vulnerable borrowers, closer examination reveals the difficulty of achieving both borrower protection and credit access simultaneously.

It is unclear whether underlying predatory practices were sufficiently modified, or whether high-risk borrowers who were denied loans found better alternatives. Meanwhile, lower-risk mainstream borrowers lost credit access, suffering intrusive inquiries, longer processing times, and increased denials.

This study analyses the regulatory environment across three stages: a purely principles-based regime (2015–2019), a prescriptive era (2020–2024), and a recalibrated hybrid system (July 2024–present). Two policies receive primary focus: high-cost credit provisions, applying only to loans with annual interest rates (APRs) of 50% or higher, and prescriptive affordability assessment requirements, which mandated exhaustive protocols for evaluating loan affordability.

Based on qualitative analysis of policy papers, regulatory reviews, parliamentary debates, industry and NGO submissions, and news media, this study examines how the reforms reshaped access to high-cost credit in New Zealand's small, developed, and highly indebted economy. Framed by credit rationing and substitution theories, and situated within the fringe economy literature that describes the parallel financial system serving borrowers excluded from mainstream banking, this study tracks how each regulatory stage altered lenders' screening incentives and borrowers' access to formal credit—and whether denied borrowers substituted toward better or worse alternatives.

Two distinct terms are used to avoid conflation. "Statutory high-cost loans" refer to credit contracts with an APR of 50% or higher as defined by the CCCFA—the category targeted by the 2019 Amendment's interest rate caps and repeated lending restrictions. "Fringe credit" refers more broadly to short-term, small-value, unsecured loans typically issued by non-bank lenders to borrowers with limited mainstream credit access; these may carry rates below the 50% threshold but share the structural features—small principals, high fees relative to loan value, and constrained borrowers—that motivated the Amendment. Where "high-cost lending" appears unqualified, it refers to fringe credit in its general sense. The distinction matters analytically: as the Stage 2 findings document, the Amendment successfully eliminated statutory high-cost loans while leaving fringe credit largely unaddressed, an observation that policy commentary has mostly overlooked.

LITERATURE REVIEW

1 Defining the Problem: Predatory vs. High-Cost Lending

The terms "high-cost lending" and "predatory lending" are often used interchangeably, but high-cost lending is not necessarily accompanied by predatory behaviour.

"High-cost" is a technical regulatory term defined by pricing metrics, such as the 50% APR threshold in New Zealand—what this study calls statutory high-cost loans. These high interest rates compensate lenders for the high default risk of borrowers who cannot qualify for prime market rates. The broader category of fringe credit encompasses products both above and below this threshold, and it is this broader

market the reforms sought to address. Predatory lending, by contrast, is defined by lender behaviour: deception or lack of transparency that unfairly benefits the lender. Common practices include unreasonably high fees, "rate-risk disparities" where borrowers are charged higher rates than their credit histories would justify (Stein, 2001), and repeated unnecessary refinancing (Ferguson, 2000). New Zealand has no standardised definition of predatory lending; the CCCFA's Responsible Lending Principles set the legal guidelines for acceptable conduct.

2 The Case for High-Cost Lending

A significant body of economic research argues that high interest rates are necessary to supply credit to borrowers excluded from mainstream channels and to provide support during liquidity shocks.

2.1 Credit Access for Excluded Borrowers

High-cost loans serve borrowers excluded from mainstream credit due to credit rationing. Stiglitz and Weiss (1981) demonstrate that traditional lenders often deny loans even when borrowers are willing to pay higher interest rates. Information asymmetry prevents perfect risk evaluation, forcing lenders to rely on group-average performance to remain profitable. Crucially, when lenders face excess demand, their profit-maximising response is not to raise interest rates but to ration credit—denying loans outright rather than pricing them higher. Higher rates trigger adverse selection: they drive away safer borrowers while attracting riskier ones desperate for liquidity, worsening the loan pool. Many lenders therefore ration credit even with excess demand, excluding certain groups from the mainstream market (Stein, 2001; Karger, 2005). Excluded borrowers turn to lenders willing to accept higher default risk. This dynamic is central to evaluating the CCCFA reforms, and is directly tested by the New Zealand evidence in the Findings below.

Proponents further argue that high rates are not necessarily evidence of price gouging. Pricing reflects two factors: high-cost borrowers default more often, requiring higher rates from those who do repay to offset losses; and significant fixed administrative, rent, and labour costs are large relative to small loan values (Flannery et al., 2005). Huckstep (2007) notes payday lenders operate at slimmer margins than mainstream lenders, and lenders exit when interest rate caps prevent compensation for fixed costs (Bhutta et al., 2016). Many economists therefore view high rates as necessary to keep this credit channel open.

2.2 Support During Liquidity Shocks

For consumers rationed out by traditional lenders, high-cost loans provide immediate liquidity following financial shocks. Unexpected crises—car breakdowns, medical emergencies, income shocks—create immediate threats such as utility shut-offs and eviction (Allcott et al., 2021; Dobridge, 2016). High-cost loans help smooth consumption and pay for essential services during these emergencies. Morse (2011) shows that payday loans mitigate foreclosures and reduce larceny rates following natural disasters.

3 Why Borrowers Are Still Vulnerable

While neoclassical theory suggests borrowers only take loans that benefit them, debt traps remain prominent for several reasons. On the borrower side, bias and limited financial literacy contribute to inefficient demand. On the supply side, weak price competition and perverse lender incentives produce broader market failures.

3.1 Irrational Demand from Bias and Low Financial Literacy

Borrowers suffer from biases that impede their ability to evaluate repayment capacity. Present bias—prioritising immediate gratification—has been linked to more frequent high-cost borrowing (Wang and St. John, 2024), and demand for payday loans is often triggered by impulsive purchase behaviour rather than calculated planning (Das et al., 2021). Optimism bias also leads borrowers to overestimate their ability to repay and underestimate the likelihood of unexpected shocks (Sunstein, 2005).

Many borrowers also struggle to understand the total cost of loans due to low financial literacy: only 32% of New Zealanders understand compound interest (McLanahan, 2021).

Lenders exploit this bounded rationality through information overload and framing effects (Willis, 2005), with one study finding 70% of surveyed contracts deliberately hid information across multiple documents (McLanahan, 2021).

3.2 Market Failure: Weak Price Competition and Misaligned Lender Incentives

The high-cost lending market suffers from structural failures. The Ministry of Consumer Affairs (2007) notes that high-cost borrowers often select lenders based on family and friend recommendations, prioritising familiarity, convenience, and speed over price. Borrowers are reluctant to challenge loan terms and often disregard them entirely, fearing denial (Howell, 2016).

This unwillingness to price-shop produces an uncompetitive market in which lenders charge higher rates without competitive pressure (Mann and Hawkins, 2007). Pressure to reduce processing times also encourages lenders to forgo detailed affordability assessments; reduced scrutiny increases default risk, which lenders compensate for through higher rates (Ali et al., 2013).

Lenders' profit motives further undermine responsible lending. Stace (2019) argues that high-cost loans yield low profits relative to high customer acquisition costs, making repeat lending to existing borrowers more profitable than acquiring new ones. Repeat lending also allows lenders to profit from unaffordable loans by siphoning borrower income through default and rollover fees, often yielding more profit than full on-time repayment (Beddows and McAteer, 2014). Lenders are thus incentivised to grant loans that harm borrowers (Stace, 2019).

3.3 Consequences for Borrowers

When borrowers take on unaffordable loans, repayment displaces funds from essentials such as food and housing (Dobridge, 2016), particularly through Wage Deduction Agreements where lenders take repayments directly from a borrower's paycheck (Daldorf and Stace, 2022).

Statistics from social service providers offer insight. The Ministry of Business, Innovation and Employment (MBIE) reported that 95% of one provider's low-income client families were carrying unaffordable debt (MBIE Review, 2018). A survey of 74 Māori Housing tenants by another provider found 89% reported running out of food due to a lack of money at least sometimes (MBIE Review, 2018). Long-term, inflated debt loads tip stressed households into unrecoverable circumstances: 32% of insolvency debtors cite excessive credit use as a primary cause of financial collapse (MBIE, 2018), and access to payday loans doubles bankruptcy filing rates (Skiba and Tobacman, 2009).

4 Regulatory Approaches: Principles-Based vs. Prescriptive

4.1 Principles-Based Regulation

Principles-based regulation refers to broad, high-level rules that set behavioural standards, often focusing on outcomes and leaving room for interpretation (Black, 2008; Di Lorenzo, 2012).

Proponents argue lender discretion enables adaptability. Black (2008) posits that emphasising outcomes over detailed conduct offers necessary flexibility in rapidly changing markets, while innovation often renders prescriptive rules obsolete (Commodity Futures Trading Commission, 2020). The Monetary Authority of Singapore (2010) further notes that principles encourage shared responsibility by requiring senior management to conduct proper risk management, strengthening institutional ethical culture.

However, ambiguity creates interpretational difficulties (Black, 2008). Risk-averse lenders may interpret principles conservatively to avoid penalties, reducing credit access; conversely, when enforcement is weak, the absence of clear limits allows lenders to engage in increasingly harmful practices. Di Lorenzo (2012) demonstrates this in the U.S. mortgage crisis (2002–2008): reliance on vague principles like "safety and soundness," combined with low enforcement risk, encouraged unsafe practices such as no-documentation loans. The MBIE Discussion Paper (2018) similarly notes that despite responsible lending principles being in place pre-2019, irresponsible lending continued.

4.2 Prescriptive Regulation

In response, a segment of the literature advocates for prescriptive, rules-based regulation targeting specific practices. The primary benefit cited is legal certainty: clear rules such as loan-to-value ratios or income verification requirements alter lender behaviour (Di Lorenzo, 2012) and provide a safe harbour for compliant firms while clarifying the basis for punishing non-compliance (Commodity Futures Trading Commission, 2020). Targeted prescriptive approaches have proven successful: Allcott et al. (2021)

simulate that while total bans on payday loans reduce welfare, restrictions on rollovers increase it by preventing fee accumulation; Alexander (2025) provides empirical evidence that debt-to-income limits and forced principal paydowns improve borrower welfare.

Despite this clarity, studies warn of significant unintended consequences. Cherry (2025) finds that prescriptive oversight may cause lenders using advanced screening technologies to exit, fearing misalignment with prescribed processes; remaining lenders rely on less accurate credit scores, exacerbating information asymmetry and causing exclusion through credit rationing. This exclusion activates the substitution effect. When formal high-cost loans are restricted, borrowers turn to alternatives such as overdrafts and pawn shops (Magli et al., 2024; Bhutta et al., 2016), which are often more expensive than the loans they replace (Morgan et al., 2012; Di Maggio et al., 2025). Interest rate caps specifically have been linked to higher bounced check rates (Morgan et al., 2012), increased bankruptcy filings (Morgan and Strain, 2008), and deteriorating borrower financial condition (Zinman, 2010).

The substitution literature does not uniformly treat this as harmful, however. Other evidence suggests some denied borrowers experience a genuine break in the debt cycle and reduce their overall demand for high-cost credit (Boston Federal Reserve, 2014).

4.3 The Need for a Context-Sensitive Approach

The literature establishes a clear trade-off: principles offer flexibility and innovation but suffer from ambiguity and under-enforcement, while prescriptive rules offer clarity and easier enforcement but may trigger rationing and substitution. There is no universally optimal approach; outcomes vary by context. While the effects of individual policies such as interest rate caps are well-documented, there is limited evidence on how an optimal balance between principles-based and prescriptive regulation can be achieved under varying circumstances.

5 The Fringe Economy: An Empirical Frame

The credit rationing and substitution frameworks introduced above explain why high-cost lending exists and how borrowers respond when access to it is restricted. These mechanisms operate inside the broader fringe economy—a parallel financial system serving borrowers excluded from mainstream banking, comprising payday lenders, pawnshops, check cashers, rent-to-own stores, mobile traders, subprime auto lenders, and informal or illegal lending arrangements (Karger, 2005). The defining feature of this market is not pricing per se but structural separation: fringe lenders operate under different competitive dynamics, screen borrowers using different criteria, and are subject to different regulatory exposure than mainstream institutions (Karger, 2005; Caskey, 1994).

Three features of the fringe economy are central to this study's analysis. First, the fringe economy is not a residual category of lending that disappears when mainstream credit is extended; it is a structurally distinct market that persists as long as the underlying conditions of exclusion persist. Karger (2005)

argues that fringe lending grows in response to wage stagnation, asset poverty, and mainstream banking's retreat from low-income communities—conditions that regulatory restrictions on fringe products do not directly address.

Second, substitution within the fringe economy is empirically more common than substitution out of it: when one fringe product is restricted, displaced demand typically migrates to another fringe product rather than to mainstream credit. Bhutta et al. (2016) find that banning payday loans in the U.S. pushed borrowers toward pawnshop lending rather than bank credit; Magli et al. (2024) document analogous dynamics in the UK. The implication is that policies designed to eliminate harmful fringe lending without addressing the conditions of mainstream exclusion redistribute fringe demand rather than reduce it.

Third, the fringe economy is racially and geographically stratified. Karger (2005) and subsequent work in the U.S. context document that fringe institutions cluster in low-income, ethnically marginalized neighbourhoods, and that fringe borrowers are disproportionately drawn from communities historically excluded from mainstream banking. New Zealand's fringe economy reflects elements of this pattern, with mobile traders, payday lenders, and informal lending networks operating predominantly in Māori and Pasifika communities and concentrated in low-income urban areas (MBIE, 2018; Stace, 2019).

However, there are two limitations on strictly applying the above characteristics to New Zealand. First, the structural drivers Karger (2005) identifies in the U.S. context—wage stagnation, asset poverty, and active mainstream banking retreat from low-income neighbourhoods through branch closures and lending withdrawal—have not been systematically documented in the New Zealand context, where the banking sector is more concentrated and branch-network dynamics differ. Second, the presence of fringe institutions in Māori and Pasifika communities is well-documented, but the claim that mainstream banking has actively withdrawn from these communities, in the U.S. sense, is not established by the evidence reviewed here. This study therefore applies the fringe economy framework as an analytical lens for organising observable market dynamics, rather than as an assertion that the New Zealand fringe economy has the same structural foundations as its American counterpart. Establishing those foundations empirically is identified in the Limitations section as a priority for future research.

The fringe economy frame complements the credit rationing and substitution lenses rather than displacing them. Rationing theory explains why the fringe economy exists at the supply side: information asymmetry prevents mainstream lenders from pricing risk individually, so they ration rather than price upward, leaving a population of borrowers unserved.

Substitution theory explains how borrowers respond when fringe access is restricted. The fringe economy literature explains what the resulting institutional landscape looks like, who it serves, and why regulatory interventions targeting one product within it tend to displace rather than reduce demand.

Together, the three frames generate an analytical prediction—not a deterministic one—that a regulatory intervention restricting one fringe product without expanding regulated alternatives is likely to produce intra-fringe substitution rather than migration into mainstream credit, with the substitution path determined by which products fall outside the regulatory boundary.

METHODOLOGY

1 Research Design

This study employs a qualitative, document-based research design to examine the regulatory evolution of New Zealand's consumer credit market across the three regulatory phases. A qualitative approach is appropriate given the study's objective—to interpret how regulatory design choices produced intended and unintended consequences in a specific institutional and socioeconomic context, rather than to generate causal estimates. Qualitative analysis captures the complexity of policy implementation, where outcomes are shaped by interactions between legal frameworks, market behaviour, and social conditions that resist quantitative reduction (Braun and Clarke, 2006; Yin, 2014).

The study is structured as a single-country case study. New Zealand serves as an optimal case study for several reasons. The 2019 Amendment implemented sweeping regulatory changes within a compressed timeframe followed by rapid recalibration, creating observable before-and-after conditions within a single jurisdiction that, combined with the small and well-documented size of New Zealand's credit market, permit a comprehensive review of available evidence.

New Zealand is also comparatively underexamined within fringe economy literature, which has historically focused on the United States and United Kingdom. The distinct features of New Zealand's fringe economy—including mobile traders selling overpriced goods on credit to low-income households and the marked overrepresentation of Māori and Pasifika borrowers among fringe credit users—allow opportunities for novel analysis.

2 Data Sources and Selection

The analysis draws on a purposive sample of primary and secondary documentary sources representing the perspectives of regulators, industry participants, civil society organisations, and affected borrowers across the three regulatory phases.

Government and regulatory documents form the primary evidentiary base, including the MBIE Discussion Paper (2018), MBIE Review (2022), Regulatory Impact Statements (2024) for both the original Amendment and the 2024 recalibration, Commerce Commission market studies and enforcement

records, and parliamentary debates surrounding the 2019 Amendment. These represent the official evidentiary basis on which policy decisions were made.

Industry and civil society submissions to MBIE consultations were reviewed to capture perspectives from lenders, consumer advocates, and social service providers, including FinCap, Christians Against Poverty, and the New Zealand Bankers' Association.

Comparative regulatory materials from Australia (ASIC reports on Small Amount Credit Contracts) and the United Kingdom (FCA evaluations of the high-cost short-term credit cap) were consulted to contextualise New Zealand's experience. News media and practitioner accounts—including Banking Ombudsman reports, media coverage of borrower experiences, and practitioner commentary—supplement formal regulatory records where official data was sparse, particularly regarding outcomes for high-risk borrowers and substitution into informal lending.

Sources were included if they pertained directly to the CCCFA framework or the New Zealand high-cost lending market and were produced within 2015–2025, or in the case of comparative materials, were directly relevant to the regulatory mechanisms under examination.

3 Analytical Framework

Documentary sources were analysed using thematic analysis, guided by the credit rationing, substitution, and fringe economy frameworks introduced in the literature review. Thematic analysis allows systematic identification of patterns across heterogeneous sources while remaining sensitive to context and contradiction (Braun and Clarke, 2006).

An initial coding framework was developed deductively from the literature, organised around three core themes: (1) the mechanisms and effectiveness of regulatory enforcement; (2) the impact on credit access for both low-risk and high-risk borrowers; and (3) evidence of market adaptation, including regulatory arbitrage and substitution into informal credit channels and within the fringe economy. These themes were applied iteratively, with inductively derived sub-themes—such as the role of personal director liability in generating risk-averse compliance—incorporated where the evidence warranted.

Where sources provided conflicting accounts—for example, government assessments diverging from lender and borrower reports—these tensions are explicitly noted and interpreted rather than resolved by privileging one source type over another. This reflects the contested nature of the evidence and avoids overstating the certainty of findings.

FINDINGS

Stage 1 (2015–2019): The Failure of Principles-Based Responsible Lending Obligations

Policy. Prior to 2019, New Zealand's high-cost loan market was loosely regulated: interest rate caps did not exist, and lenders openly quoted 400–800% annual rates (MBIE, 2018). Lender behaviour was instead managed through the Responsible Lending Obligations (RLOs), introduced in 2015, which required lenders to make "reasonable inquiries" that loans met borrowers' "requirements and objectives" and could be repaid "without substantial financial hardship" (Responsible Lending Code, 2014). The regime relied on disclosure as its primary protection mechanism and even minor breaches incurred fines upwards of NZ$10,000 and dismissal of all interest and fees for the noncompliance period (MBIE, 2024a).

Observed outcomes. Because "reasonable inquiries" was vaguely defined, lenders faced no meaningful cost to conducting superficial assessments and competed on speed rather than accuracy. A 2018 MBIE review found lenders performed only superficial affordability testing and accepted unverified borrower statements while also engaging in aggressive upselling to borrowers who had previously repaid their loans. The Commerce Commission found that 31 of 32 mobile traders surveyed were violating the RLOs (Commerce Commission, 2015), illustrating the regime's enforcement weakness. The RLO's ambiguity also left borrowers uncertain about when to report misconduct, causing high-cost credit to become readily available and normalised.

Stage 2 (2020–2024): Prescriptive Regulation and Its Consequences

Policy. In May–June 2020, statutory high-cost loans (≥50% APR) became subject to a 0.8% daily rate cap, a 100% total cost cap, a compound-interest ban, and a limit of two such loans per borrower in any 90-day window. Lawmakers projected a 40% reduction in high-cost lending.

A second wave in December 2021 introduced prescriptive affordability assessments. Lenders had to analyse 90 days of borrower bank statements, categorise spending into "listed outgoings" such as utilities and entertainment, and determine whether borrowers were "unable or unwilling to cease" discretionary spending (New Zealand, 2020). Suitability requirements were extended: lenders had to inquire into the amount, purpose, length, and preferred payment size of credit (New Zealand, 2020). Enforcement was strengthened through mandatory recordkeeping and personal director liability of up to NZ$200,000.

Observed Outcomes: Effects on high-risk borrowers. Annual statutory high-cost loans fell from 150,000 in 2019 to zero in 2024 (MBIE, 2024a). Of 21 original lenders, 12 exited the market and 9 restructured products to fall below the 50% threshold, and the 30–50% interest rate band doubled from 13 to 26 lenders (MBIE, 2024a). Lenders also raised loan amounts and fees to cover compliance

costs—average short-term loan size rose from $466 to $1,903, while interest and fees as a share of loan value rose from 50% to 60% (MBIE, 2024a)—changes attributable directly to regulatory compliance, as lenders themselves cited the 2021 regulations as the driver (MBIE, 2022). KiwiSaver hardship withdrawals also increased 42% in 2021 (FMA, 2021), though concurrent factors such as COVID-19 and macroeconomic shocks makes it difficult to establish causation with available evidence. Immigrants, Māori, and Pasifika borrowers—the demographic groups already most concentrated in the fringe economy—often lacked 90 days of bank statements and faced denials despite alternative means of verification.

Observed Outcomes: Effects on low-risk borrowers. Prescriptive affordability assessments chilled lending across the entire sector. All lenders interviewed by the MBIE reported processing times had increased by at least 50% since December 2021; one noted that a small loan which previously took two hours suddenly took up to eight (MBIE, 2022). Banks estimated that 6–7% of previously qualifying mortgage applications were declined in early 2022, personal loan approvals dropped 28% year-on-year in February 2022, and new credit card accounts halved between December 2021 and February 2022 (MBIE, 2022; MBIE, 2024b). Conversion rates for credit cards and personal loans fell 11% from 2020 to 2024 (MBIE, 2024b). The speed and magnitude of these declines, together with lenders' own self-reporting, support attributing them to the December 2021 regulations (MBIE, 2022).

Stage 3 (2024–Present): Recalibration Toward a Hybrid System

Policy. In 2024, the National government reverted affordability and suitability rules to the "reasonable inquiries" standard while retaining the high-cost credit provisions and director liability. Enforcement transferred from the Commerce Commission to the Financial Markets Authority (FMA) in 2025, with licensing tools such as stop orders promoted as cost-effective and proportionate (RIS, 2024).

Observed outcomes. The advantages of reverting to a principles-based system have yet to be observed. Mortgage default rates hit an 8-year high of 1.58% in March 2025, and 90-day personal loan arrears rates peaked by April 2025 (Centrix, 2025). However, these figures must be interpreted with care: 2025 arrears were influenced by elevated interest rates and cost-of-living levels independent of the 2024 regulatory change, and insufficient time has elapsed to observe the recalibration's effects in isolation. What can be ruled out is any rapid improvement in credit access. The MBIE notes that projected reductions in processing times remain theoretical and highly uncertain (MBIE, 2024b). This raises the possibility that prescriptive regulations, despite their unintended costs, played a genuine protective role that principles-based discretion has not replicated.

Table 1. Evolution of CCCFA Regulatory Design and Observed Effects

Period	Approach	Key Provisions	Intended Effect	Documented Issues
2015–2019	Principles-based	Responsible Lending Obligations; disclosure	Flexibility; borrower protection	Weak enforcement; superficial compliance
2020–2024	Prescriptive	High-cost provisions; affordability assessments; director liability	Strong borrower protection	Credit rationing; lender exit; regulatory arbitrage
2024–present	Hybrid	Reasonable inquiries standard; high-cost provisions retained; CC → FMA	Balance access and protection	Rising arrears; benefits unproven

DISCUSSION

1 The Enforcement Trap: Why Principles Failed and Prescription Overreached

New Zealand's experience reveals that enforcement design—not whether regulation is principles-based or prescriptive—is the decisive variable. Under the principles-based regime, the Commerce Commission issued nine warning letters and four settlement cases between July 2014 and February 2018, yet none for breaches of the principles themselves—only for the more easily evidenced disclosure violations (MBIE, 2018). Without civil pecuniary penalties for irresponsible lending, some lenders likely treated borrower compensation as a cost of doing business rather than a deterrent. Consistent with Black (2008) and Di Lorenzo (2012), ambiguity plus low enforcement probability rewarded loose interpretation and let lenders externalise screening costs onto borrowers through defaults and rollovers.

The prescriptive regime overcorrected this failure. By imposing detailed verification requirements alongside severe director liability, it generated a compliance cost structure that induced lenders to ration credit rather than adjust pricing. Ambiguity in regulation did not disappear with prescription: terms such as "reasonable buffer" and "likely expenses" remained indeterminate (MBIE, 2024b), while directors now personally bore the penalties for misinterpretation—the rational response was excessive conservatism.

In practice, principles with weak enforcement reward non-compliance, while prescription with ambiguous definitions and severe penalties rewards over-compliance. The 2024 recalibration—retaining prescription for high-cost provisions while returning to principles for affordability assessments—hence represents a more theoretically coherent approach, even if its practical effects remain unproven.

2 The Rationing–Substitution Nexus

2.1 Effect on Low-Risk Borrowers

Government analysis had assumed mainstream banks already met the new affordability assessment requirements and would see minimal impact (MBIE, 2024b). Instead, ambiguity and director liability drove risk-averse compliance behaviour towards low risk borrowers—mainstream mortgage applicants and card holders—who should have passed affordability tests (MBIE, 2024b). These borrowers were denied not because they were unqualified, but because the compliance cost of verifying their qualification exceeded the marginal value of the loan to the lender.

The declines in mortgage and personal loan approvals reported in the Stage 2 findings are, on the basis of their timing and lenders' own self-reporting, more consistent with the December 2021 regulations than with macroeconomic conditions alone—though the latter cannot be fully excluded.

Rationing thus fell where it was least justified, while the populations most exposed to predatory credit remained inside a fringe economy that the rate cap had reorganised—funnelling lenders toward lower-rate fringe products—rather than dismantled. The two instruments worked at cross-purposes: the cap reshaped fringe supply while affordability assessments shrank mainstream approvals. Borrowers caught between these pressures had access to neither, absorbed by neither market.

2.2 Effect on High-Risk Borrowers

Regulatory arbitrage and the limits of bright-line thresholds. The rise of lenders in the 47.5%–49.95% APR cluster that emerged after 2020 (MBIE, 2022) is a textbook substitution response to a bright-line threshold. Australia's experience is directly comparable: after prescriptive rules on Small Amount Credit Contracts (SACCs), lenders migrated to Medium Amount Credit Contracts (MACCs), and while SACC missed payments fell, MACC missed payments rose (ASIC, 2025). The general principle is that bright-line thresholds defined by a single pricing variable are circumvented wherever lenders can restructure on that variable at low cost. Financial mentors at Christians Against Poverty and FinCap reported that loans below 30% APR accounted for 90% and 89% of client cases respectively (MBIE, 2024a; 2024b). In other words, problematic debt does not require statutory high-cost pricing. While statutory high-cost credit was effectively eliminated, systemic debt distress persisted.

Substitution within the fringe economy, not out of it. Consumer credit applications rose 3.5% year-on-year in April 2024 despite falling approvals (MBIE, 2024a)—a demand-supply divergence consistent with rationing. The substitution literature identifies two possible endpoints for denied

borrowers: a genuine break from high-cost borrowing where regulated alternatives are accessible (Boston Federal Reserve, 2014), or reorganisation within the fringe economy where they are not. Given concurrent cuts to financial mentoring and the limited scale of New Zealand Micro Finance Institutions (MFIs), the second path is plausible. Suggestive evidence includes the June 2025 Commerce Commission charges against Ilaisaane Malupo, an unregistered social-media lender who targeted the Tongan community with loans up to 1,300% APR and shaming tactics (Owen, 2025), and reports from Westforce Credit Union of clients turning to gang-operated loan sharks after formal rejection (Davison, 2022). Both cases involve collection practices substantially more harmful than the statutory high-cost loans the Amendment eliminated. Appleyard et al. (2018) find that 58% of UK applicants denied fringe credit borrowed informally from friends and family; given that New Zealand's 0.8% daily rate cap and 100% total cost cap are identical to the UK's measures, similar displacement is plausible.

Taken together, the regulatory arbitrage and substitution evidence point to a single conclusion: the Amendment eliminated one visible category of fringe lending while displacing its demand into less visible, less regulated, and potentially more harmful fringe channels.

3 Policy Recommendations

3.1 Protecting Borrowers from Poor Decisions

Risk-scaled affordability assessments. Assessments should be risk-scaled rather than uniform. For borrowers with established repayment histories or stable incomes, lenders should be permitted streamlined assessments—comparing self-reported income and expenses to statistical benchmarks rather than analysing 90 days of bank records. This would reduce compliance costs and excessive denials in low-risk cases. Rigorous verification should be retained for higher-risk applicants.

Debt-to-income limits. New Zealand should extend debt-to-income limits beyond mortgages to short-term, small-sum lending. Australia's Protected Earnings Amount limits total repayments on all SACCs to 10% of net income (Zhou, 2022). A comparable cap would safeguard against unmanageable repayment burdens without imposing the broad verification costs that caused credit rationing.

Revised repeated lending regulations. Bright-line regulation makes current repeated lending restrictions easy to escape: lenders need only restructure below the 50% threshold. Rather than lowering the threshold further—which would only cause further restructuring—repeated lending regulation should instead target the contract types where problematic debt cycles occur most frequently: unsecured, small-sum, short-term loans with principals under $2,000 or duration under 12 months. A mandatory cooling-off period between payoffs and new loans would discourage credit from being used for recurrent expenses rather than genuine emergencies.

Tightened suitability requirements. Lenders currently offset regulatory costs by upselling—short-term loan sizes nearly quadrupled following the 2020 Amendment (MBIE, 2024a)—a concerning phenomenon given that larger loan volumes are linked to greater default risk and capacity for harm (Xu et al., 2024; Nguyen and Ngo, 2025). Lenders should be required to report initial credit amounts sought by borrowers prior to consultation, allowing the FMA to monitor and penalise systematic deviations between sought and issued credit amounts as evidence of predatory upselling.

3.2 Debiasing Borrowers and Lenders

Financial literacy and mentoring. Low financial literacy is causally linked to higher default rates and high-cost credit reliance (Lusardi and de Bassa Scheresberg, 2013; Harvey, 2019). Integrating financial literacy into education curricula and introducing targeted programmes for vulnerable demographics—including culturally specific guidance for Māori and Pasifika populations who face social pressures to accept mobile trader offers—is essential to counteract present and optimism bias. Government funding for financial mentoring should be restored to pre-2024 levels, as the concurrent reduction in formal credit access and mentoring leaves denied borrowers without recourse (Somers, 2023).

Open banking. Open banking directly addresses the information asymmetry at the root of the rationing problem. A centralized database of loan repayment histories would allow lenders to verify borrower risk accurately at lower cost, reducing the compliance burden that drove rationing under the 2021 regime. Lowering the cost of evaluating a new customer's default risk could also make acquiring new customers as profitable as lending to repeat borrowers, alleviating the structural dependence on repeated lending.

3.3 Expanding Regulated Alternatives and Addressing Fringe Demand at Source

Microfinance institutions and credit unions.

New Zealand should support MFIs that adopt sustainable, break-even rates below fringe market levels. Current providers such as Ngā Tāngata Microfinance and Good Shepherd rely on unpredictable philanthropic funding to subsidise zero-interest models (Wood and Till, 2025). International evidence from Brazil and Ghana suggests that heavy subsidisation that artificially lowers interest rates can fragment the sector and stifle organic growth (Meagher et al., 2006). Allowing MFIs to instead charge break-even rates would increase scale and access. Compliance burdens for smaller credit unions should similarly be reduced—creating a designated category for safer, low-volume loans with streamlined assessments—while maintaining strict governance. Governments should integrate alternative lenders into government-funded debt advice services to route vulnerable borrowers toward safer credit.

LIMITATIONS AND DIRECTIONS FOR FUTURE RESEARCH

Several limitations constrain the conclusions of this study. First, several concurrent macroeconomic factors limit causal inference. As flagged throughout the Findings section, New Zealand's regulatory changes coincided with COVID-19, prolonged inflation, and monetary tightening, and the study could not fully separate their effects from those of the Amendment itself. The study takes care to distinguish between outcomes plausibly attributable to regulatory change and those where macroeconomic conditions are a confounding factor, but causal attribution remains uncertain throughout.

Second, the evidence base on outcomes for high-risk borrowers is thin. The most widely documented consequences of the 2019 Amendment concerned low-risk mainstream borrowers served by banks; the substitution claims made in the Discussion's Effect on High-Risk Borrowers section rest, by contrast, on practitioner testimony and international comparisons rather than systematic New Zealand-specific data, as that section itself acknowledges. This asymmetry in the evidentiary record is itself informative: borrowers that fall outside of the regulated system, who require the most regulatory oversight, are precisely the least documented.

Third, the study relies exclusively on secondary and documentary sources. Primary data collection through interviews with lenders, borrowers, financial mentors, or regulators would provide richer insight into the lived experience of regulatory change and is identified as a priority for future research.

Finally, as a single-country case study, generalisability is constrained. New Zealand's small population, concentrated banking sector, and demographic composition—including the particular vulnerability of Māori and Pasifika communities to high-cost lending—are contextual features that may limit direct transferability of recommendations to other countries. Notwithstanding these limitations, the study contributes a structured and theoretically grounded interpretation of an underexamined regulatory episode, offering a basis for comparative analysis and more targeted future research.

Two specific empirical priorities emerge from the fringe economy framing applied in this study. First, ethnographic and survey research within New Zealand fringe credit markets—particularly in Māori and Pasifika communities where mobile trading and informal lending are concentrated—would substantially strengthen the empirical basis for the substitution claims advanced here. Second, systematic mapping of mainstream banking access in New Zealand, including branch-network geography and the demographic composition of fringe credit users relative to mainstream banking customers, is recommended. This data would establish whether the structural exclusion dynamics documented in U.S. fringe economy scholarship, such as bank branch closures and lending withdrawal from low-income and ethnically marginalized neighbourhoods (Karger, 2005; Caskey, 1994), operate domestically. If this premise is demonstrated, policy responses could extend beyond the credit-union and MFI measures to include incentives for mainstream banks to maintain lending operations in underserved communities and

credit-building products that allow excluded borrowers to establish the repayment histories required for mainstream qualification. Without such evidence, however, structural recommendations of this kind should be treated as conditional rather than confident.

CONCLUSION

This paper analysed the evolution of New Zealand's consumer credit regulation, highlighting the trade-off between borrower protection and credit access through the dual lens of credit rationing and substitution theory, situated within the fringe economy literature. Neither purely principles-based nor strictly prescriptive regimes have delivered optimal outcomes.

The strongest analytical contribution of this study lies in why these failures occurred. A vague standard paired with weak enforcement rewards under-compliance. Stage 1 shows that without enforceable verification, lenders could underassess risk and profit from unaffordable lending without consequence. Stage 2 produced exclusionary rationing, denying credit to low-risk borrowers who should have qualified. Stage 3's return to principles-based assessment has coincided with rising arrears, and has not yet demonstrated protective benefits. What determines regulatory effectiveness may lie not simply in principles-based versus prescriptive regulation, but in the critical relationship between regulatory clarity and enforcement severity, and the subsequent effects on lender incentives and borrowers' access.

The apparent elimination of statutory high-cost lending is thus a less complete success than it first appears. The disappearance of statutory high-cost loans is more plausibly interpreted as a redrawing of the fringe economy's pricing perimeter than as a successful absorption of fringe demand into mainstream credit: lenders restructured around the new threshold and borrowers displaced themselves into less regulated channels. The strength of this finding is constrained by the limitations—particularly the absence of population-level data on borrower migration—and the conclusion is therefore offered as the interpretation most consistent with the available evidence rather than as a definitive empirical result. However, the findings extend the policy-evaluation literature by pointing out that the disappearance of a regulated category misrepresents the reality of the underlying market the regulation was designed to address, and that policy evaluation should draw conclusions after measuring the effect of substitution whenever feasible.

This study concludes that a one-size-fits-all approach is insufficient. Effective regulation requires a risk-scaled framework that targets high-risk lending while streamlining access for mainstream borrowers—narrowing the information asymmetry that generates rationing, limiting the product-restructuring incentives that produce arbitrage, and expanding regulated alternatives to absorb demand that would otherwise flow to illegal lenders. The fringe economy literature suggests that restricting fringe products alone rarely succeeds where structural conditions continue to sustain fringe demand; whether such conditions operate in New Zealand, and how they might be addressed, is a question this study raises rather than resolves. Future policy should prioritise this holistic approach to

ensure the elimination of predatory lending does not result in financial exclusion or displacement into less regulated channels.

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