

THE EFFECTIVENESS OF THE NATIONAL CREDIT ACT (2005) IN CURBING CONSUMER INDEBTEDNESS

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ABSTRACT

The growing level of credit extension in South Africa has received a lot of attention recently, more so as household debt, as a percentage of disposable income, tests record highs. It has been argued that this growth in household debt has been driven by ease of access to credit, with authorities going so far as to suggest that lenders have been extending credit 'recklessly'. The National Credit Act was enacted on the premise that consumers need to be protected from this practice. The Act thus exerts pressure on the credit lenders to assess the consumer's ability to repay, disclose the cost of credit, as well as setting limit on interest that can be charged. The aim of the research is to investigate the effectiveness of the Act in curbing consumer indebtedness and how it can lead to consumer behavioural attitudes and actions toward credit use.

The research was carried out in two stages. The purpose of the first phase sought to explore the effectiveness of the Act by consulting with those charged with supervision of the Act (the regulator) and those implementing the Act (credit providers), while the second phase conducted a survey amongst consumers to establish their levels of awareness and understanding of the Act, and how they would model their behaviours differently, so as to curb their indebtedness.

The results derived from the research show that an overwhelming acceptance of the Act, its intentions and desired outcomes amongst credit provider and the regulator, and the general need for consumer protection. Consumers, on the other hand indicate a low level of awareness of the Act, its intentions and how it is likely to impact on their finances, making it difficult to tell if it can lead to changes in levels of consumer indebtedness.

DECLARATION

I declare that this research project is my own work. It is submitted in partial fulfilment of the requirements for the degree of Master of Business Administration at the Gordon Institute of Business Science, University of Pretoria. It has not been submitted before for any degree or examination in any other university.

Nobambo Mlandu

Date: 14 November 2007

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1. INTRODUCTION TO THE RESEARCH PROBLEM

1.1. Description of the problem and background

1.1.1. Introduction

South Africa has been applauded for the progress it has made since the advent of democracy in 1994. This progress has been most visible in strong economic growth, something that had not been seen in a long time. The country has, however, inherited trappings of the old regime, in what has largely been referred to as the “two economies”. Edwards (2007) points out that while it is not quite clear as to who actually coined this phrase, the President of South Africa, Thabo Mbeki, certainly raised its relevance to a topical issue. Some commentators criticised the president on the grounds that this type of rhetoric seeks to re-racialise the South African political debate, while others believed that it was a way of absolving him and his government for failure to address the growing level of poverty in the country.

The Accelerated and Shared Growth Initiative – South Africa (Asgisa, 2006) document, defines the first economy as largely modern, affluent and developed along the lines of first-world countries and is largely integrated into the global economy. The National Credit Regulator (NCR) Annual Report (2007) further indicates that this economy is characterised by formal record of receipts, a functional credit system and legal structures firmly in place. The second economy – also referred to as the marginalised economy – is largely underdeveloped, trapped in poverty – mainly through lack of education and skills and structurally disconnected from the first economy. It is to a great extent a story of exclusion; as parents are hardly educated, thus have no means or skills of elevating themselves or their children out of this cycle of poverty.

The South African credit market had been modelled along the similar characteristics of the South African dual economy. The NCR Annual Report (2007) highlights that one market served the low-income consumers, the majority of which have been previously disadvantaged and mainly small, micro and medium enterprises (SMME). This segment of population had limited access to credit at a high cost. Another credit market served primarily the middle and high-income consumers and large enterprises, with relatively easy access to finance at preferential cost.

According to Hirsch (2004), international studies have indicated that highly unequal societies are generally unable to escape inequality without some significant state intervention. The government has also realised this fact. The Department of Trade and Industry (dti) is charged with protection of consumer rights through its Office of Consumer Protection, which aims to protect consumers against unfair business practices through complaints resolution, investigations, education and voluntary compliance programmes. The department's research revealed a high level of dissatisfaction amongst consumers with the level of disclosure in the credit industry (www.dti.gov.za). The consumers believed that the actual cost of credit was often much higher than the one disclosed, and that the terms and conditions were often one-sided, favouring the credit provider and paying little attention to the consumer. The South African Reserve Bank in its quarterly bulletin (SARB, 2007a) has also pointed to increasing levels of consumer over-indebtedness. This is the rationale behind the development of the National Credit Act 34 of 2005 (NCA or the Act). It is imperative to understand the effectiveness of this Act in curbing consumer indebtedness and this study seeks to do that.

1.1.2. Intentions of the National Credit Act

The South African credit market has, for a long time; remained fragmented with different legislations governing different pockets of the credit market, creating confusion and information distortion. This fragmentation has further led to cases of abuse and undesirable practices, affecting mainly the low-income consumers, whose access to credit was limited to the high cost products in the form of micro-loans and furniture finance. This further aggravated the vulnerable consumers making them worse off and caught up in an overwhelming debt spiral, eroding any likelihood of wealth creation for these consumers. The National Credit Act seeks an integration of various Acts, which applied to consumer credit, notably:

- The Usury Act of 1968, which governed banks (mortgage, vehicle, credit cards and personal loans) and vehicle finance houses;
- The Credit Agreements Act of 1980 which governed retailers who sold goods on lease and hire purchase agreements; and
- The Usury Act Exemptions Act of 1999, which governed micro lenders (NCA, 2005).

The various conditions which applied under the various Acts, have fallen away and have been replaced by the National Credit Act, which ensures that all credit grantors are bound by one set of legislation, thus making it easy to supervise and apply punitive measures where applicable. The Act has been introduced in phases, setting certain milestones at various stages:

- **1 June 2006** – saw the establishment of the National Credit Regulator and commencement of the registration of credit providers;

- **1 September 2006** – establishment of the National Consumer Tribunal and compliance requirements relating to credit bureaux;
- **30 November 2006** – regulations for removal of credit bureau information;
- **1 June 2007** – effective date for compliance requirements on credit providers and debt counselling.

Lack of information, or information asymmetry, has been suggested as the rationale for credit regulation. Ramsay (2000) implies that information is even less reliable in the lower income markets, as there are few neutral third parties willing to provide this service, and is less of a priority for government monitoring. Such lack of interest by government may lead to fraud, deception and lack of disclosure of relevant information. He highlights that regulation in consumer markets addresses market failure and fosters distributive justice.

The Act seeks to promote a fair and non-discriminatory marketplace for access to consumer as well as regulation of consumer credit by improving standards of consumer information. The Act states its objectives as:

- To promote a fair and non-discriminatory marketplace for access to consumer credit and, for that purpose, to provide for the general regulation of consumer credit and improved standards of consumer information;
- To prohibit certain unfair credit and credit-marketing practices;
- To promote responsible credit granting and use, and to prohibit reckless credit granting by addressing and improving over-indebtedness of consumers;
- To improve reporting and regulation of credit bureaux;

- To establish the National Credit Regulator and the National Consumer Tribunal, and
- To provide for a consistent and harmonised system of debt restructuring (NCA, 2005: 30).

The Act rests on three pillars, namely, the ability to pay, the disclosure of total cost of credit and setting of interest rate caps. It applies to all credit agreements between parties dealing at arms' length and made within South African borders, where a consumer can be a juristic person, the state or an organ of state. A credit agreement is defined as:

- a credit facility, where a credit provider undertakes to supply goods or services or to pay certain amount/s to the consumer or on behalf of the consumer;
- a credit transaction – a pawn transaction, instalment credit, mortgage agreement, lease or any other agreement;
- a credit guarantee – an undertaking or promise to satisfy upon demand any obligation of another consumer in terms of credit facility or transaction; or
- any combination of the above (NCA, 2005:32).

The Act shifts the burden of assessing the consumer's creditworthiness to the credit provider, requiring vigilance on the part of the credit provider. The Act further promotes and protects consumer rights, which, *inter alia*, include the right to apply for credit; reasons for credit being refused; requirement that credit agreements be in a simple and understandable language and the protection against discrimination relating to credit. It guards against misleading advertising and marketing and regulates against

automatic credit limits increases. The Act requires that credit grantors do an assessment of consumer affordability means. In a case of a dispute, the court judge may scrap any outstanding debt, if it is found that the credit provider:

- did not ascertain the consumer's understanding of the risks and costs of entering into a credit agreement;
- did not review the debt repayment history of the consumer under credit agreements; or
- did not establish the consumer's existing financial means, prospects and obligations (NCA, 2005).

Consumers have the obligation to fully and truthfully answer any requests for information made by the credit provider in determining the consumer's level of indebtedness. In terms of the Act, a consumer who knowingly, provides false or misleading information to a credit provider; or acts in a manner with intent to frustrate a credit provider exercising his/her rights under the Act; is guilty of an offence.

1.1.3. Institutions created by the National Credit Act

The Act has also provided for the establishment of certain institutions, which will act as custodians of the Act. These institutions, the National Credit Regulator (the Regulator) and the National Consumer Tribunal (the Tribunal), and their roles will be discussed separately.

1.1.3.1 The National Credit Regulator

The Regulator is an independent body, established in terms of the National Credit Act and operates under the Public Finance Management Act. It came into being on 1 June 2006. Its primary functions are:

- Registration of credit providers, credit bureaux and debt counsellors, as well as monitoring of the conduct of these institutions;
- To educate and create awareness on the protection the Act offers to consumers;
- Research the credit market and monitor access to, and cost of, credit; identify constraints to competitiveness of credit markets and enforce the Act and take action against contravening institutions;
- Advise government on policy and legislation (NCR Annual Report, 2007).

The Regulator works in conjunction with other bodies concerned with consumer affairs, notably, the Ombudsman for Banking Services – for complaints relating to banks, the Credit Information Ombudsman, which handles complaints that relate to credit bureaux and/or credit bureaux information and the Provincial Consumer Desks, which deal with general consumer complaints. The consumer is free to consult any of these bodies to have a complaint resolved.

1.1.3.2 The National Consumer Tribunal

The Act provides for the establishment of the Consumer Tribunal, which is an independent body, whose role is to hear cases of non-compliance and adjudicate in matters concerning allegations of prohibited practices and conduct. It has the power to

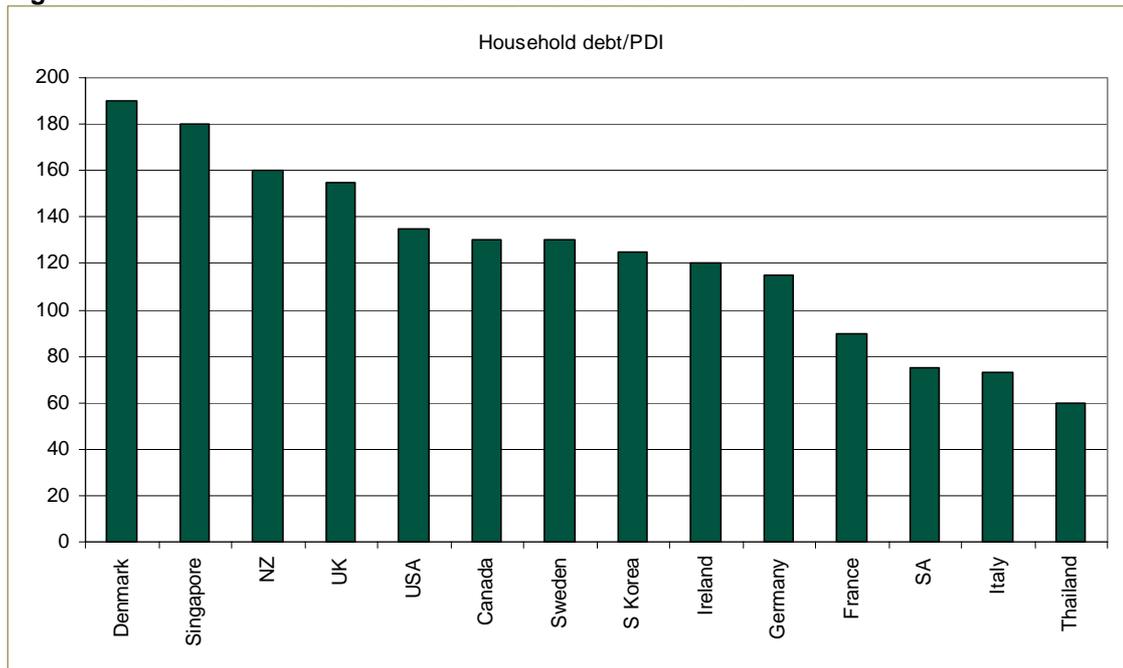
issue fines and provide redress to consumers. It further provides an outlet for credit providers and consumers to lodge appeals against decisions handed down by the National Credit Regulator.

In order to understand the far-reaching impact and the role of the Act, it is necessary to examine the context in which it was formulated. The over-arching worrying factor is the high incidence of consumer indebtedness.

1.1.4. Levels of indebtedness

The SA Reserve Bank in its Quarterly Bulletin (2007) highlights its growing concern over rising household debt levels, which reached South Africa's all-time record of 76.6% in the second quarter of 2007. The Nedbank report (2007), acknowledges the reasons behind the authorities' concern. However, he observes that the rise in credit over the past three years has followed similar trends, as those noted in other emerging and developed countries. The rise in credit has been sparked by financial deregulation, falling interest rates and rising household wealth. The comparison of various countries' data, relating to household debt as a percentage of disposable income, is shown in Figure 1.

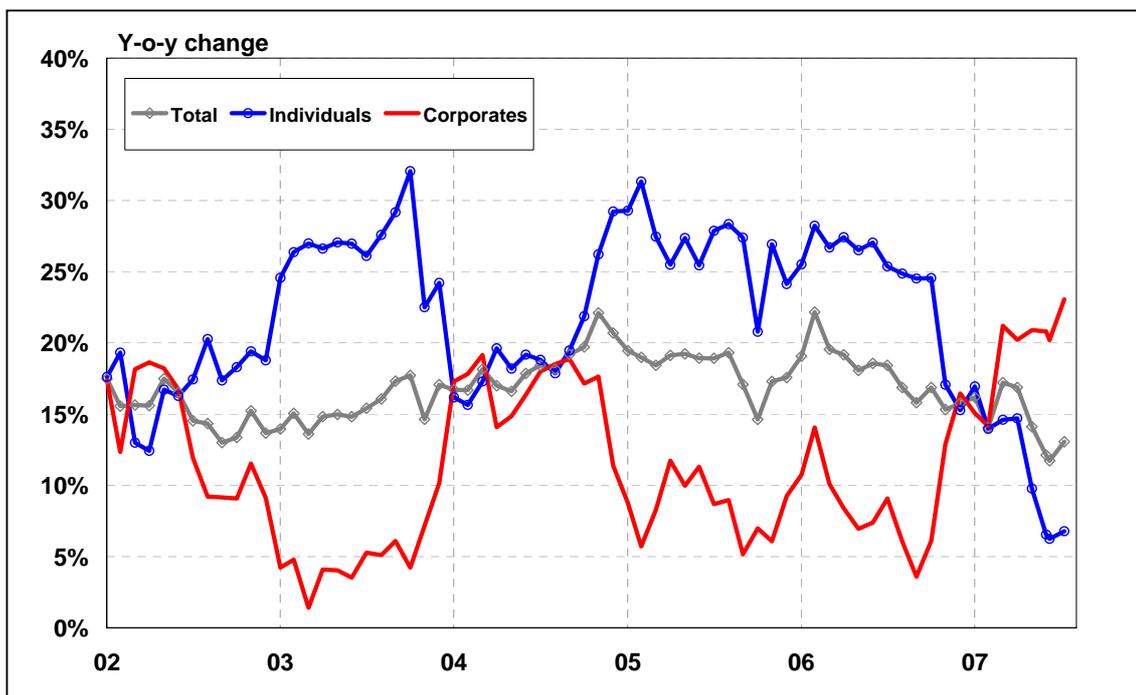
Figure 1: Household indebtedness across various countries



Source: Nedbank (2007)

The SARB Quarterly Bulletin (2007b) acknowledges that consumer spending has continued, despite the higher interest rate environment. The report attributes this to strong increase in the real disposable income of households, on the back of growth in the employment and relatively higher wage settlements. It should also be noted that the growth in credit extension cannot be ascribed to consumers alone, since the corporate sector has been accessing loans to finance their expansion and infrastructure needs. The September private sector credit extension data, points to a continued decline in growth of instalment sales and leasing attributable to the household sector. Figure 2 confirms this.

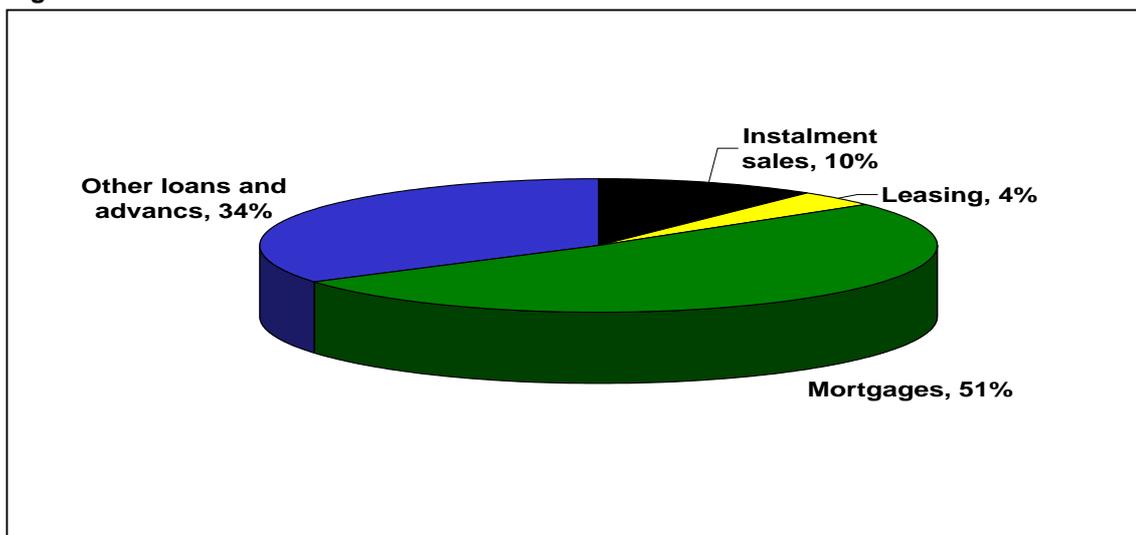
Figure 2: Growth in instalment sales and leasing



Source: Nedbank (2007)

Mortgage advances, which are pertinent to households, continue to make up the bulk of asset-backed credit, as seen in Figure 3.

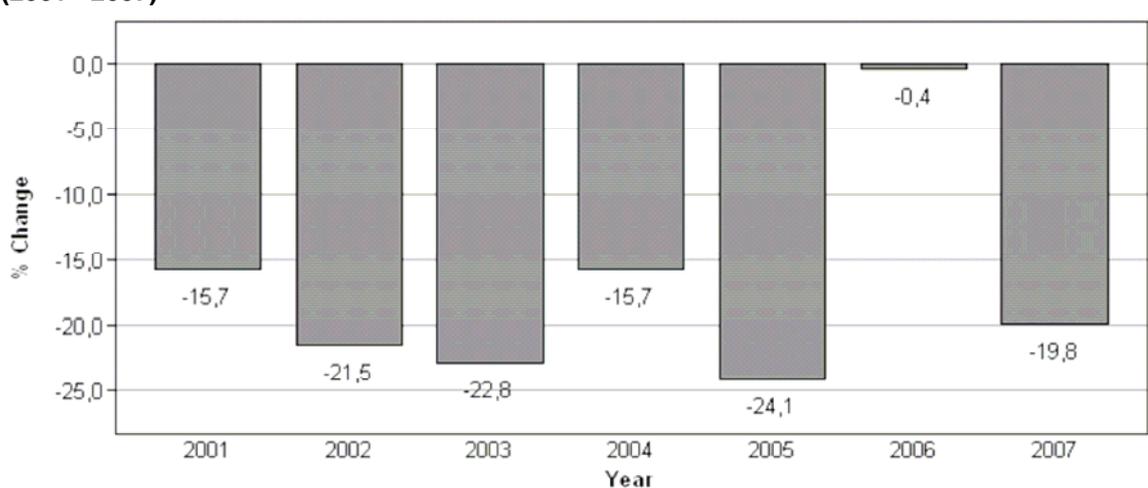
Figure 3: Breakdown of asset-backed credit



Source: Nedbank (2007)

Statistics SA (2007a) has revealed that the total number of insolvencies recorded for the eight months to August 2007, decreased by 19.8%, and has noted a 42.2% decline from August 2006. Statistics SA refers to insolvency as an individual's or partnership's inability to pay its debts resulting to it placed under final sequestration.

Figure 4: Percentage change in the number of insolvencies for the first 8 months of the year (2001 - 2007)



Source: Statistics SA (2007)

The civil summonses and judgements data confirm this downward trend, as seen in Table 1. Civil summonses are notices to appear before a court of law so that a dispute (not for a criminal offence) between two parties can be heard, while civil judgements refer to decision taken in a civil matter (Statistics SA, 2007b).

Table 1: Civil judgements and summons issued

Actual estimates	August 2007	% change between August 2006 and August 2007	% change between June 2006 and August 2007 to August 2007
Number of civil summonses issued for debt	108 034	-11,6	-11,5
Number of civil judgements recorded for debt	64 510	-10,8	-8,7
Value of civil judgements recorded for debt (R million)	503,6	-6,4	-6,6

Source: Statistics SA (2007)

The recent summonses data indicates that while South Africa's consumer debt ratios are at an all-time high, consumers are far from being in financial distress, despite the

rising interest rates. This view is shared by the recent report from the South African Reserve Bank, where it concedes that the financial position of households remains strong, and thus the growth in household indebtedness cannot be seen as a cause for systemic concern. Households have recorded high annual growth rates in disposable income, financial assets and net wealth, resulting in a much-improved household financial position, as seen in Table 2. This has further maintained high levels of consumer confidence (SARB Financial Stability Review, 2007).

Table 2: Indicators for the household sector

	2006			2007	
	2nd qr	3rd qr	4th qr	1st qr	2nd qr
Household disposable income	11,1	12,1	12,4	13,6	13,5
Household financial assets ¹	26,9	19,8	21,3	25,1	24,6
Household net wealth ²	22,6	16,6	18,4	20,8	19,7
Savings as percentage of household disposable income	-0,44	-0,51	-0,62	-0,6	-0,1
Consumer confidence index ³	20	17	18	23	21
Household consumption expenditure to GDP	63,4	62,1	62,1	62,0	62,6
Real household consumption expenditure	7,1	7,5	8,0	7,7	7,1
Credit to households	27,2	26,7	24,3	23,0	21,5
Household debt to GDP	44,7	45,1	45,5	46,8	47,9
Capital gearing ⁴	19,3	19,9	19,9	19,3	19,7

Source: South African Reserve Bank, 2007

It seems that even with rising household debt levels, consumers are far from being in financial distress. However, it should be cautioned that the current tightening phase of the monetary policy might elevate risks of default among consumers overburdened with debt.

1.1.5. Stakeholder Analysis

The Act will affect a number of stakeholders in various ways. The Act requires a paradigm shift in how credit grantors relate to consumers. Consumers need to understand their rights and obligations under the Act. The credit grantors, having been used to charging exorbitant fees and generating huge profits will need to adjust their revenue forecasts accordingly. This will certainly not go very well with the shareholders, and are unlikely to accept anything less than the good dividends. These institutions will thus have to find other revenue streams to make up for this shortfall. The Regulator is further charged with creating awareness and educating consumers, ensuring that the debt counsellors are available to deal with any consumers' request for debt restructuring and counselling. The Tribunal must stand ready to deal with any complaints and conflicts resulting from the misinterpretation of the Act. The Act further places a huge responsibility on the magistrates, who need to be conversant with the Act, so as to be able to interpret it in the courts and thus provides training for them.

For the purposes of this study, the focus will be on credit lenders, consumers and the National Credit Regulator. Each of these stakeholders has a vested interest in the implementation of the Act.

1.1.6. Research problem

The signatories of the Financial Sector Charter (2003) acknowledged that access to financial services is fundamental to Black Economic Empowerment, and to the development of the economy as a whole. One of the key actions was the provision of first-order retail financial services including credit for small and micro enterprise and

poor households. It would seem as if what the signatories had envisaged, i.e. access to credit, may have come back to haunt them, gauged by the anecdotal spiralling levels of debt.

The government is intent on using the Act to address the inequality that permeates the South African economy in general, and the credit marketplace in particular. A uniform, transparent and functional credit market will create a competitive environment, which should drive down the cost of credit, while making it available to a larger population. This should prove positive for the consumer as it allows a wider choice. The Act also wants to address the high levels of consumer indebtedness, by stemming undesirable practices of credit extension, which leave consumers overburdened with debt, thus confining these consumers to a perpetual cycle of poverty.

The National Credit Act is about to change the consumer credit landscape, as it aims to tighten the way lenders provide credit and places greater responsibility on these parties. While it is believed that this move will be positive for the consumer, it is doubtful whether the consumer is aware of the Act and its implications and whether it will put him/her in the position of power to benefit from the Act. It is also questionable whether the consumer will, as a result of the Act alter his/her patterns in such a way as to reduce his/her level of indebtedness.

1.2. Purpose of the study

This report aims to delve into the intentions of the legislation; ascertain its effectiveness and understand whether it can lead to changes in consumer borrowing behaviours and attitudes towards credit by addressing the following questions:

Question 1: What are the intentions of the National Credit Act?

Question 2: How can the Act lead to changes in consumer indebtedness?

2. LITERATURE REVIEW

2.1. Introduction

This section seeks to analyse the theory that supports or contrasts the research problem. The Act seeks to promote and advance social and economic welfare of South Africans by promoting a fair, transparent, competitive, sustainable and accessible credit market and industry, and to protect consumers.

Moodley (2007) argues that consumer spending has, for a long time, driven South Africa's economic growth. This consumer spending has largely been fuelled by credit, leading to, in some instances, high levels of indebtedness. This credit boom is further shown by the low gross household saving as a percentage of gross domestic product (GDP), just above 1.5% for second quarter of 2007. The debt to disposable income ratio has risen from 76% in the first quarter to 76.6% in the second quarter of 2007, the highest figure ever recorded for South Africa (South African Reserve Bank, 2007b). The Governor of South African Reserve Bank has also noted that the level of credit extended by banks to the private sector is high and appealed to consumers to get rid of debt, as household debt levels were detrimental to their financial well-being. Consumers with high levels of debt are particularly vulnerable to economic downturn, like hikes in interest rate or income shocks, leading to high levels of default, resulting in bad credit record.

Duenwald, Gueorguiev and Schaechter (2005) argue that rapid private credit growth is typical of many transition economies. There are instances where credit growth can

lead to financial crises and thus macroeconomic imbalances and banking sector distress. However, Duenwald *et al* caution that rapid credit growth can be good if it leads to financial deepening – which can be described as the development of the financial services in poor communities – as it can lead to improved economic growth and efficiency.

The researcher looked at various literature sources to establish the reasons behind the current (and rising) debt levels, the consumers' ability to repay such debt, the role played by fee disclosure and interest rate caps in limiting consumer indebtedness and how consumers are likely to change their behaviour under tighter credit conditions. In looking at different literature articles, the author sought to tie up the literature with the intentions of this study.

2.2. The South African credit market

The South African economy has experienced a miracle, which has been beyond most commentators' expectations. The economy is undergoing structural changes, lending the country to far less economic instabilities, than ever before. Theunissen (2007a) argues this has been achieved largely as a result of stable macroeconomic foundation, fiscal discipline and diversity of the economy. This can be seen in reduced dependency on gold exports for economic growth. Gold used to account for 50% of exports in the 1980's compared to about 10% in today's terms. Services make up about 66% of GDP, while manufacturing and mining account for about 21% and 7%, respectively.

South Africa has experienced thirty-six quarters of positive growth, largely as a result of inflation being under control, rise in real incomes, thus leading to increase in consumption. Theunissen (2007b) further cites Goolam Ballim, the chief economist at Standard Bank, as inferring that since income growth is synonymous with GDP growth, increases in interest rates should only have a limited impact on consumer spending, provided the economy keeps growing strongly. Ballim further suggests the recent tightening in interest rates will push up debt service costs for consumers. This, combined with high food and petrol price, and the introduction of the National Credit Act, should lead to a slowdown in consumer spending, as seen in new vehicle sales data. In the same Theunissen's article Kevin Lings of Stanlib Asset Management highlights that the increase experienced in fixed infrastructure investment should offset any slowdown in consumer spending, thus cushioning the economy.

The last few months have pointed to an increase in inflation and deterioration in the inflation outlook. While inflation is largely driven by rising food and fuel costs, there have been signs of secondary generalised effects on inflation, thus prompting the South African Reserve Bank to hike interest rates by 350 basis points, since June 2006. The Reserve Bank has been concerned about levels of credit extension, which have remained stubbornly high. Their concern is that such credit extension is likely to be inflationary.

The Reserve Bank has time and again pointed that South Africa is consuming way beyond its potential output, which it sees at 4.5% (SARB 2007b). The Governor has pointed out that SA's growth above its potential output is inflationary. While the retail

sales and new vehicle sales figures posted record growth up till 2006, there have been signs of slowdown in both of these categories. The retail sales still posted a growth of 8% for the second quarter of 2007 compared to GDP growth of 4.5% for the same period (Nedbank, 2007). Steyn (2007) is concerned that this imbalance fuels current account deficit, which may be inflationary. This begs the question – should SA authorities not focus on increasing capacity or removing constraints rather than trying to cool demand?

The policies of the South African government under the apartheid rule, led to a fragmented financial services offering, which excluded the majority of the population. Consequently, a strong informal credit system emerged, which ran parallel to the formal banking system. While informal financial services in other developing countries were accessed to finance start-up small-scale businesses or expansions of small and medium enterprises, this was hardly the case in South Africa. Siyongwana's research (2004) points out that these loans were, instead, used for daily consumption, and due to lack of discipline on the part of the borrowers, led to massive debt trap.

The National Credit Regulator estimates that the size of the South African credit market stands at R800 billion (NCR Annual Report, 2007). This report indicates that this market has doubled in the past five years. South Africa's household debt may not seem high in global terms, but it is the highest it has ever been, raising concerns amongst the monetary authorities that South Africa is a nation with a high propensity to spend, rather than to save, which is concerning. The Regulator had registered 3 968 credit providers, 16 credit bureaux and 51 debt counsellors by 31 March 2007.

Table 3: Credit providers registered with the NCR as at 31 March 2007

Category	Entities	Branches
Banks	24	3 835
Clothing retailers	8	3 778
Food retailers	2	183
Furniture stores	27	2 600
Co-operatives	7	238
Housing lenders	4	48
Life insurers	12	233
Motor vehicle financiers	6	740
Municipalities	8	11
Pension funds	20	20
Private colleges	4	124
Provident funds	13	13
Short-term insurers	6	12
State enterprises	5	72
Universities	8	24
Other short and long-term financiers	3 814	7 643
Total	3 968	19 574

Source: NCR Annual Report, 2007

It has been argued that the credit lenders extended credit aggressively in the run-up to the implementation of the Act, to circumvent the new stringent requirements. While this cannot be proved beyond doubt, South Africa has certainly experienced massive growth in the period between January 2002 and September 2006, as seen in Table 4.

Table 4: Credit extension in the run-up to the implementation of the NCA

Loan category	January 2002 (R mil)	September 2006 (R mil)
Mortgages	174 691 837	444 832 706
Overdrafts and other loans	56 348 917	74 453 434
Leases	9 332 163	37 186 331
Instalment sales	36 454 703	83 702 797
Credit cards	13 020 853	37 526 087
Total	289 848 473	680 701 355

Source: NCR Annual Report, 2007

2.3. Rising Consumer Debt: What are the drivers?

There have been mixed opinions in terms of the South African credit market, whether the levels of consumer debt warrant being called a crisis. Rewind to February 2007, consumer confidence was at record highs, indicating that consumers were confident about employment prospects. A big factor of this confidence related to home ownership, whereby it was noted that approximately 72% of SA households own their homes, thus eliciting a feel-good factor (Gilmour, 2007). The article further noted that even though household debt as a percentage of disposable income had reached record levels, the debt service burden remained relatively low, because of low interest rates.

Theunissen (2007c) in a Finweek article notes that there are two views of SA household debt: one positive and one negative. While he acknowledges that year-on-year growth in non-performing credit card debt, i.e. debt payments that are in arrears for three months or more, had surged by 71.5% in December 2006, as a result of 2%

hike in interest rates, this non-performing debt remains at 5% of all outstanding credit card debt. If this is the measure, consumers can hardly be said to be facing “the mounting debt crisis” (Finweek, 2007:46) touted in most of the financial press.

Debt, according to Ferk (2007), is an instrument used to sustain consumption over time. She argues that households will find themselves indebted to varying extents in different periods of their lives, especially in the early stages of their life cycle. Households may end up being over-indebted and debt unsustainable, if the macroeconomic environment becomes unsupportive or circumstances within the household change, e.g. prolonged illness, retrenchments or death. Ferk further states that the distribution of debt by households affects the economy, as it is susceptible to the financial situation of households, through their spending and savings patterns. The economy will also suffer the consequences if because of over-indebtedness; households are unable to repay their debt.

This sentiment is echoed by Prinsloo (2002) who defines debt as an obligation arising from borrowing money or taking goods or services on credit, against an obligation of paying later. A debt contract should thus specify the terms of borrowing, interest charged and redemption payments, and what collateral, if applicable, will be provided. The rise in household debt can be attributed to consumers wanting to consume now, rather than later. He further points to the advent of private label credit cards in mid 1990's, where retailers partnered with banks and engaged in aggressive marketing campaigns encouraging the use of credit cards, as the tipping point in the SA credit market. This was further exacerbated by the growth in the micro-lending industry, notably at the beginning of the 1990's, which further increased access to credit,

especially in the low-income households, leading to increased levels of household indebtedness.

According to Coricelli, Mucci and Revoltella (2006), the rate of credit growth is a direct response to changing market conditions on the supply side, as well as good income growth prospects. The authors state that the growth in the international household lending market reflects structural changes in the financial sector. While household loans in the Eurozone have increased from 40% in 1995, to 45% in 2004, this increase in indebtedness has been mainly driven by mortgage lending, which has largely been sustained by favourable financial conditions and rising property prices. The rising property prices have generated great wealth for homeowners and increased the value of properties used to secure such loans. Credit expansion has, to a large extent, been grounded in an environment of strong economic growth and falling inflation and interest rates.

The explosion in supply of credit has been confirmed by Scott III (2007), who argues that the average US household has eight credit cards, which are used to charge nearly \$2 trillion in goods and services. He suggests that the reason for this growth in credit cards can largely be attributed to the deregulation of the credit card industry in the early 1980s. Scott III has done an extensive literature review on the subject and states that the increases in inequality of income and wealth in the US has fuelled credit card borrowing. Since many people's incomes cannot meet their basic necessities, people will depend on credit cards to get them through a difficult financial patch. This worsens the situation, as credit cards' high interest rates and fees usually keep people from paying off their debt. Scott III cites Veblen in this article, who intimates that: any

retrogression from the standard of living which we are accustomed to and regard as worthy, can be said to be a grievous violation of our human dignity” (Scott III, 2007). As a result, people will typically go into debt rather than reducing their levels of consumption.

Weller (2007) argues that the rise in debt levels, has largely, been driven by need. He argues that when the business cycle is in a contracting phase, households experience stagnant wages and declining health and pension benefits. On the other hand, costs for housing, college education, transportation and healthcare are rising sharply. Households get into debt purely to bridge this growing gap between income and costs. Weller’s argument is that the growth in household debt has been largely channelled for home purchases and home improvements, followed by car purchases; and that the desire for instant gratification is a small contributing factor.

In a recent Business Day editorial (2007), it was argued that the boom in credit seen over the past few years might be a reflection of structural changes taking place in South Africa, rather than a mere case of people borrowing more money than before. The article further articulates that the rising trend is as a result of a broadening of access to credit for low-income earners, due to rising employment, and not necessarily additional demand from previous borrowers. It is further argued that a portion of the credit boom can be assigned to corporate borrowing, stimulated by an investment boom sparked by the government’s R416 billion infrastructure spending initiative. The article concludes by pondering if it is fair to penalise the new borrowers, who are mainly low- or middle-income earners, for a trend reflecting progress towards greater

equity in South Africa, and points out that the increase in corporate borrowing will eventually address South Africa's constraints, and surge the economy on.

The ease of access to credit has been noted as the reason behind the high levels of debt. Griffiths (2007) states that in Australia consumers can apply for credit on-line and that additional lending is based purely on the consumer's repayment record to date. She further alludes to the fact that banks will always seek greater profit opportunities in the short-term, to the potential detriment of increasingly indebted consumers. As such, it becomes a vicious circle – the more consumers borrow, the more they need to borrow to meet their needs and repay their debt.

The decision to take on credit, according to O'Loughin and Szmigin (2006), is a wider symptom of consumer culture, often driven by a need to attain or maintain a certain lifestyle. Students are particularly vulnerable as they lack financial literacy and capability to understand the consequences of their actions. While it is accepted that most students will require a student loan to finance their tuition, it was of particular interest to note the high levels of debt amongst Irish students, who are not required to pay tuition fees and most of whom stayed at home. This growth in credit can be attributed to aggressive marketing tactics adopted by banks, which makes access to credit very easy and socialises students into the borrowing culture.

These conditions can be found in the South African market. The level of vulnerability is not limited to students alone, but also to a large adult population, due to a low level of adult literacy and financial literacy in particular. It would seem that most households have been socialised into taking debt or additional debt to sustain the current levels of

consumption. It is argued that most financial institutions engaged in aggressive marketing, in order to attract more consumers, ahead of implementation of Phase 2 of the National Credit Act, on 1 June 2007.

2.4. The micro finance industry

Siyongwana (2004) tracks the explosive growth of micro finance, across the globe, and more particularly in developing countries to the 1980's. He is puzzled that although SA was deep in the apartheid era at that time, and perhaps shunned by the international markets, micro finance activity actually stagnated. It was not until the 1990's that this sector emerged, under the formal structure of Micro Finance Regulatory Council (MFRC), whose role was to regulate micro finance in the country.

It is argued that the credit market in South Africa has different characteristics to any other observed in other developing markets, in the sense that this market is large and generates profit through granting of cash loans to individuals with verifiable employment (Bertrand, Karland, Mullainathan, Shafir and Zinman, 2005). These lenders, regulated by the MFRC, tend to offer small, high interest, short-term credit with fixed repayments to mainly poor, low-income customers. The authors indicate that the median of these loans is R1 000, with interest charges as high as 30% per month, and can be granted for an average of one to three months at a time. The MFRC estimates that 65% of consumer credit is accessed through these lenders or by retail stores, while banks and their subsidiaries supply about 31% of the South African market. It is a case of high risk, high returns, as most of these customers hardly have any credit record or collateral, and thus marginalised by the commercial banks.

Mohane (2003) introduces another dimension to the debate around micro lending in South Africa. She argues that this sector should be looked at from the demand and supply side. On the demand side are the borrowers and the supply side relates to credit lenders. She argues that the borrowers vary from ultra-poor, who tend to be economically inactive to small enterprises. Micro finance should thus offer an array of services to serve the un-served and the under-served market continuum. Her survey revealed that micro loans may serve consumption or production needs, and are required mainly for education, housing improvements, transportation and buying food. On the supply side, one finds short-term lenders, long-term lenders, retailers, township lenders (Mashonisas), and pawnbrokers (Mohane, 2003:37-38).

Mohan and Sahu (2005) point out that micro finance is also growing at a rapid pace in India and that micro finance can be defined based on the smallness of size and inclination toward poverty alleviation. In fact, the Task Force in India, defined micro finance as the provision of thrift credit and other financial services and products of very small amounts to the poor in rural, semi-urban and urban areas, for enabling them to raise their income levels and improve their living standards. Mohan and Sahu indicate that the Consultative Group to assist the Poorest (CGAP)'s objective is to support micro finance institutions that deliver credit and/or savings to the very poor on a financially sustainable basis.. The mainstream banking has largely ignored this market, due to:

- Heightened perception of risk;
- Lack of collateral security;
- Poor information based on the cash flow cycles; and

- Lack of understanding of client level capabilities.

Elahi and Rahman (2006) argue that a distinction should be made between micro-credit and micro-finance, and point out that the two have been used interchangeably. They define micro-credit as the first revolution, whose purpose was to overcome the structural barriers to provision of savings and credit services to the poor, namely, information asymmetry, lack of collateral, high cost, high risk and systematic bias; by offering a service of loan distribution and recovery. Micro-finance institutions (MFI), on the other hand, provide for financial and social intermediation. These institutions' role goes beyond the provision of savings, credit and insurance policies, to also include a medium for voicing citizens' aspirations and concerns to policymakers. In essence, it sounds like the difference is a matter of semantics, as micro-finance is a mere extension of the functions performed by micro-credit.

Nancy Barry of Women's World Banking was cited in a Finweek article by Jekwa (2007), as saying that South Africa does not have a significant micro-finance activity. Barry laments that, even though South Africa has a sophisticated financial services and markets infrastructure, it has very little genuine micro-finance activity, which lends small sums of money, which are to be used primarily for generating income. What South Africa does have is a huge market for micro-credit. She points out that she would like to see the 'destructive consumer lending activity' stopped altogether, especially in the lower income and unbanked segments (Jekwa, 2007:62). The banking community, according to Barry, should rather focus on developing financial

products that include basic health and life insurance, as well as affordable savings products.

Dehejia, Montgomery and Morduch (2005) suggest that the micro-finance has been widely acclaimed as one of the key developments in the fight against poverty. Given that the poorest households are usually excluded from the mainstream credit markets, their only alternative has been the informal channels. Such informal channels often charge exorbitant rates. This practice is highly prevalent in Latin America and Africa. In South Asia, it is feared that high interest rates will deter promising clients and thus diminish social and economic impacts on households. The authors point out that in their study, they found that the poor households were highly sensitive to interest rates.

2.5. Ability to repay: Consumer Defaults and Personal Bankruptcies

The National Credit Act requires the lender to assess the consumer's ability to pay and requires the consumer to provide full financial information to prevent reckless credit.

Section 80 of the Act notes that credit is lent recklessly if:

- the credit provider takes no steps to assess the proposed consumer's general understanding and appreciation of the risks and costs of the proposed credit agreement and his/her rights and obligation under such agreement;
- the credit provider fails to establish the consumer's debt repayment history under credit agreements;
- the credit provider fails to assess the consumer's existing financial means, prospects and obligations.

The credit provider must also guard against entering into agreements with a consumer, which will result in the consumer being over-indebted. Section 79 of the Act defines a consumer as over-indebted if a determination indicates that the particular consumer is or will be unable to satisfy in a timely manner all the obligations under all the credit agreements to which the consumer is a party.

Szpringer (2006) argues that over-indebtedness occurs when the consumer is unable to pay his obligations and loses solvency. He further states that insolvencies place a lot of pressure and represent a high cost for all involved: credit suppliers, consumers and national budgets. If a consumer is unable to repay the credit, the creditor may repossess the goods, without necessitating a court action.

This view is supported by Hussain (2002), who suggests that as indebtedness increases, so does the probability of default and bankruptcy. Equally, higher indebtedness leads to higher gearing (debt as a percentage of income or equity), which reduces the capacity to borrow further, thus placing the consumer at a very vulnerable position against adverse shocks.

Hassan and Renteria-Guerrero (1997) highlight that the success of the Grameen Bank of Bangladesh (GB) stems from its innovative group lending policy. Consumers seeking credit have to organise themselves in groups of five and provide one another with mutual insurance against default. It is of importance to note that GB concentrates its lending to women, because, it is argued, they make for better borrowers and utilise their loans for income-generating activities.

The Blue's study (2007) indicated that education loans are the most frequent current and past loans, whilst family responsibilities, defined as funerals and parental assistance, are the leading reasons for loans. Women claimed to take smaller loans and less frequently than men, and these loans were taken to service debt including rental, service bills, transport and school fees.

The Act highlights the need for lenders to assess the consumers' ability to repay loans before granting new or additional loans. The Act further prohibits the lenders from increasing available credit to consumers, unless consumers actually ask for it. It places the burden on the lender, if in the event that a consumer defaults on the loan repayments, and it is found that the lender did not do enough assessment of the ability to repay. If the matter does end in court, the Act states that such debt can be suspended or even struck off, giving the lender no recourse to repossession of such goods. It needs to be noted that consumers can be economical with the truth and may not undertake full disclosure about their financial obligations. It is imperative to educate the consumers, not only of their rights and protection, but also of their responsibilities and obligations in relation to the consumer credit market.

2.6. Financial literacy

Financial literacy is defined as the ability of individuals to make appropriate decisions in managing their personal finances (www.wikipedia.org). The importance of financial literacy cannot be underestimated, as it is central to how individuals and communities create and preserve their wealth. This recognition has given impetus to a variety of

financial education programmes (Finmark Trust, 2004). In the FinMark Trust's report, they indicate that lack of financial literacy can result in poor financial choices that can be harmful to individuals and communities. The report further points to a link between poverty, low literacy and low financial literacy. The FinMark Trust report cites Katy *et al* (2000) as suggesting that financial literacy encompasses three phases:

- Economic literacy: a general knowledge about the functioning of economies;
- Consumer literacy: an understanding of the rights and responsibilities of economic players, coupled with the skill to compare prices and quality when making purchasing decisions;
- Financial literacy: the ability to understand financial terms and concepts and the ability to translate such knowledge into behaviour (FinMark Trust, 2004).

Programmes addressing these three aspects benefit both the consumer as well as the institutions aiming to sell products or services to these consumers, as they improve the overall functioning of markets.

The Jumpstart Coalition for Personal Financial Literacy argues that their surveys have indicated that the average high school graduate lacks basic skills in management of personal financial affairs (www.jumpstartcoalition.org), to such an extent that many are unable to balance a chequebook. Subsequently, many young people perform dismally in the management of their first consumer credit affairs, and subject themselves to bad financial management habits and deal with their lives by trial and error.

Griffiths (2007) states that lack of financial literacy and/or distorted information, has largely disadvantaged consumers. Many consumers were found to lack the required

skills to comprehend, negotiate and manage contracts. However, she argues that even when banks agree with regulators to engage in consumer education, in the final analysis, they state that they are not in the business of education, but to facilitate the flow of capital between economic agents having excess funds and those in need of financing.

There is a general concern that consumers lack the working knowledge of financial concepts, and thus lack the know-how to make decisions such that they benefit their economic well being. Braunstein and Welch (2002) state that this deficiency in financial matters is likely to lead to inability to save for long-term goals, e.g. home purchases, financing higher education or retirement planning. They further suggest that informed consumers help to create more competitive and efficient markets, since knowledgeable consumers are able to demand products that meet their short-term and long-term goals. Providers respond by competing and creating products to meet such demands. A number of financial literacy programs address savings, credit and similar topics, while others are tailored for specific segments, e.g. youth, military personnel or homeowners.

Hilgerth, Hogarth and Beverley (2003) suggest that the increased interest in financial education has been a result of increasing complexity in financial instruments and products, as well as the added burden on the individual for their financial security. They further state that well informed and financially educated consumers can make better decisions for themselves and their families. Such consumers provide the essential checks and balances, thus eliminating scrupulous sellers from the marketplace. The field of financial education works on the premise that more

information and knowledge will lead to changes in financial management practices. Higerth *et al* (2003) acknowledge that evidence to this end is not conclusive, and would require further examination in the field of behavioural economics, which blends psychological and economic insights into household financial management. This field of study taps into the role played by psychological characteristics (such as procrastination, regret, risk aversion, peer pressure, altruism, and compulsiveness) in household economic decisions. Such study would further give light to what may look like inconsistent or irrational behaviours, like holding money in a savings account, earning 3% interest, while carrying a debit balance in a credit card, costing the same consumer 20% interest.

The National Credit Act makes provision for debt counselling for those who are over-indebted and need debt rehabilitation. Goodwin-Groen (2006) argues that the Act should rather focus on preventing over-indebtedness through financial education, as opposed to debt rehabilitation. She points out that debt administrators tend to hold debtors to ransom, such that these debtors never escape their financial problems.

2.7. Financial Exclusion

Financial institutions which were party to the Financial Sector Charter committed themselves to allocating a minimum of 0.2% after-tax profits each, for consumer education, aimed at empowering consumers so that they can make informed decisions, with regards to their finances and lifestyles (Financial Sector Charter Scorecard, 2003). The increasing levels of consumer debt levels, the declining household savings rates as well as increasing bankruptcy filings have been at the

centre of the increased attention given to financial literacy (Braunstein and Welch 2002). If these factors are not addressed properly, consumers may be vulnerable to a financial crisis in the event of an economic shock, such as loss of employment or prolonged illness. The authors further point out that language, educational and cultural barriers might discourage certain population groups from cultivating a banking relationship in order to access financial services. Instead, they may choose alternative providers to conduct basic transactions. While these alternatives may offer comfort and convenience, they tend to charge a higher fee per transaction than traditional banks.

Ramsay (2000) defines consumer vulnerability as those consumers who are likely to pay a higher price for credit, and those excluded from mainstream credit or from access to financial services. This category, generally, includes low-income earners and those in financial distress as a result of recent bankruptcy or bad credit record. The growth seen in the alternative financial sector stems from a growth in income inequality; declining savings to income ratios, and increasing debt to income ratios. This has led to development and growth of fringe banking and sub-prime lending, especially in the US, which does not offer the same level of consumer protection available in the mainstream credit markets. He regards the following as the reasons why these consumers engage in these markets:

- They may not have reasonable alternatives, as they have been rejected in the mainstream financial sector, and consequently pay much higher prices for goods and services;

- The alternative markets are seen to have certain advantages to consumers, e.g. convenience, no fear of credit being declined, ability to access goods or money immediately;
- Lenders cultivate lasting relationships, thus discouraging the borrowers from seeking credit in the traditional sector, even though these consumers might benefit from lower cost credit elsewhere;
- As a result of market inefficiency, lower income consumers might be unable to make rational choices and decisions. There is however no conclusive evidence to suggest that market irrationality is exclusive to lower income levels. (Ramsay 2000)

While South Africa has a well-developed financial sector, which supplies a sophisticated array of borrowing, lending and insurance products, these resources are still skewed toward those who have the means to buy such services – the upper end of the income distribution (Ardington, Lam, Leibbrandt and Levinsohn, 2004). For a long time, the SA government has focused on anti-poverty policies, based on social safety net and social welfare policies. The SA government and the financial sector have over the last few years, recognised that the absence of the financial services, especially in the rural areas, limits the government's initiatives for growth and poverty reduction. Ardington *et al* (2004) advocate that sustainable poverty reduction efforts require poor people to effectively manage risk. Without risk management tools, these consumers end up being vulnerable and render themselves unable to cope with macroeconomic shocks. In response to these shocks, these consumers may act in ways that exacerbate their deprivation, making it almost impossible to escape the poverty trap in the long term. They may take children out of school, sell productive assets or borrow

money from micro-lenders at high interest rates, thus further confining themselves to poverty. Ardington *et al* (2004) propose that access to credit can perversely be a source of vulnerability as poor households become over-indebted, especially if such debt is incurred for consumables rather than assets.

It is against this backdrop that the Act seeks to educate and protect these consumers and protect them against the predatory lending practices, which will exclude them from participating in the mainstream economy.

2.8. The role of credit bureaux

The Act provides for the registration of credit bureaux, if the primary purpose of such individual or entity is to receive reports or investigate credit applications, agreements or payments history, and/or if it issues reports based on this information. The Act puts forward certain requirements with regard to competence, qualification and knowledge on credit bureaux and its employees, to enable it to operate efficiently and effectively. The Act further prohibits the registration of a credit bureau if such bureau has a controlling interest in the business of a credit provider, a debt collecting agency or a business engaged in disqualified business prescribed in terms of the Act.

Credit bureaux hold vital consumer credit information. Section 70 of the Act notes this information includes:

- A person's credit history, application for credit, payment patterns, defaults and judgements;

- A consumer's financial history which includes past and current income, assets and debts;
- A person's education, employment, career, professional or business history;
- A person's identity, marital status, past and current addresses and other contact details.

A credit bureau is defined as a library of credit information, which provides a centralised database of consumer credit behaviour (www.wizardmidrand.com). It is vital as it determines who gets to access credit and at what price, depending on whether the information is positive or negative. Credit bureaux keep records of how well one manages their credit commitments. While credit grantors may use other tools to determine whether to extend credit, like the credit lender's credit granting policy, the role of a negative credit record in that decision, cannot be downplayed.

The Act seeks to clamp down on reckless lending by credit grantors. Credit bureaux are vital in this decision making process. To this end, credit bureaux should provide quality and up to date consumer credit records, including loans that the consumer has applied for (www.compuscan.co.za). In the absence of bureaux that collate and disseminate this shared information, credit providers are unable to make informed, accurate and responsible lending decisions.

Mohan and Sahu (2005) argue that information bureaux should seek to analyse data on actual and potential clients, with the goal of understanding the clients' capacities and performance potentials, so as to develop credit-scoring models. Some of the benefits that are likely to flow from these information bureaux include, sharing of best

practices among members; generation of early warning signals; credit scoring in the absence of collateral, thus enabling expedient decision making; and product development based on understanding of customer needs and aspirations.

Correct and updated credit information is vital to consumers as it allows them to obtain competitive finance in seconds (www.experian.co.za). The majority of consumers do not even know that this information is available, or even worse, how to access their credit information. To this end, Experian has devised a Siyazwana initiative, which, for a minimal monthly fee, will notify consumers of any changes in their credit records. While the group advocates that good credit is the consumer's asset, it is questionable as to how many consumers are aware of such a facility, or can afford it.

According to Bouchier of Credit Health cited in Fisher-French (2006), there are approximately four million people who are negatively listed with credit bureaux in South Africa, and the majority of these consumers do not even know about their negative record. Typically, one only finds out about the negative record, when credit has been declined. Bouchier emphasises that one's credit record needs to be properly managed.

Functional credit bureaux are critical in assessing consumers' levels of indebtedness. Credit bureaux give a clearer picture of consumers' debt burden, and their repayment history, than what the consumers would care to disclose. However, there had been cases of mistaken identity and wrongful credit information. The Act gives consumers the right to access and challenge credit records and information. The Experian's Siyazwana initiative to alert consumers of changes to their credit record should thus be

applauded, but it needs to be supplemented by ways of making such facility easily accessible and affordable.

In terms of the Act, credit bureaux are prohibited from reporting information that is being challenged, until such dispute has been resolved. Also, if a consumer is referred to debt counselling for debt review and restructuring, and satisfies all the obligations of the credit agreement, such consumer can apply for a clearance certificate, which must be filed with credit bureaux. Upon receipt of the clearance certificate and a copy of a court order rescinding any judgement, the credit bureaux must then expunge all records relating to that judgement. In terms of the Act, failure to do so constitutes an offence.

2.9. Consumer Protection on the Market for Consumer Credit

Regulation tends to attract diverse opinions as those opposed to it, see regulation as interference in an otherwise free market. The advocates for regulation will attest to information asymmetry, which renders certain pockets of population vulnerable to manipulation. The National Credit Act has not escaped this process. While many would argue against it, the fact that it has been legislated, instead of being offered as a guideline or nice-to-have, will compel even the dissidents to work within the confines of the Act.

Consumer protection will always be needed, provided that there is information asymmetry. Hassan and Renteria-Guerrero (1997) infer that the poor lack financial

discipline and technical knowledge to manage their small businesses properly. It can be argued that this extends to their personal wealth.

The Free Market Foundation of Southern Africa argues differently. In its submission on the Consumer Protection Bill (2006), the Foundation indicates that while it welcomes and supports the government's desire to improve consumer protection and advance social and economic welfare of consumers, it is of the opinion that free competition amongst suppliers and employers increases choices and thus drive prices down and wages up, more than any regulatory intervention could muster. The Foundation believes that over-regulation retards growth and imposes excessive costs on consumers, especially the poor.

Wheatley and Gordon (1971) raise questions as to whether regulation of consumer credit serves the consumers' best interests. They argue that opinions on this matter differ, with some pointing to regulation being necessary for consumer protection, while others prefer to rid markets of regulation, as it impairs free market for credit. Those in favour of regulation tend to present an argument that such regulation would in the long run save consumers money. Dissidents argue that regulation serves to increase cash prices for goods and services and results in lack of credit availability to some consumers, as suppliers exit these markets. The authors argue that regulation tends to favour on side in a financial transaction, and cannot serve both.

It is crucial to ensure that the needs of the vulnerable consumers are met in a cost-effective manner, abusive lending practices are effectively regulated and that these consumers are afforded similar protection as applicable to middle income consumers.

Blue Financial Services commissioned a survey amongst its target consumers, to gauge the consumer's perception or knowledge of the Act and its impact on his/her life. The study revealed a relatively low awareness and relatively poor understanding of the Act (Blue Financial Services, 2007), with more than 50% of the sample unable to relate the Act and its impact on their lives or finances.

2.10. Disclosure Policies

Information disclosure facilitates ease of shopping around and making comparisons. Disclosure should have a warning or alert which draws consumer's attention to rates charged. Braunsberger and Roach (2004) argue that when the Federal Reserve Board enacted changes to the Truth in Lending Act (2004), it introduced Regulation Z, a disclosure amendment, which was supposed to help consumers notice and understand the important cost information required in credit card solicitation. It was argued that consumers needed to read and process all required disclosures to fully understand and compare competing solicitations. In their study, it was found that highlighting the variable annual percentage rate (APR), does not translate to consumers processing the information any better than if it were not. Instead, highlighting the APR was found to distract the consumer from considering other important cost information. It is clear, however, that the industry and consumer advocates need to continue their efforts to educate all consumers about credit cards.

The US Truth and Lending Act, which was a precursor to the Consumer Credit Protection Act in 1968, has undergone many changes since it was first enacted. The Act favoured disclosure of certain information in certain formats and at certain times,

thus imposing significant compliance costs on creditors (Durkin 2002). Since then, the wisdom of the Act's effectiveness has been questioned with regard to consumers' understanding and behaviour. While the Act may have given rise to increased customers' understanding of credit matters, it can also be argued that today's consumers have the advantage of advances in education, more widespread and frequent credit use as well as advertisements, which have nothing to do with disclosure requirements. Durkin (2002) speculates that as a result of disclosure requirements, consumers may act in one of the following;

- Consumers may use less credit as the disclosure highlights that credit is expensive;
- Consumers may not change their use of credit patterns, as the disclosures may confirm their perceptions that credit is affordable;
- Consumers may increase their credit use along with increased confidence that credit is a desirable option.

The National Credit Act makes it compulsory for credit grantors to disclose the total cost of credit, so that the consumer can easily do a like-on-like comparison. It is envisaged that the disclosure of costs will encourage competition amongst the lenders, making it more affordable for the consumer to access credit. However, as the studies in the US show, the disclosure of total cost of credit cannot happen in a vacuum. The consumers need to be knowledgeable about the choices available to them. The Act further sets limits to the interest rates that can be charged to consumers.

2.11. Interest rate ceilings

The intention of setting interest rate ceilings is to allow for access to credit for ordinary individuals at reasonable rates. The National Credit Act sets maximum prescribed interest rates that apply to different products. These rates are as per Table 5 below:

Table 5: NCA Maximum Prescribed Interest Rates

Sub-sector	Maximum Prescribed Interest Rate
Mortgage agreements	[(RR x 2.2) + 5%] per year
Credit facilities	[(RR x 2.2) + 10%] per year
Unsecured credit transactions	[(RR x 2.2) + 20%] per year
Developmental credit agreements	
<ul style="list-style-type: none"> For the development of a small business 	[(RR x 2.2) + 20%] per year
<ul style="list-style-type: none"> For low income housing (unsecured) 	[(RR x 2.2) + 20%] per year
Short-term transactions	5% per month
Other credit agreements	[(RR x 2.2) + 10%] per year
Incidental credit agreements	2% per month

Source: NCA (2005)

Where

- RR indicates the reference rate, being the ruling SA Reserve Bank repurchase (repo) rate;
- The interest rate on short-term credit transactions must be disclosed as a monthly interest rate, in such disclosure as is required by the Act and these regulations.

With the repo rate set at 10.5% at the recent Monetary Policy Committee meeting of 11 October 2007, the rates can vary from 23.1% (mortgage agreements) per annum to

60% per annum (short-term credit agreements). These figures ignore the impact of compound interest, which pushes these numbers even higher. While it may seem that the credit is made readily available, it is certainly not cheap. This calls for consumers to be financially astute, so that they realise what they are getting themselves into, rather than looking into whether they can afford the minimum monthly repayments.

Dehejia, Montgomery and Morduch (2005) suggest that the development of the micro-finance credit markets has largely been driven by the ability of these institutions to price products at such high interest rates, so as to generate good profits. Dehejia *et al* further highlight that the micro-finance industry is built on the premise that poor households are willing and able to pay any interest rates for loans so as to cover the costs of the lenders. It is further assumed that since this segment has little or no collateral, and tends to be the most expensive to serve, they should pay the highest prices for capital. This argument implies that poor households primarily seek access to credit, not necessarily cheap credit.

Mohane (2003) argues that setting interest rates too low, may limit the supply of credit and result in negative effects for consumers, as the lenders may find it not viable to carry on doing business at these rates. Consumers would then be left at the mercy of loan sharks or Mashonisas, as the demand of credit would still persist. Mohane (2003) argues that a more appropriate approach should rather be to ensure that appropriate rates are charged, so as to increase competition and innovation. He concludes that interest rates ceiling may in fact have the opposite effect to what the regulators had intended.

In Wheatley and Gordon's study (1971), they observed cases where retailers and financial institutions looked to compensate the limits placed on their revenues by the introduction of interest rates ceilings, by tightening their lending policies, including increasing minimum down payments and/or shortening the repayment periods, as a means to minimise high risk transactions.

The Act has avoided these pitfalls and ensured that the interest rates ceiling are set at profitable rates. The rates are somewhat lower than what the lenders used to charge, but it cannot be said that it is likely to chase any players out of the credit market. The Act has in fact allowed for loans to be extended for longer periods, with little or no down payments in certain instances. The merits of such moves can be argued in subsequent research studies.

2.12. Debt counselling

The Act has gone to great lengths to prevent consumer over-indebtedness through its requirements for credit providers to assess consumer's ability to repay debt, fees disclosure and capping of interest rates. The Act further sets conditions on credit marketing practices, by forbidding credit grantors from harassing consumers in an attempt to persuade such consumers to apply for credit or enter into a credit agreement. The Act also bans misleading, fraudulent or deceptive advertising. However, if despite all the attempts made by the Act to prevent reckless lending and consumer over-indebtedness, a court may suspend reckless credit agreement if

deemed so and finds the consumer over-indebted. The court may further refer the matter to a debt counsellor, with a recommendation that a debt counsellor review the consumer's circumstances. The consumer may not enter into any new credit agreements, while under debt review and counselling.

Hunt (2005) argues that in the US, the availability and use of credit has grown significantly in the last 50 years. Typically, credit-counselling organisations offer financial education and budget counselling sessions for free or for a nominal amount to consumers, and arrange for new repayment plans that suit consumers. This tends to be a welcome relief to those consumers on the brink of bankruptcy. However, these organisations have not escaped controversy. At the centre of the storm is who should provide funding for these institutions? If creditors provide the funding, then credit counsellors are accused of conflict of interest, and if they charge the consumers, they are seen to be further burdening the already financially constrained consumers. He concludes by pondering whether borrowers who seek credit counselling perform better because of the actual counselling or because these consumers are different from borrowers who do not seek counselling.

In terms of the NCA, a consumer may apply to a debt counsellor to be declared over-indebted. In the event that such an application has merit, the debt counsellor will make a recommendation to a Magistrate's Court to have the consumer declared over-indebted. The magistrate may elect to have the term of the credit agreement extended or postponement of the repayment or have the fees charged recalculated and adjusted accordingly. The Act sets requirements that debt counsellors should be registered.

They also need to comply with prescribed education, competence and experience requirements.

Comins (2007) reports that there have been complaints registered with the Regulator highlighting the exorbitant fees debt counsellors are charging over-indebted consumers to help them to climb out of the debt trap. In terms of the Act, the only fees that are prescribed is the application fee of R50, and from there on the Act is silent as to what other charge/s would apply. In the same report, Jonker, a legal officer at the Association of Debt Collectors mentions that some debt counsellors charge whatever they want and in certain cases as much as attorneys fees, plus a 12,5 percent collection commission. Rogue debt counsellors were taking consumers for a ride.

2.13. Conclusion

The literature points to the presence of inequalities and market failure within the financial systems. Such market failure, in the absence of regulation, will render some consumers vulnerable and resigned to a life of perpetual poverty. The views are divergent on the extent to which the South African consumer is over-indebted, therefore raising concerns in certain circles that this regulation will only add cost to those consumers who least can afford it. However, there are those commentators who argue that there is a need to protect these consumers, by means of creating a level credit market playfield, through education, disclosure of cost of credit and capping of interest rates.

The majority of the stakeholders welcome the Act and what it sets out to do, especially with regard to having one set of legislation to consolidate the fragmented credit market. The National Credit Act swings the pendulum toward the consumer, while the other credit laws had tended to give power to the credit provider at the consumer's expense.

The key factor that has come out clearly from the literature review is the overwhelming need for financial literacy, which should aid consumers in making informed decisions, which in turn, will better their lives. Such financial literacy will inform the choices that these consumers make, in how they relate to their credit providers, how they honour their credit obligations and how that impacts on their credit records. The benefits of financial literacy translate to an empowered consumer who is aware of the Act, who can negotiate better terms when applying for credit, a consumer who can avoid being over-indebted by being in charge of their financial budgets, and if he/she finds him/herself over-indebted, can apply for debt counselling and have his/her debt reviewed and restructured. No amount of fees disclosure or interest rates caps will matter, if consumers do not understand how this impact on them personally. Instead, it will remain a nice-to-have.

Another area of contention is who should provide financial education? While the signatories of the Financial Sector Charter committed themselves to consumer education, certain commentators have argued that the business of financial intermediaries is to offer a conduit between those entities with excess funds and those in need of funds. In fact, it was argued that the levels of debt globally have increased largely because the banks prefer it that way, as they generate more revenues, and

these banks tend to engage in aggressive marketing campaigns in their quest to increase market share, even attracting consumers as young as university entry students, thus creating a culture of debt trap.

The NCA requires the credit providers to assess a consumer's ability to repay a loan, when applying for credit. This has tended to, in certain cases, increase the term of loan. While low and affordable repayments might bode well for the consumer in that he/she is better able to service his/her debt, the downside is that it might exacerbate the consumer's financial well-being, as such consumer might access long-term loan to finance short-term needs. With extended period, with little or no down payment, the cost of that credit is more expensive in the long-term, than would initially have been.

While the intentions of various consumer protection legislations are meant to benefit consumers, the evidence is somewhat not conclusive as to whether such legislations lead to consumer behavioural changes. The jury is still out on whether the National Credit Act can in fact, lead to reduced levels of consumer indebtedness. It is the intention of the author to understand the intentions of the NCA, explore the level of awareness amongst the chosen stakeholders, as well as search whether it can change the consumer attitudes and behaviour towards credit.

3. RESEARCH QUESTIONS

This chapter sets out in more detail, the purpose of the research, as well as the research questions.

The following questions were formulated from the research problem:

Question 1: What are the intentions of the National Credit Act?

By understanding the intentions of the Act, one can specify the scale and scope covered by the Act, and thus making it easier to test the intentions of the Act against the reality. This will be achieved by studying the Act and seeking views of the identified stakeholders, mentioned in 1.1.5, i.e. the credit regulator, the credit providers as well as consumers, on their understanding of the Act.

The Act needs to be studied in the context of the structural changes taking place in the SA economy. The question that must be answered is whether the Act is relevant and effective in what it sets out to do.

Question 2: How can the Act lead to changes in consumer indebtedness?

This question seeks to understand whether consumers realise the possible benefits of this legislation. In answering this question, it is important to understand the consumer's level of awareness of the Act, and how it is likely to impact on his/her financial decisions. It is also essential to understand the reasons why consumers access credit and how these consumers will adjust their credit needs, so as to scale back their levels of indebtedness.

4. RESEARCH METHODOLOGY

The study was, to a large extent, exploratory and qualitative and conducted in two phases. Zikmund (2003) tells us that more often than not, exploratory research provides greater understanding of a concept and crystallises a problem, instead of providing precise measurement. He further emphasises that exploratory research does not involve extensive mathematical analysis; therefore the researcher's focus should be on words and observations.

Phase 1 consisted of primary interview-based research conducted with the credit regulator, charged with supervision of the Act, as well as with credit providers who implement the Act. Phase 2 was conducted through customer surveys, seeking their input and experiences. The research used two research methods to fully comprehend and gain solutions to the two research questions.

This research methodology was chosen for its ability to answer the questions in varying degrees of contexts and perspectives. Phase 1 sought to answer the intentions of the Act in depth, while covering to a limited extent the second question. Phase 2 focused on the consumer awareness of the Act, and how the consumers were likely to do in response to the Act. By comparing and contrasting the responses, this provided insight as to whether the two parties were in unison about the Act achieving what it had set out to do.

The consumer's contribution was invaluable in providing information as to what, if any, behavioural changes they will engage in, following the implementation of the Act. The

two phases will thus provide a mesh of responses, which will inform the researcher's analysis.

4.1. Phase 1: semi-structured interviews

The purpose of this phase of the research was to get an understanding of the experts' views on the intentions of the Act, the relevance of the Act as well as their perceptions as to how the Act could lead to changes in levels of consumer indebtedness. The use of semi-structured interviews was chosen as it allowed the researcher flexibility to steer the interviewee to answer certain previously identified issues within a topic predetermined by the researcher (Jankowicz, 2000). This method allowed the interviewer to choose the order of the questions, depending on the progress of the research. The interview guide is in Appendix 1.

The interviews were conducted at the respondents' offices, with most of their head offices situated in Johannesburg and Pretoria, during office hours, at times which were suitable to both the interviewer and the interviewee. In most cases, the interviews were scheduled for one-hour sessions. In one instance, the respondent asked for the questions to be emailed to them, and then the responses to these questions were forwarded to the interviewer. In another case, an interview was conducted by telephone due to their offices being outside of the Gauteng province.

4.1.1. Unit of analysis

The interviews were intended to extract opinions of the regulator, as well as those charged with implementing the Act, i.e. the credit providers. These participants' views would then form part of the questions asked to consumers, to ascertain understanding of the Act across the different stakeholders. These experts were assumed to have a deep understanding of the National Credit Act. The interview guide used to elicit the views and opinions can be found in Appendix 1.

4.1.2. Population of relevance

The population entailed all the experts in the field of the National Credit Act. The population was further subdivided into two categories:

- The National Credit Regulator officials who are charged with monitoring and supervision of the Act;
- The registered credit lenders who fall under the auspices of the National Credit Act, who are responsible for implementation of the Act.

4.1.3. Sampling method and sample size

This phase of research used convenience sampling. Zikmund (2003) defines this sampling as obtaining units or people who are most conveniently available. For this study, the researcher used officials of listed entities, who were governed by the Usury Act Exemption Notice of 1999, prior to the implementation of the National Credit Act of 2005. The basis for focusing on micro lenders, instead of banks for instance, is that banks generally have other revenue streams, namely corporate and investment

banking and tend to prudent by nature, due to the high degree of regulation in their industry, i.e. the Banks Act, Companies Act, the Financial Intelligence Control Act, the Financial Advisory and Intermediary Services Act, and self-imposed charter, the Financial Sector Charter. Micro lenders on the other hand, are in the business of risk and the loan sizes tend to be smaller, compared to those handled by banks and are geared more for low-income consumers, which the Act seeks to protect.

The researcher had hoped to interview officials from the six organisations that were identified in this particular sector, but in the end the interview managed to interview four of these entities. The details of respondents can be found in Appendix 2.

4.1.4. Data gathering method

The data was gathered through semi-structured interviews, by making use of individual interviews. The interviews were conducted mainly at the respondents' offices, except for two, where one was conducted via telephone and the other by email response. This method required that the researcher was flexible about the order of the questions, depending on how the interview progressed (Jankowicz, 2000).

4.1.5. Form of analysis

The approach taken was content analysis. Welman, Kruger and Mitchell (2005) describe content analysis as a quantitative analysis of qualitative data. It is a technique used for open-ended questions, so as to categorise, code and tabulate meanings expressed in such interviews (Jankowicz, 2000). It is a research tool used to establish

the presence of certain words within texts or sets of texts, thereby drawing meanings and relationships of such words and concepts (Colorado State University, 2006)

4.2. Phase 2: Case study

Jankowicz (2000) suggests that a case study method should be chosen if the researcher wants to focus on a set of issues in a single organisation, so as to identify the factors involved in an in-depth study. Myers (1997) suggests that a case study method should involve aspects of determining the present situation; gathering information about the background to the present situation, and presentation of finding and recommendations for actions. This study made use of snapshot case study, which is a detailed objective study of one research entity at one point in time (Jensen and Rodgers, 2001).

Yin (1994) states that there are four main factors that relate to a selection of a case study organisation, namely relevance, feasibility, access and application.

- **Relevance:** relates to the extent to which the organisation selected suits the purpose of the study and such organisation should at least have a large employee population and geographically diverse locations;
- **Feasibility:** requires that the researcher should be able to plan, execute and report back to the organisation and that the organisation's head office should be within reasonable reach of the researcher;
- **Access:** relates to ability to secure full cooperation of the organisation, and requires willingness to participate in the research;

- **Application:** refers to the extent to which the case study can be applied in a particular situation, taking into account size, and industry sector (Yin, 1994).

The four requirements noted above were met fully in the choice of the case study. However, since the case study methodology was but one aspect of the research, as opposed to being the only means of conducting this study, the researcher did not need to report back to the organisation per se.

4.2.1. Unit of analysis

The unit of analysis was a single branch of African Bank. The research sought to understand the opinions and views of the consumers of this branch of African Bank, in relation to the Act. The purpose was to understand the level of understanding how the consumers were impacted by the Act, as well as to answer the research questions. The guide to the consumer survey is tabled in Appendix 3.

4.2.2. Population of relevance

The population consisted of all consumers in the Republic of SA, who enter into credit agreements.

4.2.3. Sampling method and sample size

The researcher, having gathered views from the National Credit Regulator, as well as the credit grantor, conducted customer surveys at one branch of African Bank Investment Limited. The researcher used a combination of convenience sampling, in

which a specific branch was chosen, thus drawing convenient and economical sample; as well as simple random sampling where each consumer who walked into the chosen branch had an equal chance of being included in the sample. The researcher wanted to survey at least 30 customers, but only managed to interview 20 consumers.

4.2.4. Data gathering method

The data was gathered by way of a face-to-face survey with walk-in consumers at one of African Bank's busy branches, in terms of foot traffic. The researcher also made use of observation of consumers' interactions with the bank staff as well as with the researcher. Documents were also collected from the branch.

4.2.5. Form of analysis

The study made use of simple descriptive statistics, making use of frequency counts and summarised the data in such a way so as to elicit trends and/or comparisons.

4.3. Research Limitations

While every step was taken to ensure the accuracy of the results, there are some limitations that are inherent in any research study. This section acknowledges these limitations and thus gives context to the findings.

This study was qualitative and exploratory in nature, and used various methods, namely documentary, interview and surveys to obtain the data. Some of the limitations that may arise are:

- Qualitative research is subjective in nature;
- Qualitative research makes use of small sample sizes, thus results cannot be generalised for the entire population;
- Qualitative research involves the examining of less tangible aspects of a research, e.g. values, attitudes and perceptions (Welman *et al*, 2003 and Zikmund, 2003).

The sample for the interviews was sourced from the listed financial services companies, which serve the consumer credit market. These institutions initially fell under the auspices of the Usury Act Exemption Notice of 1999. This creates limitations because:

- The companies are listed and thus are governed by other regulations, notably the Companies Act, the JSE Listings requirements.
- Their share prices are linked to what the public perceives of their actions and/or management. This places a lot of pressure on these companies to comply with the Act so as not to attract negative publicity.
- The companies approached were not uniform, in the sense that some had diversified business models, i.e. extending credit was only but a small portion of their business.
- The Act affects all registered entities, which extend credit to consumers, including banks, vehicle finance houses, retailers and mortgage lenders.
- The credit bureaux are also governed by this Act and their views and opinions have not been articulated.

While the researcher was conversant with the National Credit Act, and assumed the same of the respondents, the perceptions differed depending on the interviewee's interpretation of the Act and their functions within their organisations.

One of the respondents requested that the questions for this study be forwarded by email. This meant that the researcher could not probe the responses any further. One of the interviews was conducted via telephone. The respondent's body language was lost to the researcher.

The case study method meant that only the views of one of the credit providers' consumers were aired. Also, because the researcher made use of snapshot case study method, the researcher had access to one branch of African Bank and only those consumers who walked into that particular branch on that particular day, during the set time of the survey. Although the researcher hoped to survey at least 30 consumers, in the end only 20 consumers were surveyed. While most of the consumers were comfortable to engage with the researcher, there were few ones who were not completely at ease.

A response bias cannot be eliminated in this type of a study. Zikmund (2003) defines a response bias as the tendency of respondents to consciously or unconsciously misrepresent the truth. In this study, certain types of response bias were observed, notably interviewer bias and social desirability bias.

- Interviewer bias: bias in the responses due to the influence of the interviewer. This influence may stem from the interviewer's age, gender, tone of voice or any other nonverbal characteristics;
- Social desirability bias: a respondent's conscious or unconscious wish to create a favourable impression, or save face, in the presence of the interviewer (Zikmund, 2003).

5. RESULTS

The results of the two phases are detailed below. The information was gathered using two phases – interviews as well as consumer surveys. The intention was to gather different perspectives of the major stakeholders, notably the National Credit Regulator, the credit grantors and the consumers.

The results contain the information gathered from the research respondents. All the respondents were assumed to have a thorough knowledge of the Act, since they were either senior in their organisations and/or responsible for the monitoring of the Act, and therefore awareness of the Act was assumed. Each of the results includes a section on:

- The intentions and the effectiveness of the Act; and
- The role of the Act in curbing consumer over-indebtedness.

5.1. Interviews

The interviews were conducted with an official from the National Credit Regulator and credit grantors' senior officials, who are to a great extent, involved with the implementation and/or monitoring of the Act. The results will thus be separated accordingly.

5.1.1. National Credit Regulator results

The research sought clarity from the official from NCR as to what their interpretation of the Act was, and how they saw the Act impacting on ordinary consumers.

Table 6: NCR - interview results

1. What are the intentions of the Act?
<ul style="list-style-type: none"> • To increase accessibility of the market to everyone, especially those who have historically been unable to access credit; • To promote fair practices; • To provide transparency through disclosure of rates charged; • To harmonise the various fragmented pieces of legislation dealing with consumer credit; • To redress power imbalances between lenders and borrowers by regulation and education; • To promote responsibility and equity in the credit market by discouraging reckless lending; • To improve consumer credit information and reporting of credit bureaux; • To address and improve consumer over-indebtedness, through debt restructuring and provide mechanisms for consensual dispute resolution; • To promote and advance the social and economic welfare of South Africans; • To protect consumers.

The official from the office of the NCR indicated that “consumer credit is an economic driver” and that the growth in this segment needs to be managed. He further pointed out that for a long time; the credit market was irregularly managed, due to the previous fragmented laws that regulated certain aspects of the consumer credit, but not all. The official also pointed to their increased awareness of micro lenders that are not registered in terms of the Act, and emphasised that “any agreements entered into with

these micro lenders cannot be enforced in a court of law, as these agreements are classified as illegal”.

2. How can the Act lead to changes in consumer indebtedness?

- The Act hopes to create awareness of responsible credit;
- The Act highlights the need for fees disclosure, thus will empower the consumer to do comparisons;
- The Act will force lenders to assess consumer’s ability to pay, thus limiting how much credit can be extended – thus reducing reckless lending;
- The Act allows the consumer to seek debt counselling and debt restructuring, in the event of over-indebtedness.

The NCR official further pointed out that any major changes will take time.

5.1.2. Credit providers results

The credit grantors used for this study are listed micro lenders, both on the JSE Securities Exchange main board as well as the Alt-X exchange. Four institutions, out of a possible six, responded to requests for interviews, and details of the respondents can be found in Appendix 2. These entities were governed under the Usury Act Exemptions Notice of 1999, and regulated by the Micro Finance Regulatory Council, prior to the introduction of the National Credit Act. Under the Exemptions Notice, these credit grantors could only extend loan amounts of R10 000 and the repayment period could not exceed 36 months. The National Credit Act does away with these requirements, allowing these entities to extend loans for periods as long as 60 months.

The product ranges offered by these institutions include: salary advances; housing finance; insurance products; term loans; credit cards; bridging finance; cellular phone products; and full banking services (credit providers' websites).

The results from the interviews are tabled below. The ranking reflect the importance placed by respondents on various constructs:

Table 7: Credit providers - interviews

Constructs	Respondents			
	1	2	3	4
• To promote competition	2	4		
• To curb indebtedness	3			3
• To unify the credit industry and set standards	1	1	5	
• To introduce interest rate caps			1	
• To give power and protection to consumers	4	2	4	1
• To allow for accessible and affordable credit		5	3	
• To avoid similar credit bust as seen in the US				4
• To limit the number of loans that can be granted				5
• To address reckless lending practices	5			2
• To allow for disclosure of cost of credit		3	2	
• Introduces random payment collection			7	
• Introduces debt review and counselling			6	

The Act has been well received by all the credit providers interviewed, with one respondent suggesting that it is "long overdue" as it introduces healthy credit, and does away with the practice of withholding consumers' identity document, bank card

and personal identification number, which used to be common amongst micro lenders. One respondent noted that the Act introduced “breadth and not necessarily depth”, since it grants access to credit to more people, in certain cases bringing in first time credit consumers, but for small amounts. He quickly noted that the strength of his organisation lies in the provision of loan finances, which is often unsecured and thus involves a huge amount of risk. He maintains that organisations should be allowed to price that risk properly.

The respondents highlighted that the industry engaged in reckless lending, notably in the credit card and furniture businesses, prior to the introduction of the Act. The Act is welcome as it introduces consumer protection, random payment collection system and sets standards for credit extension. However, one interviewee mentioned that act was a case of “too little, too late”, as consumers were over-indebted, and the Act would do little to alleviate their current debt burden.

The interview participants hailed the disclosure requirement as a boon as it would allow consumers to shop around for terms that suit them. One respondent mentioned a loophole within the Act, in that when consumers get a quote from one institution, and instead of getting a quote from other institutions and compare all the quotes, the second institution would simply match or better the first quote. This practice goes against what the Act intended. Instead, it pits lending institutions against one another. One might argue that such practice is the nature of competition and all participants should understand it.

The interviews revealed a perception that banks were feeling the greatest pain, as noticed in declining vehicle sales and mortgage registration. The respondents suggested that the banks' criteria for extending loans (prior to the Act) was based on consumer's debt repayments not exceeding 30% of customers' gross salary, and failed to take into account the consumer's other debt commitments. The Act forces lenders to assess the consumer's needs holistically, by examining their salary advice, other debts and information from credit bureaux on their repayment history and patterns.

The majority mentioned that business had improved since the implementation of the Act, and that they were able to extent longer loans of larger size. These credit providers were optimistic in terms of future business prospects, and believed that business will continue to grow, despite the introduction of the Act. Only one participant mentioned that business had declined since the implementation of the Act, but that they were not very concerned as business outside South Africa continued to contribute to their coffers.

The respondents indicated a number of concerns in relation to the Act:

- The Act fails to take into account a consumer's level of gearing, i.e. debt as a percentage of total assets, it looks at debt in absolute terms, as a result certain individuals might be excluded from accessing healthy credit;
- The Act increases the cost of compliance and doing business due to the new systems and forms, etc. required;
- The Regulator does not have enough resources to monitor and supervise the Act.

While all respondents agreed that the Regulator is under-resourced in dealing with all the cases of misconduct or irregularity arising from the implementation of the Act, one respondent noted that the Regulator is dying to make an example of one of the big listed companies, to send a very clear message of its capacity. He mentioned that his organisation certainly did not want to be that one organisation, and therefore they will tread on the side of caution, and give the Regulator no reason to ‘contact them’.

In assessing how the consumer may change his/her level of indebtedness, it was important to first understand what credit was used for, as well as understand what the credit grantors were doing to create consumer awareness regarding the Act. The responses are tabled below.

Table 8: Credit providers’ responses - uses of credit

2. Uses for credit	Number of respondents
Consumption	1
Debt consolidation	3
Home improvements	3
School fees / tuition	3
Family holidays	1
Emergency, e.g. death in the family	3
To purchase durables and semi-durables (furniture, second-hand cars, etc.)	1
No data kept	1

One respondent mentioned that they did not keep record of what credit was used for to the same extent that other players in the industry do. He said his organisation was in

the “personal loans” space, and respected the “personal” part of it. If he were to guess, he would say credit is used to purchase durable goods and voiced a concern that certain consumers might be accessing long-term loans to finance short-term needs. The NCA requires all credit providers to keep record of what credit is applied for and send quarterly statistics to the NCR. The other respondents were in agreement about four aspects of credit use, namely, debt consolidation, home improvements, school fees and tuition and emergency needs.

It was of interest to note that only one responded believed that credit might be used for consumption. It might well be a case that credit accessed for consumption ranked much lower than the other uses and not necessarily that they considered credit for consumption as non-existent.

The respondents were quizzed about the initiatives that they have embarked on to raise consumer awareness with regard to the Act. The results are tabled below.

Table 9: Credit providers responses - consumer education channels

3. Consumer education channels	Number of respondents
Set up call centres to handle consumer queries	1
Train staff to be conversant with the Act	4
Staff speak local languages in the branch network	2
Conduct consumer surveys	1
Train employers and make information available for training of their own employees	1
Established consumer support desk that acts as a watchdog on consumer protection issues	1
Engaged in training consumers of their rights and obligations through various media channels	3
Continuous process of assessment and improvement	1
Have made available booklets to explain the Act and how it impacts on them	1
Train consumers directly through financial literacy workshops	1

The responses were quite diverse, but the common factor amongst all the respondents is training of staff to be conversant with the Act, followed closely by engaging in consumer training through various media channels. One respondent mentioned that his organisation has a subsidiary that is Financial Services Board-approved to provide training to consumers at town halls, churches or stokvel (a formal or informal rotating financial scheme with social and economic functions) meetings about the Act and other aspects pertinent to consumer education about financial matters.

The responses as to how the Act is likely to lead to changes in consumer indebtedness are tabled below.

Table 10: Credit providers responses - consumers' behavioural changes

4. Consumers' behavioural changes	Number of respondents
The Act will make it difficult for consumer to access credit and thus will reduce levels of indebtedness	3
The consumers will have increased awareness of their rights	1
The consumer's aspiration needs will continue to fuel indebtedness	1
The consumers will be better aware of the impact of credit	2
The Act will force people to assess need for credit	2
By creating more incentives for savings, consumers will, in time, move toward more savings plans	1
It will allow those consumers that have had their credit record expunged from credit bureaux to make a clean and fresh start, thus opting for responsible credit record	3
New behavioural patterns and habits take time, expect 12-18 months before noticeable changes	1
Culture of debt entrenched in SA culture	4
The consumer will seek other channels of credit that will not be as burdensome as accessing credit through the registered credit grantors	4

Three respondents concurred that the Act would make it difficult for consumers to access credit and by extension would reduce levels of indebtedness. One respondent talked about consumer's "aspirational" needs, and emphasised that consumers are driven by a need to move up the social ranks, and will continue to use debt to attain and/or maintain the required lifestyle. In fact, as a result of increases in their net wealth, these consumers might access cash from their home equity and/or revolving credit card, thus "recycling" debt instead of obtaining new one.

One respondent noted that consumers have been placed under pressure with the introduction of the Act, taking into account the impact of rising transport costs, higher food prices and increase in mortgage repayments. He acknowledged that the Act has only been in place for four months, and thus it is still too early to gauge the full impact. However, it can be expected that the level of defaults will increase. Credit cards, furniture and clothing accounts loans are likely to experience the initial impact, before short-term fixed loans.

For those consumers whose records have been expunged from credit bureaux, they need to build good credit scores. This view was common across three of the respondents. Typically, credit providers start these consumers off with 1-3 month-loans and allow them to build up a new repayment record, before granting longer loans. The amnesty has also allowed for new comers to access credit, and these tend to be diligent payers.

One respondent highlighted his organisation's commitment in offering full banking service, by offering competitive rates on savings accounts, and ensuring that those

consumers with bank accounts at their institution access loan at better rates than those without banking accounts. He went as far as to say: “we (as credit providers) are in competition for the share of the consumer’s wallet, and thus everyone benefits from responsible credit.”

The consumers seemed undeterred by rising interest rates. The key factor was access to credit. All the respondents agreed that the repayment rates remained high, with defaults ranging between 2% and 10%. One respondent noted that their sector was in the risk business, and that bad debts are part of the deal. He concluded by saying that “absence of bad debts is an indication that our lending criteria is too rigid” and thus would not be any different to any commercial bank. The primary role for these institutions is to make credit affordable and easily accessible. One participant went as far as to say: “our philosophy is to sell as much to consumers based on ability, need and willingness”. All the respondents concurred that to their knowledge, there had not been any referrals of consumers for debt counselling.

The undertone of these interviews was the need to concentrate on future product and/or market development initiatives. To this end, one participant had introduced a credit card, as an added avenue to access credit, and mentioned that they had seen “impressive growth” in that area. He also noted that at this point in time his organisation does not have the skill to move into transactional banking. Another respondent pointed out that they were discouraged about obtaining banking licence due to the high cost and added regulation attached to obtaining a licence. Another respondent conceded that they will need to introduce a credit card option at some

point, even though their focus remains on offering full banking services, otherwise they might lose their current and/or potential clients to competitors.

5.2. Survey results

The customer surveys were conducted within one branch of African Bank Investments Limited (ABIL) at their branch in Johannesburg's Central Business District. ABIL is a JSE Securities Exchange-listed bank-controlling entity, with a market capitalisation of approximately R17 billion and provides unsecured credit products to South Africa's domestic middle market. Their purpose is to provide their clients with credit that is affordable, responsible and convenient. This is achieved through the risk innovation and initiatives aimed at driving down the cost of credit. ABIL has been in the business of extending micro-loans for so long, that they are considered "South Africa's number 1 credit provider" (www.africanbank.co.za).

ABIL had humble beginnings, having operated as a small commercial bank, focusing on historically disadvantaged markets. (www.africanbank.co.za). The tipping point emanated with its acquisition by a listed Theta Group, which saw a subsequent merger with King Finance Corporation, Unity Financial Services and Alternative Finance, which were owned by the Theta Group. It was in 1999, that Theta Group changed its name to African Bank Investments Limited. The bank later acquired R2.8 billion Saambou personal loan book.

ABIL serves approximately 1.5 million clients through its 600 branch network, employing 3 000 staff members, with an estimated advances book totalling R11 billion

(Financial Report, 2007). Their latest financial report points to a 31% in sales growth for the year ended 30 September 2007, largely as a result of the introduction of the National Credit Act, which has allowed ABIL to offer larger loan sizes as well as longer average terms. The report further reveals that ABIL took a proactive stance to the Act, and adopted many of the required changes much earlier. The bank has also rolled out its credit card product offering and was thus able to grow their footprint to markets that were previously not possible.

ABIL was chosen because the organisation met the four main factors that relate to a selection of a case study organisation, namely, relevance, feasibility, access and application. ABIL is the biggest player in the consumer finance by market capitalisation, and with 16% - 20% market share has considerable clout. Additionally, the organisation addresses the purpose of this study. The organisation was the only one with a pure focus on provision of consumer credit. The other credit providers interviewed implied that their consumer credit book was only but a small part of their service offering. Other offerings include a full banking service, bridging finance, insurance products and cellular products. One participant said that his organisation defined itself as a “financial services company, with a micro-lending division”. He noted that the micro-lending arm accounted for 25% of their business.

The branch was chosen due to acknowledged high foot traffic. The surveys were conducted on the last working day of a month, at lunchtime, between 12 noon and 13h30, as that time tended to see more traffic than other days. On the day of the interview, the branch manager notified the researcher that while business on that day was relatively healthy, it was not as busy as other similar times in recent months. The

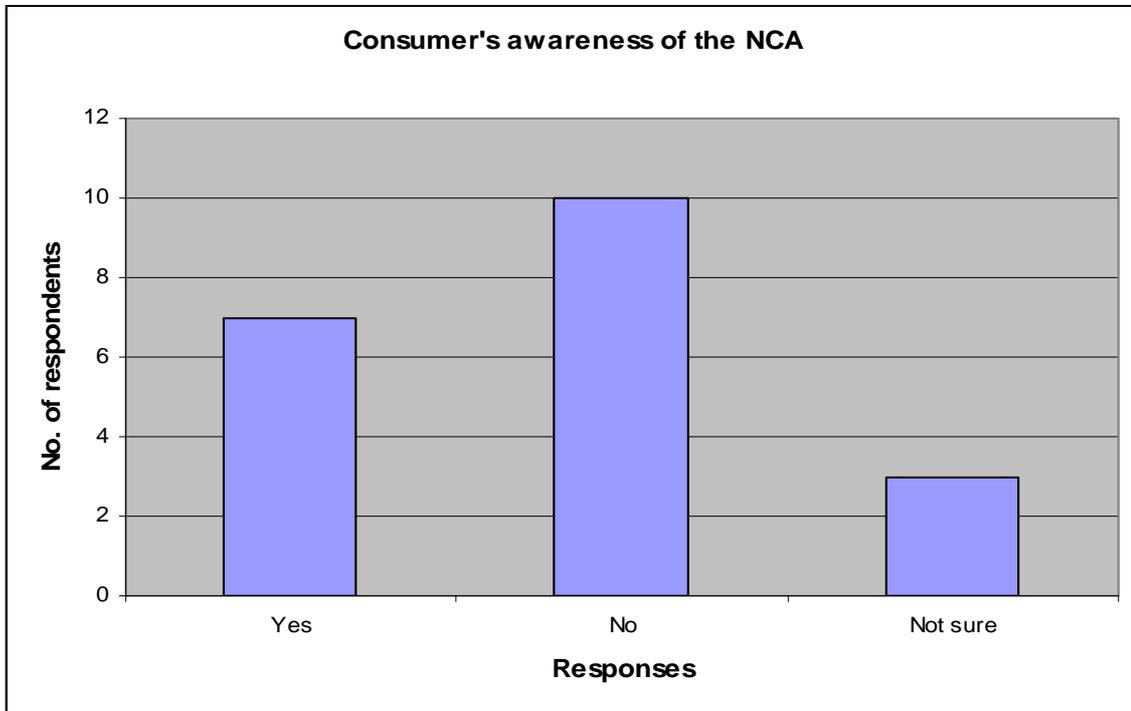
researcher was introduced to the staff members and the purpose of the visit was explained. The surveys were conducted with 20 walk-in customers of the branch, mainly in English with Zulu translations, with three surveys conducted in English in their entirety. Questions that were posed to consumers are in Appendix 3.

The researcher sought to elicit key issues pertinent to the Act and the research questions. Additional questions that were not part of the semi-structured interviews with the industry players were posed to the consumers. It was largely presumed that the credit providers and the regulator were aware of the Act. The same could not be assumed for consumers. The surveys comprised the following:

- **Awareness** of the Act – has the customer heard anything about the National Credit Act, be it information from media announcements and more importantly from his/her credit provider;
- **Intentions** – if aware of the NCA, comments on the purpose of the Act;
- **Uses of credit** – comments on what credit was applied for; and
- **Behavioural changes** – comments on how they may access credit or do differently post the introduction of the Act.

5.2.1. Consumer awareness of the National Credit Act

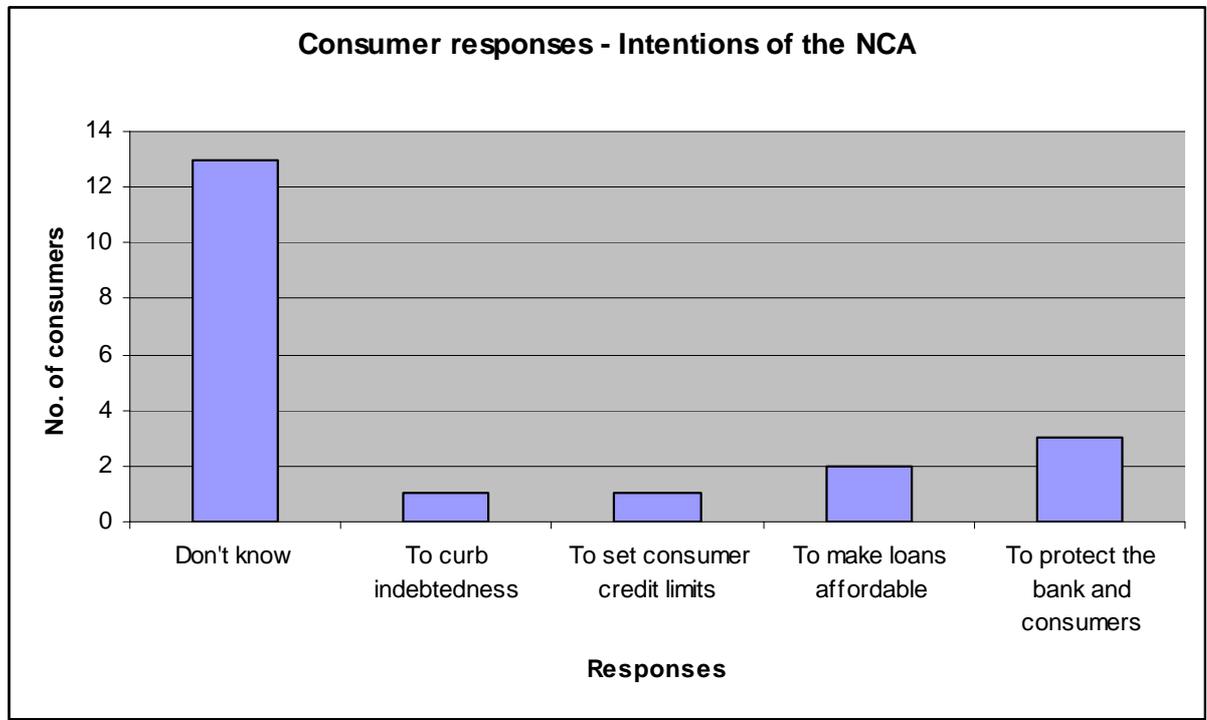
Figure 5: Consumers' awareness of the National Credit Act



There was an overwhelming indication that consumers lacked the awareness of the Act. Of the 20 consumers surveyed, only 7 had heard of the Act, and none of them got this information directly from their credit provider. They mentioned that they had become aware through media releases.

5.2.2. Intentions of the Act

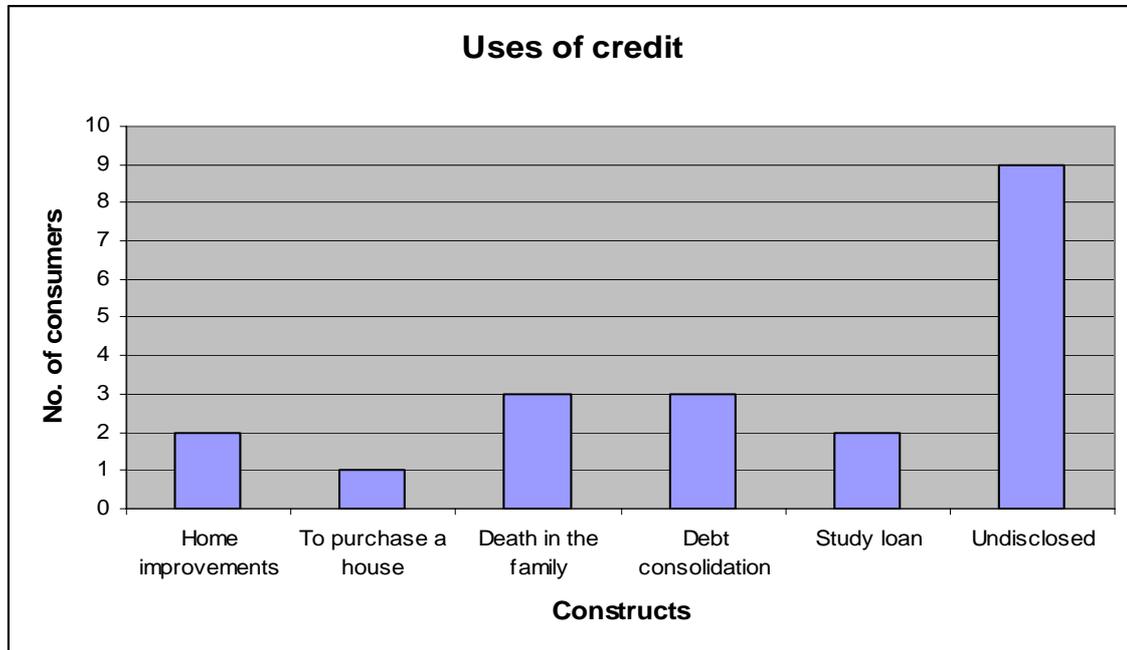
Figure 6: Consumer responses - intentions of the NCA



The survey indicates a low level of awareness amongst consumers with regard to the intentions of the Act.

5.2.3. Uses of credit

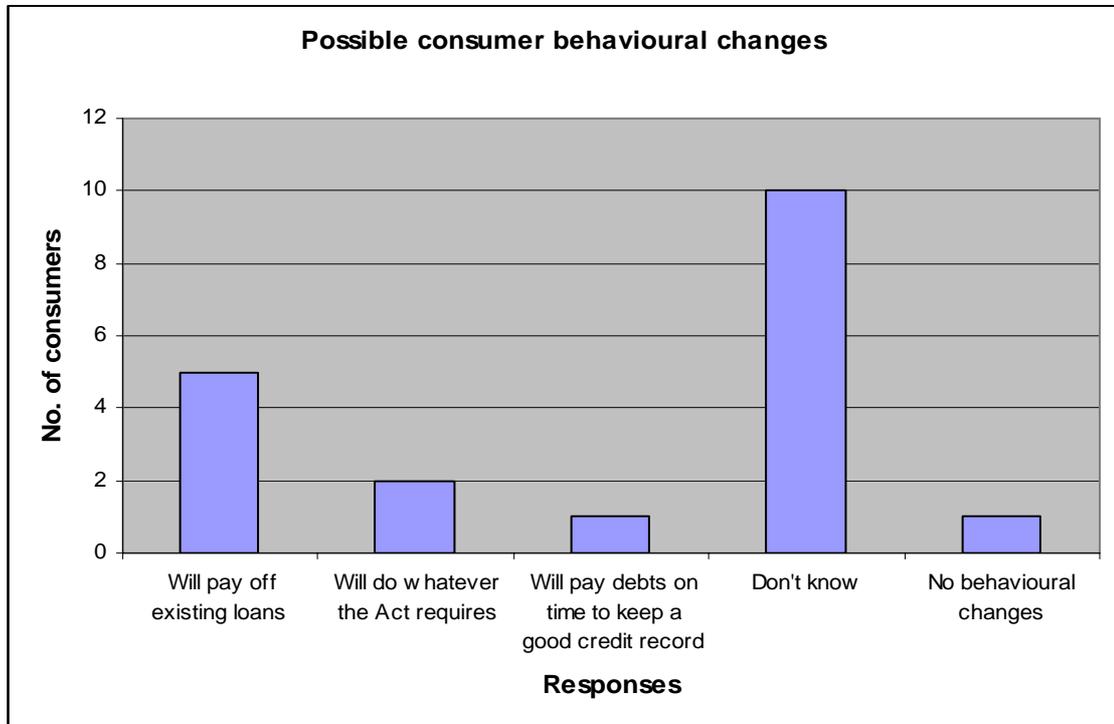
Figure 7: Consumer responses - uses of credit



One consumer really got aggressive when asked why he was applying for credit. He mentioned that it was “a private matter”, and that he was in no position to discuss his reasons with “a stranger”. Soon thereafter he refused to answer any further questions.

5.2.4. Behavioural changes

Table 11: Consumer survey - behavioural changes



This question elicited only 19 responses as one consumer was agitated by the previous question, which enquired about uses for credit.

6. DISCUSSION OF RESULTS

This chapter contains a discussion of the major findings of the study. It seeks to integrate the information from opinions of the respondents, the customers' perspective as well as the findings of the literature review.

In responding to the research questions highlighted in chapter 3, the findings will be discussed in the same order.

6.1. What are the intentions of the National Credit Act?

The purpose of the Act is to protect consumers by integrating various credit legislations, and thus create an efficient, competitive and fair credit market. The Act further aims to shift the balance of power towards the consumers, while eliminating predatory lending practices.

The comments made by interview respondents uphold this definition. All of the respondents believe that the Act creates a standard platform, which makes extension of credit uniform, while protecting consumers. The consumers' responses paint a picture of lack of awareness of the Act. One of the consumers, when asked if he had heard about the Act, responded that he had not heard of the Act, and wanted to know where he could apply for membership. A number of the respondents, who said they had not heard of the Act initially, seemed to recap something when the researcher explained a bit about the Act.

A survey commissioned by Blue Financial Services amongst its target consumers, to gauge the consumer's perception or knowledge of the Act and its impact on his/her life, revealed a relatively low awareness and relatively poor understanding of the Act (Blue Financial Services, 2007), with more than 50% of the sample unable to relate the Act and its impact on their lives or finances.

The results from consumers suggest that a lot more needs to be done to achieve an acceptable level of competence insofar as the intentions of the Act and the impact on consumers' financial decisions. The researcher observed copies of comic books available at the waiting area of the branch visited (Appendix 4). The consumers observed paged through the booklets and put them back on the table, even though it stated on the cover that it was a free copy. A possible deterrent could be that it was written in English and also that comics do not appeal to all the people, and the information contained in the booklet may be misconstrued to be trivial or intended for children. The surveys conducted on the effectiveness of the US Truth in Lending Act indicate that consumers prefer clarity and simplification rather than more information.

The National Credit Act makes it compulsory for credit providers to disclose the full costs of credit, since information disclosure facilitates ease of shopping around and making comparisons. If the level of awareness of the Act, let alone the components of the Act, is so low, how can the consumers begin to compare the costs of such credit? Braunsberger and Roach (2004) found that highlighting the variable annual percentage rate (APR) in credit card applications, does not translate to consumers processing the information any better than if it were not. Instead, highlighting the APR was found to distract the consumer from considering other important cost information.

Durkin 2002 suggests that while the Truth in Lending Act in US may have given rise to increased customers' understanding of credit matters, it can also be argued that today's consumers have the advantage of advances in education, more widespread and frequent credit use as well as advertisements, which have nothing to do with disclosure requirements. Consequently, most consumers seem to have derived benefit from the readily available disclosure of credit cost information. However, cases of abusive practices have also been reported, pointing to a need for improvements in financial literacy and enforcement against illegal practices.

The majority of South African consumers are nowhere close to the levels of advancement – in education or credit use – as noticeable in the US, and perceptions about credit still vary widely, depending on the individual's experiences in accessing credit. There is certainly no doubt as to the need for financial literacy in relation to credit markets and the enforcement of the Act against illegal practices. The Act needs to be translated into a language and concepts that the majority of the consumers can understand. It needs to talk to their very daily activities and struggles, by emphasising desired actions and consequences of such actions.

6.1.1. Uses of credit

Table 8 points out what the credit providers suggest credit is used for, ranging from consumption, home improvements and education.

The majority of the consumers' comments collaborate with the credit providers' opinions, with only one consumer, who insisted that it was a personal matter what credit was used for and refused to respond to the question. While Weller (2007) argues that households experience stagnant wages, this has not been the case in South Africa, as pointed by the SARB Financial Stability Review report (2007). The similarity is in so far as the rising costs for housing, education and transportation. Consumers concurred that the credit was used to do house improvements, pay for education (own or children's) as well as pay for emergency occurrences, like death in the family. Weller's (2007) argument is that the growth in household debt has been largely channelled for home purchases and home improvements, followed by car purchases; and that the desire for instant gratification is a small contributing factor.

It should be borne in mind how sensitive this question can be, as noted by the response from one respondent. It must also be remembered that, certain consumers may need to save face such that these consumers might not disclose the genuine reason for accessing credit, but give a response that they believe would make sense or be in agreement to what they perceive the researcher would like to hear.

In Mohane's survey (2003), she reveals that micro loans may serve consumption or production needs, and are required mainly for education, housing improvements, transportation and buying food. She further argues that setting interest rates too low, may limit the supply of credit and result in negative effects for consumers, as the lenders may find it not viable to carry on doing business at these rates. Consumers would then be left at the mercy of loan sharks or Mashonisas, as the demand of credit

would still persist. Mohane (2003) argues that a more appropriate approach should rather be to ensure that appropriate rates are charged, so as to increase competition and innovation. She concludes that interest rates ceiling may in fact have the opposite effect to what the regulators had intended.

6.1.2. Consumer awareness and education

While the credit providers indicated that they had programmes in place to educate staff and consumers with regard to the Act, it seems that these initiatives were not translating into informed consumers. The consumers lacked the depth of deducing the Act into something meaningful, e.g. knowing what the impact would be on their personal financial decisions and consequences of not adhering to the Act. One consumer asked if the researcher was at the branch to offer training on the Act, revealing a lack of personal touch in current programs. Some revealed that they had noticed that officials at the credit provider institutions had started requesting more documentation when handling application for credit, but the officials had not explained why. For most of the consumers surveyed, they had not seen any noticeable difference in how credit was granted post the implementation of the Act. One consumer even mentioned that the cost of credit has always been high and remains so; pointing to gaps in how the Act and the credit providers reach the consumers.

Hilgerth, Hogarth and Beverley (2003) suggest that the increased interest in financial education has been a result of increasing complexity in financial instruments and products, as well as the added burden on the individual for their financial security. They further state that well informed and financially educated consumers can make

better decisions for themselves and their families. Such consumers provide the essential checks and balances, thus eliminating scrupulous sellers from the marketplace.

6.2. How can the Act lead to changes in consumer indebtedness?

The respondents were divided as to whether the Act can really lead to changes in consumer indebtedness. One indicated that consumers tend to have a bank account with one institution and a loan with another. Their strategy was to offer a full banking service with attractive and competitive rates, with the intention of converting non-banking consumers into banking ones. This strategy would then lead to a shift toward a savings culture.

Another respondent pointed out that consumers are driven by aspiration, and that a need for a better lifestyle, will continue to fuel credit extension, more so in light of a booming economy and rising incomes, and thus entrench consumers' indebtedness for the foreseeable future, irrespective of the Act.

One respondent highlighted that their credit extension policy was such that emphasis on granting a loan was placed on such loan contributing to enhancement of household livelihood, i.e. start a small business, increase home equity by facilitating home improvements, or debt consolidation, so as to better manage their debt.

All the respondents agreed that it was still too early to tell what the full impact of the Act might be. There was, however, a concern amongst the credit providers that as

rules for access to credit become more stringent, consumers might resort to unregistered lenders, who might infringe on their rights and resign them to debt spiral.

The majority of the consumers seemed oblivious to how the Act would impact on them, and thus did not foresee any changes in terms of their attitudes or actions. Some indicated that they will continue to apply for credit as and when necessary, as “problems always crop up”, making it difficult to make ends meet on their usual income or fulfil emergency short-term requirements. However, these consumers were resolute that they will continue to pay off any existing loans before applying for additional debt. Gauging by the low level of awareness of the Act amongst consumers, it can be assumed that this resolution to pay off debt before that taking on additional loans, was something that was inherent in these consumers, rather than being the outcome of the Act.

Braunstein and Welch (2002) state that a deficiency in financial matters is likely to lead to inability to save for long-term goals, e.g. home purchases, financing higher education or retirement planning. They further suggest that informed consumers help to create more competitive and efficient markets, since knowledgeable consumers are able to demand products that meet their short-term and long-term goals. Providers respond by competing and creating products to meet such demands.

The field of financial education works on the premise that more information and knowledge will lead to changes in financial management practices. Higerth et al (2003) acknowledge that evidence to this end is not conclusive, and would require further examination in the field of behavioural economics – a blend of psychological and

economic insights, so as to understand the role played by procrastination, regret, risk aversion, peer pressure, altruism, and compulsiveness, into household financial management and economic decisions.

Ardington *et al* (2004) propose that access to credit can perversely be a source of vulnerability as poor households become over-indebted, especially if such debt is incurred for consumables rather than assets. These consumers end up being vulnerable and render themselves unable to cope with macroeconomic shocks. In response to these shocks, these consumers may act in ways that exacerbate their deprivation, making it almost impossible to escape the poverty trap in the long term. They may take children out of school, sell productive assets or borrow money from micro-lenders at high interest rates, thus further confining themselves to poverty.

Although the Act was welcome amongst the credit providers, there was some concern that there were areas that were not fully thought of by the regulators. Three of the respondents pointed out that the National Credit Regulator does not have enough capacity to supervise the implementation of the Act and that certain cases of misconduct might fall through the cracks. Only one respondent erred on the side of caution, noting that even if the NCR does not have the capacity to supervise the Act, it would seek to make one good example out of misconduct of a listed entity, so as to send a very clear message about its capacity and capability.

In Wheatley and Gordon's study (1971), they observed cases where retailers and financial institutions looked to compensate the limits placed on their revenues by the introduction of interest rates ceilings, by tightening their lending policies, including

increasing minimum down payments and/or shortening the repayment periods, as a means to minimise high risk transactions.

7. CONCLUSION

7.1. Observations

The Act is designed with the consumer in mind, to facilitate a fair, competitive and efficient credit market. It is designed not just to enable access to credit, but also to make such credit affordable. The Act further seeks to integrate various credit laws, so as to create a uniform credit market, governed by one piece of legislation. Although the intentions are good, a number of observations could be derived from the analysis of results.

Firstly, the Act does not put stringent requirements on the credit providers to educate their consumers, or provide an external party to do so. As observed by Griffiths (2007), the business of financial intermediaries is not to educate, but rather to facilitate the flow of capital between those with excess funds and those in need of funding. Consequently, these financial institutions will maximise the consumers' indebtedness within set rules, even if it means extending the term of loan, without necessarily relaying consequences of such actions to the consumers.

Secondly, the epic changes envisaged by the Act will take time to bear fruit, as old habits take time to change. It is thus important for the Regulator to offer a constant voice of reason, not only to the credit providers, but also to the consumers. The Regulator also needs to be visible and interactive with all its stakeholders. It should strive to attain a prime position of being the first port of call in all matters relating to

credit, be it to ascertain if a credit provider or debt counsellor is registered or to refer credit agreements disputes.

7.2. Recommendations

The nature of this study was exploratory, and thus was addressed through qualitative research, as it is subjective and involves examining and reflecting on perceptions, so as to gain understanding of social and human activities (Hussey and Hussey 1997).

7.2.1. The National Credit Regulator

The Regulator should certainly look into obtaining services of independent third parties to focus on consumer education and training.

The Regulator should commend those institutions that go beyond NCA compliance and demonstrate commitment to the NCA objectives. Hopefully with more commitment, the industry can be self-regulating.

7.2.2. The credit providers

The results from the consumers point to a need of consumer engagement with respect to the Act. The consumers indicated a personal interaction or even a one-on-one with consumers. The most opportune time is at the time of application for credit. Allow five minutes to familiarise the consumer with the Act, instead of taking a reactive approach.

7.3. Recommendations for future research

Exploratory research looks for patterns or ideas rather than testing or confirming a hypothesis. Such research hardly provides conclusive data, but gives guidance on what future research, if necessary, should be conducted (Hussey and Hussey 1997). This research was restricted to certain questions and respondents, so as to address certain specific aspects of the Act. Seeing that the research was conducted at the early stages of the Act, certain areas of future research have emerged:

- Research should be conducted at least one year after the implementation of the Act, to see if the Act has achieved what it set out to do, and the impact, if any, on levels of consumer indebtedness;
- The Act was introduced at the height of interest rates hikes, which began in June 2006; as such the slowdown in consumer spending could not be entirely attributable to the Act. It would be of interest to measure the impact of the Act, in an easing phase of the monetary policy;
- The research was conducted amongst those listed institutions that were governed by the Usury Exemptions Notice of 1999 prior to the introduction of the National Credit Act. Further research needs to be conducted amongst other industry players, i.e. the banks, retailers etc., both listed and unlisted;
- The consumers that were surveyed for this research were, in general, low-income earners in one branch of one lending institution. These consumers tend to have entry-level requirements for credit. Research should be conducted amongst middle and high-income earners, who perhaps require mortgage credit or starting a business to see if they are impacted by the Act in any different way.

7.4. Conclusion

In the ASGISA document (2006), the South African government pointed to a need for state intervention so as to address inequality in society. This view is supported by Hirsh (2004), who posits that highly unequal societies are generally unable to escape inequality without some significant state intervention. The South African credit market is that case in point. The Act has set a clear agenda of its intention to harmonise the credit market, and has secured a buy-in from the credit providers. However, the consumers, especially the low-income earners, which are meant to benefit from the Act, are left miles behind.

Ramsay (2000) states that consumer protection is a positive attribute of social welfare. He further highlights that consumer detriment suffered by a low-income earner, is much higher than for a middle-income consumer, since this detriment accounts for a larger percentage of their household income, equating this to a regressive form of taxation. He cites Roy Goode, a renowned authority on consumer credit law, who argues that questions of social welfare are the responsibility of government, and that: “consumer credit legislation, though often associated with the protection of the indigent, is in truth neither designed nor equipped for the special needs of the low-income consumer. There is nothing that consumer credit legislation can do to provide the consumer with a good job, a reasonable income or a roof over his head”.

The 2006/7 US financial crisis resulting from subprime mortgage lending practices has once again put the role of regulation of consumer credit, back on the radar screens. Griffiths (2007) proposes that banks tend to seek greater profit opportunities in the

short-term, to the potential detriment of increasingly indebted consumers. As such, it becomes a vicious circle – the more consumers borrow, the more they need to borrow to meet their needs and repay their debt.

The South African government must then be commended for acting early and thus stopping any inclination toward subprime practices in its tracks. The credit grantors believe that the Act has bestowed certain benefits on them as well, partly because it will encourage them to be innovative in their product development, and force consolidation in the credit market. The Act has enabled these institutions to offer longer-term loans, as well as loans in excess of R10 000. However, there were some concerns that the Act might encourage some industry players to look into other markets outside South Africa, where they are not burdened with compliance to the Act, largely due to the shareholders' unwillingness to pare their dividends expectations. The credit providers might also focus on the business with higher margins and ignore certain markets, thus limiting supply in those segments of the market.

In order for the Act to have any significant changes, the Regulator needs to up the ante on consumer education, by making it compulsory, rather than a case of nice-to-have. The study has found low levels of awareness amongst consumers. Such ignorance will render these consumers vulnerable to economic shocks, since it seems that the decision to take on credit is a symptom of consumer culture, fuelled by a need to attain or maintain a certain lifestyle (O'Loughin and Szmigin, 2006).

While it is still too early to measure the real impact of the Act, more so because it was introduced in the middle of increasing interest rates cycle, the industry experts, by and

large, agree that over time, it will bring about significant changes in the way consumers access credit. During the recent SARB Monetary Policy Review in November (MPR, 2007), a question was posed as to whether the National Credit Act has had a discernible impact on credit extension. The central bank noted that, while growth in credit extension had eased somewhat, it was difficult to determine whether this was due to tighter monetary conditions or the NCA.

Although, indications are that consumers are not as in financial dire straits as once believed, due to significant increases in income and financial assets, the overriding message should be that of prevention rather than cure, i.e. to highlight the benefits of paying in cash and instil that culture as a first option. If, however, a consumer wants to access credit, the credit market should be widely available, transparent, competitive, equitable and fairly priced. The consumer should be comfortable with the implications of such action, by fully understanding what their rights and obligations are when they choose that route. Consumers should be fully conversant with the National Credit Act, what it seeks out to do, its implication on their personal finances and what behavioural adjustments they need to adopt so that the Act can truly and fully benefit them.

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9. APPENDICES

9.1. Interview Guide

1. What, in your opinion, is the purpose of the Act?
2. Is the Act relevant and justified, given the structural changes taking place in SA today? Would you say the industry engaged in reckless lending pre-NCA? Explain / Justify
3. Did you observe any consumer over-indebtedness pre-NCA implementation?
4. What is credit used for?
5. What trends / patterns have emerged since the implementation of the Act?
6. Can these trends be solely attributed to the Act – in light of rising interest rates, inflation, etc?
7. What is the consumer's level of understanding re: NCA? What role do you play in educating the consumer about his/her rights and obligations?
8. With the tighter requirements, what percentage of consumers have you had to turn down?
9. How can the Act lead to consumer behavioural changes in dealing with credit? How will that be achieved? Can the Act achieve what it set out to do?
10. What areas would you recommend for further research? What questions should be addressed to consumers?

9.2. Interview Details

Interview Details			
Category	Name	Organisation	Function
Credit Regulator Official	Kagiso Kgasi	National Credit Regulator	Legal Advisor
Credit Provider Official	Christo Klopper	Blue Financial Services	Country Manager
Credit Provider Official	Tami Sokutu	African Bank Investment Limited	Director
Credit Provider Official	Jaco Carstens	Capitec Bank	Credit Manager
Credit Provider Official	Johnny Ramasehla	African Dawn Capital	Deputy CEO

9.3. Consumer survey questions

CONSUMER SURVEY			
Are you aware of the National Credit Act?	YES	NO	NOT SURE
How did you become aware of it?	OWN INSTITUTION	MEDIA	OTHER
What, in your opinion, are the intentions of the Act?			
When applying for credit, what is credit used for?			
What will you do differently, i.e. how will you adjust your behaviour, so as to curb indebtedness?			

9.4. Copy of comic book