

WHAT DOES THE NATIONAL CREDIT REGULATOR REGULATE?

The National Credit Act 34 of 2005 (the Act) has replaced the previous credit consumer dispensation in South Africa – namely the Usury Act 73 of 1968 and the Credit Agreements Act 75 of 1980. While the new Act is quite comprehensive the administrative task of coordinating the implementation of this fresh legislation is a rather mammoth one. In terms of its pre-amble, the Act, is to promote a fair and non-discriminatory marketplace for access to consumer credit and for that purpose provide for the general regulation of consumer credit and improved standards of consumer information; promote black economic empowerment and ownership within the consumer credit industry; prohibit unfair credit and credit marketing practices; promote responsible credit granting and use, for that purpose, prohibit reckless credit granting; provide for debt reorganization in cases of over-indebtedness; regulate credit information; provide for registration of credit bureaux, credit providers and debt counseling services; establish national norms and standards relating to consumer credit and promote a consistent enforcement framework relating to consumer credit. S 3 of the Act further sets out its purposes: to promote and advance the social and economic welfare of South Africans, promote a fair, transparent, competitive, sustainable, responsible, efficient, effective and accessible credit market and industry and to protect consumers. The following comment from the Chairperson of the National Credit Regulator (NCR) is relevant:

The National Credit Act seeks to make a fundamental change to the way in which the South African credit market operates, with specific provisions intended to address undesirable practices and improve transparency and fairness.’

How will these remarkable goals be attained, enforced, sustained and managed? S 12 of the Act establishes the NCR – akin to a knight in shining armor - to act as supervisory watchdog, administrator, regulator, information finder and keeper etc. In broad terms, one can say that the NCR is responsible for the regulation of the South African credit industry as a whole. It is further tasked with carrying out education, research, policy development, registration of industry participants, investigation of complaints, and ensuring enforcement of the Act.

- For full article see SAMLJ 2008