

WORKSHOP

Major Challenges in Financial Capability and Consumer Protection in Africa

PRESENTATION:

NCR, South Africa

OVERVIEW OF THE NATIONAL CREDIT ACT (No 34 of 2005)

- ❑ **ORIGINS OF THE REGULATORY FRAMEWORK – Consumer Protection**
- ❑ **USURY ACT EXEMPTION NOTICE 1 June 1999**
- ❑ **RECKLESS LENDING PROVISION**
- ❑ **APPLICATION OF ACT & ENFORCEMENT AGENCIES**
- ❑ **WHICH AGREEMENTS UNDER ACT**
- ❑ **WHICH CREDIT PROVIDERS MUST REGISTER**
- ❑ **IMPLICATIONS IF A CONSUMER OF CREDIT IS A JURISTIC PERSON**
- ❑ **COMPLAINTS**
- ❑ **ENFORCEMENT APPROACH**
- ❑ **RESEARCH & STATISTICS**
- ❑ **CONSUMER & STAKEHOLDER COMMUNICATIONS**
- ❑ **MEASURES TO COMBAT RECKLESS LENDING**
- ❑ **KEY ASPECTS THAT DEAL WITH FAIRNESS IN CREDIT MARKET**
- ❑ **REGULATORY ISSUES**

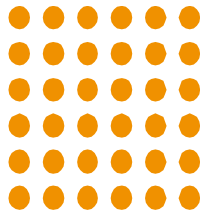
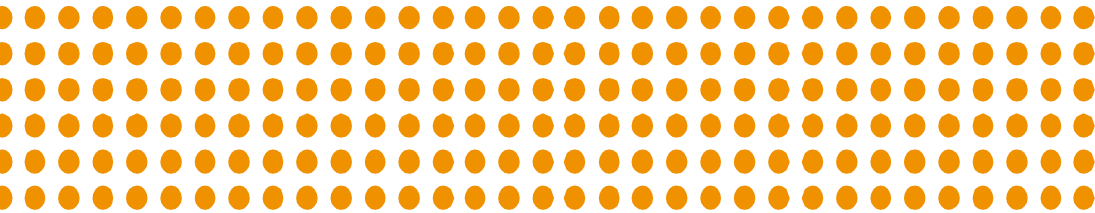
National Credit Regulator

South Africa

The Origins of the Regulatory Framework:

Micro Finance Regulatory Council

*(MFRC)
(1999 – 2006)*



National Credit Regulator

LEGAL FRAMEWORK:

Usury Act Exemption Notice 1 June 1999

- ❑ Regulated both commercial / for profit lenders and NGO's;
- ❑ Exempted lenders from Usury Act – can charge more than 21% p.a.;
- ❑ Gave powers to MFRC to regulate;
- ❑ Stated that MFRC to ensure that lenders comply with the Notice.

EXEMPTION NOTICE PRESCRIBED

- ❑ Rules of disclosure related to the loan agreement;
- ❑ That lenders could not make use of bank-cards and pins to collect money;
- ❑ Lender must enter into written loan agreement with borrower;
- ❑ Lender must have complaints procedure in place;
- ❑ Agents used by lender are managed in accordance with MFRC stipulations – training, register and contracts with agents.

RECKLESS LENDING PROVISION

- ❑ Lender must have policies in place that prevent reckless lending;
- ❑ The lender consider the ability of borrower to repay the loan;
- ❑ Lender has made an enquiry on the National Loans Register;

APPLICATION OF NATIONAL CREDIT ACT & ENFORCEMENT AGENCIES

Interpretation, purpose & application

- ❑ All forms of credit with limitations on loans to juristic persons & 'incidental credit'; Special treatment for 'developmental credit'

Regulatory Institutions

- ❑ National Credit Regulator for registrations and enforcement
- ❑ National Consumer Tribunal
- ❑separation between Tribunal & Courts

Registration requirements

- ❑ Registration of Credit Providers, Credit Bureaux & Debt Counsellors
- ❑Act will apply generally, irrespective of registration status

COMPLAINTS

Complaints Resolution Process

- ❑ Informal – Telephone based;
- ❑ Relationship with other agencies : Ombudschemes + Provincial Consumer Affairs Offices.

ENFORCEMENT APPROACH

- ❑ Letter of Undertaking
- ❑ Compliance Notice
- ❑ Referral to National Consumer Tribunal

RESEARCH & STATISTICS

Research

- ❑ Cost of credit and access to finance – to assess changes since the implementation of the NCA;
- ❑ A review of debt counselling, to identify problems & obstacles:
- ❑ The expected impact of the financial crisis on the consumer credit market ;
- ❑ Information sharing and SMME access to finance was completed in 2008 and is available upon request;
- ❑ Analysis of indebtedness levels across different income groups, based upon Stats SA data (report by the Bureau for Market research at Unisa)

Statistics

- ❑ Quarterly & Annual Returns: - Credit Providers (\$110 billion) & Credit Bureaux – Publish Quarterly

CONSUMER & STAKEHOLDER COMMUNICATIONS

Workshops

- ❑ Workshops across all stakeholder (industry, community, employers) sectors;

Media

- ❑ Media coverage; TV Programmes; Radio Programmes

THE NATIONAL CREDIT ACT

Measures to combat reckless lending & improve transparency & fairness

□ **Affordability assessments**

- reasonable steps to assess ability to meet obligations under agreement, based on consumer's existing financial means, prospects and obligations per information available to lender at the time of approving the loan

□ **If reckless,**

- Court may suspend enforcement; credit provider must indicate to court that credit was not granted recklessly; Court can refer a consumer to a debt counsellor
- **but** consumers must disclose details of all debts

KEY ASPECTS THAT DEAL WITH FAIRNESS IN CREDIT MARKET

- ❑ Negative option marketing & automatic increases in credit limits prohibited
- ❑ Compulsory, standard 1-page pre-agreement quote on all agreements
- ❑ “Single premium credit life insurance prohibited”
- ❑ Structure of disclosure : separate disclosure & regulation of interest, initiation fees & monthly service fees
- ❑ Create Register of Credit Agreements & regulate credit bureaus....to provide complete & accurate picture of payment profile & indebtedness

**PRE-AGREEMENT STATEMENT & QUOTATION FOR SMALL CREDIT AGREEMENTS
in terms of section 92 of the National Credit Act 34 of 2005**

NCR number: _____

Name of credit provider: <input type="text"/>	Name of consumer: <input type="text"/>
Physical address: <input type="text"/>	Physical address: <input type="text"/>
Contact number of credit provider: <input type="text"/> <input type="text"/>	Contact number of consumer: <input type="text"/> <input type="text"/>
Date: <input type="text"/>	Id No/CIPRO/registration number: <input type="text"/>

SUMMARY

Credit advanced / value of goods or services provided on credit	<input type="text"/> R	Instalment, including interest, fees & required insurance, excluding optional insurance	<input type="text"/> R
Deposit to be paid & deducted	<input type="text"/> R	Number of instalments	<input type="text"/>
Instalments payable specify: monthly, weekly, other	<input type="text"/>	Total all instalments including interest, fees & required insurance, excluding optional insurance	<input type="text"/> R
Initiation fee, charged up front	<input type="text"/> R	Annual Interest rate	<input type="text"/> %
Monthly service fee, included in instalment	<input type="text"/> R	Required insurance included in instalment	<input type="text"/> R

ADDITIONAL INFORMATION

PART A: Additional charges, per section 102 (b) – (f)

Total of additional charges which will be included in the account, and have been included in the calculation of the instalment: R

Additional charges per section 102 (b) to (f)

<input type="text"/>	<input type="text"/> R	<input type="text"/>	<input type="text"/> R
<input type="text"/>	<input type="text"/> R	<input type="text"/>	<input type="text"/> R

PART B: Optional items

OPTIONAL ITEMS WHICH WILL BE ADDED TO INSTALMENT	OTHER OPTIONAL ITEMS
Additional monthly premium for optional insurance <input type="text"/> R	<input type="text"/>
Description of optional insurance: <input type="text"/>	<input type="text"/>

PART C: Security provided

{Description of security required & of conditions under which possession would occur}

PART D: Repayment arrangements

{Information regarding payment, including method of payment, date of the first payment and date of last payment}

PART E: Further information on rights and obligations

Further information on significant rights or obligations imposed on the consumer

Signature:

Credit Provider Representative Consumer

[THIS QUOTE IS BINDING FOR 5 DAYS]

Regulatory issues

1. Regulatory reform
2. Uniform treatment & disclosure across all types of agreement
3. Standardisation, comparability
4. Access to redress
5. Enforcement
6. Improve information sharing between credit providers

COMPLIANCE FRAMEWORK

The objectives of the Act :

“To promote :

- ❑ A fair and non-discriminatory marketplace
- ❑ Improved consumer information
- ❑ The prohibition of unfair credit marketing practices
- ❑ Responsible credit granting / no recklessness”

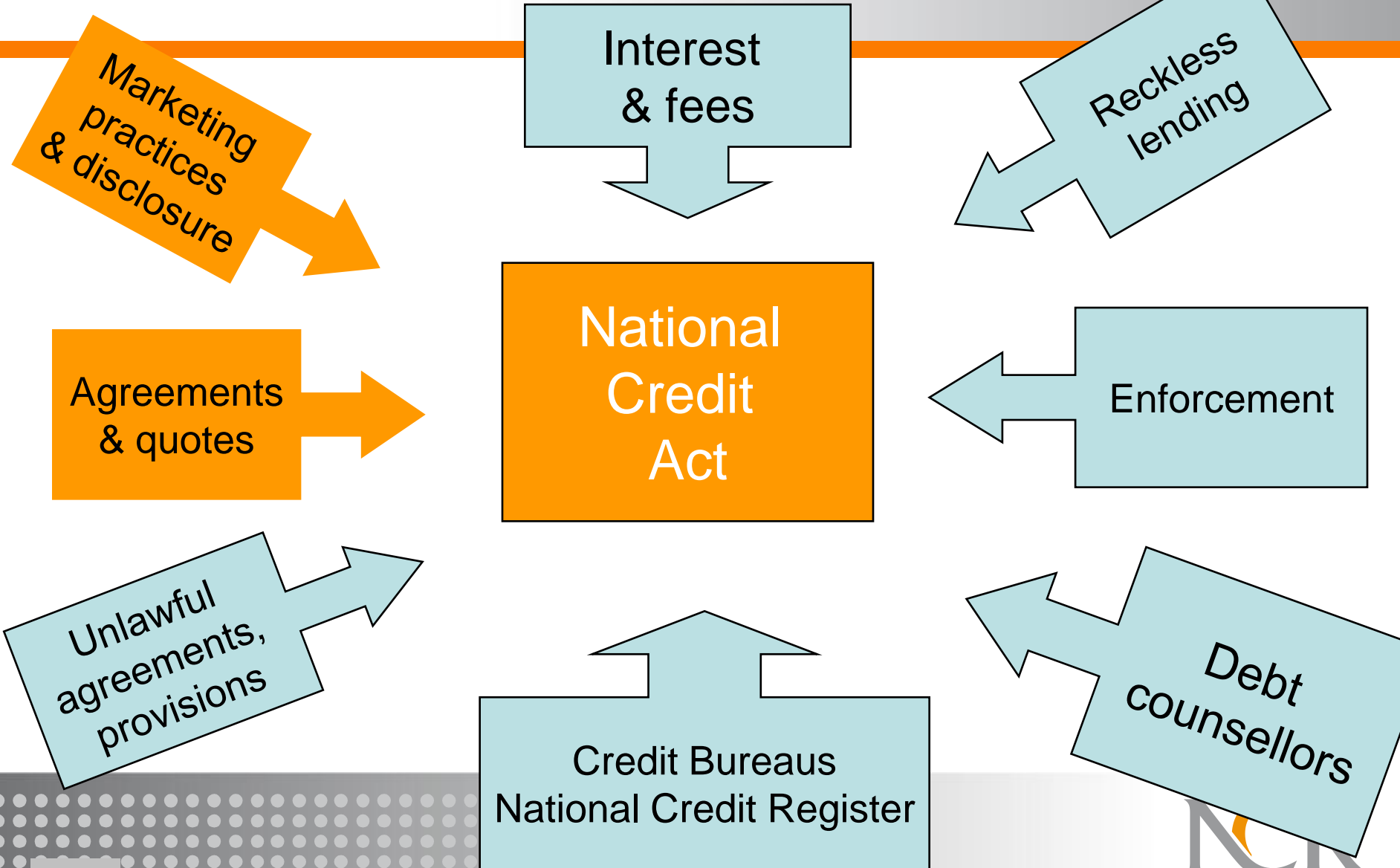
CONCLUSION

- ❑ The role of the Regulator would be to monitor the conduct of all registered entities in order to ensure that they comply with the Act.
- ❑ Consumers must accept responsibility for their actions and must resist the growing trend of acquiring goods that they cannot afford, and then seeking to escape responsibility of paying for their obligations.
- ❑ But the credit industry has been too willing to participate in the race and pushing credit and credit limits where the clients cannot afford the repayments.

CONCLUSION continue

- ❑ We have to develop a market where consumers can benefit from access to credit, without being damaged by credit.
- ❑ The aim of the legislation is to balance consumer rights with the requirements of the credit industry to the benefit of all the role players. It is OUR responsibility to make sure that the Act gets implemented effectively!.....

Overview of Act



Thank You !

NCR

National Credit Regulator

National Credit Regulator

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