

NOTICE 999 OF 2012

NOTICE OF INTENTION TO WITHDRAW APPROVAL OF THE CREDIT INDUSTRY CODES OF CONDUCT

The National Credit Regulator (the NCR) has conducted a review of the Code of Conduct of Credit Providers to Combat Over-indebtedness, Debt Counsellors' Code of Conduct for Debt Review and Payment Distribution Agencies' Code of Conduct for Debt Review (the Codes) and have considered all submissions made to date in this regard.

1. DEBT COUNSELLORS' CODE OF CONDUCT FOR DEBT REVIEW

The NCR has determined that, in respect of the Debt Counsellors' Code of Conduct for Debt Review, the Code:

- deprives debt counsellors of their constitutional right to freedom of association as enshrined in section 18 of the Constitution of the Republic of South Africa by requiring debt counsellors to affiliate to the Debt Counsellors' Association of South Africa ("DCASA");
- contains provisions which are contrary to the provisions of section 86 of the National Credit Act 34 of 2005 (the Act) in respect of the referral of debt review matters to the Court;
- confers excessive jurisdiction on the Credit Ombud contrary to the provisions of section 134 of the Act;
- lacks accountability to the NCR with regards to implementation, monitoring and reporting on the Code.

2. CREDIT PROVIDERS' CODE OF CONDUCT TO COMBAT OVER-INDEBTEDNESS

The NCR has determined that, in respect of the Credit Providers' Code of Conduct to Combat Over-Indebtedness, the Code has failed to achieve the purpose for which it was intended, namely to combat over-indebtedness in that:

- the research conducted by the NCR in terms of section 16 of the Act reveals that the trend, both over the last three quarters as well as the long term, shows a sustained increase in the level of impairment both of consumers' credit standing and account payments;
- the research also shows that 47% of credit active consumers, being some 9.22 million consumers are credit impaired, have at least one account three or more months in arrears. In addition, approximately 6,400 consumers continue to apply on a monthly basis for debt counselling;
- the rapid growth in unsecured lending, in a highly credit impaired environment, is a significant cause for concern;
- the NCR's investigations have uncovered evidence of significant reckless lending by credit providers contrary to their commitments as enshrined in the Code and the Act.

3. In addition, the NCR has determined that the National Debt Mediation Association ("NDMA") has failed to report annually to the NCR as required by the Code.
4. The NCR has also determined that the Payment Distribution Agencies Code of Conduct for Debt Review contains similar provisions to those set out above which provisions are contrary to the Act.
5. Accordingly, the NCR intends to:-
 - 5.1 withdraw its approval of the Codes; and
 - 5.2 withdraw its recognition of the NDMA, DCASA, PDASA (Payment Distributions Association of South Africa) and the Credit Ombud, in terms of any role they perform in terms of the Codes.
6. The NCR invites written representations with regards to our above-stated intentions by no later than the 13th December 2012, to be duly considered.

Representations may be addressed to the Company Secretary, Mr. Lesiba Mashapa, by email on lmashapa@ncr.org.za