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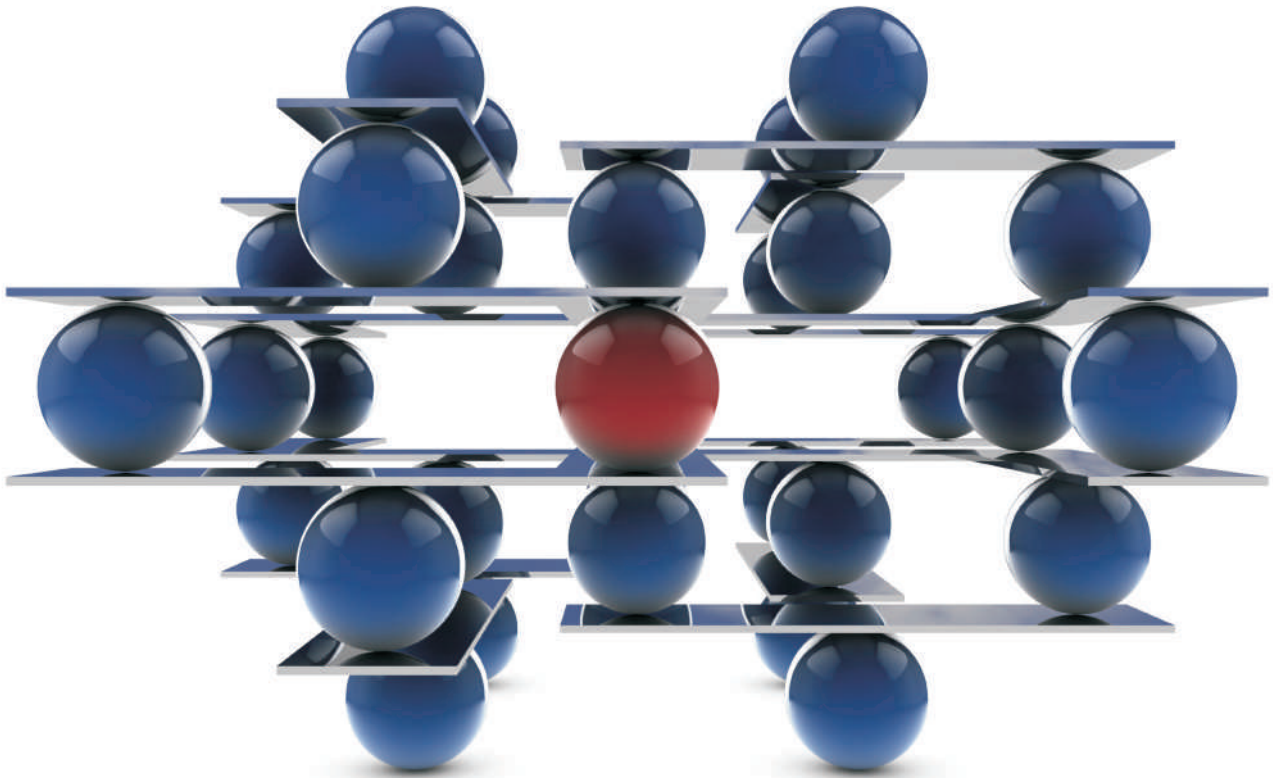
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ADRA PRESIDENT'S REPORT

2014 is oppadna die halfpadmerk!

Die jaar word tot dusver oorheers deur die "National Credit Amendment Bill" ("NCAB") en die effek daarvan op die kredietindustrie.

Sedert die vorige uitgawe is die "NCAB" aanvaar in die Parlement en na die President verwys vir ondertekening. Ons is almal in afwagting op die inwerkingtreding van die voorgestelde wetgewing! Die voordeel hiervan is dat die regulatoriese onsekerhede wat tydens die debat teenwoordig was tot 'n mate uit die weggeruim is.

Daar moet verder in gedagte gehou word dat hier die wetgewing ondersteun moet word deur regulasies wat tans opgestel en bespreek moet word. Die regulasies sal bydra tot nuwe uitdagings en die toekomstige landskap waarin die industrie besigheid moet doen sal wesenlik verander. ADRA het daarin geslaag om baie naderaan die verskeie reguleerders te beweeg en om sodoende te verseker dat ADRA se stem gehoor is en kan word in hierdie proses.

ADRA poog om alle lede op hoogte te hou van hierdie verwickelinge deur voortdurend ons webtuiste (www.adraonline.co.za) op te dateer. Lede kan gerus hulself vergewis van die nuutste opdatings deur die webtuiste te besoek.

Weereens moet daar dank uitgespreek word teenoor Marius Jonker, Stephan Lindsay, Thinus Nortje en Marina Short vir hulle onbaatsugtige, vrywillige en enorme bydraes in hierdie proses. Ek is oortuig daarvan dat ADRA insette en betrokkenheid tydens die regulatoriese proses tot voordeel van die industrie was en sal wees.

ADRA announced during the course of last year that we have appointed the Bureau of Market Research ("BMR") from UNISA to conduct research of the collections industry and compile market data and statistics on our behalf. The BMR is an academic institution with an outstanding track record established since the 1960's and meets the criteria of being independent, qualified and having no commercial conflict to perform this role on a confidential basis.

This information is important in highlighting to stakeholders including regulators and policymakers that ADRA is indeed representative of the industry, the quantification of the impact that the industry has on the credit market and the economy in a wider sense. Furthermore, such information needs to be from an independent and trusted source for it to be useful for this purpose.

This initiative has for various reasons taken longer than expected but it is with excitement that I can announce that the project has indeed now commenced and we are looking forward to sharing the findings at the Annual General Meeting later this year.

I urge you to fully assist and contribute when contacted by the BMR in the coming months. Depending on the co-operation and responses received from our members it is envisaged to expand the project with a second phase in 2015.

The collections industry provides a vital role in the provision of services so as to ensure the efficient and effective functioning of the credit market. With our industry facing an ever increasing regulatory environment it is now more important than ever, to be involved in the regulatory process and protect our members' and client's interests.

In this representative role ADRA has always been disadvantaged as all of its Board members are contributing on a part-time basis. As the year progressed it has become clear that ADRA can only fulfil its mandate if it increases its capacity by appointing a full time CEO, something I eluded to during last years' annual general meeting.

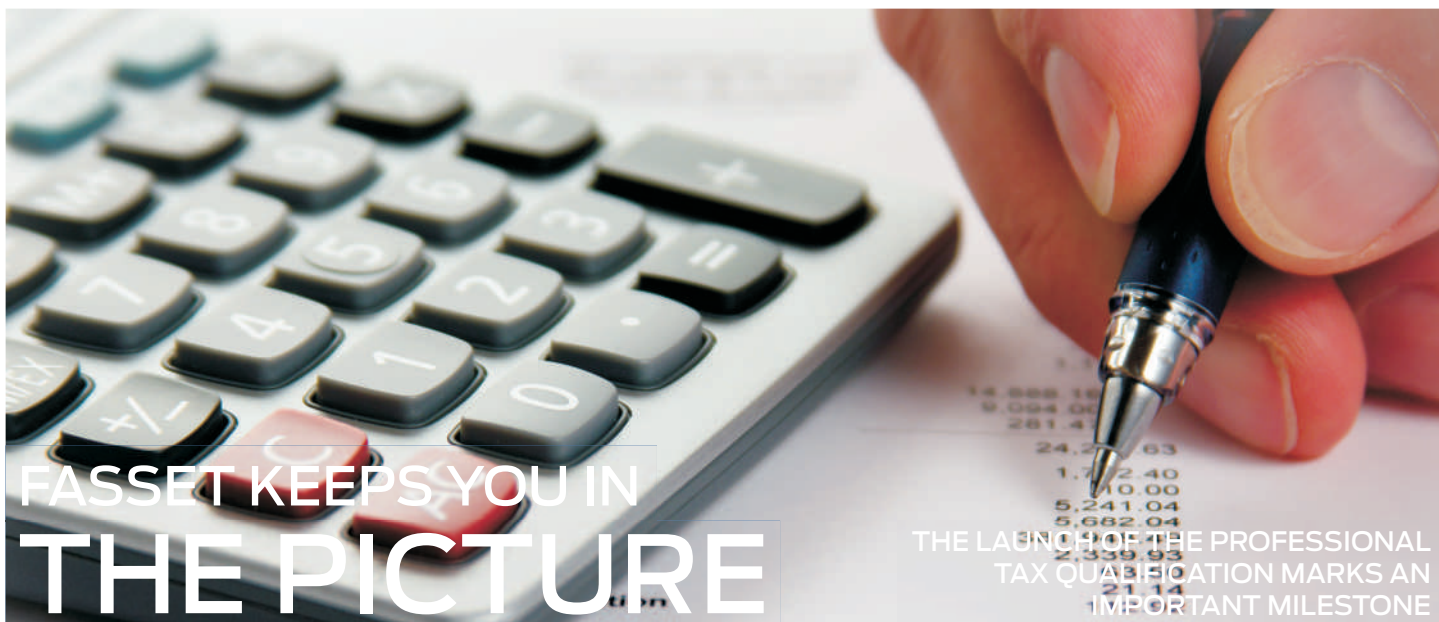
Some of you may be aware that ADRA has indeed commenced the journey of appointing a CEO. The process is well underway and it is our intention to make an announcement in the near future. This will allow ADRA to take one huge step forward and expand on its mandate to represent its members and be an "active voice" as a representative of the collections industry.

I am looking forward to the announcement of the successful candidate in the near future.

Hoping to see you all at the roadshows in June

Best regards
Charl





FASSET KEEPS YOU IN THE PICTURE

THE LAUNCH OF THE PROFESSIONAL TAX QUALIFICATION MARKS AN IMPORTANT MILESTONE

Fasset is pleased to announce that the South African Qualifications Authority (SAQA) has registered 'tax professional' as an occupational qualification. This has paved the way for Fasset to register the NQF level 8 Learnership for Tax Professionals.

The development of a specialist Tax Professional qualification marks a very important milestone for the tax profession, which Minister of Finance, Pravin Gordhan has previously criticised for non-compliance. Recognising the need to professionalise and better regulate the profession, Minister Gordhan passed legislation, requiring all tax professionals to register with SARS and controlling body, South African Institute of Tax Professionals (SAIT) by 1 July 2013. Registration sought to ensure that tax providers were appropriately qualified; it also sought to address issues of misconduct.

The launch of a professional tax qualification marks the end of a five year journey. Fasset commissioned research into the need for a tax qualification in 2008. The research confirmed the need for such a qualification, and the process of applying to the QCTO to have a 'tax professional' registered as an occupation commenced. A specialist tax professional qualification could only be registered once the QCTO had approved such an occupation.

The Big Four professional services firms, PwC, EY and Deloitte, and medium-sized firms BDO and Moore Stephens, together with SARS and leading law firms have assisted in the development of the qualification, which Fasset has registered as the NQF level 8 Learnership for Tax Professionals.

The learnerships are expected to play an important role in increasing the number of specialised tax professionals; it will also enhance the quality of tax services provided by tax specialists in private practice, tax advisors to commerce and industry and tax auditors and investigators at SARS.

There are various points of entry into the learnership. The learnership targets new entrants into the labour market, current employees in private tax practices and employees at SARS. It serves as a learning pathway for candidates, who have already obtained a NQF level 6 or higher qualification in accounting, tax or law, or any other relevant field of study.

Most importantly, the Learnership for Tax Professionals offers an

alternative learning pathway to those wishing to become a tax professional. Tax professionals have traditionally qualified as tax professionals via the CA route, or through the completion of a law degree, with a specialisation in Tax.

The qualification is recognised by SAIT and confers for full membership. It leads to the designation General Tax Practitioner (SA) when in practice in general, and Tax Professional (SA) when employed by SARS.

The qualification requires the completion of a three-year undergraduate degree, a one-year postgraduate degree, three years articles, and the successful completion of SAIT's Qualifying Exam, the National Qualifying Competency Assessment.

The Professional Tax qualification has three components: a knowledge component, a practical skills component, and a workplace experience component. The knowledge component is acquired through studies at an SAIT accredited tertiary institution. The practical skills component can be obtained through accredited knowledge providers, approved workplace experience providers or short courses offered by approved short course providers. The workplace experience is acquired through an approved employer, under the guidance of a training supervisor. The latter, requires a training logbook or record of learning achievements covering the workplace experience modules to be completed, supported by a portfolio of evidence.

Accredited tertiary institutions will consider the qualifications, which a learner has already obtained from prior studies and will offer exemptions accordingly.

Learners can enter the Learnership before completing the Knowledge and Practical Skills component of the qualification, or after the completion of these two components. The workplace component will be completed during the learnership. Depending on the point at which the learnership is entered, learnerships can vary from 18 months to three years.

According to SARS there are 34 000 tax practitioners in South Africa; only 17 000 have a formal tax qualification. The fact that there are various points of entry to complete the learnership is expected to appeal to those already working in the profession.



FROM THE CREDIT OMDUB

Your credit bureau record can ruin your chances of securing a job!

It is a known fact that unemployment figures in South Africa are amongst some of the highest in the world. Securing a job can prove to be one of the most difficult tasks one has to face, as job candidates are jostling with thousands of other candidates for the same position. To add to the difficulty, at times the only thing standing between you and a job can be the seemingly insignificant credit report.

Securing a job or even a promotion can be made so much more difficult because of the status of your credit report. The National Credit Act (NCA) makes provision for employers to check a candidate's credit status when they are applying for a job that requires trust and honesty and entails the handling of cash or finances, making it especially applicable to people applying for positions in the financial sector or senior positions within any organisation.

'Even though regulation 18 (c) of the act was specifically designed to assess the suitability of candidates in positions where it matters most, we still find that people applying for almost any position are subjected to credit bureau checks as part of their security clearance. Another common practice is that consumers are pressured by potential employers, through recruitment agents, to sign consent for accessing of their credit bureau information as part of the recruitment process even though the position is not in finance,' says Credit Ombud Manie van Schalkwyk.

This practice has seen many qualifying candidates miss out on opportunities of employment. 'We need to start educating the Human Resources departments, as well as recruitment agents who are responsible for conducting checks on employees, so that they understand when it is permissible to request a credit report and, once they have done so, are able to assess credit reports correctly when doing employment checks,' he adds.

'In most cases, you find that many Human Resource personnel and recruitment agents are not equipped with enough knowledge in order to understand the different notifications and listings. In addition to this, there seems to be very little knowledge of the legal requirements of the NCA in respect of using credit records for employment purposes,' he continues.

At times you find that some candidates may be turned down for a job because of minor negative listings on their credit reports. Different negative listings bear different degrees of seriousness – it is therefore very important that both Human Resources staff and recruitment agents are trained to assess reports with the required

prudence.

'The great benefit that will come from the Removal of Adverse Consumer Credit Information, as per the new Regulations published on 26 February, is that consumers will be in a better position of securing employment, where in the past the adverse information reflecting on their profiles may have cost them the opportunity of being employed,' van Schalkwyk states.

The Credit Ombud advises consumers to check their own credit records and be aware of what potential employers will be able to see once they run a security clearance, which includes a credit report check. 'You will then be in a position to volunteer the information yourself to the employer and give reasons as to why there is negative information on your records while you are still being interviewed. Not all negative listings are due to negligence or an inability by a consumer to run their financial affairs, so raising the matter before the employer sees it may place them in a better light,' he continues.

Consumers applying for positions should do the following to ensure that their credit records do not hinder their chances of employment:

- Access your credit record and be aware of what is on your profile – you have the right to challenge any incorrect or inaccurate information you find on your profile.
- Ensure that you re-check your credit record after challenging any incorrect information as sometimes the information can be re-instated after a month or two without your knowledge.
- Build up a good credit record by paying your bills on time as well as paying the correct amount required.
- Check your record with each bureau as they all hold different information and you may find that you are listed at one while your record is clear at another. Consumers are entitled to one free report every year from all registered credit bureaus and an unlimited amount of additional reports may be obtained at a nominal price from the bureaus.

Consumers can contact the office of the Credit Ombud for free assistance on matters relating to problems experienced with any unfair or incorrect listings on a credit bureau as well as any matter pertaining to their credit agreements, such as account disputes or matters with regards to garnishee orders. The office can be contacted on 0861 66 28 37 or visit their website on www.creditombud.org.za. If we cannot assist you, we will refer you to the correct organisation to assist you with your problem.



THE REAL TRUTH ABOUT 'CREDIT AMNESTY'

The much anticipated Removal of Adverse Consumer Credit Information, with implementation date of 1 April, has finally arrived. Millions of consumers across the country have eagerly awaited the day they will receive a 'pardon' for their credit sins and start afresh, with hopes of once again being able to access much needed credit. 'The Regulations that has been debated over the past year or so, has finally come into force and we will now see the real effects of removing adverse information from consumers' profiles as well as the effect on the credit industry as a whole,' states Credit Ombud Manie van Schalkwyk.

According to the National Credit Regulator's Credit Bureau Monitor statistics, close to half of the recorded 21 million consumers have impaired credit records. This ranges from consumers with defaults, judgements, admin orders, as well as consumers who are three months or more in arrears with their account payments. 'In our experience, for a big percentage of cases, consumers were not able to meet their contractual obligations because of financial problems as a result of over indebtedness. The reasons for the over indebtedness will vary from retrenchments, divorce, or other changes in personal circumstances to reckless credit. The recent rise in cost of living as a result of increases in the price of food, petrol and e-tolls costs also had a significant effect on consumer's ability to service their debts,' says van Schalkwyk.

What is noteworthy and what people really need to grasp is that not all of the 9.8 million consumers with impaired records will benefit from this exercise. 'It is only about 28% of the 21 million credit active consumers, equating to about 5.78 million consumers, who may qualify to benefit from the removal of adverse information,' adds van Schalkwyk.

Taking a closer look at the 28% of consumers who stand to benefit from the removal of adverse information, 15.4% will definitely benefit as they fall squarely within the adverse listing category

which accommodates defaults, while a further 12.6% may benefit because they fall within the category of consumers who have judgements and admin orders on their credit reports. 'The Regulations also stipulate that information relating to paid-up judgments must be removed. At present, it is difficult to ascertain how many of the 12.6% relate to judgements and how many of those judgements have been paid up, in order for the consumers to qualify to have these removed from their profiles,' says van Schalkwyk.

In the lead up to 1 April, there have been many misconceptions regarding exactly who will benefit, what information will be removed and even when it was going to be implemented.

Below are some of the common myths regarding the Removal of Adverse Consumer Credit Information:

MYTH 1:

All negative information will be removed from my profile and I will be able to start on a clean slate.

FACT:

According to the regulation governing the Removal of Adverse Consumer Credit Information, only two categories of information qualify for removal, namely adverse listings and paid up judgements. For the purposes of these Regulations, adverse listings are classified as follows:

- Adverse classifications of consumer behaviour such as delinquent, default, slow paying, absconded and not contactable
- Adverse classifications of enforcement action taken by the credit provider such as handed over for collection or recovery, legal action or write off
- Details and results of disputes lodged by consumers, irrespective of the outcome of such disputes
- Adverse consumer credit information contained in the payment profile represented by means of any mark, symbol, sign or in any manner or form

The adverse information reflected on consumer's profiles as at 1 April 2014 will be removed – irrespective of whether it was paid or not.

When it comes to Judgment information – the Regulation stipulates that the capital amount owed in terms of the judgement must be paid. Paid up judgements include civil court judgement debts, including default judgements where the consumer has settled the capital amount under the judgements.

In addition to the above, consumers must note that information pertaining to the payment profile line will not be wiped away as part of the clean up exercise. The payment profile is a recording of a consumer's payment pattern and is recorded on a monthly basis. 'If one is in arrears for a period of five months, as an example, that information will remain on the payment profile and credit providers can still use this information to determine whether or not to grant credit,' says van Schalkwyk.

MYTH 2:

All judgement information will be removed from a consumer's records

FACT:

Only paid up judgements which were taken between 2009 and 2014 (before 1 April) will be removed as part of the Removal of Adverse Consumer Credit Information exercise. Older judgements should have been removed already due to the maximum retention period of 5 years.

MYTH 3:

A credit provider cannot pursue me for the debt once the default has been removed

FACT:

Even if the default information is removed from a consumer's credit profile, they are still legally obligated to pay the debt. If this is not done, they may open themselves up for legal action by the credit provider or being handed over to debt collectors. The removal of the information does not affect the creditor's rights in any way.

MYTH 4:

Bureaus only have 7 days after 1 April 2014 to remove information relating to paid up judgements and defaults from a consumer's profile

FACT:

Consumers need to understand that due to the enormity of this

exercise it would be impossible to remove all the information overnight and that this is a process that may take time. The Credit Bureaus have until 1 June 2014 to remove all qualifying information and it is only after this period that consumers will be able to lodge complaints if they find that the information has not been removed as it should have.

MYTH 5:

Consumers are required to follow a process before they can benefit from the 'amnesty'

FACT:

There is no process that consumers need to follow. There will be an automatic removal of all information pertaining to defaults and paid up judgements before 1 June 2014. However, consumers are urged to access their credit records after this period and to check if defaults and paid up judgements have in fact been removed.

Other facts worth noting include:

- Information pertaining to all defaults cannot be displayed as of 1 April 2014
- Once defaults have been removed a credit provider or any other collecting agency may not re-list information pertaining to that default
- In the event that consumers have not paid up their judgements, the normal retention periods will apply
- Adverse information may be listed again on consumer's profiles, relating to new defaults on other accounts

The second leg of the removal of adverse information will come into operation once the National Credit Amendment Bill is promulgated in the near future. 'Once the bill is promulgated, consumers will on an ongoing basis have all paid up defaults and paid up judgements removed as soon as the credit providers provide the credit bureaus with proof of payment. "This will of course encourage consumers to pay their debts in order for the information to be removed from their profiles" adds van Schalkwyk

Consumers can contact the office of the Credit Ombud for free assistance should they find themselves being re-listed after the Removal of Adverse Consumer Credit Information roll out or if they find that information that was supposed to be removed has not been removed by the cut off date.

The office can be contacted on 0861 66 28 37 or visit their website on www.creditombud.org.za.



THE ADRA | CENTRACOM PARTNERSHIP



It is all about quality and cost saving

Centracom is an accredited ADRA Service Provider in the VOIP telephony and related services space. As telephony costs are probably the second largest operating expense of our members and as we realised that many members continue to make use of far more expensive options, ADRA undertook a search for a suitable partner in the telephony space to fulfil the needs of our members. After a diligent search, and having consulted with various competitors, Centracom was found to be the only company to meet our needs and ADRA entered into a partnership contract with Centracom.

The project commenced in November 2013. In ensuring that Centracom provided what they promised we contacted members who took up the Centracom offer for a review of their experience to date. All members contacted were ecstatic about the results. All reported a massive cost saving on their total telephony costs, even those who were previously contacted to a VOIP service provider. All found their backup service was excellent and response to resolving faults prompt. All "tickets" for assistance and Centracom's response and resolution thereof are forwarded to the ADRA office via an automated process. As such, ADRA monitors the response and resolution times of faults logged, and we are impressed with the service provided. No-one experienced any material downtime and call-quality was excellent. Call quality is rated on a Mean Score Rating (MOS) with 1 to 2 representing poor call quality and 4 to 5 excellent call quality or carrier/fixed line quality. Centracom averages a MOS rating is 4.2.

The actual cost of the Centracom solution is exceptionally low and appears elsewhere in this publication and is not repeated herein. The cost advertised is a standard rate applicable to all members, irrespective of their size. This allows smaller members to compete on equal footing with the large corporates who have as a result of their volumes the negotiating power to secure preferential rates with which smaller members, until now, could not compete.

Yet, progress in members taking up the Centracom offer is much slower than projected. This prompted us (Centracom and ADRA) to investigate.

The main reason identified for the slow uptake is member's perception that as they are bound in a term agreement with their current telephony service provider the cost of being released from such existing hardware rental agreement would not justify a change-over to another telephony service provider. They would rather wait out their existing contract and then consider moving to Centracom.

As a practical exercise in comparing apples with apples we obtained the cooperation of a member bound into an existing contract and allowed Centracom to investigate and propose a solution and quote. The cooperating member has a 20 seater call centre with a digital PABX and digital handsets, an ISDN PRI line

and a voice logger and all the usual management report systems. The member is bound into a 5 year contract of which 38 months remain. Cancellation of the existing contract would cost the member an astonishing R328 963.72. Because of this this member's immediate reaction was that it will not be possible to switch telephony service providers until the expiry of the existing contract.

Centracom delivered a solution which not only saved the member 31% on his monthly telephony account per month but also provided the member with a complete failover system. The existing hardware contract remained with all hardware rentals honoured. Through a cloud based Centracom PABX and routing all calls via Centracom the member will still enjoy a massive saving of 31%.

Besides the fail-over system, the Centracom option included a cloud based voice recording system of all calls. The actual recording is hosted on a Centracom server to which the member has full access. Should the member wish to retain calls for a period longer than 1 month, which is highly advisable, the member simply downloads the calls to its own storage device.

In light of the promulgation of the National Credit Amendment Bill, and the need created therein for members to be able to prove verbal acknowledgements of debt interrupting prescription, voice recording becomes an absolutely essential tool in every member's office. Voice recording is obviously also used for training, quality control, disciplinary and general operational reasons.

ADRA receives a benefit from each minute terminated by ADRA members through Centracom as well as from clients referred to Centracom by ADRA members. The income generated from accredited service providers such as Centracom, contributes greatly to the income of ADRA and allows ADRA to undertake ambitious projects which it otherwise would not have been able to do. Those who follow industry news would have noted that ADRA's prominence and influence in the industry has soared during recent times and this is in no small measure due to the income generated from service providers. In addition to the benefit to the general ADRA membership, ADRA and Centracom also created an incentive scheme for members who referred third parties to Centracom. Those members would receive a credit on their annual subscription fees from income so generated. ADRA members should all be able to cover their entire annual subscription fee by referring only a couple of potential clients to Centracom via the ADRA office.

Members are therefore urged to allow Centracom to provide them with a quote for telephony services and where possible to refer non-members who are potential clients to Centracom via the ADRA office.

The ADRA Board

centracom

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ADRA Rates

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Mobile – Peak (Cell C/8ta)	54c
International	Ave. 50% less than Telkom
Inter Branch/ On net	Free

"We have been using Centracom for approximately 2 years now and are highly impressed with their professional services and industry knowledge on the solution. At the time we engaged with them - our savings amounted to about 70% of the Telkom bill. We recently migrated over to the ADRA model and have received even more discounted pricing. This resulted in massive savings. We would like to recommend their services to anybody wanting to have a professional service provider and in the process save substantially on their telephony bills".

*Marina Short
CEO
Consumer Profile Bureau*

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GUIDE TO SURVIVE THE REMOVAL OF ADVERSE CONSUMER CREDIT INFORMATION (CREDIT AMNESTY)

Compiled by Marina Short – CEO - Consumer Profile Bureau

BACKGROUND

AIM OF CREDIT AMNESTY

The Department of Trade and Industry has embarked on the Credit Justice Project which includes the Removal of Adverse information – also referred to as Credit Amnesty – whose aim is to: "Provide renewed opportunity through the removal of barriers to finance to those adversely affected by the global economic recession during the period of 1 January 2006 – 31 December 2011".

REASONS FOR AMNESTY PROJECT

- To reduce credit impairment and to address its causes
- To remove barriers to credit for consumers who can afford credit
- To apply restorative justice with the consumers that was affected negatively by their lack of credit literacy and reckless lending that was done
- To assist consumers that were impacted by the economic recession
- To redress the failure in credit granting to consider broader economic factors
- To remove barriers to employment, rental and schooling where these were impacted by adverse listings on their credit records
- To reduce the over-pricing for the 47% of consumers with impaired records
- To stimulate economic growth
- To broaden access to credit providers.

PROCESS FOR AMNESTY

The DTI embarked on the following journey with the aim to achieve the objectives noted above:

- Identify the causes of credit impairment
- Consult with key stakeholders
- Conduct impact assessments to determine the scope of data removal
- Draft affordability assessment guidelines
- Conduct research on discretionary income
- Draft adverse listing rules
- Find means to incentivize repayment of debts
- Address inadequate credit literacy

STATUS QUO FOR PROCESS?

- On Thursday 27 February 2014, the Minister of Trade and Industry – Rob Davies – issued regulations that give effect to the removal of Adverse Credit Information and information relating to Paid up Judgements.
- Affordability Assessment Guidelines has been drafted and industry consultation is underway
- Default listing guidelines has been drafted and industry consultation is underway
- National Credit Amendment Act was signed into Law by the President on the 21st May 2014.

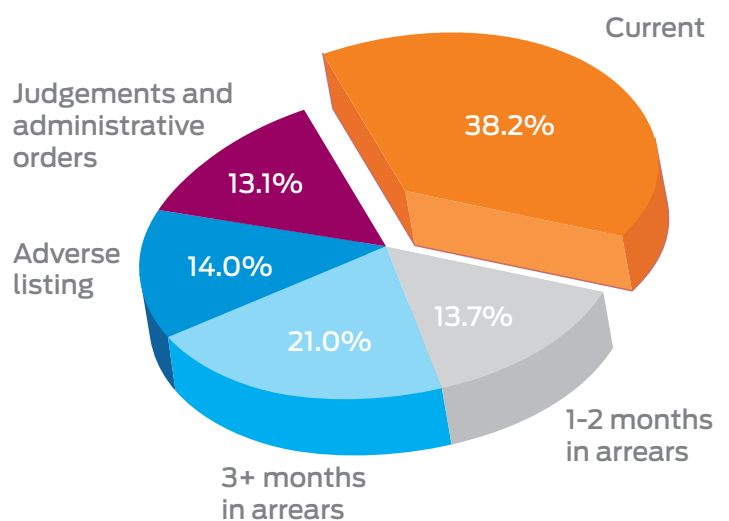
CONSUMER STATE OF AFFAIRS AS PER CREDIT BUREAU MONITOR FROM THE NCR'S OFFICE

On a quarterly base, the NCR produces a report that reflects the overall consumer credit health as held by the various Credit Bureaux.

As of the 31st of December 2013, the main points to take into account were:

- Approximately 21 million consumers recorded on Credit Bureaux were Credit Active
- Almost 50% of these consumers had impaired credit records – 9.8 million
- They are mainly classified in the following buckets:

Credit standing of consumers: September 2013



DEFINING DEFAULT LISTINGS / BLACKLISTINGS / ADVERSE LISTINGS / BUREAU NEGATIVE INFORMATION:

In terms of the NCA, the following adverse listings are allowed to be loaded against a consumer's credit profile once the defined process to notify the consumer in writing of such intent has been followed.

ADVERSE LISTING - BEHAVIOUR

This relates to how a consumer is behaving on managing his Credit Record. This is a subjective classification and includes listings like:

- Delinquent
- Slow Payer
- Defaulter
- Absconded
- Not Contactable

The retention period prescribed by the NCA is 1 year or until the outstanding debt is settled in full.

ADVERSE LISTING - ENFORCEMENT

This relates to enforcement actions taken by credit providers against the Consumer for debt not paid and includes listings like:

- Handed over for Collection / Recovery / Legal Action
- Repossessed
- Revoked
- Written off

The retention period prescribed by the NCA is 2 years or until the outstanding debt is settled in full.

DISPUTES LODGED

Various parts of the Credit Report can be disputed. In terms of the Dispute process that is governed by the NCA, a consumer's profile must be flagged if any item of information is under dispute.

The retention period prescribed by the NCA is 20 business days.

DEFINING COURT ORDERS SUCH AS JUDGMENTS, DEBT REVIEW, ADMINISTRATION ORDERS, SEQUESTRATIONS AND REHABILITATIONS

JUDGMENTS

Judgments are normally the last resort used by a credit provider to try and recover the outstanding amounts from the Consumer. Court information is public information and it is collected by the credit bureau. This information includes the following:

- Effective Date
- Judgment Type
- Defendant
- Number of defendants
- Plaintiff
- Court Type
- Court Name
- Case Number and Year
- Nature of Debt
- Rand value
- Attorney Name
- Attorney contact

The retention period prescribed by the NCA is 5 years or until the debt is settled in full.

SEQUESTRATIONS

Sequestrations (also known as bankruptcy) can be voluntary or compulsory (forced) where a consumer's estate is surrendered for creditors or the state. This process is instituted by the court to help consumers who are no longer able to pay their debt due to uncontrollable circumstances. Court information is public information and it is collected by the credit bureau. This information includes the following:

- Effective Date
- Insolvent Person
- Court Type
- Court Name
- Case Number and Year
- Attorney Name
- Attorney contact

The retention period prescribed by the NCA is 10 years.

REHABILITATION ORDERS

A rehabilitation order is a court order which can be granted after sequestration to repair your name as "insolvent". To qualify you will need to:

- have paid up all sequestration costs
- be a widow or widower of an insolvent (married in COP)
- be a former spouse of an insolvent (married in COP)

- be the executor of a deceased estate

Court information is public information and it is collected by the credit bureau. This information includes the following:

- Effective Date
- Insolvent Person
- Court Type
- Court Name
- Case Number and Year
- Attorney Name
- Attorney contact

The retention period prescribed by the NCA is 5 years.

ADMINISTRATION ORDERS

An Administration Order is a legal process implemented by legislation in 1944, through the Magistrates' Courts Act that allows a consumer to pay his debt at a rate he/she can afford. In order to qualify, the consumer must be employed and his total debt cannot exceed R50,000. The order makes provision for the payment of debts in installments or otherwise and the administration of the debtor's estate. Court information is public information and it is collected by the credit bureau. This information includes the following:

- Effective Date
- Defendant
- Plaintiff
- Court Type
- Court Name
- Case Number and Year
- Nature of Debt
- Rand value
- Attorney Name
- Attorney contact

The retention period prescribed by the NCA is 10 years or until court rescission.

DEBT REVIEW

Debt review" means an application by a natural person ("consumer") to a debt counsellor to investigate the financial position of the consumer. If it is determined that the consumer is unable to, or may experience difficulty in, meeting all his financial obligations the debt counsellor may propose a debt re-arrangement plan to all credit providers, or make a proposal to the Magistrate's Court to re-arrange the consumer's obligations and/or declare one or more of the consumer's credit agreements reckless.

This information is captured onto the Debt Help system by the various Debt Counsellors which system is managed by the National Credit Regulators office.

This information is captured by the credit bureaus and the consumers' credit profile is flagged to ensure that no further credit is granted.

table on next page...

THE DIFFERENCE BETWEEN ADMINISTRATION AND THE SURRENDER OF YOUR ESTATE:

Sequestration	Debt Counselling	Administration
Application is brought in the High Court of South Africa. The application can be enrolled within five weeks.	Application is by a debt counsellor and/or in the Magistrate Court	Application is made in the Magistrate Court. Application is enrolled within two months.
Court rules entail that all creditors are included and that the court order must be accepted by all creditors.	Debt is excluded that has already been handed over to attorneys for legal action.	“Cash loans” agreements are excluded from an administration and you have to still pay the monies outstanding.
No maximum debt for application to be lodged.	No maximum debt to apply.	The maximum debt for administration is R50 000.00
Should you owe for example an amount of R50,000.00, you only pay back R18,000.00 – it does not accrue interest.	You pay the entire amount plus interest and costs. This can take up to 30 years.	Should you owe for example R50,000.00 it still accrues interest and costs, in other words you will pay back approximately R132,000.00
No further debt can be made.	No further debt can be made.	No further debt can be made.
You pay the money direct to the curator.	Monies are paid to a distributing agent and they pay the creditors.	Your employer must give permission that the repayment amount is deducted straight from your salary.
Should you have a immovable asset (house), it will be sold by the curator to pay the creditors.	Should you have a immovable asset (house), you may keep it if the bank has accepted a minimum payment and legal action has not yet been taken.	Should you have immovable assets, you must still pay the premiums and you may keep the property.
Information is collected by the Credit Bureaux and the retention period is 10 years (as per the NCA)	Information is collected by the Credit Bureaux and remains in display until a clearance certificate is issued.	Information is collected by the Credit Bureaux and the retention period is 10 years (as per the NCA)

IMPACT OF AMNESTY ON THE INFORMATION OF THE CONSUMERS ON THE BUREAUX

ADVERSE LISTINGS PRIOR TO 1 APRIL 2014

All adverse listing including both Behaviour and Enforcement that were within retention on the credit bureaux had to be "masked" on the 1st April with final removal by the 1st June 2014. During the period (1 April to 1 June 2014, none of this masked data may have been given out to any person accessing the data. This was not subject to payment being made prior to the listing. The debt is however still collectable from the Consumer. The listings may not be loaded again if they have been removed before.

ADVERSE LISTINGS AFTER 1 JUNE 2014

In terms of the NCAA that (as signed into law on the 20th of May 2014), all new adverse listings will have to be removed once the amount has been paid up. Alternatively, it will automatically be removed once the retention period has expired.

UNRESOLVED DISPUTES AT 1 APRIL 2014

All unresolved disputes had to be removed as at 1 April 2014 irrespective whether it should have been resolved in favor of the consumer or not.

UNRESOLVED DISPUTES AFTER 1 JUNE 2014

The normal dispute resolution process will be followed with all new disputes that have been raised by the consumer. If not resolved within the 20 days, the information disputed, will be removed. If the correct feedback has been received from the Credit Provider, this may be reinstated on the consumer's profile

PAID UP JUDGMENTS AT 1 APRIL 2014

All judgments where the capital has been paid (the sequence in which the payments are allocated are normally interest, fees and lastly Capital – so by the time capital is paid, the other charges should have been paid as well) had to be masked by the 1st April 2014 with final removal by the 1st June 2014. During the period 1 April to 1 June 2014, none of this masked data may have been given out to any person accessing the data.

PAID UP JUDGMENTS AFTER 1 JUNE 2014

All judgments where the capital has been paid must be supplied electronically by means of a standard layout to the Credit Bureaux within 7 days. The credit bureau has a further 7 days to remove the paid up judgment reported from display. The consumer no longer has to go through the process of getting the judgment rescinded to have it removed from his name.

ADMINISTRATION ORDERS PRE AND POST AMNESTY

Administration orders is not affected by the Credit Amnesty and will continue to be displayed against the consumer's profile for the duration of the retention period or until it is rescinded by a court.

DEBT COUNSELLING – PRE AND POST AMNESTY

Debt Counselling information is not impacted affected by the Credit Amnesty and will remain on the Bureaux for the duration of the period that the Consumer is under Debt Review and will be removed from the consumers' profile once all debts have been paid up or the Consumer is no longer under Debt Review (voluntary or forced cancellation).

SEQUESTRATIONS – PRE AND POST AMNESTY

Sequestrations is not affected by the Credit Amnesty and will

remain on the Bureau for a period of 10 years or until a rehabilitation order is granted.

2006 AMNESTY

Prior to the full implementation of the National Credit Act, a credit amnesty was granted in 2006.

The summary and scope of the amnesty was as follows:

- Judgments that has been granted by court prior to 1 September 2006
 - For amounts up to R 50 000
 - That has not been paid yet
- Criteria for Amnesty as per the Amnesty Regulations (GNR1209 in Government Gazette 29442 of 30 November 2006)
- Upon receipt of prima facie proof of judgment being paid up:
 - Listing in respect of a civil court judgment
 - Judgment amount must be R50 000 or less
 - Judgment was listed on the consumer's profile on or before 1 September 2006
 - The judgment was paid up before 31 December 2007
 - Automatic removal:
 - Displayed on the consumer's profile on or before 1 September 2006
 - Civil court judgments of up to:
 - R500 except if the consumer has 2+ unpaid judgments
 - R5 000 if the judgment is older than 18 months, except if the consumer has 2+ unpaid judgments
 - R50 000 if the full amount of the judgment was paid by 1 September 2006

This was not an automatic removal and a specific process had to be followed:

- Contact the credit grantor who took the judgment with the account number
- Verify the outstanding amount
- Settle the outstanding amount before 31 December 2007
- Request written proof from the credit grantor that the debt was paid in full
- Contact the various Credit Bureaux - they will validate the letter with the Credit Grantor and will then remove the data from the credit profile.

The main difference from the 2006 Amnesty to the 2014 Amnesty, is the onus that lied with the consumer to proof that his judgment has been paid up to have this removed from the Credit Bureaux. This also did not include Default listings.

STATEMENTS TO NOTE - ONLY DEFAULT LISTINGS / ADVERSE INFORMATION AND PAID-UP JUDGMENTS WILL BE AUTOMATICALLY REMOVED

AMNESTY DOES NOT CLEAR YOUR EXISTING DEBT

The debt will remain payable and collections actions such as Soft Collections and the Legal Collections - including Default Judgments, Emolument Attachment Orders and attaching your assets - will most certainly continue as the debt is still collectable. The Amnesty does not affect the creditor's rights in any way.

PAYMENT PROFILE NOT HUGELY IMPACTED BY THE CREDIT AMNESTY

All credit extended by Credit Providers that are registered in terms of the NCA definitions, has to be reported to the Credit Bureaux regularly. The reporting requirements, definitions and inclusions of who are Credit Providers is about to be amended

with the enactment of the NCAB.

On an ongoing base, the payments relating to Creditloans must be reported to the Credit Bureax and this is collated onto the consumers' Payment Profile.

The payment profile lines isnot impacted by the Credit Amnesty except where a mark, symbol, sign (e.g. the adverse code on the PP line) representing a behavior or enforcement actions has been removed to mask all adverse default information.

Post Amnesty, the payment profile line will be retained in the Credit Profile with the arrears information intact– reflected as a 1-9 for a period of 24 to 36 months.

CONSUMER APPLICATION PROCESS TO BE CONSIDERED FORAMNESTY

Consumers do not need to apply to be considered for the Data amnesty – this is an automated process. Consumers are however encouraged to check their Credit Profile on all the registered Credit Bureaux at least once a year to ensure that their data is correct. No charges are applicable for this annual free credit report.

ADVERSE LISTINGS GOING FORWARD

Going forward, we are expecting to see some changes to the Default Listing guidelines - these are currently being drafted by the National Credit Regulator.

Until we have received the amended guidelines, the current rules in terms of the NCA apply

Type of Info stored at Credit Bureaus	Current display period	Proposed display period after amnesty
Court judgement	5 Years / rescinded	<ul style="list-style-type: none"> • 5 Years or • Immediately when rescinded or • Removal on proof of settlement of Capital portion of debt
Enforcement default i.e. written off, handed over	2 Years	<ul style="list-style-type: none"> • All historical removed per amnesty once off on 1 April 2014 • 2 Years or • Removal on proof of settlement of debt
Subjective default i.e. Letter of demand, absconded	1 Year	<ul style="list-style-type: none"> • All historical removed per amnesty once off. • 1 Year or • Removal on proof of settlement of debt

As a general rule, you may not list the consumer for a specific account if this has been removed as part of the amnesty.

A new event – like a handover on a previous slow payer can still be loaded as well as an account for example that goes into not traceable again.

DATA SHARING BETWEEN CREDIT BUREAUX

The Credit Bureau Association (CBA) has been the facilitator in ensuring the data sharing format and processes between the different Credit Bureaux has been streamlined and standardized. Each bureau has to ensure the data that has been removed will be shared between the various bureaus within the prescribed 7 days.

IMPACT ON ADVERSE LISTINGS AND JUDGMENTS ON COMMERCIALACCOUNTS

The definition of a consumer in terms of the NCA will have to be applied when answering this. Currently, the Act defines a consumer as an individual and a Company with turnover under R 1 million per annum. If the Company is classified as a Consumer in terms of this definition, all the rules and regulations will have to be applied to them as well.

NON RSA INFORMATION

The challenge with information stored on Bureaus in South Africa, is that the data is not necessarily flagged as non RSA information. As a rule, this is not applicable to information from outside RSA. If in doubt, the bureaux will apply the same rules to all.

IMPACT OFTHEAMNESTY

It is estimated that the amnesty impacted around 4m consumers with a further estimated 6 million adverse statuses that was removed.

The full impact will be analyzed by the regulator with submissions from the Credit Bureaux and will be released in due course.

EXPECTED IMPACT ON COLLECTIONS

To have your name cleared from the Credit Bureau after payment of your debt due should be seen as a major incentive to get consumers to pay their debt. Prior to the Amnesty, the listings could only be updated to “Paid up” after the consumer can proof payment and this was confirmed by the Credit Provider. Now, the consumer 's records will be cleared automatically as the payment notification has to be submitted to the Credit Bureau within 7 days of receiving the payment and the Bureau will have to remove this within 7 days of receiving this payment notification.

South Africa currently has 13 registered Credit Bureau - their contactdetails should you have any queries on your credit reports.

NUMBERSTO KNOW

- TransUnion - 0861 482 482
- Experian S.A - 0861 105 665
- Xpert Decisions Systems (XDS) - +27(0)11 645 9100
- Compuscan - 0861 514 131
- Consumer Profile Bureau - +27(0)10 590 9505
- CreditWatch (Pty) Ltd - 0861 000 694
- Crosscheck Information Bureau (Pty) Ltd (previously known as MLCB) - +27(0)10 05909 505
- Inoxico - +27(0)10 001 0540
- LexisNexis Risk Management - +27(0)11 245 6500
- Managed Integrity Evaluation (Pty) Ltd - +27(0)12 644 4000
- Robertsons International Reports (Pty) Ltd - +27(0)11 777 4000
- Tenant Profile Network (Pty) Ltd - 086 187 6000
- TenantWatch BusinessActivities (Pty) Ltd - +27(0)11 394 6828

The Credit Ombud can be contacted on 0861 662 837, while the NCR can be contacted on 0860 627 627.

DEBIT ORDERS - WHAT IS IT ALL ABOUT?

Chapter I

In easy everyday language a debit order is a facility where someone can withdraw money from your bank account on your instruction. This instruction is referred to in the industry as a mandate. We will be discussing mandates in greater detail later on.

Debit orders, a corner stone of our country's Electronic Payment Systems is a major driving force of our economy. Without secure, efficient and reliable electronic systems to effect payments our economy would slow down and could even come to a screeching standstill. Just for a moment imagine an economy where everyone deals with nothing else but cash. Just think of the amount of time one would spend per day queuing in bank halls.

Debit orders are extensively used throughout the world to collect regular payments for products and services rendered. Examples of such payments could be for insurance products, gym membership fees, school fees and monthly instalments for goods bought on a hire purchase (HP) agreement. Debit orders can be a once-off deduction or multiple deductions over a period of time.

In South Africa more than 50 million debit orders are processed monthly. Debit orders are an integral part of our National Payment System. In our country the South African National Payment System is regulated by;

South African Reserve Bank Act (no 90 of 1989)
Banks Act of 1990
Mutual Banks Act of 1993
Co-operative Banks Act (No 40 of 2007)
National Payment Systems Act, Act no 78 of 1998.

The South African Reserve Bank has also appointed a payment system management body established with the object of organizing, managing and regulating the participation of its members in the National Payment System.

This management body is known as the Payments Association of South Africa (PASA). There are 3 (three) types of debit orders predominantly used in our country;

- Electronic Funds Transfer Debits (EFT Debits)
- Early Debit Orders (EDO); both Authenticated Debit Orders (AEDO) and Non-Authenticated Debit Orders (NAEDO)
- Stop Orders.

More about these in chapter 2.

*Written by Fred Steffers Managing Director of PS & S
Owner of SmartCollect.*



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THE CLIVE MORKEL AWARD

The Clive Morkel Award is awarded annually at the AGM. This award is presented to a Company or Individual who has made a considerable contribution to the Debt Collection Industry or ADRA in the previous year.

In 2013 the award went to Manie van Schalkwyk who was unfortunately not able to attend the AGM and so the award was handed over to Manie recently at a small luncheon.

The ADRA Member who nominated Manie wrote the following "Manie (as the Credit Ombud) does a stunning job behind the scenes. Manie, on the platforms I know of, always looks after ADRA and its members."

Said Manie on receiving the award, "Thank you for honouring me with the Clive Morkel award. The entire Credit Ombud office shares my appreciation to the Association of Debt Recovery Agents for honouring us with this award. This adds to our inspiration for excellence in our field. It is very rewarding to be recognized by an entire industry and we are very proud to accept this award.

As I look at the trophy I am reminded of the last 10 years at the Credit Ombud office in serving the credit industry, consumers and how far we have come."

Congratulations Manie from all of us.



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TECHNOSPEAK: HOW DOES THE NCA WANT YOUR SOFTWARE TO CALCULATE INTEREST?

In 2006 the National Credit Act brought about a number of changes to legislation governing debt, credit granting and the recovery of outstanding debt in South Africa. The changes brought about by the NCA have been the subject of many debates across the country and the interpretation of many of the changes has, with time, evolved as our Courts progressively gave judgment in numerous cases relating to the interpretation of the Act.

Historically, many different descriptions were given to the various methods of calculating interests and one often found contracts applying the logic of compound interest while others applied nominal interest. Before we go too far, let's see what the literature tells us ... below follows a simplified description of a few forms of interest:

Nominal interest: Nominal interest is a rate quoted on an annual basis. It is composed of real interest plus inflation. Nominal interest is not something that can be applied to a debtor's account in South Africa, as the National Credit Act does not take into account inflation when calculating interest.

Cumulative interest: Cumulative interest assumes that interest will be compounded at every payment date. In the past, most debt recovery specialists and software packages applied the logic of cumulative interest as it calculates interest from the date of one payment to the date of the subsequent payment. Simply put, the process of calculating cumulative interest would involve calculating the number of days between two payments, then calculating the interest on the arrear balance at the time of the last payment for those numbers of days in between the two payments. It would also then involve the compounding of the interest calculated on the date of the second payment. Recently, this process has been prevented by the National Credit Act as the Act prescribes a different method which is in contrast with the process described above.

'Interest on interest': Over the years people have often referred to instances that seemed as if interest was calculated on interest and the general perception was that this was prohibited by the National Credit Act. In reality, the National Credit Act does not specifically provide for the prohibition of calculating interest on interest and there is a mere perception that doing so contravenes the Act.

The question: If the NCA was to be interpreted to allow for the capitalisation of interest, at any stage during the lifetime of a debt, and for the further calculation of additional interest on that capitalised amount, it becomes obvious that the NCA then allows the so-called notion of calculating interest on interest. In order to establish whether the NCA supports or prohibits the capitalisation of interest (and in so doing, the calculation on interest on previously calculated interests), one needs to understand the provisions of the NCA as far as the methods of

calculating interest goes.

What is the deferred amount? Section 101 of the NCA deals with interest and fees. Chapter 5 of the Regulations provides that the 'deferred amount' means the amount payable by the debtor with regard to his or her debt relating to a credit agreement. It further provides that this deferred amount is the amount on which interest must be calculated. It further provides that this deferred amount is then reduced by any amounts paid toward the settlement of the debt. In laymen's terms it simply means that the deferred amount is the amount that the debtor owes and every amount paid towards that debt reduces the balance on an on-going basis.

Chapter 5 also provides that interest may be calculated daily and may be added to the deferred amount monthly. This may be done at the end of the month or on the same day of every month. The NCA then provides that the interest calculated in this manner may be added to the deferred amount. Therefore, at this stage, we see that the deferred amount is the amount owing less payments towards it plus interest calculated.

Is that it? According to Chapter 5, the deferred amount also includes all the items listed under section 101 under the heading 'cost of credit'. These sub-items to be included in the deferred amount, specifically include the following: (b) the initiation fee; (c) the service fee; (d) interest; (e) cost of credit insurance; (f) default administration charges and (g) collection costs. This means that interest (d above) as well as collection costs (g above) must be included in the deferred amount. This further simply means that the deferred amount is the balance owing after the deduction of payments made and the addition of the items listed in b to g above (including interest). Once again, in laymen's terms, this is nothing other than the running balance (as long as the transactions that appear on a debtor's statement include only the items listed above).

Therefore, interest can be calculated on the running balance of the amount owing by a debtor.

The method of calculating interest: The National Credit Act provides that interest must be calculated on the deferred amount (i.e. the running balance) at the end of every day. Those daily interest amounts should then be kept separate from the debtor's statement and added to the outstanding balance at the end of every month.

The Rand value of the interest is calculated on the following basis: The deferred amount (i.e. the running balance) for the day multiplied by the interest rate for the year, divided by the number of days in the year.

Peter Rafferty

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