

07 May 2026

Zak Finance Limited
141 Grace Street
Strathern
Invercargill 9812

Attn: [REDACTED]

By email only:
Copy to:

Dear [REDACTED]

Warning from the Commerce Commission for potential breaches of the Credit Contracts and Consumer Finance Act 2003

1. The Commerce Commission (the Commission) has completed its investigation into Zak Finance Limited NZBN: 9429036167685 (Zak Finance) for potential breaches of the Credit Contracts and Consumer Finance Act 2003 (CCCF Act).
2. The investigation considered, among other issues, whether Zak Finance had breached its record keeping obligations in relation to borrower inquiries made and default fees.
3. After fully considering the relevant information received, the Commission considers that Zak Finance's conduct may amount to breaches of sections 9CA(1), 9CA(2), 41A(1) and 41A(4) of the CCCF Act.
4. In this instance, the Commission has decided the appropriate enforcement response is to issue Zak Finance with a warning, rather than issuing legal proceedings. The Commission notes that only a Court can determine whether there has been a contravention of the CCCF Act.
5. The purpose of this warning is to inform you of the reasons for the Commission reaching this view and to encourage future compliance. Legal action remains available to the Commission in future if the conduct continues or is repeated.

Details of the Commission's investigation

6. The Commission investigation included consideration of Zak Finance's obligations under the CCCF Act to keep records of:

- 6.1 the inquiries made so as to be satisfied that it was likely that finance provided met borrowers' requirements and that repayments would not result in substantial hardship for the borrowers (inquiry records); and
 - 6.2 how its default fees were calculated (default fees records).
7. During the investigation, the Commission obtained and considered the following information:
- 7.1 Information supplied to the Commission by Zak Finance on a voluntary basis on 20 March 2025.
 - 7.2 Information supplied to the Commission in response to statutory notices on 28 July 2025, 29 August 2025, 14 October 2025 and 7 November 2025. This information included 50 sample borrower files.

Details of the relevant law

8. The CCCF Act is designed to protect consumers when they borrow money and to enable them to make informed choices about using credit.
9. Sections 9CA(1) and (2) of the CCCF Act state:
- (1) The lender must keep records about the inquiries made by the lender under section 9C (including the results of those inquiries).
 - (2) Those records must demonstrate how the lender has satisfied itself as to the matters in section 9C(3)(a), (4)(a), and (5)(a).
10. Section 9C(3)(a) of the CCCF Act sets out lender responsibility principles that every lender must comply with pursuant to section 9C(1) of the CCCF Act. This includes obligations on the lender to make reasonable inquiries before entering into a loan agreement so as to be satisfied that it is likely:
- 10.1 the credit or finance provided under the agreement will meet the borrower's requirements and objectives; and
 - 10.2 the borrower will make the payments under the agreement without suffering substantial hardship.
11. Sections 41A(1) and (4) of the CCCF act state:
- (1) The creditor under a consumer credit contract must keep records about how the creditor calculated each credit fee and default fee for the purposes of section 41.
- [...]
- (4) The creditor must make the records required by this section available to the Commission, on request by the Commission.

The Commission's view

12. The Commission's view is that there is sufficient evidence to issue legal proceedings against Zak Finance for breaches of sections 9CA(1), 9CA(2), 41A(1) and 41A(4) of the CCCF Act. We have set out the reasons for our view below.

Inquiry records

13. Key facts established include:
- 13.1 Zak Finance did not provide affordability inquiry records for four of the 50 consumer loans in the customer files that were requested by the Commission under notice.
- 13.2 For the remaining 46 borrower loans, the calculations in the records failed to adequately show what inquiries Zak Finance had made or how Zak Finance had satisfied itself that the loan could be repaid without the borrower suffering substantial hardship, in one or more of the following respects:
- 13.2.1 the records did not adequately demonstrate how the figures in the calculations enabled Zak Finance to be satisfied the loans were affordable;
- 13.2.2 none of the calculations included essential expenses for groceries or transport, which could impact the affordability calculations (and therefore the adequacy of the record of the assessments undertaken);
- 13.2.3 many of the calculations omitted any reference to large and/or regular ATM withdrawals, which could impact the affordability calculations (and therefore the adequacy of the record of the assessments undertaken); and
- 13.2.4 one borrower's bank statement only showed deposits – so there was no evidence at all as to how the expenses in the affordability calculations that were recorded had been obtained and assessed.
- 13.3 There was no record of any inquiries into the suitability of the loan for 15 of the 50 consumer loans in the customer files that were requested by the Commission under notice.
- 13.4 For the remaining 35 consumer loans, the records failed to adequately show how Zak Finance had satisfied itself that the loans provided were suitable as the records were either dated well before the loan was provided or not dated at all, meaning that the purpose recorded did not demonstrably relate to the loan in issue.
14. The Commission's view is that Zak Finance's failure to provide affordability inquiry records for four of the consumer loans, and its failure to provide any record of suitability inquiry records for 15 of the consumer loans, may mean that inquiry records were not kept in breach of section 9CA(1) of the CCCF Act.

15. The Commission is also of the view that, as Zak Finance’s affordability inquiry records for 46 borrower loans, and its suitability inquiry records for 35 borrower loans, did not demonstrate how Zak Finance satisfied itself as to the matters set out in 9C(3)(a) of the CCCF Act, it may have breached section 9CA(2) of the CCCF Act.

Default fee records

16. Key facts established include:
- 16.1 Zak Finance did not provide the Commission with the default fees records showing how it calculated its default fees for the period 1 August 2024 to 12 June 2025 when requested to do so by the Commission under notice.
 - 16.2 Zak Finance advised the Commission that it had been “unable to locate the records which underpinned the above fee calculations.”
 - 16.3 Zak Finance provided a reconstructed version of how the fees had been calculated.
17. As Zak Finance was not able to provide its default fees records when requested to do so, the Commission is of the view that Zak Finance may have breached sections 41A(1) and 41A(4) of the CCCF Act.

Response from Zak Finance

18. The Commission’s letter dated 1 April 2026 (opportunity to comment letter) provided Zak Finance with a final opportunity to comment on the Commission's intention to issue a warning, provide any additional relevant information and identify any information that was incorrect.
19. The Commission received a response from Zak Finance on 20 April 2026 that, while not formally admitting that the conduct had breached the CCCF Act:
- 19.1 accepted the Commission’s view that Zak Finance may have breached the CCCF Act;
 - 19.2 advised that it did not consider that any information in the opportunity to comment letter required correcting or that there was any further information relevant to the investigation;
 - 19.3 confirmed that it did not intend to raise any defences at this time;
 - 19.4 consented to the matter being dealt with by a warning if that was the Commission’s final decision; and
 - 19.5 advised it was working closely with its legal advisors to take reasonable steps to ensure future record keeping complied with the CCCF Act.

20. Having considered this response, the Commission's final view is that there is sufficient evidence to suggest that Zak Finance may have breached sections 9CA(1), 9CA(2), 41A(1) and 41A(4) of the CCCF Act.

Enforcement action for breaching the Act

21. Where the Commission considers that a person or business may have breached the CCCF Act, there are a range of potential enforcement responses available.
22. Following the investigation and considering all the available information, the Commission has decided the appropriate enforcement response is to issue Zak Finance with a warning, rather than issuing legal proceedings.
23. In deciding on the appropriate enforcement response in this case, the Commission has considered the extent of the harm, the seriousness of the conduct, and the public interest, based on the views reached as expressed above. The Commission has also considered the matters set out in Zak Finance's response dated 20 April 2026 to the opportunity to comment letter.
24. The Commission reiterates that its view is based on the information collected during the investigation, and that only a court can determine whether there has been a breach of the CCCF Act. A court may impose penalties where it finds the law has been breached.
25. A company that breaches the CCCF Act may be ordered to pay a penalty of up to \$600,000 per breach.
26. Further detail on the Commission's approach to making enforcement decisions is contained in the Commission's 'Enforcement Response Guidelines', available on the Commission website (www.comcom.govt.nz).

Consequences of this Warning

27. This warning represents the Commission's view that the conduct in which Zak Finance has engaged may have breached the CCCF Act and that legal action remains available to the Commission in future if the conduct continues or is repeated.
28. The Commission may draw this warning to the attention of a court in any subsequent proceedings brought against Zak Finance.
29. The Commission may also take this warning into account in the event of continued or repeated similar conduct by Zak Finance.

Publication

30. This warning is public information and will be published on the case register on the Commission website. The Commission may decide to redact some details from the published version, such as personal information.

31. The Commission may also make public comment about our investigations and conclusions, including issuing a media release, making comment to media or otherwise publicising the outcome (such as on our social media forums).

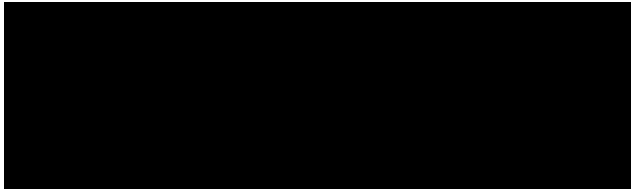
Further information

32. Please note that this letter is not legal advice. The Commission encourages Zak Finance to regularly review its compliance procedures and policies and seek legal advice about the application of the CCCF Act to its business.
33. The Commission has published a series of fact sheets and other resources to help businesses comply with the legislation we enforce. These are available on the Commission website at www.comcom.govt.nz. The Commission encourages Zak Finance to visit the Commission website to better understand its obligations and the Commission's role in enforcing the CCCF Act.
34. The CCCF Act and other legislation can be viewed at www.legislation.co.nz.

Review of our decision

35. Zak Finance is entitled to request a review of our decision to issue this warning only if it identifies relevant material that was not considered as part of our original decision. Zak Finance must request a review within 1 month of this warning being issued. Any review will be handled in accordance with the Commissions complaints process and conducted by an independent reviewer. Please submit any review request to contact@comcom.govt.nz.

Yours sincerely



Head of Credit Investigations and Compliance
Competition, Fair Trading and Credit Branch