

# THE IMPACT OF THE NATIONAL CREDIT ACT ON MICRO LENDING SALES IN A BANK IN SOUTH AFRICA

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A research report submitted to the Gordon Institute of Business Science,  
University of Pretoria in preliminary fulfilment of the requirement for the  
degree  
of  
Masters of Business Administration



13 November 2008

## Abstract

The South African Government moved aggressively to curb predatory lending, consumer abuses and outdated, piecemeal and ineffective legislation on consumer credit through the introduction of the National Credit (2005) and Regulations (2006). As a result the financial institutions and consumers are experiencing increasing pressure from the National Credit Act due to the strict lending regulations placed on the loans that it provides to its consumers or customers.

The objective of this research is to determine the impact of the National Credit Act on the sales of a Micro Loan to a customer of a specific bank within South Africa. The research approach of data triangulation research approach was used, divided into two phases. Phase one consisted of data analysed from the specific bank in question and supports the framework and foundation for phase two which consisted of face-to-face semi-structured in-depth interviews with ten industry Micro Lending Industry Experts within South Africa. Content analysis and constant comparative analysis was used to identify the key patterns and themes that emerged

The research found that the National Credit Act has had a significant impact on the Micro Lending Market with creating a more formal market and decreasing the informal market. The impact on the consumers repayment default on a micro loan was also significant and defaults decrease following the implementation. The general assumption that not enough time was given to the original goals set out by the Act to support the South African economy.

**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 to any other University.

.....  
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**13 November 2008**

## **Acknowledgements:**

I would like to acknowledge the following people who made this research possible:

**Gavin Price**, my research supervisor who provided great insight and guidance throughout the research process. It was an absolute amazing learning experience.

**Jaco van der Merwe**, my partner, who has supported me through many late nights and has been my rock, I would not have done it without him.

**Louis and Susan Rossouw**, my parents, who have always supported my decisions and stood by me through thick and thin (2006, 2007 & 2008).

**Samuel and Kitty**, my wonderful children, for their patience and love.

**Professor Margie Sutherland**, who encouraged me from the beginning of 2008 and provided guidance in the initial shaping of my proposal, thank you.

**Gerret Oosthuizen**, my coach and direct manager, for his patience throughout the MBA and being a good sounding board.

**Mashinka Fourie**, for your editing skills, support and your friendship.

**Hanlie De Winnaar**, for your camaraderie during the past year!

**Information Centre Staff**, for your quick and efficient support, thank you!

**To all my FRIENDS**, for your patience, understanding and support

## TABLE OF CONTENTS:

<b>CHAPTER 1: INTRODUCTION TO RESEARCH PROBLEM:</b> .....	<b>1</b>
1.1 Introduction and Background: .....	1
1.2 Current South African Economic State to further support the study: .....	3
1.3 Research Problem.....	5
1.4 Research Scope:.....	6
1.5 Aim of the Research:.....	6
1.6 Research Objectives: .....	7
1.7 Stakeholders: .....	8
1.8 Purpose of this study:.....	9
1.9 Structure of the Report:.....	9
<b>CHAPTER 2: LITERATURE REVIEW.....</b>	<b>11</b>
2.1 Economic Environment of South Africa: .....	12
2.2 Consumer Credit Risk Management:.....	17
2.3 Banking Regulation and the National Credit Act (NCA):.....	28
2.4 Micro Lending In South Africa: .....	38
<b>CHAPTER 3: RESEARCH QUESTIONS:.....</b>	<b>43</b>
<b>CHAPTER 4: RESEARCH METHODOLOGY: .....</b>	<b>44</b>
4.1 Introduction.....	44
4.2 Phase 1: Documentary Research .....	45
4.3 Phase 2: Structured Interviews .....	48
4.4 Data Management:.....	56
4.5 Data Validity and Reliability:.....	57
4.6 Research Limitations:.....	58
<b>CHAPTER 5: RESULTS.....</b>	<b>59</b>
5.1 Introduction:.....	59
5.2 Research Question 1: What are the views and perceptions of the industry experts prior to the implementation of the National Credit Act? .....	61

5.3	Research Question 2: What was the impact on micro loans after the implementation of the NCA on the repayment of a loan? .....	67
5.4	Research Question 3: Overall impact of the National Credit Act on the Absa and / or Micro Lending Market, positive or negative? .....	73
5.5	Research Question 4: What are the views of the Experts regarding the overall impact of the National Credit Act on the South African Market?.....	75
<b>CHAPTER 6: DISCUSSION OF RESULTS .....</b>		<b>80</b>
6.1	Introduction:.....	80
6.2	Research Question 1: What are the views and perceptions on the outcomes of National Credit Act of experts BEFORE the implementation of the NCA? .....	81
6.3	Research Question 2: What was the impact on micro loans AFTER the implementation of the NCA on the repayment of a loan? .....	87
6.4	Research Question 3: Overall impact of the National Credit Act on the Absa and / or Micro Lending Market, positive or negative? .....	94
6.5	Research Question 4: What are the views of the Experts regarding the overall impact of the National Credit Act on the South African Market?.....	97
<b>CHAPTER 7: CONCLUSION AND RECOMMENDATIONS.....</b>		<b>102</b>
7.1	Summary of Findings .....	102
7.2	Recommendations: .....	106
7.3	Recommendations for Future Research: .....	107
<b>8. REFERENCE LIST: .....</b>		<b>108</b>
<b>9. APPENDICES:.....</b>		<b>113</b>
Appendix 9.1: Income disparities 2006 – 2007 .....		113
Appendix 9.2: The purposes of the National Credit Act (2005) as cited by Goodwin-Groen (2006) .....		114
Appendix 9.3: Main components of the National Credit Act and .....		115
Regulations as cited by Goodwin-Groen (2006) .....		115
Appendix 9.4: Consumer Credit Law in Selected Countries .....		116
Appendix 9.5: National Credit Act – Interest Rate and Fee Regulations .....		117

Appendix 9.6: List of Experts and Interview Coverage: .....	118
Appendix 9.7: Letter to Participants .....	119
Appendix 9.8: Respondent Information and Interview Questions .....	120
Appendix 9.9: Interview Guide .....	128

## List of Tables

Table 2.1: A typical Example of a Credit Score Card .....	28
Table 2.2: Illustration of the Cost of Credit in terms of the National Credit Regulations of Short Term Loans.....	31
Table 5.1: Experts and Demographics of Experts .....	60
Table 5.2: What are your views on the assumptions made with regards to the outcome BEFORE the implementation on the National Credit Act in light of the: Consumer, The Absa Micro Lending Business Unit and the Micro Lending Environment in South Africa? .....	62
Table 5.3: Are you of the opinion that consumers defaulted more on the repayment of their micro loans BEFORE the implementation of the National Credit Act? .....	65
Table 5.4: To what extend do you think that National Credit Act benefited the consumer as per the original goals set out by the Act? .....	68
Table 5.5: What Benefits stands out for you? .....	72
Table 5.6: Are you of the view that the default rate have increased or decreased on the consumer's repayment of the micro loan AFTER the implementation of the National Credit Act? .....	71
Table 5.7: To what extend to you think the over all Absa / Micro Lending Market was affected by the NCA – positively and / or negatively and how? .....	74
Table 5.8: To what extend to you think that the National Credit Act has eradicated unscrupulous lending in South Africa? .....	77
Table 5.9: Are you of the view that the National Credit Act could have contributed to the prolonged economic stability in South Africa versus <i>for example</i> the sub-prime market meltdown in the United States? Why? .....	79

## List of Figures

Figure 1.1: Household debt and debt servicing cost.....	4
Figure 2.1: Household debt 1994 – 2008.....	15
Figure 2.2: Typical Credit Life Cycle in a Bank in South Africa.....	25
Figure 5.1: Default Rate of Consumers BEFORE the implementation of the NCA.....	72
Figure 5.2: Default Rate of Consumers AFTER the implementation of the NCA.....	80
Figure 5.3: The Impact of the NCA on the Micro Lending Market.....	83

## **CHAPTER 1: INTRODUCTION TO RESEARCH PROBLEM:**

### ***1.1 Introduction and Background:***

Prior to the enactment National Credit Act 34 of 2005 (NCA), up to 67 percent of South African citizens relied on money-lenders for credit, without protection from legislation. Money-lenders serviced consumers with loans at such a high interest rate (Government Gazette, 2006), that they were often unable to repay their loans and to provide for basic household needs, in turn leading to more borrowing and creating a downward spiral from which the borrower was unable to escape. The Usury Act further allowed money-lenders to charge higher interest rates to the lower-income earners while the middle to affluent income earner were charged reasonable rates of interest (Usury Act, Act No 73 of 1968) which meant that the middle and affluent market had much easier accessibility to credit than the lower income market.

Clayton (2008) commented that consumer credit legislation in South Africa was seen as non-existing and did not have any clout in order to protect the lower-income consumer against over-indebtedness due to over-exposure on credit ([www.persfin.co.za](http://www.persfin.co.za)). The need to review the consumer credit legislation was been recognised since the South African Law Reform Commissioned the 1994 review of the now repealed Usury Act 73 of 1968 (Goodwin-Groen, 2006).

Goodwin-Groen further highlighted that the criticism of a dysfunctional credit market was based on the following problem areas (2006):

- Fragmented and outdated legislation;
- Ineffective consumer protection in relation to the 85 percent of the population in low-income groups;
- High cost of credit and in most cases the lack of access to credit;
- Rising levels of over-indebtedness
- Reckless behaviour by credit providers and exploitation of consumer by micro lenders, intermediaries, debt collectors and debt administrators.

The National Credit Act 34 of 2005 (Government Gazette, 2006) was promulgated on 15 March 2005 with the objective to replace the Usury and Credit Agreement Act as well as related subordinate legislation that governed micro lending with a single, functional regulation that would apply to all credit transactions to ensure equality between credit providers and credit consumers.

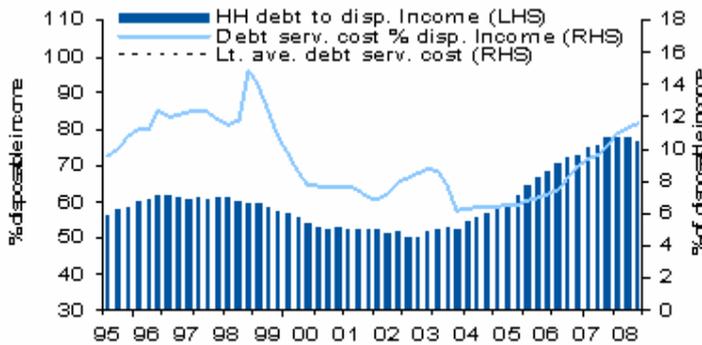
The NCA was designed to achieve a number of objectives, most of which are intended to regulate consumer credit and applies to any credit agreement between parties (credit providers and adult natural persons, association of persons and every juristic person) and protects consumers against over-indebtedness and reckless lending on the part of the credit providers.

The purpose of this study is to investigate the impact that the NCA has had and will have on a sale of a micro loan to a consumer and the likeliness of the repayment of that loan. This investigation will take place in a specific bank in South Africa. The impact mentioned above can be defined as the effect the NCA has on consumers, financial institutions and South Africa as a whole with regards to the utilization of micro loans and the repayment of such loans. This therefore will entail an investigation to the banks risk management and debt control to establish if there is any visible impact of the NCA on the cost of credit for both the consumer and the credit provider (book size and profitability).

### ***1.2 Current South African Economic State to further support the study:***

In the first quarter of 2008, South Africa registered its lowest GDP growth of 2.1 percent since third quarter of 2001 where the GDP was at 1.1 percent. The current GDP growth is the lowest compared to the real annualised economic growth of 2007 recorded at an average of 4.9 percent (Statistics SA, 2008). The low GDP growth has been attributed to power outages and rising cost of debt leading to a substantial reduction in household expenditure, a major component of GDP.

**Figure 1.1: Household debt and debt servicing cost**



*Source: SARB, Absa Capital*

Expenditure is still strictly monitored by the Reserve Bank's monetary policy to ensure fixed investments to sustain economic growth and to continue to tighten household consumption.

This, as per the governments plan, will all improve with the capital expenditure and preparations for the 2010 Soccer World Cup. The CPIX target band will remain unchanged between 3 – 6 percent in order to reduce inflation expectations (South African Reserve Bank, 2008) and whilst CPIX remains substantially outside this target range rates will remain high and the continued high cost of borrowing will in place further strain on consumers and businesses through weakened demand (South African Reserve Bank, 2008).

To conclude, the current South African economic situation could be one of the indications of the influence the National Credit Act has had on the economic environment in South Africa. If the South African economic environment is compared to that of the United States with its current sub-prime market crash, it could be stated that our tight banking regulations have supported the South African population to a degree. This could be interesting to investigate as part of this study and should be seen as one of the purposes of this study.

### **1.3 Research Problem**

Given the importance of the NCA on loan agreements (small, medium or large) and due to lack of the support the customer received from the Usury Act and the Credit Agreement Act, the research seeks to determine whether the NCA has a positive or a negative impact on the selling of a micro loan in a specific bank in South Africa. Does the NCA have a significant impact on the banks financial performance due to only receiving payment after all other debt has been paid?

It is also important to note that before the NCA was introduced, micro lenders were unsure of payments due to the pricing structures and large interest rates which sometimes covered up to 300 percent of default rates.

The objective of the NCA was to protect the customer and therefore the above picture has changed significantly. The application for and granting of credit has become much more difficult for both the customer and the banking industry. The NCA's purpose was to accrue benefits to the stakeholders within the economy, with minimal costs incurred by certain stakeholders groups. With the focus on section 129 of the NCA of 2005, there is a possibility that cost could be incurred by the bank due to an extension in repayment of the loan to ensure that any default amount is recovered as stated by the Act, but could be a benefit for the customer due to the

arrangement that customers can make to repay debt without repossession of assets.

With the application of section 129 the risk is placed on the bank to ensure that a proper collections process is in place to recover defaulted loans without penalizing customers. The above information leads to a potential topic for research on the application and influence of the NCA with regards to risk management and collections of a small loan within a bank in South Africa.

#### ***1.4 Research Scope:***

The scope of this research is limited to the impact of the NCA on the sale of a micro loan to a consumer through a specific bank in South Africa and the likeliness of the loan's repayment prior to and following the implementation of the NCA.

#### ***1.5 Aim of the Research:***

The aim of the research is to investigate the impact of NCA on the sales of a micro loan within a bank in South Africa and to investigate the repayment ability of the customer. The outcome of the research is to discover the effect

the NCA has on the consumer, the commercial micro loan provider and the South African Micro Loan Bank and then the micro lending market.

### **1.6 Research Objectives:**

The fundamental question this research intends to answer is:” What was the propensity of the customer to repay a micro loan prior to and following the implementation of the National Credit Act and did the NCA really impact this repayment behaviour.

The main objectives of the research are set out below.

- Objective 1 is to determine the default rate of customers before the implementation of the NCA. Default of 1, 2, and 3 and then handed to legal.
- Objective 2 is to determine the default rate of customers after the implementation of the NCA. Default of 1, 2, and 3 and then handed to legal.
- Objective 3 is to determine the repayment behaviour of the customer before the implementation of the NCA
- Objective 4 is to determine the repayment behaviour of the customer after the implementation of the NCA
- Objective 5 is to determine what financial impact specific bank experience over the period of the implementation of the NCA

- Objective 6 is to interview industry experts and determine if they agree with the findings in Objectives 1 -5.

### **1.7 Stakeholders:**

There are a number of stakeholders affected by the regulatory environment and the importance of collections of a small loan book within a South African bank. They will be affected in different ways, given that the government's intention to ensure an economic growth and a decrease in unemployment figures were the focus point to introduce small loans. There are two major groups of stakeholders internal to the bank that is affected. Due to the commercial entity of the bank, the primary focus would be to gain market share with the intention of a financial return on the investment. With this responsibility lies the mitigation of the risk through a strategic collections process aligned to the regulatory requirements of the NCA. The management of the bank represents the shareholders and therefore tasked with achieving this return and recovery. The second group of stakeholders is the customer of the bank. It is important to them to be protected against any unscrupulous lending and therefore protected by the NCA. Section 129 of the NCA also protects the customer in the way that any default loan is collected (Government Gazette, 2006).

### ***1.8 Purpose of this study:***

The research will aim to understand:

- The purpose and application of the NCA within a bank, specifically focussing on the repayment behaviours of the consumers prior to and following the implementation of the NCA.
- The impact on the strategy of collections on micro loans within governance of the NCA.
- The impact of the operational cost to maintain a collections service that will be able to cope with all aspects of the NCA.

### ***1.9 Structure of the Report:***

Chapter 2 reviews the two main bodies of the literature relevant to this research, namely the National Credit Act and the Customer.

Chapter 3 identifies the four research questions that address the research objectives.

Chapter 4 describes the qualitative research methods employed for phase one and two of the research, including detail around the population, sample selection and size and respondent profile.

Chapter 5 presents the key results of the research against each research question identified in Chapter 3.

Chapter 6 analyses the results presented in Chapter 5, relating these results back to the literature on the National Credit Act, Risk Management, South African Economy, the Micro Lending Market in South Africa and the research questions determine in Chapter 3.

Finally, Chapter 7 concludes with key recommendations following on the objectives set out in Chapter 1 and the findings presented in Chapter 6.

## **CHAPTER 2: LITERATURE REVIEW**

The headings of the research report and some of the literature under these headings are set out in this Chapter. The theory described defines the concept of the impact the National Credit Act (2006) has on the customer's propensity to repayment of their loans, before and after the implementation of this Act (Government Gazette, 2006). Focus will be placed on the different definitions and descriptions for defaults, repayments, micro loans and account delinquency. This chapter will also focus on the views from Canada, Australia and the United Kingdom with regards to regulation, the cost of credit and over indebtedness.

The research problem is based on the different factors impacting the micro lending industry as well as the impact pre and post the NCA on the payment ability of the customer. It is important to note that due to the exploratory nature of this study, the literature review in this document is preliminary with constant updating and refining of literature as the data is collated and analysed (Mason, 2002).

## ***2.1 Economic Environment of South Africa:***

Sicre (p11, 2004) captured the following words spoken by the South African President Thabo Mbeki at the World Economic Forum in 2004: “The past was marked by oppression, racism, conflict and instability, and a continuously deepening economic crisis. This has changed to the current reality of freedom, dedication to non-racialism and demonstrable stability, and robust economic recovery. Now we have a South Africa where yesterday’s oppressors and the oppressed work as partners”.

In Sicre (2004), Mboweni stated that when the first democratically elected South African Government came to power in 1994, it had to deal with a country largely isolated from the rest of the world’s economic growth. Sanctions, disinvestment and declarations of partial debt standstill had occurred from September 1985. This forced the newly elected government to pursue an inward-orientated policy which had a significant impact on the domestic economic performance. Mboweni (2004) in Sicre, wrote that the consequences of the above occurrences also impacted the living standards of South African. Constrained economic growth led to the rise of unemployment and the declining rate of productivity.

The past decade has held some challenges and successes for the new South African Government. Significant focus was placed on improving the development model in the first five years (Padayachee, 2006). Focus on balancing pressures locally and globally, with the need to address the

appalling legacy of apartheid and the “racially skewed history of oppression and exploitation”, as expressed by Padayachee (p 1, 2006), left a large part of the population marginalised, poor and without any or adequate health, housing and water.

Establishment of a stable democratic system created a platform to focus on socio-economic development challenges (Sicre, 2004). Padayachee (2006) wrote that economic challenges of the past were addressed immediately with the change of the old regime’s neo-liberal Normative Economic Model, 1993 to that of the African National Congress (ANC) Keynesian approach of Macroeconomics. The establishment of the Growth, Employment and Redistribution Plan (GEAR) by the ANC was non-negotiable and the focus was placed on immediate reform of the country.

The financial sector faced some challenges due to the sanctions prior to the new government. Some regulations and practices deviated from international best practices. Due to this, significant efforts were made to bring the rules and regulations on the activities of financial institutions in line with international best practice. In 1994, the regulatory authorities also actively developed appropriate clearing, settlement, ownership transfer and market information systems and proper inter-market and cross-market risk-management systems (Mboweni, 2004). Further emphasis was placed on providing access to finance and banking activities to small, medium, micro enterprises and the under-banked communities. The reason for this focus was due to the

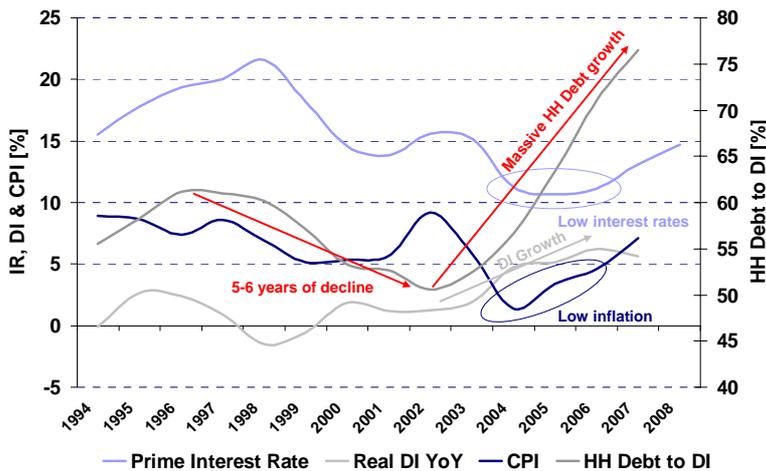
recognition of the regulatory objective of achieving high degrees of economics efficiency and consumer protection in the economy (Mboweni, 2004).

To conclude, South Africa has achieved numerous economic successes with the new democratic government through new regulations, new fiscal and monetary policies, financial stability and excessive economic growth of 1.5 per cent in real gross national income per capita between 2000 and 2003 (Sicre, 2004).

### **2.1.1 Background to Household Debt in South Africa:**

For the past 14 years it has been a roller coaster with regards to the household debt in South Africa. Between 1997 and 2001 there was a decline in household debt, but gradually started to change as the consumer spending in 2005 reached an all time high with the low inflation and interest rates. This changed dramatically with the increased fuel prices, increased inflation and subsequent increased interest rate between the end of 2007 and 2008 (Van Aardt, 2007).

**Figure 2.1: Household debt 1994 – 2008**



**Source: SARB, Strategy Analysis**

The major reasons for the vulnerability differs across market segments with South African Households having incurred debt to the value of R1.1 trillion, equating to 74 percent

of the disposable income. The mass market was largely vulnerable to the inflationary pressure, with increase food price inflation, and increased transport costs due to record fuel costs. This in turn led to an increase in microlending activity to support the shortfalls in basic consumption patterns.

Furthermore, income disparities have widened in the past two years, boosted by more rapid growth in high-income earners (van Aardt, 2007) as illustrated in Appendix 9.1.

Prospects for global economic slow down has intensified in the United States of America, Europe and in Japan. The USA's slowdown in the GDP slowdown reflects a weakening of domestic demand with the collapse of housing price induced dissaving on the part of the consumer, weaker real income growth and rising fuel, food and import prices.

Aron, Muellbauer and Prinsloo (2006) agrees that the substantial changes in equity values and the value of residential real estate over the past decade have generated new interest around the globe in the influence of household-sector wealth on financial consumption expenditure of private households. This is seen as equally true in South Africa as final consumption expenditure by household relative to gross domestic product (GDP) rose from average of 56 percent in the 1980's to an average of 62.5 percent between 1990 and 2005 (Aron *et al*, 2006).

The household debt-to-income ratio has increased over the past three decades and this can be attributed to the following three factors; The financial deregulation from the beginning of the 1980's; the reduction in interest rates, both in nominal and real terms; and the rise in wealth-to income ratios (Aron *et al*, 2006).

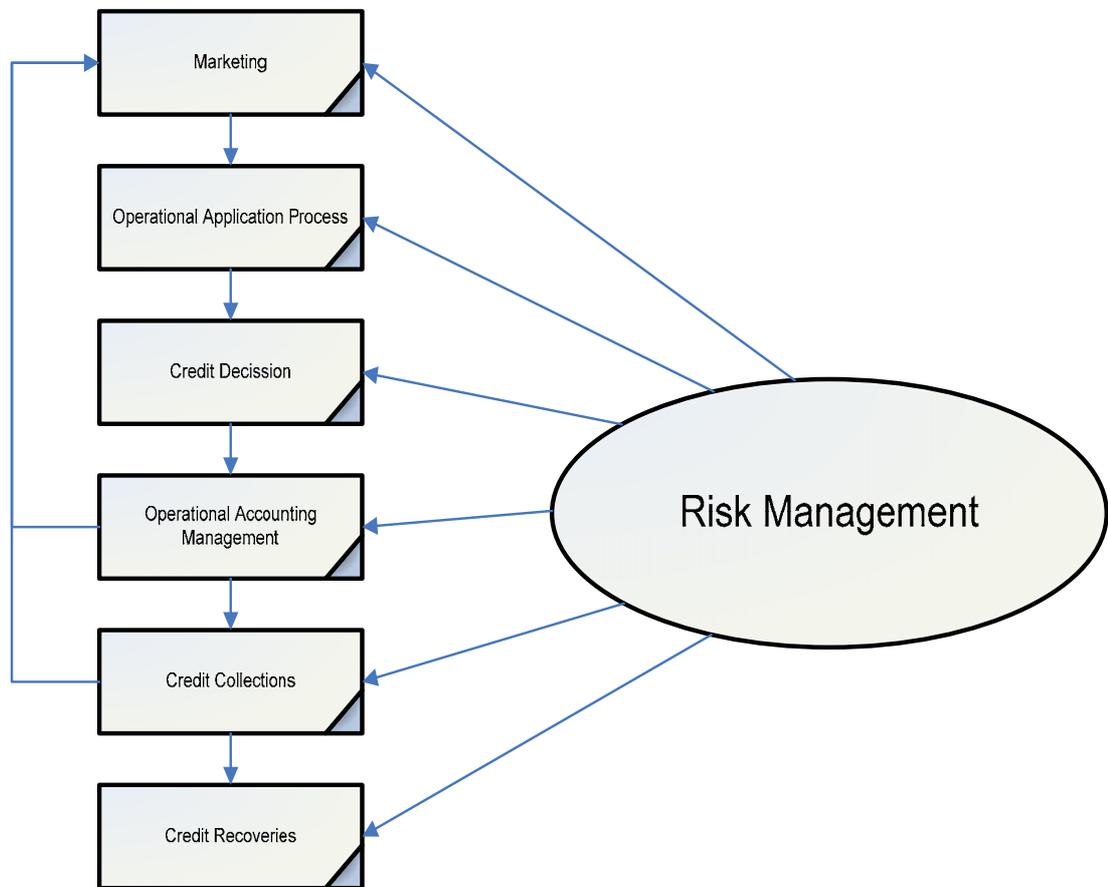
South Africa's ratio of household debt to disposable income increased in the 1980's and again in the 1990's, but it was still lower than the corresponding ratios in most of the Organization for Economic Cooperation and Development (OECD) countries such as the United States of America, Japan, Canada and the United Kingdom. Household debt in these countries recorded values well above 100 percent of disposable income (Aron *et al*, 2006).

## ***2.2 Consumer Credit Risk Management:***

McNab and Wynn (2004) stated that Consumer Credit Risk or Retail Credit Risk is the risk of loss due to a customer's non re-payment or default on a consumer credit product, such as an unsecured loan. Further to the aforementioned, most companies involved in lending to consumers have departments to manage the measurement, predictions and control of losses due to this non re-payment or default.

As stated by McNab and Wynn (2004), any company providing an unsecured loan will have to focus on its organisational functions to support its recovery of a default consumer. Active accounts follow a life or credit cycle pattern. The activities start with the application submitted by the customer and then end when the account is closed for whatever reason (McNab and Wynn, 2004). All the below functions are all directly involved with the customers and accounts through the credit cycle, which are described in the paragraph directly after Figure 2.2.

**Figure 2.2: Typical Credit Life Cycle in a Bank in South Africa:**



*Source framework of graphic: McNab and Wynn, 2004*

- **Marketing** is responsible for the business development.
- **Operational Application Processing** is responsible for the efficient and responsible administration of the customer applications for credit.
- **Credit Decision** is responsible to make the decision to continue with the application after all the necessary checks have been done and relevant answers been derived from the scorecard system.
- **Operational Account Management** is actively involved with the customers account from start to end.

- **Credit Collections** are responsible for rehabilitating delinquent customers into the normal credit cycle.
- **Credit Recoveries** manage the accounts not considered to be “customers” any more.
- **Risk Management** also has an influence across this credit cycle responsible for optimizing credit losses against business development.

McNab and Wynn concluded that all decisions made throughout the credit cycle have bad-debt implications and therefore it is important to understand the role of Risk Management (McNab & Wynn, 2004).

Risk Management has to take the responsibility (McNab and Wynn, 2004) for the following:

- Agreement with marketing regarding prospect identifications, eligibility and pre-approval selections.
- Determining risk parameters for product and pricing.
- Creation of and auditing credit / risk strategies and policies for new application underwriting, fraud avoidance, defaults etc.
- Developing risk-based collections and recovering strategies to support the whole company.

Consumer Credit Risk, as mentioned by McNab and Wynn (2004) is the risk of loss due to a customer’s non re-payment or default on a consumer credit product.

Credit scoring is also extremely important and is seen as most important tool for credit risk management. It is seen as a statistically-derived decision-making tool which includes a score card and a set of associated statistics (McNab and Wynn, 2004).

McNab and Wynn (2004, p12 &13) explained and illustrated a typical score card as the following:

*“The scorecard sets the questions, called characteristics, with a set of answers, called attributes. Each attribute has a different score value. The characteristics “telephone number given” has four attributes namely: none, work, home and both. For any given customer, the attributes scores are summed to give a total score that is interpreted using the scorecard statistics. For an application risk scorecard these statistics tell the decision maker the likely risk of non-payment in the future. Score cards can only be used to predict a measure of behaviour, at the point of the application and throughout the life of the customer / application. This is therefore seen as one dimensional based on the information known at that specific point in time when the customer starts with the application process.”*

**Table 2.1: A typical example of a credit score card**

<b>Accommodating Type</b>	Home owner 50	With parents 38	Tenant 30	Other 30
<b>Time with bank</b>	< 1 year 20	1-3 years 28	4-9 years 35	10+ years 48
<b>Phone number give</b>	None 18	Work 28	Home 32	Both 35
<b>Years at current address</b>	<3 years 25	4-8 years 30	9–14 years 32	15+ years 35
<b>Worst status of other accounts</b>	All good 40	Arrears 1-2 15	Arrears 3+ -10	Write-off -30
<b>No CCJ's found at bureau</b>	None 32	1 -50	2+ -100	

*Source: McNab and Wynn (2004)*

### **2.2.1 Definitions of Household Insolvency, Debt Repayment, Delinquency and Bankruptcy:**

Insolvency is associated more frequently with businesses than a household. DeVaney and Lytton (1995) define insolvency as the failure to submit the timely repayment of debts as they mature. Becker (1992) explains that insolvency means that net assets at fair market value are less than liabilities, which can necessitate the liquidation of assets through a court-ordered bankruptcy process (cited by DeVaney and Lytton, 1995). One of the implications for insolvency of households is increased consumer debt.

Insolvency is often associated with bankruptcy; accept bankruptcy was an involuntary procedure designed by the English Law to protect creditors through the confiscation and equal division of the debtor's property among creditors (DeVaney and Lytton, 1995). Bankruptcy literally means broken bench (Lockett, 1988, cited by DeVaney and Lytton, 1995).

DeVaney and Lytton (1995) states the lack of delinquency in repaying debt is an important indicator of the quality of credit. Regardless of the level of income, consumers with no or very low liquid asset balances had an above average tendency for payment difficulty.

### **2.2.2 The Cost of Credit in South Africa:**

The Regulations set out the interest rate ceiling in South Africa, which influences the Total Cost of Credit (TCOC) as it depends on the ruling repurchase rate of the South African Reserve Bank. The TCOC is usually 2.2 times this rate, plus 20 percent, plus the maximum initial and service fees. Initial fees are generally capped at 15 percent of the loan amount and the service fee is capped at R 50 a month of the full loan period (SARB, 2007). The National Credit Act Interest Rate and Fee Regulations can be found in Appendix 9.5 which gives this total breakdown of interest rate and cost (Goodwin-Groen, 2006 & Government Gazette, 2006).

The background to the cost of credit in South African can be explained in the following FSM exemplified used by AMPS 2006 statistics (Campbell, 2006). For example if a consumer earns R 1000 in January 2007 and needs to buy school clothes worth R 1000. The consumer has a cheque account with a bank and decides that they will apply for a loan at a bank, knowing that they will have to pay 30 percent interest rate on the loan (Campbell, 2006). The decision to take out the loan has been placed on hold, as the National Credit Act will be implemented on 1 June 2007 which will force micro-lenders to lower the interest rates as low as 5 percent per month on smaller loans.

This consumer's predicament represents the hard reality faced by millions of low income earners in South African relative to their cost of living that have to borrow money in order to provide for the basic necessities of life (Campbell, 2006). The lack of security for their debt further increases the cost of credit. The typical interest rate of 30 percent per month (360 percent per year) is 18 times the current maximum rate prescribed by the Usury Act (Government Gazette, 2004). The cost of debt for lower income consumers is therefore proportionally higher, indeed at least 18 times higher than that of wealthier consumers who will qualify for a bank loan or other credit.

People with low salaries find themselves forced to access micro lending and become caught in a vicious cycle of over-indebtedness (Campbell, 2006). The consumer continues with their decision to take out a loan with the expectation to pay 5 percent in July 2007 and to take a loan of R 500 over 6 months with a repayment of R 25 per month. The shock however is that the maximum

interest rate on short-term loans in terms of the National Credit Regulations will be 5 percent, but the new initiation and service fees introduced by the NCA and Regulations will ensure that the total cost of credit on a loan of R 500 could be as much as 31 percent per month. As illustrated in table 1, the following assumptions were made for these calculations: An appropriate period for a short term loan is between 1 and 6 months. As determined by the DTI in 2000 the average size 30-day loan was R 500 per month and the average loan amount R 1638 (DTI, 2006 as cited by Goodwin-Groen, 2006).

**Table 2.1: Illustration of the cost of credit in terms of the National Credit Regulations on Short Term Loans**

	Amount of initial Loan	Duration of Loan	Interest (always 5% pm / 60% pa) (R)	Initiation Fee, When paid up front (R)	Initiation fee (pm, when paid in instalments) (R)	Service Fee (always R 50 pm) (%)	Total Cost of Credit (interest + Service fee) R (%)	Total Cost of Credit (interest + Initiation + Service fees) R (%)
<b>1</b>	R 200	1 month	R10pm	R 30	R 32 pm	25% pm	R 60 pm 30% pm	R 92 pm 46% pm
<b>2</b>	R 500	1 month	R25pm	R 75	R 79 pm	10% pm	R 75 pm 15% pm	R 154 pm 31 % pm
<b>3</b>	R 500	4 months	R25pm	R 75	R 21 pm	10% pm	R 75 pm 15% pm	R 96 pm 19% pm
<b>4</b>	R 1000	4 months	R50pm	R 150	R 42 pm	3% pm	R132pm 10% pm	R 174 pm 14 % pm
<b>5</b>	R 1638	6 months	R82pm	R 214	R 42 pm	3% pm	R132pm 8% pm	R 174 pm 11% pm
<b>6</b>	R 5000	1 month	R250pm	R 550	R 578 pm	1 % pm	R378pm 6% pm	R 878 pm 18%pm
<b>7</b>	R 8000	6 months	R400pm	R 850	R 167 pm	0.6%pm	R 450 6% pm	R 617 pm 8% pm

## **2.2.3 The Cost of Credit in other Countries with aligned Regulations:**

### **2.2.3.1 Canada:**

Ziegel (1997) reports bankruptcies in Canada became a major legal, economic and social phenomenon which tripled between 1985 and 1995, and exceeding 75 000 in bankruptcies in 1996. This led to the amendment of the federal Bankruptcy and Insolvency Act (BIA) and provisions made in Bill C-5, (Ziegel, 1997).

Ziegel (1996) criticised this amendment on the ground that it ignored the source of the problem, namely the desperate financial conditions of many of the consumers (cited in Ziegel, 1997). Whilst real disposable income only grew by 13 percent, but the bankruptcy rate did decline two years after the implementation of the amendment.

Bankruptcies were caused by a high unemployment rate of 10 percent, and over-indebtedness due to increased consumer credit debts. There is a strong correlation between the number of increased consumer credit and the number of consumer bankruptcies (Ziegel, 1997) within Canada.

### 2.2.3.2 Australia:

Consumer credit in Australia during the 20<sup>th</sup> century was mainly provided by finance companies under hire-purchase contracts (Van der Eng, 2008). The deregulation of the financial markets in the 1960's ensured the dominance of the banks to offer personal loans. The level of consumer debt amounted to A\$ 223 in 1950, and increased by more than tenfold to over A\$ 4,500 in 2007 (Van der Eng, 2008).

In 1996 the Uniform Consumer Credit Code (UCCC) was implemented in Queensland and adopted in other States and Territories in Australia (Niven & Gough, 2004). One of the most important reforms affected by the UCCC was to place some responsibility on the credit providers to protect consumers against over-indebtedness (Niven & Gough, 2004).

The Fair Trading Act 1992, implemented in 2002 to protect consumers, included a provision when the Court may support a customer on the basis to re-open a transaction that is unjust (Niven & Gough, 2004). For Ralston and Wright (2003) it is important to note that the core business of banking continues to be *“the profitable management of risk”* (Hogan *et al*, 2001, p 258 as cited by Ralston & Wright, 2003). In Australia the responsibility falls on the credit union managers to reduce the risk of a default on a loan because the financial institutions viability is reduced by the loss of principal interest, the cost of carry and opportunity cost of management time taken to recover the capital risk (Ralston & Wright, 2003).

### 2.2.3.3 United Kingdom (UK):

The United Kingdom experienced a consumer credit explosion between 1994 and 2004 with the increased availability of unsecured credit and the broadening of the range of financial institutions offering unsecured loans (Brown, Taylor & Price, 2005). Whilst Loans were once primarily offered by the major banks, they are now offered by building societies, finance companies and even supermarkets (Brown *et al*, 2005).

The amount of unsecured lending taken out by individuals doubled between 1993 and 2002 to 16 percent, as a percentage of the UK's GDP. By the end of 2004 the amount of outstanding credit was over £ 185 billion, equating to an average of more than £ 4800 for every adult of working age in the UK (Brown *et al*, 2005).

## ***2.3 Banking Regulation and the National Credit Act (NCA):***

### **2.3.1 Background to the Banking Regulations and NCA:**

Porteous (2004) stated that in the early 1990's that to make finance available to small enterprises was seen as one way to address the country's growing unemployment crisis. Lack of access to formal lines of credit created informal communal credit establishments, such as burial societies and stokvels. In 1992, the need for formal micro credit providers was recognised and therefore to support the sector, microfinance was effectively legalized in 31 December 1992. This, in conjunction with an Exemption to the Usury Act, was signed into law and the exemption stated the removal of price control on small loans (Porteous, 2004).

Before the implementation of the NCA the South African consumer credit regulatory environment seemed to be fragmented and dysfunctional. The Usury Act No 73 of 1968 (the UA) regulated leasing, credit and money-lending transactions and attempted to protect consumers by setting maximum interest rate charges. However, in terms of section 15a of Exemption Notice 1407 of 2005 of 8 August 2005, as regulated by the Micro Finance Regulatory Council (MFRC), all loan amounts below R 10 000 were exempted from the Usury Act No 73 of 1968 (with the exception of sections 13, 14 and 17a thereof).

The Credit Agreements Act No 75 of 1980 (the CAA) regulated only specific credit agreements related to movable goods (Credit Agreements Act No 75, 1980). The hire purchase financing provided by the furniture and appliance retailers was governed by this Act. Although the maximum Usury Act interest rates applied to these loans, the retailers typically achieved an annual percentage rate of more than fifty percent on these loans through adding various charges and insurance requirements. This highlighted another deficiency of the Usury Act (Act No 73 of 1968) as it limited the interest rates, but neglected to also address added product fees and charges (Usury Act No 73, 1968).

The National Payments Systems Act 78 of 1998 regulated the payment processing of credit transactions in conjunction with the Payment Association of South Africa (PASA) which stated that all settlement banks must be members of PASA as governed by the South African Reserve Bank (Reserve Bank, 2006).

It was the primary reason for the existence of the Micro Finance Regulatory Council (MFRC) to improve consumer protection, but still legislative inefficiencies remained. By 2002 the Department of Trade and Industry (DTI), together with the MFRC, conducted a review of the consumer credit regulation in South Africa. This review led to the enactment of the National Credit Bill, which was tabled in Parliament in June 2005.

As stated in the Government Gazette (2006), as part of the Banking Regulatory environment e.g.: (FAIS and the Banking Code of Practice), the NCA was promulgated by government to protect the interests of consumers and prevent exploitation of consumers by financial institutions and service providers, lured into credit contracts that were not in their best interests. The Act would also protect the privacy of customers and prevent service providers from contacting them during specific periods which would infringe on the Customers Privacy Act (BASA, 2007). A summary of the purpose and the main components of the Act can be found in Appendix 9.2 and Appendix 9.3.

One of the goals of the Act was to ensure that the credit industry does not take advantage of the consumers through over indebtedness and reckless lending. Also under section 129(1) (a) of the NCA it is clear that the customer is protected further with regards to defaults on their accounts and how the defaults were collected. They will not be required to start with any repayments on a default account without any formal notice in writing from the credit provider with a proposal to refer the credit agreement to a debt counsellor, with the solid intent to resolve any dispute under the agreement or to mutually develop and agree on a plan to recover the default amount (Government Gazette, 2006). Section 129 (1) (b) states that subject to section 130 (2) (a) the credit provider may not commence with any legal actions to ensure the agreement is upheld before providing notice to the customer (Government Gazette, 2006).

### 2.3.2 Issues that led to the implementation of the NCA:

Goodwin-Groen stated that there were some issues that lead to the implementation of the NCA (2006). The Department of Trade and Industry (DTI) in South Africa was responsible for overseeing the credit market and its policy objectives are *“the promotion of a stable, efficient and competitive credit market in which consumers’ rights are adequately protected, and in which access to finance [i.e. credit] is improved, particularly for development purposes”* (DTI, 2004 as cited by Goodwin-Groen, 2006).

South African consumer credit legislation as mentioned in paragraph 2.3 consisted principally of the Usury Act; the Credit Agreements Act 74 of 1980 (hereafter “the Credit Agreements Act”); and the Exemption Notices, 1992 and 1999. A range of political, social and economic changes has influenced the consumer credit market since 1968 and there has been a major technological advances (Goodwin-Groen, 2006).

The DTI set up a technical committee to undertake a credit law review in 2004, with the mandate to examine these problems. The DTI was mandated to oversee only the credit market: it had no broader mandate. It could not include savings or any other financial service in this review and therefore the closely related issues of access to other financial services, such as small balance deposits, were never considered by the committee (DTI as cited by Goodwin-Groen, 2006).

A further problematic issue is that borrowing and saving is viewed as two sides of the same coin this was problematic. Repaying a loan is a form of saving, or to use the terminology of Rutherford, borrowing is “saving down” and deposit services are “saving up”. Many poor people are simply too poor to engage in “saving down” and moreover risk averse and therefore prefer to “save up” (2001).

### **2.3.3 Credit Consumers are protected by Three Types of Regulations:**

Selected countries use three different types of regulation to protect credit customers within their developed financial sectors. Parts of these regulations are included in the National Credit Act in some form (Goodwin-Groen, 2006). The three different types of regulation are divided into the following three pillars:

- Pillar 1: Lenders may be required to keep within the limits of clients’ credit redemption capacities. Pillar 1 is implemented by the Swiss “*Bundesgesetz über den Konsumentenkredit*”. This is the federal law for consumer credit and does not apply to secured credit. It states that the maximum share of the attachable income has to be assessed by assessing the consumer’s borrowing capacity. This attachable income has to be sufficient to repay the credit (or if the customer has several consumer

loans, all loans) within 36 months. The National Credit Act requires the lender / bank *inter alia* to assess the client's ability to pay, and requires the client to provide full financial information to prevent reckless credit (as per sections 80–84 of the National Credit Act, Government Gazette, 2005).

- Pillar 2: Lenders are obliged to disclose all costs of credit arrangements before a client signs a contract. Pillar 2 is implemented by the European Union and the United States. Directives 87/102/EC and 98/7/EC of the European Parliament and of the Council introduce a specified method of calculating the so-called “*annual percentage rate of charge (APRC)*” (European Council, 1987). This method states the equivalence of loans on the one hand and repayments and charges on the other hand. Added to this, any advertisement or offer displayed in the business premises in which credit or the arrangement of a credit agreement is offered and includes a rate of interest or any figures relating to the cost of the credit must also include a statement of the APRC.

In the United States the annual percentage rate (APR) is defined by the Federal Truth and Lending Law. It is either calculated by the actuarial method or the United States Rule method. Regardless of which method is applied, discount points, origination points, prepaid interest, loan-processing fee, underwriting fee, document-preparation fee and private

mortgage-insurance are included. The loan-application fee and the costs of credit life insurance may be included. The USA method capitalises the accrued interest whenever a payment takes place.

The National Credit Act requires comprehensive disclosure of all interest and other fees and charges payable on the principal debt in a percentage and rand value. A repayment schedule must be included in the form of a pre-agreement statement and quotation so that the client has time to think about it before committing to the loan (see section 92 of the Act read with regulations 28 and 29) (Government Gazette, 2006).

The NCA and Regulation has increased its rules regarding disclosure provisions which, depending on the type of advertisement, must be complied with. For example when credit providers advertise specific credit products, offer a specific amount of credit to a consumer, or offer to render services on credit, the following information must be disclosed:

- instalment amount;
- number of instalments;
- total amount of all instalments (including interest, fees and insurance);
- residual or final amount payable; and
- interest rate and other credit costs (see section 76 of the NCA read with regulations 21 and 22.)

- Pillar 3: Caps may be put on the pricing of consumer credit or usury laws may determine that pricing. Pillar 3 is found in Switzerland, France and some of the States in the United States. In Switzerland, for example, the cap is set by the Bundesrat (Federal Council). The interest rates that banks have to pay for refinancing have to be considered, but the cap should normally stay below 15 % per annum.

In France, the usury rule is set by article L. 313-3 of the *Code de la Consommation* (Consumer Code). It states that a loan is usurious if it is granted at a rate that exceeds, at the time it is granted, the average effective rate applied during the prior quarter of the year by credit institutions for loans of the same nature with identical risk, as defined by the relevant administrative authority after consulting the National Credit Council, by more than a third.

The state of New York set this rate at 16 percent per annum by Section 5-501 of the General Obligations Law (Goodwin-Groen, 2006).

Goodwin-Groen (2006) further states that Germany and the United Kingdom use other approaches to interest rate caps. No definitive caps are found but usury (respectively exorbitant)

interest rates are forbidden by law. Usually these usury interest rates are penalised in Germany by court if the APR is twice as high as the prevailing “normal” rate, and if the loan furthermore has been fixed “by abuse of an exigency, inexperience, of lack of judgment or substantial weak will”, with scope of interpretation.

The rules set by the Consumer Credit Act in the United Kingdom appear to be nearly equivalent and may not be the fact in practice. A 2004 study by the UK Department of Trade and Industry reported that the UK has no ceiling in place. It found that, as a result of no ceiling in the UK and certain US States, sub-prime markets were becoming increasingly diverse and competitive, exerting downward pressure on price.

The National Credit Regulations include maximum rates of interest applicable to seven different types of credit. These are effectively the usury limits. For instance, unsecured credit transactions are structured as the SA Reserve Bank’s ruling Repurchase Rate times 2.2 plus 20 percent per annum, which under current circumstances is a maximum rate of 36.5 percent p.a. However, if the maximum initial service fees are also included in the all-inclusive interest rate, the maximum effective annual rate may be as high as 4 881 percent p.a (see appendix 9.5) (Government Gazette, 2006).

The above three pillars are illustrated in appendix 9.4 giving a more summarised view on where it is being utilised in other countries with the same foundations as the consumer credit regulations is built on as South Africa.

#### **2.3.4 Role of the National Credit Regulator:**

The NCA introduced the National Credit Regulator, which replaced and enhanced the MFRC's mandate to regulate the micro lending environment. Stated in the Government Gazette (2006) the NCR will operate independently of the Government and by 1 August 2007 as published by the NCR over 48 000 premises registered to lend monies to the public.

The Act No. 34 (2005) published the below core responsibilities of the National Credit Regulator as per section 13(a) of the Act, please note this is only highlights of this section:

- “a) *to promote and support the development, where the need exists, of affair, transparent, competitive, sustainable, responsible, efficient, effective and accessible credit market and industry to serve the needs of–*
- (i) historically disadvantaged persons;*
  - (ii) low income persons and communities; and*
  - (iii) remote, isolated or low density populations and communities in a manner consistent with the purposes of this Act;*

.....c) *monitor the following matters and report to the Minister in respect of:*

- (i) Credit availability, price and market conditions, conduct and trends*
- (ii) Market share, market conduct and competition within the consumer credit industry....”*

It is clear that the NCR’s mandate is to monitor the industry, guide the Government and ensure the registration of all credit providers, credit bureaus and debt counsellors at the NCR.

To conclude the NCR’s general enforcement includes the promotion of the information resolution of disputes, complaints resolution and providing remedies to consumers and ongoing monitoring of the market to ensure prevention contravening conduct against the Act (Government Gazette, 2006).

#### **2.4 Micro Lending In South Africa:**

Professor Doctor Udo Reifner Micro Lending can be defines as:” *a range of social policy initiatives in which public or non-profit agencies use credit as a tool to further objectives such as social welfare, employment, urban development, financial education and not least to develop the self–esteem of people excluded individuals seeking to earn their living through independent work. The primary purpose of micro-lending is therefore not banking. It does*

*however incorporate core banking functions, such as lending, deposit-taking or guarantee business” (2000).*

Micro-lending involves certain banking techniques such as extension of interest-bearing loans and guarantees (Reifner, 2000). Reifner further defines a micro loan as a small loan used for business or private purposes (2000). Microlending in South Africa defines micro-lending as a small loan, usually below the ceiling of R 15 000 to which the National Credit Act applies (Government Gazette, 2005).

The emergence of commercial microlending in South Africa has proved to be one of the most dramatic events in the landscape of access to finance over the past decade from the late 1990s to date. According to Mohane, Coetzee and Grant (2002) a Government Gazette dated 31 December 1992 communicated the exemption notice with immediate removal of all interest rate ceilings on credit transactions and created a formal micro lending sector overnight that would comply with the following criteria:

- Borrower had to be a natural person
- The loan was not allowed to exceed R 6000
- The maximum term of the loan was 36 months

The explosive growth was not expected, nor was it anticipated that microlending would only be used for consumer spending. Lenders reacted immediately to this unexpected outcome and often provided loans above the repayment ability of the customer (Mohane *et al*, 2002; Porteous, 2004). Van

Heerden (2007) estimated that there were 3500 formal micro lenders, an increase of approximately 192 percent since 1995. Turnover for this industry trebled from R 3.6 billion in 1995 to R 10 billion over the same period (Van Heerden, 2007).

Porteous (2004) states that the commercialisation of South Africa's microlending can be dated around 1995. This commercialisation was pre-empted by the 1992 exemption to the Usury Act. The exemption as stated by Porteous removed price control on all small (under R 6000); short term (less than 36 months) loans (2004).

In the late 1990's South Africa experienced a consumer credit crisis as a result of the fast growing selling of micro loans. The withdrawal of the payroll deduction facilities for microlending to civil servants in 2000 had a dramatic effect on the economy. Saambou Bank, one of the six biggest banks in South Africa, closed its doors in February 2002 (Porteous, 2004). Saambou experienced a run on their loan book and the Government failed to provide a lifeline. This incident was South Africa's biggest banking failure to date and nearly brought BOE down, who reported profits at the time (Porteous, 2004).

Microlending can be defined as a small credit agreement of which the maximum value is up to R 15 000 as stipulated in the National Credit Regulations (Government Gazette, 2006). The South African banked mass market grew from 6.7 million people in 2001 to 10, 2 million people in 2006,

38 percent represents the adult mass market. This market will form part of the consumers of a micro loan. It is estimated that the microlending market will grow from R 30, 4 billion to R 38, 2 billion in 2010. The opportunity therefore for financial institutions are to draw nearly 6.6 million of the un-banked into the formal market based on employment and income generated. This will therefore enhance the drive migration of the LSM scale predominantly from LSM1 and 2 to LSM's 4 to 7 (AMPS 2006). The Financial Sector Charter (FSC) required all South African retail banks to provide access of suitable retail products and services to the mostly rural-based previously-unbanked-mass-market (PUMM) (Coetzee, 2006).

#### **2.4.1 Key areas affecting Micro Lending:**

Van Heerden (2007) commented that the National Credit Act's full impact on the micro lending was experienced by the small and medium lenders due to the cost of the compliance, qualifying and affordability criteria to be able to move from the informal to the formal market.

The key areas specifically affected the micro lending environment from a conduct regulation perspective can be summarised as the following (Van Heerden, 2007):

- a) Micro Lenders responsibilities extended to ensure that over indebtedness does not occur

- b) Consumers were protected by the National Credit Regulator; acting in their best interest should the Act be contravened, increasing the bargaining power of the consumer.
- c) Access to information increased and were made available to the borrower when entering into the credit agreement with a micro-lender;
- d) Mechanisms were put in place to ensure that already over-indebted consumers were supported with debt counselling and debt counsellors were made available to the general public

To conclude, at the last Micro Finance South Africa Summit held on 19 and 20 March 2008, Cas Coovadia, Managing Director of the Banking Association of South Africa, presented that in a the recent FSC report, Micro Lending for 2007 stood at R 29 billion. The reason for him mentioning this number was that banks were dominating the market with R 14,63 billion of the R 29 billion (MFSA, 2008).

At the same conference Vivienne Pearson from Finmark Trust commented that between 2005 and 2006 only 40 percent of the population was formally banked, by 2007 nearly 60 percent of the population is banked (MFSA, 2008). All retails banks are focusing on selling micro loans as the size of the market makes this more profitable as mentioned above.

### **CHAPTER 3: RESEARCH QUESTIONS:**

Given the lack of research on the impact of the National Credit Act on the sales on micro lending in South Africa, a set of research questions has been developed below.

Firstly to understand whether there was a real impact prior to the implementation of the National Credit Act. Secondly, the aim is to understand what the impact on the micro loans following the implementation of the Act.

Thirdly, to investigate the overall impact of the National Credit Act on the specific bank and the Micro Lending Market, whether it was positive or negative. Lastly, the overall impact of the National Credit on the South African Market

These questions will seek to determine if the Act has had a positive impact for the consumer in South Africa and it will be interesting to understand the experts' views on these questions as it will be purely perception based. It will therefore give a broader view on the Micro Lending world before the implementation of the Act and then how it coped with all the anomalies the past 18 months.

## **CHAPTER 4: RESEARCH METHODOLOGY:**

### **4.1 Introduction**

This study aimed to explore what the impact of the NCA will be on a sale of an unsecured micro loan within a bank in South Africa. Exploratory and qualitative design is recommended by Leedy and Ormrod (2001) when attempting to interpret a certain phenomenon and should be seen as the journey with a starting point and an ending point for the researcher.

Phase 1 consisted of secondary documentary research and Phase 2 of primary research (Quiding, 2006). Tucker, Powell and Meyer (1995) further made mention to ensure total objectivity to qualitative research, data triangulation could be used to ensure variety of data sources in a study, such as different time frames, different geographies and subjects. Triangulated research approach was used in order to ensure credibility and validity of the qualitative analysis (Tucker *et al*, 1995).

## ***4.2 Phase 1: Documentary Research***

### **4.2.1. Research Methodology:**

Phase 1 of the research focused on the regulatory and legislative impact on the performance of the micro lending division over the period of January 2007 to January 2008 in order to provide depth to the questions asked in phase 2.

Exploratory research as defined by Zikmund (2003) can be conducted to clarify ambiguous problems. Statistical data was obtained from Absa Micro Lending to determine what the performance of customers was with regards to payments of loans before the implementation and after the implementation of the NCA. Using this information further gave some indication of the impact the NCA had on the banks performance over this period and if the regulations have made a significant impact on the profits of Absa.

It was important to define what important aspects formed part of this study with regards to the outcome to determine the impact the NCA had on the Micro Lending offering from Absa in South Africa and the ability of the customer to repay the loan. Current financial data was also used for this part of the research. This supported the outcome to determine what the financial impact of the National Credit Act was on Absa Micro Lending and on the customer.

#### **4.2.2 Unit of Analysis:**

The unit of analysis used in this phase of the research was statistics and financial data regarding the past year within the Micro Lending department in Absa.

#### **4.2.3 Population of relevance:**

Zikmund (2003, p 369) defines a population as any complete group of people that share some set of characteristics. The population of relevance in this case was the data available with regards to the impact of the National Credit Act within the past year on the financial performance of Absa Micro Loans.

#### **4.2.4 Sampling method and sample size:**

The sampling method used was purposive, non-probability sampling. This could be characterized by the use of judgment and a deliberate effort obtaining representative samples by including typical areas or groups in the sample (Quiding, 2006). Due to the small size of the population, purposive sampling was the most effective.

Kerlinger (1986) stated that purposive sampling was a type of non-probability sampling, which could be characterized by the use of judgment and deliberated effort to obtain representative samples by including typical areas or groups in the sample.

#### **4.2.5 Data Collection and Analysis:**

The data gathering process required for this research was the collection via various secondary data sources. Absa's performance and financial data on the impact of the NCA on micro lending was the secondary data source.

The following variables were used from Absa Micro Lending (secondary data):

- Financial performance data from January 2007 to January 2008
- Statistics on Loans Paid back or payments defaulted on the payment prior to the implementation of the NCA
- Statistics on Loans Paid back or payments defaulted on the payment out following implementation of NCA
- The impact on the size of the loan book for Absa before the implementation of the NCA
- The impact on the size of the loan book for Absa after the implementation of the NCA

#### **4.2.6 Data Analysis:**

Data analysis was conducted for the period of January 2007 to January 2008. Descriptive analysis was used in order to describe the impact of the NCA on the selling of an Absa Micro Loan and the likeliness of the repayment of that loan via available data as discussed in point 4.5. Descriptive analysis can be described as the transformation of raw data into a form of easy, understandable interpretations (Zikmund, 2003). The data analysis also supported the answering of the research questions in phase 2 point 4.3 below.

### ***4.3 Phase 2: Structured Interviews***

#### **4.3.1 Research Methodology:**

Sinkovincs et al (2005, p11) *states*:

“Qualitative research involves the use of unstructured exploratory techniques such as group discussions and in-depth interview. In contrast to quantitative techniques it is more difficult to precisely capture phenomena with qualitative research. As a result, qualitative research design has often been treated as an oxymoron”.

Phase 1 was used in order to interpret, guide and set the scene around the outcomes achieved in Phase 2 and with the focus to give more depth to the open-ended questions asked regarding the impact of the NCA on the repayment behaviour of the customer prior and following its implementation. This validation could only be achieved through the study of perceptions of experts through structured interviews. Exploratory research (phase 1) provided qualitative data (phase 2), which in turn provided greater understanding of a concept, rather than providing precise measurement or quantitative data (Zikmund 2003).

Further exploratory research gains insight into a situation or a phenomenon. The phenomenon this study explored was how the National Credit Act would impact the repayment propensity of a consumer, before and after the Act's implementation.

#### **4.3.2 Unit of Analysis:**

The unit of analysis in phase 2 was the opinions and / or perceptions of experts in the field of South African Banking Legislation, National Credit Regulator (NCR), Absa Credit Officials and product experts within Absa Micro Loans. All the above should have some degree of understanding regarding the legislative and product related impacts pre and post the implementation of the NCA.

#### ***4.3.2.1 Respondent Selection:***

The criteria used by the researcher (Zikmund, 2003) to select the respondents were the following:

- Their understanding of the Micro Lending Market
- The number of years of working in the Micro Lending Market
- Their understanding of the National Credit Act
- Their understanding of the current affairs in South Africa
- Diversity of Opinion and Level of Strategic Insight
- Geographic location was not a basis of exclusion though all interviews were held in Johannesburg, as most of the head offices of the industry experts were in Johannesburg.

The primary tool used to select the respondents was their visibility within the micro lending and general lending space within the financial services environment. Ten experts were chosen for the expertise in this field and also their involvement with regards to the implementation of the National Credit Act. They were contacted via email and telephone with an introductory description regarding the reason for the interview. Two of the experts were referred by other experts because of their invaluable insight they would provide into the topic.

### **4.3.3 Population of Relevance:**

The population of relevance in phase 2 will be the experts in the area with regards to the effect of the NCA on Micro Loans provided by banks in South Africa. This can be clustered into three sub-populations:

- Financial Commentators (Micro Lending Experts)
- Banking Legislation Commentators

### **4.3.4 Sampling method:**

In qualitative research non-probability sampling techniques were used thus the method for Phase 2. Judgemental sampling is one of the types of non-probability sampling used in Phase 2 as it supported relationships on sample elements on common grounds; in this case it was the impact of the NCA on the repayment propensity of the Absa Micro Lending customer.

### **4.3.5 Sampling Size:**

To support the triangulation of the data collection in aligning Phase 1 and Phase 2 of the data collection, a total of 5 structured interviews were completed with commentators based on their knowledge and expertise, and 5 structured interviews were completed with expert management heads in

eliciting their perceptions and interpretations of the statistical outcome (phase 1) and the impact of the NCA on the repayment of a loan.

#### **4.3.6 Data Collection:**

The data collection was completed through structured in-depth interviews held with ten experts in the field of banking regulation and product experts within Absa Micro Lending. This collection of data was completed in the selected sample. The data collection was in line with answering question 1(a, b and c), question 2, 3 and question 4. In-depth interviews were necessary to get a deeper understanding from the respondents of a researched topic.

Each interview was digitally recorded where permission was granted by the respondent, otherwise through note-taking. Each interview was followed by key transcriptions and analysis and categorisation according to themes as they emerged.

The interview schedule and a copy of the in-depth interview guideline can be found in Appendix 9.6 to Appendix 9.9. The interview addressed the following key areas:

- The respondents view on what the outcomes were prior to the implementation of the National Credit Act.

- The respondents view on the customer repayment default prior to the National Credit Act.
- The respondents view on the benefits of the National Credit Act.
- The respondents view on the customers default rate on the repayment following the implementation of the National Credit Act.
- The respondents view of the impact of the National Credit Act on the Micro Lending Market.
- The respondents view of the impact of the National Credit act on the South African environment.

Irvine and Gaffikin (2006) states that confidentiality is a serious issue from the time of negotiating access and while conducting the interviews. All interviews can be recorded, but must be treated with the utmost of confidentiality and that includes the transcripts of the interviews.

At the end of the interview, respondents were given the opportunity to provide additional comments that had not been discussed during the interview (Gilham, 2005). The interview lasted between one to two hours and all the interviews were held at the respondents offices based predominantly in the Johannesburg area.

#### **4.3.7 Data Analysis:**

According to Patton (1990, cited in Strauss and Corbin p 434), “*Qualitative evaluation inquiry draws on both critical and creative thinking – both the science and the art of analysis.*” Further analysis look at the relationship between the researcher and the data. Irvine and Gaffikin (2006) give further guidance to data analysis – namely that when conducted concurrently with data collection, and with theory expansion, it helps the qualitative researcher to understand and shape the study as it continues. Data analysis is organisation, selection, interpretation and presentation of data used to build a theoretical version of reality (Irvine & Gaffikin, 2006).

#### **4.3.8 Experts:**

The data obtained from Experts and the methods of analysis of data included a combination of constant comparative analysis and content analysis:

- Data collection took place over a period of days and analysis took place after all interviews were completed.
- Content analysis according to Zikmund (2003) involves systematic, objective observation, identifying similar characteristics in the content responses. This was applied to the transcription of the interviews completed with the industry experts. Leedy and Ormond (2001) also recommend content analysis as a useful technique to

analyse the contents of any form of verbal interaction such as in-depth interviews.

- The constant comparative method was used where a specific incident in an interview or field notes was compared within the same set of data or across data obtained from different respondents. This supported the development of useful categories.

#### **4.3.9 Comparative Analysis:**

The results acquired from phase 1 and phase 2 was compared to ensure the quality and credibility of the data used. This in turn ensured a triangulated view of the research done in order to align and corroborate the information gathered in phase 1 to support the outcome and answers in phase 2.

The following steps of analysis were proposed incorporating coding methodology by Strauss (1990, cited in Drumwright and Murphy, 2004):

1. Reviewed and summarised transcripts
2. Conducted “open coding” whereby interview transcripts were scrutinized line by line and paragraph by paragraph to suggest initial categories or themes.
3. Applied “axial” coding, the transcripts were scrutinized again and again to consider each of the themes across the interviews and to assess the fit of each of them to the data.

4. Applied “selective” coding whereby the data was re-examined to refine themes and findings
5. Data coding and recoding was conducted until saturation point was reached and the researcher felt comfortable that the relevant themes had emerged (Miles and Huberman, 1994, cited in Chong, 2006).

As a supplement to the above methods, a detailed content analysis of the transcribed interviews was conducted whereby methods such as a frequency analysis of key words were used to identify key themes.

#### ***4.4 Data Management:***

Tapes with original recordings, transcriptions and notes were filed under each respondent. The full details of each respondent were recorded and numerical coding applied to protect respondent anonymity. Themes that emerged were colour coded electronically in the source and then transferred to a collective or master document where the overall themes were grouped together and analysed per research question. Copies of this analysis can be requested and is not added to this research.

#### ***4.5 Data Validity and Reliability:***

Validity refers to whether the study accurately measures what it was designed to measure (Zikmund, 2003). The use of an interview guide ensured that specific lines of enquiry were pursued with each person interviewed on a consistent basis. Furthermore, it made the interviewing process more systematic and comprehensive.

Zikmund (2003) states that reliability is the degree to which measures are free from error and therefore yield consistent results, but reliability assumes that the inquiry could be logically replicated although qualitative research does not claim to be replicable due to the changing environment.

To mitigate researcher bias, it is inevitable in a study of this nature that the findings from the interviews were not influenced by the data collected, but only used to ensure that the triangulation strengthens the reliability and the validity of the study (Merriam, 1998)

#### **4.6 Research Limitations:**

The following potential research limitations were identified:

- Only senior and experienced Industry Leaders were interviewed and the research findings will therefore not necessarily be representative of the rest of the Industry within Financial Banking Services.
- Most of the interviews were done within Absa, which could lead to biased responses.
- Qualitative research is limited in the extent to which the findings can be applied to other regulated industries, which were not the primary focus for example, other banks, retailers, private companies offering the same products.
- Current economic situation within South Africa with the rapid increase of the inflation and the interest rate over such a short period of time.

## **CHAPTER 5: RESULTS**

### ***5.1 Introduction:***

The purpose of this chapter is to present the results of the research in relation to the stated research questions identified in chapter 3. Results for phase 1 were obtained through available analysed data from Absa Bank and the Micro Lending Business. The data for phase 2 was obtained through individual expertise interviews, and a total of 10 interviews were held.

The data of both the phases were coded and categorised using the method of content analysis in order to answer stated questions. The results for the data (quantitative analysis) and the individual (qualitative analysis) are presented in the sections below.

The process of how the interviews were conducted can be found in appendix 9.9 as the reason, method and rational for the research were discussed and why the respondents participation was required. Open-Ended questions were asked, which tended to be difficult and at some stages were seen as too broad. The interviewee tried not to influence the perceptions and views of the respondents with the already completed data research and therefore decided to only discuss the statistical data analysed after the interview was completed. Table 5-1 below is the total demographic breakdown and specifics of the information of all the experts that were interviewed in phase two of the research process.

**Table 5.1: Experts and Demographics of Experts**

Name	Amanda van den Heever	Puleng Mpshe	Gerret Oosthuizen	Norwin Lederer	Eugene Ehlers	Lee-Anne Beazley	Prof Gerhard Coetzee	Kamantha Naidoo	Piet Smit	Carloyn Englebrecht
Company	Absa Bank	Absa Bank	Absa Bank	Absa Bank	African Bank	Absa Bank	Absa Bank	NCR	Absa Bank	Wes Bank
Age	40	32	38	39	40	34	48	31	68	41
Qualification	BA Law, LLB, Admitted Attorney	Ba Admin, Project & Programme Management, Absa Management Programme	B Com Hons, MBL	B Com Hons, PMP, CAIB, PEC	Bcom Hons	Certificate in Marketing	PHD	Bcom / Busy with MBA	Matric	B Proc, LLB, VAT Certificate, Admitted Attorney
Position in Company	Legal Counsel	Product Planning Consultant (previously PM NCA for Bu)	Head of Sales:Micro Lending	Head of Process Governance Organisation	Senior Financial Analyst	General Manager Contact Centre Performance	General Manager, Absa Micro Finance	Supervisor Complaints and Enforcement (Absa GM Sales and Performance)	Micro Lending Business Analyst	Legal Counsel
Number of Years in Company	10+, including position held with Unifer	5 years	10 years	10, 5 years	5 weeks (previously Absa 18 years)	17 Years	18 Months	4.5 Years	28 Years	5 years
Number of Years in Unsecured Lending	10 years	1 year	3 years	5 years	12 years	9 Years	20 Years	4.5 Years	23 Years	8 years
Understanding of NCA	Very Good	Good	Very Good	Very Good	Fair	Very Good	Good	Very Good	Fair	Very Good
Understanding of the Micro Lending Market	Fair	Fair	Very Good	Very Good	Very Good	Good	Good	Very Good	Very Good	Very Good
Understanding of current affairs in South Africa	Fair	Fair	Very Good	Good	Good	Good	Good	Good	Very Good	Very Good

## **5.2 Research Question 1: What are the views and perceptions of the industry experts prior to the implementation of the National Credit Act?**

Research Question 1 focuses on the impact on the consumer, industry and the South African Market prior to the implementation of the NCA in June 2007.

### **5.2.1 Question 1.1: What are your views on the assumptions made with regards to the outcome BEFORE the implementation of the National Credit Act in light of the: Consumer, The Absa Micro Lending Business Unit and the Micro Lending Environment in South Africa?**

Firstly, to introduce the topic, the respondents were asked to comment on the perceptions on how the environment was before the implementation of the Act and also the expected outcomes that were focused in light of the Consumer, The Absa Micro Lending Business Unit and the Micro Lending Environment in South Africa. An open-ended question was asked and the results of which are detailed in Table 5-2. The raw data content is analysed in terms of the bracketing process and key phrases are identified and similar characteristics of key phrases are coded, grouped together and counted to determine the frequency of the characteristics.

Table 5-2 below presents a summary of the views of the Experts on the National Credit Act and the Micro Lending Market. The question was asked to understand their views on the impact on three key themes namely the consumer, the Absa Micro Lending Business Unit and then the Micro Lending Business Market within South Africa. It was clear that most of the Experts were of the opinion that the National Credit Act's outcome was to protect the consumer against exploitation, capping interest rates and getting rid of most of the unsavoury micro lenders in the markets which were referred to as "Loan Sharks".

**Table 5.2: What are your views on the assumptions made with regards to the outcome BEFORE the implementation on the National Credit Act in light of the: Consumer, The Absa Micro Lending Business Unit and the Micro Lending Environment in South Africa?**

Code on the Consumer	Expert	Count	Percentage
Limited Consumer Protection	"NCA was sold on the basis that consumer will be protected against unscrupulous lending, no real consumer protection was visible before NCA"	6	60%
Exploitation & Manipulation of Consumer	"Consumers were totally exploited and manipulated by and at the mercy of the Loan Sharks and underground operations"	3	30%
Unfair Pricing	"Don't have highly educated people using the product and did not understand the pricing structures, but consumers has become smarter in terms of comparing prices"	3	30%
No Change for Consumer	"Don't Think the consumer had any opinion and thought post NCA, life would still stay the same"	1	10%



Increased Over-indebtedness	"Consumers are generally over-indebted as we have a lending culture and not a savings culture, over-indebtedness increased due to economic boom before NCA"	1	10%
<b>Code on the Absa Micro Lending Business Unit</b>	<b>Expert</b>	<b>Count</b>	<b>Percentage</b>
Usury Act Exemption Notice Impact	"Curbing of Interest rate as some loans registered at MFRC was sitting at 300 percent interest rate, no assessment was done on affordability, also changed impression of industry, thinking of ML's with baseball bats"	3	30%
Interpretation of the Act Vs Loss of Business	"Overreaction within the Business Unit as the Act was taken incredibly literal, rather to what the outcome was intended. More business was lost than what should have been - it was our fault and not the intention of the Act."	1	10%
Changed Pricing Models; Affordability Calculations	"General concern about the product pricing, cap on interest rates, but was aligned to the requirements, just needed to tighten up pricing, disclosures, procedures"	3	30%
<b>Code on the Micro Lending Environment in South Africa</b>	<b>Expert</b>	<b>Count</b>	<b>Percentage</b>
Collection methods changed	"Card and Pin method was in jeopardy"	3	30%
Impact Micro Lenders	"Micro Lending South Africa was in a total panic and chaos; small lenders and loan sharks were in panic, knowing that they did not comply; did not have infrastructure; cost of implementation high"	5	50%
Create Formal Micro Lending Market	"Created an environment for the more formal financial service providers to compete in this market, levelling the playing field"	4	40%
Lenders were unregulated	"No proper documentation and contractual obligation, no quotes available; fixed interest rates; which left the door open for manipulation of consumers"	2	20%

### **5.2.2 Question 1.2: Are you of the Opinion that the consumers defaulted more on the repayment of their Micro Loans Before the implementation of the National Credit Act?**

The purpose of this question was to obtain the views of Experts on their impression of the default rate of the consumer and the market before the implementation of the NCA. The raw data content is analysed in terms of the bracketing process and key phrases are identified which provide insights into the impact of the NCA prior the implementation. The key phrases are codes as per referred to in Question 1.

Table 5-3 presents a summary of the views of the Experts on the National Credit Act and the Micro Lending Market. The outcome was that 50 percent of the Experts stated that they did not think it increased due to the collection methods of retaining the consumers “PIN and CARDS” which ensured Economic Status prior to the implementation” 30 percent of the Experts stated that they thought the default rate increased, consumers does not understand their rights and the nature of the agreement they entered into. Only 20 percent said that it stayed the same due to consumers making sure that they honour the repayment of the loans as more than one family member will repay the loan.

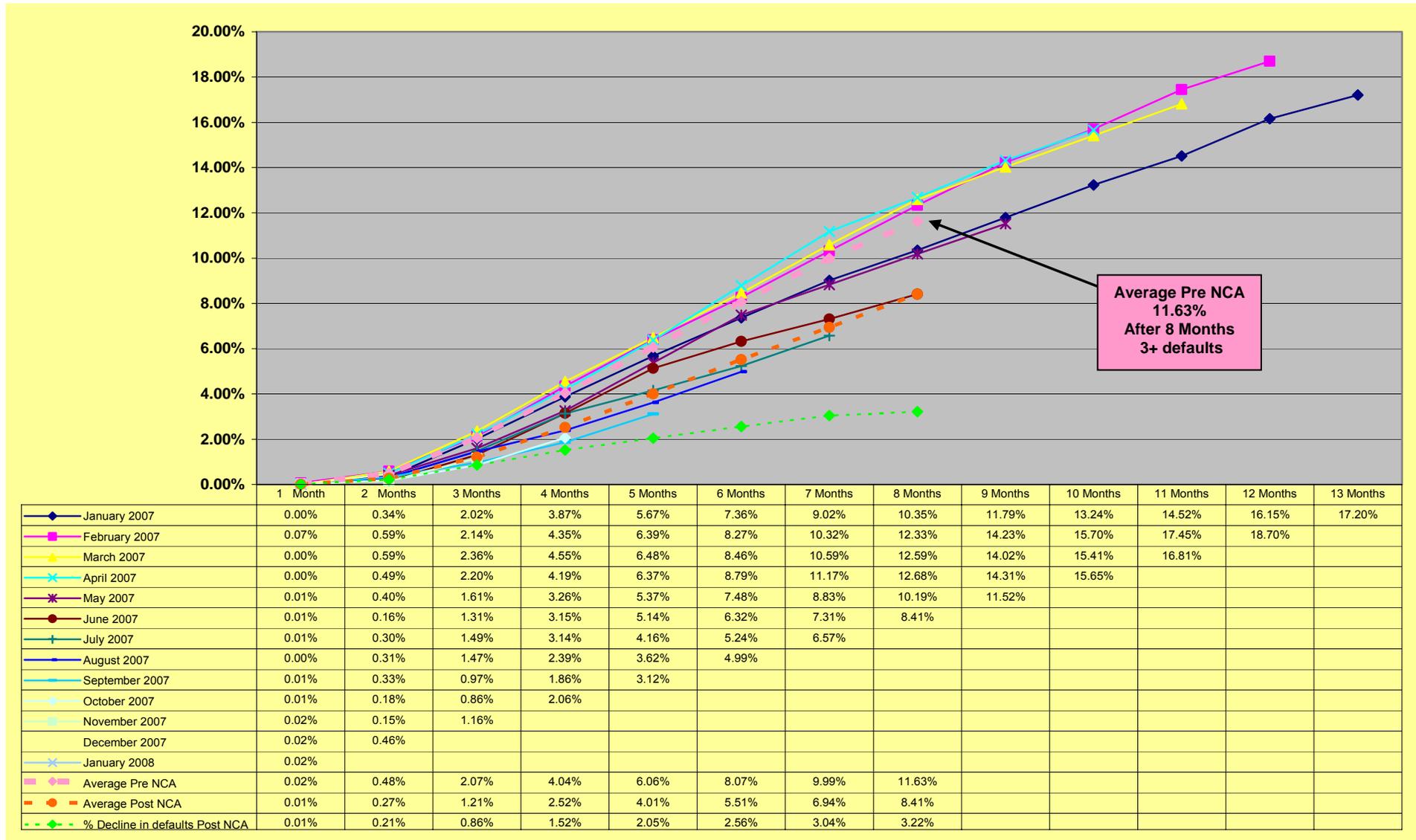
As part of the research methodology and phase 1 of this research report, statistical analysis was conducted with regards to the default rates of the consumers. The statistical data used was of consumers that have defaulted on a micro loan after 3 month plus. The statistical data showed evidence that there

was an 11.63 percent default rate of customer repayment on micro loans of a period of 8 months prior the implementation of the NCA. This can be found in figure 5-1 below. It was decided to only discuss the outcome of this analysis with the Experts after the interview as not to influence their perceptions and views on the questions asked.

**Table 5.3: Are you of the opinion that consumers defaulted more on the repayment of their micro loans BEFORE the implementation of the National Credit Act?**

Code	Expert	Count	Percentage
YES		3	30%
NO		5	50%
I don't think so / It Stayed the same		2	20%
Repayment ability of Consumers	"Not one but more than one repay loan; no major differences; More than one person applies for same loan also does not change consumers behaviour overnight just to implement a new law"	3	30%
Understanding of Rights	"Not all customers understood nature of the agreement and no re-course if agreement is not honoured. Lenders also exploited the consumers by ensuring repayment of loans on securities of their houses & policies"	2	20%
Exemption Notice	"Previously the exemption notice of NCA was basically the same type of assessment, only taking household debt into consideration; consumer market is the same with more awareness; people can still not repay"	3	30%
Economic Status before implementation	"Impairments increased because of market instability not because of NCA"	2	20%
Collection Methods	"Collection methods of retaining the consumers PIN and CARD ensured repayment and garnishee orders."	2	20%

Figure 5.1: Default Rate of Consumers BEFORE the implementation of the National Credit Act



### ***5.3 Research Question 2: What was the impact on micro loans after the implementation of the NCA on the repayment of a loan?***

Research question 2 investigates the impact on the Absa Micro Lending Business Unit and its customers following the implementation of the National Credit Act. It investigates the perceptions and views of Experts on the goals of the NCA, the default rates of the consumers after implementation, which has a direct impact on the consumer and Micro Lending Business Unit.

#### **5.3.1 Question 2.1: To what extent do you think that the National Credit Act benefited the consumer as per the original goals set out by the Act?**

Question 3 relates to the goals identified as per the literature review that the National Credit Act has set out to achieve with its implementation. Experts are requested to comment if they think that the NCA has benefited the consumer with regards to these goals.

Table 5-4 presents a summary of the views of the Experts on the National Credit Act and the Micro Lending Market. The goals are listed below and table 5-4 provides a summary of the concurring views of the Experts in respects of their views if the consumers are experiencing these benefits. The goals to “Regulate credit information” and “Establish national norms and standards relating to consumer credit” is counted the highest with 60 percent of the

Experts stating that consumers rights to receive a quote and shop around is seen as one of the most important goals and standardised affordability calculations. To “Establish a National Regulator, National Consumer Tribunal; to repeal the Usury Act” is counted the lowest with 10 percent of the Experts saying the NCR does not have the manpower to enforce the mandate it owns.

**Table 5.4: To what extend do you think that National Credit Act benefited the consumer as per the original goals set out by the Act?**

Code	Expert	Count	Percentage
Regulate credit information	“Consumers right to get quote, shop around and see the cost of the loan; up front disclosure of pricing. Proper ITC and affordability checks can be done ”	6	60%
Establish national norms and standards relating to consumer credit	"Ensure that affordability calculations are standardised with capped interested and initiation fees. Risk based pricing was introduced although it could still be bias against brand new consumers. "	6	60%
Prohibit Unfair Credit Marketing Practices	"More disclosure with regards to Advertising and marketing. Not allowed to do pre-screening of consumers anymore and cannot contact him without his consent."	5	50%
Provide for debt re-organisation in cases of over-indebtedness	"Consumers are in a position now to acknowledge and understand when they cannot afford their debt and ask upfront for re-organisation of their debt / debt counselling"	5	50%
Consumers Education	"Customers more informed when going into agreement as staff is also up skilled with necessary information but still require ongoing education. Consumers are introduced to a more formal banking services than what they were used to previously, increases discipline”	4	40%
Provide for registration of credit bureaux, credit providers and debt counselling services	"Good that all need to register with NCR, credit bureaux and that all lenders need to register as well, which decreased the lenders in the market not being able to afford the cost to comply with the regulations. "	4	40%

To establish the National Credit Regulator, National Consumer Tribunal; to repeal the Usury Act	"NCR might be to consumed with debt counselling and haven't enforce enough"	1	10%
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### 5.3.2 Question 2.2: What benefits stands out for you?

Question 4 is an important question to ask in order to understand what benefits stands out as per the Expert perception and not what is prescribed by the Act as per the originals goals set out by the Act.

Table 5-5 presents a summary of the views of the Experts on the National Credit Act and the Micro Lending Market. Table 5-5 provides a summary of the concurring views of the Experts and rank ordered to provide a view of the benefits as seen as the most important through repetition. "Protection of Consumers" is seen as the most important with 40 percent of the Experts mentioned this as one of the benefits that stands out for them as being one of the most important, as the consumer enjoys protection against over exposure, exploitation and reckless lending.

**Table 5.5: What Benefits stands out for you?**

Code	Expert	Rank order	Percentage
Protection of consumers	“Protection against over exposure, exploitation and reckless lending”	4	40%
Awareness	“Disclosure of pricing via Marketing; Education regarding rights are still lacking”	2	20%
Caps on Interest Rates	"Lenders are not allowed anymore just to ask any rates and transparency in pricing as per focus from competition commission"	2	20%
Regulations that reaches all consumers	“Standardisation of forms; more educated consumers regarding their rights; Alignment of credit bureaux, affordability checks”	2	20%
Remedies available to consumers	“More remedies available in debt counselling and debt counsellors”	2	20%
More Governed regulated environment	"Lenders have to register with the NCR to be recognised, which pushes consumers more to the more formal financial service provider "	1	10%
Collections of repayment	"Collections process are more humane and reasonability in the process"	1	10%

**5.3.3 Question 2.3: Are you of the view that the default rate have increased or decreased on the consumer’s repayment of their micro loan AFTER the implementation of the National Credit Act?**

Question 5 investigates the impact of the NCA on the default rate of the consumer after its implementation, which directly impacts the Micro Lending Market. This question is divided into two sets of information, namely what has been collected from the Expert interviews in Table 5-6 and the statistical

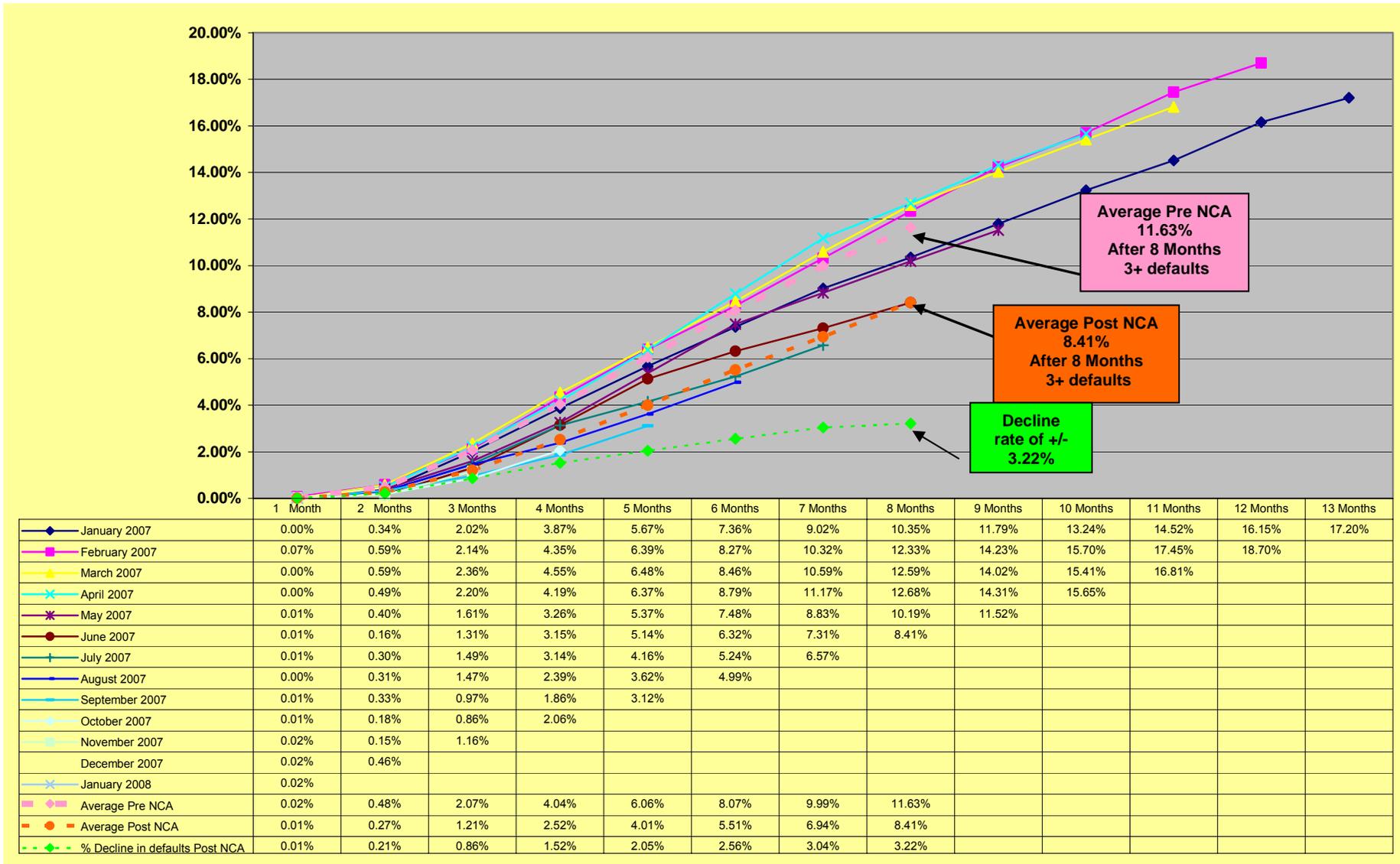
analysis from the default rates of the Absa Micro Lending Business Unit in Figure 5-2.

Table 5-6 presents a summary of the views of the Experts on the National Credit Act and the Micro Lending Market. Again, the results of the statistical analysis were only discussed at the end of the session as not to influence the Experts perceptions and views. It is a general view that the default rate did not increase or decrease due to the NCA, but rather due to economic environment at that stage in time which was the period between July 2007 and January 2008. However the statistical data has proven that the default rate post the implementation of the NCA has reduced due to stricture application of credit allocation rules by 3.22 percent, to 8.41 percent as shown in Figure 5-2 below.

**Table 5.6: Are you of the view that the default rate have increased or decreased on the consumer’s repayment of the micro loan AFTER the implementation of the National Credit Act?**

Code	Expert	Count	Percentage
Did not increase or decrease default rate	"If it did change, it was due to some internal rules. Stayed the same due to NCA but increased due to economic situation, but did slow down the collections procedure"	6	60%
Decreased default rate	"It has decreased, complicated given the changes to the economic cycle, but should have decrease if compared in positive environment"	3	30%
Increased default rate	"All indications shown deterioration due to economic climate and the ballooning economy before the implementation of the NCA. Defaults now due to ripple effects of over extension of pre implementation and the willingness of banks to accept additional risk"	2	20%

**Figure 5.2: Default Rate of consumers AFTER the implementation of the National Credit Act**



### ***5.4 Research Question 3: Overall impact of the National Credit Act on the Absa and / or Micro Lending Market, positive or negative?***

Research Question 3 is focused on the over all Absa and Micro Lending Market and if the NCA has had a positive or negative impact on its performance over the period between January 2007 and January 2008. Again Expert view and statistical analysis are used to determine the outcome in Table 5-7 and Figure 5-3.

#### **5.4.1 Question 3.1: To what extend to you think the over all Absa / Micro Lending was affected by the Nation Credit Act; positively and / or negatively and how?**

The purpose of this question is to obtain the views of Experts on the effect the National Credit Act had on the Absa and Micro Lending Market, if it is seen as positively or negatively. The raw data collected is analysed in terms of the bracketing process and key phrases are identified which provides insights into the question asked. The code used in this question is “Positive Impact” and “Negative Impact” as most of the Experts indicated that the impact of the NCA was both positive and negative. It is decided therefore to divide the responses in to positive and negative and not to include a count or a percentage outcome.

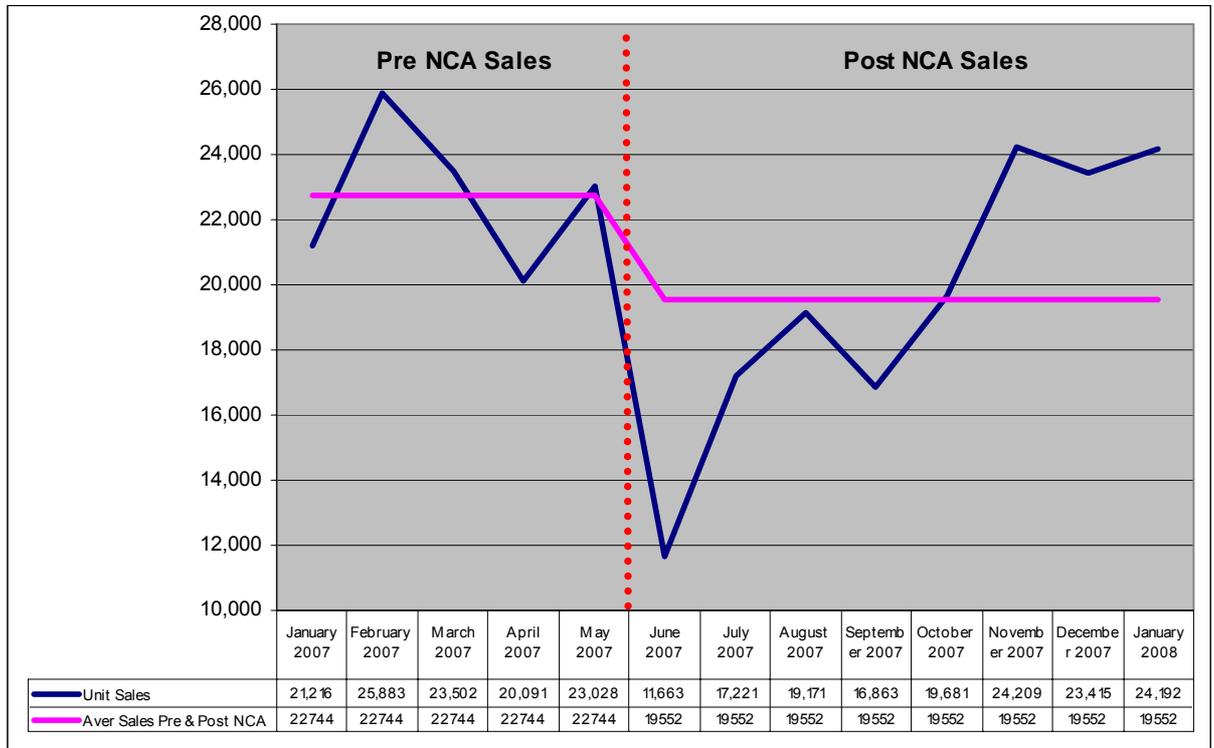
Table 5-7 presents a summary of the views of the Experts on the National Credit Act and the Micro Lending Market. Figure 5-3 gives the statistical view of

the Absa Micro Lending Market as how it was impacted with regards to its sales performance over the period before and after the implementation of the NCA. The outcome of the analysis indicated a reduction in sales volumes on a monthly average of 3000 units. It took Absa 5 months to surpass the average sales volumes for the year of 2007. The last 2 months of 2007 was seen as the peak season of sales, combining the first month of 2008. Absa created additional infrastructure between October 2007 and December 2007 to increase sales volumes namely adding 17 physical outlets nationally and 1000 agents were employed. This was seen as positive due to creating a more formal financial service to the Micro Lending Market.

**Table 5.7: To what extent do you think the overall Absa / Micro Lending Market was affected by the NCA – positively and / or negatively and how?**

Code	Expert
Positively affected by the NCA	"Review whole strategy, some Micro Lenders (loan Sharks) had to close down their businesses due to compliance cost. Leaning towards a more comprehensive consumer type of legislation, Consumers more aware of the Risk of entering into an agreement. Perception of Micro Lending market started to change, because of a more formal feel, more rigour through regulation with clear set of rules for everyone"
Negatively affected by the NCA	"Legal issues with different opinions and different interpretations of the Act. Collections recovery was uncertain due to jurisdiction in terms of magistrates and courts. Slowed down credit and pushed up administration costs. Should have been seen as customer friendly but experienced as user unfriendly due to paperwork. Impairments increased due to over interpretation."

**Figure 5.3: The impact of the National Credit Act on the Micro Lending Market**



**5.5 Research Question 4: What are the views of the Experts regarding the overall impact of the National Credit Act on the South African Market?**

Research Question 4 investigates the overall impact of the National Credit Act on the Micro Lending Market within South Africa. This section summarises the views of Experts on unscrupulous lending in South Africa and the impact of the world economy has on South Africa with the current regulatory protection acts in place to protect the banks and the consumers.

### **5.5.1 Question 4.1: To what extent do you think the National Credit Act has eradicated unscrupulous lending in South Africa?**

The purpose of this question is to obtain the view of Experts to what extent they think the National Credit Act has eradicated unscrupulous lending in South Africa. One of the primary objectives of the NCA is to eradicate unscrupulous lending as per the literature review found in Chapter 2 of this research report. The raw data content is analysed in terms of key phrases identified and coded, grouped together and counted to determine the frequency of the Experts responses.

Table 5-8 presents a summary of the views of the Experts on the National Credit Act and the Micro Lending Market. Table 5-8 below presents the summary of the view of the Experts on the role the NCA plays to eradicate unscrupulous lending in the South African Micro Lending Market. It is clear that the Experts view is generally that unscrupulous lending will never be totally eradicated due to illegal lending operations within the micro lending market and desperate consumers.

**Table 5.8: To what extent to you think that the National Credit Act has eradicated unscrupulous lending in South Africa?**

Code	Expert	Count	Percentage
Always going to be illegally operating lenders	"Our declines are other lenders sales; targets mining sectors, nursing sectors and teachers, always dependant on borrowing. 40% of market can still be reached by loan sharks. NCA has driven lending deeper underground"	4	40%
NCR's capacity	"Not yet addressing smaller players (smaller furniture and clothing shops), need enforcement of the Act. NCR does not have the manpower to reach everyone and is totally reactive."	3	30%
Only touched portion of Unscrupulous Lending	"Impacted Unscrupulous Lending, but will never eradicate it due to vast informal activity. There is more awareness of best practises. "	2	20%
Consumers stays desperate	"If consumers are desperate to get money they will get inside or outside the Act. There will always be those unsavoury elements and there will always be desperate consumers, That is the nature of the Beast"	2	20%
Enforced registration of lenders with NCR	"Helped to regulate who is lending where and what as there has been a recent case where a license has been taken away from a lender"	2	20%

**5.5.2 Question 4.2: Are you of the view that the National Credit Act could have contributed to the prolonged economic stability in South Africa versus for example the sub-prime market meltdown in the United States? Why?**

The purpose of this question is to obtain the views of Experts on the general view that the South Africa's economic "stability" is because of the implementation of the NCA. The raw data content is analysed in terms of the bracketing process and key phrases are identified which provide insights into the perceptions of Experts. The views and key phrases are coded and counted to determine the frequency of the Experts responses.

Table 5-9 below presents a summary of the views of Experts on Micro Lending and the NCA in South Africa. It is evident in Table 5-9 below that 60 percent of the Experts agree that the NCA has had an impact on the prolonged economic stability within South Africa. It is also evident that 50 percent of the remainder of the Experts are not sure if it did support the economic situation and the other 50 percent is clear that the NCA did not have an impact on the prolonged stability due to already existing regulation.

**Table 5.9: Are you of the view that the National Credit Act could have contributed to the prolonged economic stability in South Africa versus for example the sub-prime market meltdown in the United States? Why?**

Code	Expert	Count	Percentage
Yes, the NCA did contribute to South Africa's economic stability	"NCA definitely supported the stability in conjunction with other regulations as well, like Basel II, we might have been viewed as being over regulated. Also looked at interest rates earlier than the other countries. NCA forces you NOT to cut corners. People were feeling the interest rates and impacted cost of living, it forced us to have a HOLISTIC DEBT POSITION of the consumer "	6	60%
No, the NCA did not contribute to South Africa's economic stability.	Across globe different Acts to protect consumers and indirectly protect banks and there will definitely be a knock-on effect from the US and UK on South Africa. We are regulated by SOX, Basel II and NCA plays a small role. In the short term No, it has not created the necessary effect, maybe in the long run, still working with ripple effects"	2	20%
Not Sure, I think so, maybe	"NCA was not implemented long enough as yet, but SA Banks are more cautious due to past experiences - Unifer etc. Not only NCA but also regulations have protected us, NCA enforced strict lending practices "	2	20%

## **CHAPTER 6: DISCUSSION OF RESULTS**

### **6.1 Introduction:**

In this Chapter, the results of the study are evaluated and interpreted with respect to the research problems. The purpose is to discuss the findings from Phase 1, the statistical data obtained and Phase 2 the Experts whom have participated in this study. Some of the questions are supported by statistical data as substantiation or non substantiation of the respondents' views.

As stated in the Government Gazette (2006) one of the goals of the Act is to ensure that the credit industry does not take advantage of the consumers through over indebtedness and reckless lending, the importance of the National Credit Act is clear the research seeks to determine weather the NCA's impact is positive or negative for both the Micro Lending Market and its consumer.

***6.2 Research Question 1: What are the views and perceptions on the outcomes of National Credit Act of experts BEFORE the implementation of the NCA?***

**6.2.1 Question 1.1: What are your views on the assumptions made with regards to the outcomes before the implementation on the National Credit Act in light of the: Consumer, the Absa Micro lending Business Unit and the Micro Lending Environment in South Africa?**

Firstly, to introduce the topic of the Impact of the National Credit act, the respondents were asked an open-ended question on how they viewed the assumptions made regarding the outcomes predicted before the implementation of the National Credit Act and this was then specifically focussed on the consumer, the Absa Micro Lending Business Unit and the Micro Lending Environment within South Africa. The outcomes of this question can be found in Table 5-2.

Further, the reason for this question was to understand the respondents' views on the mood, atmosphere and experiences that exist in the above mentioned areas and the assumptions that these areas made with regards to the awaited outcomes. The question was answered in the respective categories presented in terms of the consumer, the Absa Micro Lending Business Unit and the Micro Lending Market within South Africa. All ten respondents seemed to generally answer the same in the different categories with regards to the consumer they highlighted "Limited Consumer Protection", regarding the Micro Lending

Business Unit they highlighted the “Usury Act Exemption and Changing Pricing Models” and regarding the Micro Lending Environment in South Africa they highlighted the impact on the Micro Lenders with specific reference to the smaller, more informal lenders.

The following statements were used by the one of the respondents in order to describe their views on the consumer:

*“General assumption is that people were over indebted, uneducated, totally at the mercy of the loan sharks and repeated borrowing... being part of a cycle that they couldn’t get out. And also the assumption of a fragmented credit market and no real consumer protection in and this goes wider to the whole drive to the consumer protection in South Africa and this was part of the other legislation that come in.”*

Another respondent commented on the impact of the Absa Micro Lending Business Unit:

*“...the Business Unit had to stream line pricing of their lending products, across the registered lenders, so that it is a uniformed lending space....they still had a space to play in and to place them competitively within the market which could bring in some uniformity within the lending space....”*

A Senior Manager within Absa said the following with regards to the Micro Lending Industry within South Africa:

*“Just before the Act came in people started realising that they cannot be certain about collecting their money any more, especially the smaller “mom and pop”*

*kind of lending stores and the consumer also were more aware that they were being exploited. So why should the consumer borrow from them if they can borrow from somebody else with a better rate and a better brand and they don't have to give my card away. Specifically to some of those competitors that used to take card and pin, suddenly they had no other way of collecting their money and they didn't have any infrastructure to do that. IT was expensive and they couldn't do proper affordability checks and also couldn't give quotes to customers..."*

To conclude, the above responses ties back to the comments made by Porteous (2004) in stating that before the implementation of the NCA the South African consumer credit regulatory environment seemed to be fragmented and dysfunctional. Goodwin-Groen (2006) further highlighted the criticism of a dysfunctional credit market was based on the fragmented and outdated legislation and Ineffective consumer protection, to name a few as per paragraph 1.1 in Chapter 1.

### **6.2.2 Question 1.2: Are you of the opinion that consumers defaulted more on the repayment of their micro loans BEFORE the implementation of the National Credit Act?**

To understand the environment more adequate this question regarding the impact on the consumers default rate before the implementation was asked and the respondents were very vocal of the views that could be found in Table 5-3.

Most of the respondents answered confidently that they did not think that the pre-NCA preparations had an impact on the consumers repayment behaviour, however they did think that a lot of lenders were using the “economic balloon” as used by one of the respondents, to push the sales of loans, credit cards, motor vehicles and maybe home loans, which could have created a ripple effect in the future.

Statistical analysis showed that the default rate of the consumer was in fact 11.63 percent before the implementation of the Act. The ripple effect as mentioned by the respondents will only be measurable during the statistical data of 2008, which has not been included for this research report. The sales performance of the Micro Lending Business Unit increased month on month pre the implementation of the act due to a high credit demand and allocation of credit to customers by Absa on an average of 22 744 units per month.

Van Aardt (2007) states that income disparities have widened in the past two years, boosted by more rapid growth in high-income earners, but the major rise of house hold debt was during the period 2002 – 2007.

Aaron *et al* (2006) concurred by stating that the household debt-to-income ratio has increased over the past three decades as per the literature review in Chapter 2.

One of the respondents however was of the opinion:

*“... If a consumer takes out a loan, it is not their intention to not pay the loan, they take out a loan with the absolute agreement to pay the loan, even if it means that family members repays the loan...they will always try to honour the loan”*

However, another responded counteracted the above by:

*“Not all consumers understood the nature of the agreement that they were entering and there was no re-course if the agreement was not honoured.”*

The general assumption, however was that the default rate did not increase due to the implementation of the NCA as micro lenders in that space in time would always find way to make sure that the consumer do not default on the repayment, again using the *“Pin and Card”* method. One respondent said that the micro lenders were seen as being *“the guys with the baseball bats”*, which could be interpreted as brutal force was used to ensure payment of their loans.

To conclude, unfortunately regulation was also not on the consumers' side as used in the literature review in Chapter 2, *“Exemption Notice 1407 of 2005 of 8 August 2005 in terms of Section 15a”* that there is no limitation on the interest rate charged for the category of money lending transactions exempted. The exemption notice did not protect the consumer against over-indebtedness and was still open for exploitation by the micro lenders.

### **6.2.3 Conclusion: Research Question 1: What are the views and perceptions of the industry Experts of the National Credit Act BEFORE the implementation of the Act?**

In response to the first question of what their views were with regards to the assumptions made regarding the outcomes made before the implementation of the NCA the general view as that that consumer was exploited, manipulated and received limited protection from the existing Usury Act. This corresponds with Porteous (2004), Goodwin- Groen (2006), and Government Gazette (2005) who found that the consumer was not supported with the previous legislation and exposed to unfair pricing and a life of increased over-indebtedness. Also with regards to the Business Unit, there was a sense of overreaction to the NCA and a general concern with regards to the changed pricing model and affordability calculations. The Micro Lending Environment in South Africa's chaotic demeanour was seen as a positive and a number of small micro lenders were forced to shut down businesses due to the cost of compliance. The major impact was their collections strategy, not being able to use the "Pin and Card" method any more.

With regards to the views of the respondents on the second questions if the consumer defaulted more before the implementation of the NCA, it was clear that the respondents did not think consumers defaulted more on the repayment of their micro loans before the implementation of the Act. As per the views of Van Aardt (2007), Aaron *et al* (2006), Exemption Notice 1407 of 2005 of 8 August 2005 in terms of Section 15a of the Usury Act (Act No 73 of 1968), the

default rate might have increased due to extensive lending before the implementation of the NCA.

### ***6.3 Research Question 2: What was the impact on micro loans AFTER the implementation of the NCA on the repayment of a loan?***

Once the background of the post NCA environment was established this provided a platform for the next three research questions with regards to the Consumer, the Micro Lending Market and the impact in the South African Market. Some of the questions were supported by statistical data as substantiation or non substantiation of the respondents' views.

#### **6.3.1 Question 2.1: To what extend do you think that the National Credit Act benefited the consumer as per the original goals set out by the Act?**

As stated in *"The purposes of the National Credit Act (2005)"* (as cited by Goodwin-Groen, 2006) (Annexure 2), seven original goals were seen as benefits to the consumer. The results of the views can be found in Table 5-4 with "Regulating Credit Information", "Establishing national norms and standards relating to consumer credit", "Prohibit Unfair Credit Marketing

Practises” and “ Provide for Debt Re-organisation in Cases of Over-indebtedness” were seen as the top four goals that benefited the consumer.

One of the respondents was very passionate about the “Regulation of Credit Information” and said the following:

*“First of all, consumers had the right to get a quote before entering into any loan agreement; suddenly they had the ability to see what the loan actually costs. Specifically if you look at the initiation fee charges and before the NCA – actually it was never capped, there was a guideline from the MFRC and we were audited on the rates but industry wide there was no major caps. But now, with the NCA there is definitely regulation and caps on fees and interest rates...”*

The same respondent also spoke about “Prohibiting Unfair Credit Marketing Practices:

*“Regulations around how advertising happens and how you sell the product make it more humane regarding how people apply for loans. The major 4 banks and some of the other bigger players like African Bank and Capitec – we are forced to be above board, we have always been above board, but specifically in this industry you have to be above board with your intend in selling a product...”*

Another respondent viewed the benefits as not being fully experienced yet:

*“In terms of curbing of indebtedness – the purpose is there, I don’t think this is necessary helping the consumers yet as I don’t think the news regarding the Act and understanding of consumer rights are reaching everybody as yet”*

This view were concurred by another respondent:

*“Maybe the National Credit Act is known in the Metropolitan areas, but not yet to the full extent as it should be, in the Rural Areas, as the NCR will not be able to reach everyone to reach all its goals as set out by the Act...”*

### **6.3.2 Question 2.2: What benefits stands out for you?**

This question was an important question to ask in order to understand what benefit stood out for the respondent as per their perception and not what was prescribed by the Act as per the original goals set out by the Act. Table 5-5 provides the summary of the view of the respondents. The benefit that was seen as the most important of all the benefits discussed was the “Protection of Consumers”. This protection was seen as the protection against “over exposure”, “unscrupulous lending”, “exploitation” and protection to receive adequate information regarding products, pricing and knowledge of their rights.

Goodwin-Groen (2006) confirmed that consumer protection was the key component that was lacking before and was neglected in all the regulations implemented before the NCA, for example:

- Usury Act No 73 of 1968

- Exemption Notice 1407 of 2005 of 8 August 2005 in terms of Section 15(a)
- Credit Agreements Act No 75 of 1980
- National Payments Systems Act Of 78 of 1998

Campbell (2006) stated, as used in Chapter 2, that the consumer's predicament represented the hard reality faced by millions of South Africans. The low income earners relative to their cost of living ensured that those people borrowing money in order to provide for the basic necessities of life was always at the short end of the stick and always received the highest interest rate due to the high risk profile of these customers.

A senior respondent within Absa Bank's response regarding this question was:

*"An important benefit is that the consumer does not get over committed. Affordability checks and calculations are one of the best parts of the NCA as it makes sure that the consumer can afford the loan before going into any agreement. But the consumer will also take as much credit as you give them; we live in a society of "instant gratification"."*

**6.3.3 Question 2.3: Are you of the view that the default rate have increased or decreased on the consumer's repayment of their micro loan AFTER the implementation of the National Credit Act?**

The majority of the respondents confidently stated that they were of the opinion that the default rate stayed unchanged and there was no increase or decrease due to the economic cycle the market was in. Herewith some of the respondents views regarding the default rate of consumers after the implementation of the NCA:

*"Absa Micro Lending has always been good with assessments and affordability checks, therefore the default rate stayed the same. But due to the economic climate, I might think that it could have increased, but not as an effect of the NCA..."*

*"I think it is very much the same, the market forces influences the default rates, seasonal influences. Did the NCA actually cause the default rate to decrease – I don't think so..."*

*"The NCA has slowed down credit and it has slowed down the market, so it could have actually helped to decrease the default rate, but with the economic situation it must have increased."*

*"Repayments, defaults should have decreased in a positive economic environment, but we are not comparing equal ground, impairments have increased... question... instead of looking at your defaults, look at your*

*collections book, affordability was looked at stricter therefore your collections should look better...*”

The statistical analysis showed that the default rate of the consumer was in fact 8.41 percent after the implementation of the Act which can be found in Figure 5-2. The sales performance of the Micro Lending Business Unit decreased on implementation of the Act. The respondents commented that Absa was over compliant in the implementation of the Act. The months following Absa reviewed their implementation criteria as the month of June 2007 showed a dramatic decline in unit sales from a previous month of 23 028 units to 11 663 units. This information can be found in Figure 5-3.

The comments made by the respondents were all aligned to McNab and Wynn (2004) which stated that Consumer Credit Risk or Retail Credit Risk was due to customer’s non re-payment or default on credit products, such as an unsecured loan, this is further discussed in Chapter 2. Campbell (2006) also illustrates the cost of credit in terms of the NCA on short term loans Table 2-2.

#### **6.3.4 Conclusion: Research Question 2: What was the impact on Micro Loans AFTER the implementation of the National Credit Act on the repayment of a loan?**

In response to the first question asked in this section regarding to what extent the NCA was benefiting the consumer, seven goals (Annexure 2) were discussed and the top four goals that were selected by the respondents can be found in Table 5-4. The top four was

- “Regulating Credit Information”
- “Establishing national norms and standards relating to consumer credit”
- ” Prohibit Unfair Credit Marketing Practises”
- “ Provide for Debt Re-organisation in Cases of Over-indebtedness”

Question 2-2 was purely to understand the view of the respondent and what they see as a benefit to the consumer without being prescribed by the Act. The key theme was the protection of the consumer against all the unsavoury elements of the market: over exposure, exploitation, unscrupulous lending and protection against over-indebtedness, to name a view.

Question 2-3 was asked to understand the respondents views on what they thought would be the default rate of a customer AFTER the implementation of the NCA and it was unanimously agreed that the results would be unchanged. However, the statistical data analysed showed a different picture, with a decrease of 3.22 percent on average on the default rates post the implementation of the Act.

#### **6.4 Research Question 3: Overall impact of the National Credit Act on the Absa and / or Micro Lending Market, positive or negative?**

Understanding the impact of the National Credit Act has on the consumer, Research Question 3 was asked in order to investigate the respondents views on what their perceptions were on Absa and the Micro Lending Market. Where they positively or negatively influenced?

##### **6.4.1 Question 3.1: To what extent do you think the overall Absa / Micro Lending were affected by the National Credit Act; positively and / or negatively and how?**

The results collected from the interviews held with the respondents are presented in Table 5-7. The key themes in this question were not counted as most of the respondents had both positive and negative views of Absa Micro Lending and the Micro Lending Market.

Most of the respondents saw the change of the micro lending market from an informal to a more formal market an extremely positive.

*“The Micro Lending Market moved from a total informal market to a more formal market. Customer is expecting the same service from all the service providers out there and they are not getting it which forces them to move towards the bigger players in the market. This hopefully will move the market out of the 2<sup>nd</sup>*

*Economy.... The reality is that all bank policies and procedures are aligned, but are too conservative to support this movement, which means that we are not responsive to the market... this will then ensure that the “Loan Sharks” still exists...”*

*“The consumer are more aware of the risk of entering into an agreement now, they know their rights...”*

The negative areas that were discussed:

*“The grey areas of the Act were seen as a constant negative as the interpretation of the Act is still lacking and inconsistencies are still seen today.”*

*“The Act slowed down credit which in turn slows down the collection process, which in turn slows down the debt counselling process....”*

*“The impact is significant due to the process that the market had to go through to be compliant...we were pushed to be consumer friendly, but the Act forced us to be consumer unfriendly due to increased paperwork...”*

Figure 5.3 shows the negative effect the Act had on the Absa Micro Lending Business Unit with unit sales declining from 23 028 to 11 663. One of the respondents commented on this decrease in sales as being the banks fault due to its own over interpretation of the Act and said that it was not the NCA’s intention to decrease business.

#### **6.4.2 Conclusion: Research Question 3: Overall impact of the National Credit Act on the Absa and / or Micro Lending Market, positive or negative?**

The overall reaction to this question was that the NCA was a huge shock to the market and the Act was seen as a “Very negative tool to Stop Lending”, rather to see it as a mechanism to stop illegal credit providers to stop with reckless lending and taking responsibility for the affordability of the consumer. The cost of implementing the NCA was astronomical, which meant that the smaller lending businesses could not comply and had to be closed down. The positive side is that the NCA was removing illegal entities from the market and small lending businesses that did not register and comply with the Act were seen as criminals.

The general feedback was that maybe we should be even stricter with regards to the affordability checks and credit scoring in order to protect the consumer even more from any future negative economic cycles. But now there is a clear set of rules for everyone, some might still not follow, but bigger institutions are treated as proper business cases.

## ***6.5 Research Question 4: What are the views of the Experts regarding the overall impact of the National Credit Act on the South African Market?***

Following the investigation and identification of the importance of the NCA in the lives of the consumer, the impact on the Absa and Micro Lending Market, Research Question 4 focussed on the impact the NCA had on the overall South African Market. The following 2 questions were important to ask in order to understand the respondents' views on if the Act has eradicated unscrupulous lending and if the Act has played a significant role in protecting the South African economy from the onslaughts from the global markets experienced today.

### **6.5.1 Question 4.1: To what extent do you think the National Credit Act has eradicated unscrupulous lending in South Africa?**

To eradicate unscrupulous lending is one of the key goals of the NCA and can be found in Annexure 2 with regards to Goodwin-Groen's (2006) summary of these goals discussed. The results are presented in Table 5-8.

Most of the respondents expressed that unscrupulous lending will never be totally eradicated due to declines in current score cards and desperate consumers wanting to put the bare necessities on the table for the families.

*“There is always a way, if it is not on a personal basis, it will be illegal. People are targeting the mining, nursing and teaching sectors...”*

*“We still have cases that small lenders are still using the pin and card method, but some see it as positive, as an added service. Some customers live in very rural areas and cannot make it to the bank every month, so they would rather want someone else to take the responsibility for them, they see this as positive...this method will never disappear.”*

*“The Act has supported with the requirement for lenders to register with the NCR and the role the NCR played to ensure that unregistered lenders were closed down, there was a recent case of a lenders license that was taken away and they were de-registered...”*

*“The Act plays a more significant role in eradicating unscrupulous lending in the Metropolitan areas, I don’t think they can reach everywhere and I think the Rural areas have remained unchanged... the Act might have driven some lending deeper under ground...”*

1 August 2007 over 48 000 premises registered with the NCR to lend money to the public, this was stated in the Government Gazette (2006) and by the NCR. The NCR’s role is defined by the Act as per Chapter 2 and though it might still be early days a few respondents believed that with enough capacity and an enforce mandate, the NCR’s impact will still be witnessed in the near future.

**6.5.2 Question 4.2: Are you of the view that the National Credit Act could have contributed to the prolonged economic stability in South Africa versus for example the sub-prime market meltdown in the United States? Why?**

This question summarises the last Research Question 4, as it is important to understand the view of the respondents on how they see the NCA's influence in South Africa with regards to the onslaughts from the global economy.

It was clear that the majority of the respondents believed that the NCA did play a significant role in contributing to a prolonged economic stability within these turbulent times. The example used in this question was the sub-prime market meltdown in the United States because of the relevance to the over-indebtedness of the US market and the total reactive response the market took to try and rectify the situation. The NCA might have been seen as being implemented too fast or a bit too late or not to support the growth of the lending market, but most of the respondents were positive with their views that we could have been in the same position if the Act was not in place.

*“People are feeling the interest rates and the impact on the cost of living, but the NCA forces us to have a holistic debt position of the consumer.”*

*“Yes, there is some truth in it that yes it could have created some stability due to the fact that we have a heavy regulated credit industry...”*

*“The NCA’s strict lending practises for both consumers and lenders have protected us to a large degree.”*

*“The NCA forces you to not cut corners and take a look at your customer and business, it might be too soon to say, but the affordability checks are much more focused than before.”*

To conclude, most of the respondents felt that the South African Banks are conservatively financed and has strict exchange controls and mainly funded by South African money that the country would not have felt the impact as much. Further an article of in the Business Day (31 October 08) was quoted by one of the respondents in saying that the NCA provided further reassurance that borrowers were not over-indebted and that South African Banks emerged unscathed from the “financial carnage taking place around the world”

### **6.5.3 Conclusion: Research Question 4: What are the views of the Experts regarding the overall impact of the National Credit Act on the South African Market?**

To conclude, research question 4 was an important integral part of the investigation in order to understand the impact of the NCA on the South African Market and how the respondents view the Act’s role in protecting the market against local and global changes.

Question 4.1 asked the question did the NCA eradicate unscrupulous lending in South Africa. As per the opinion of the respondent a deduction can be made that formal lending has been regulated and will ensure that customers are protected. However the respondents also indicated that unscrupulous lending will always continue to exist in the lending market. The respondents commented that with the regulation of the formal lending market the informal lending market has been “driven further under ground”. This will make it even more difficult for any regulation to be applied and monitor informal lending.

Question 4.2 asked the question if the NCA could have contributed to the prolonged the economic stability within South Africa in this current economic state globally. The general view of the respondents was that the NCA did contribute to the stable economic position in South Africa over the past 18 months. Feedback received from respondents that they were positive about the implementation of the NCA as they perceived the Act to be a protective barrier against external financial exposure.

## **CHAPTER 7: CONCLUSION AND RECOMMENDATIONS**

This Chapter presents the summary findings of the study and based on the results, recommendations are proposed and finally recommendations are made for future research.

The following findings emerged out of the research and is categorised as per the research questions asked with regards to the impact of the National Credit Act regarding the consumers' behaviour.

### ***7.1 Summary of Findings***

#### **7.1.1 Consumer Debt must be seen as “Holistic” and cannot be calculated in isolation any more:**

It was found in the investigation that the Impact of the National Credit on the Consumer was seen to be very positive as the focus was mainly on protecting the consumer against over-indebtedness, reckless-lending, exploitation and manipulation by the informal market. The Act also ensured that the formal market has a better view of their newly introduced consumer with updated systems and updated affordability calculations.

Banks are communicating with each other as consumers are not allowed to continue with agreements without presenting all the relevant documentation. In turn, this ensured that consumers which were declined were not forced into

taking out loans which they could not afford. This procedure gave the value chain in servicing the consumer a “Holistic View” of the “Consumers Debt”. Ensuring that the consumer can afford to re-pay their micro loans and future debts they enter into. This “Holistic View” is supported by Section 81 of the Act “Prevention of Reckless Lending” as it states clearly that no credit provider is allowed to enter into an agreement with a customer without completing an assessment and to ensure that the customer understands the risks and the cost of the proposed credit agreement that they will be entering into (Government Gazette, 2006).

**7.1.2 The Micro Lending Market will always be segregated into “Formal and Informal Markets”, even though regulation states the opposite:**

Unfortunately the negative part of creating a formal market within the Micro Lending Market is that not all customers will be serviced within this market. It is very important for a customer to be able to repay debt. If a customer is not able to repay, the financial profile of the customer will be updated at the National Credit Regulator and the information will be used in all future applications in the formal credit sectors.

If this information is of such a nature that the customers profile indicates that repayment of a micro loan has not been done in the past, it might have the effect that the new application in a formal lending environment is declined. The

situation of being declined in the formal market forces desperate customer to the unregulated and uncontrolled informal lending market.

A contributing factor is the lack of customer education and knowledge of their legal rights will always be reoccurring due to the lack of capacity within the NCR to regulate the informal market. It was mentioned before that the Metropolitan areas might have a better understanding of the NCA than the rural areas due to the lack of capacity within the NCR. The above will therefore always create a segregated lending market within the Micro Lending Market segment.

### **7.1.3 The South African Market has been positively protected by its regulation and protected by the National Credit Act:**

A major factor of repayment propensity is higher interest rates that are influenced by the South African and the Global Economy. Changes in the oil prices, gold and exchange rates had a direct influence on interest charged to customers over the past months in South Africa. The NCA protected the customer through these times as to allow maximum interest charged linked to the Repo Rate. The NCA not only protected the consumer from over indebtedness through capped interest rates, but insisted that all loans granted to a customer must adhere to strict affordability rules.

#### **7.1.4 South Africa's National Credit Act has been influenced by Canadian, Australian and British historical behaviour regarding reckless lending and over-indebtedness :**

To conclude the findings of this research report, it was interesting to discover the likeness of South Africa's lending history to that of Canada, Australia and the United Kingdom.

Canada, Australia and the UK's increased consumer credit debt was created by the high-unemployment rate, high number of bankruptcies, hire-purchase contracts, deregulation of financial markets and the availability of unsecured credit as discussed in Chapter 2. The National Credit Act's foundation was also built on Canadian Law and was implemented due to the increased reckless lending taking place between 2002 and 2006 in South Africa. There is a strong correlation between the historical behaviour in these countries and South Africa. The evidence lies within South Africa's increased credit lending rate, the increase in lending in the informal market and the reckless lending behaviour of the customer. The similarity with these countries lies within the repeating of history, regulations were implemented that did not support the consumers and had to be rectified with regulations that did. The ripple effects were impacting the consumer negatively.

The National Credit Act was implemented on the same basis as the consumer protection laws were implemented in the above mentioned countries, to ensure the consumers were protected against over-indebtedness and reckless lending.

## **7.2 Recommendations:**

Most of the respondents believed that the NCA's legislation assisted in cleaning out the supply side of the industry, by making some informal lenders redundant. The challenge though was more on the implementation of the NCA and not on the application thereof.

### **7.2.1 Recommendations to the Consumer:**

When entering into any type of credit agreement, be sure of the Terms and Conditions that applies to the granting of the loan and ensure that the best interest rate available was applied under the circumstances of the application. Customers will pay a higher interest through retail finance than what would be applied through a Formal financial institution. Repay loans as per the schedule or repayment agreement. If this is done regularly and on time it will enhance the customers risk portfolio on the credit bureau. This will allow the customer to be eligible for lower interest rates on further credit applications. Having a good reputation on repayment of credit will in all situations be beneficial to customers as this information is available on the Credit Bureau.

A further recommendation to all customers is that they should use credit with responsibility. If they apply for credit ensure that the credit provider is from a reputable service provider and preferably from the formal lending sector. Avoid signing up to credit agreements of informal service providers as these agreements are usually not governed by the NCA and thus does not protect the customer from reckless lending behaviour.

### **7.2.2 Recommendations to the Micro Lending Business Unit:**

Ensure that the customers are informed of the agreement they are signing when they apply for credit. Explain the concept of interest and penalty charges if payments are not made on time as per the payment schedule.

If the Micro Lending Business unit spend a percentage of their marketing budget on education of customers instead of sales promotions, customers will be able to be more responsible on management of credit. This in turn will allow the Business Unit to reduce pricing as it is linked to directly to behaviour of customer repayment.

### ***7.3 Recommendations for Future Research:***

Due to the repeated feedback that more time is required to understand the impact of the National Credit Act, the repayment propensity of the consumers and the qualitative nature of this study, the following recommendations for future research could be made:

- A quantitative study is conducted over a period of one to two years, in order for the market and the consumer to understand and integrate with the NCA.

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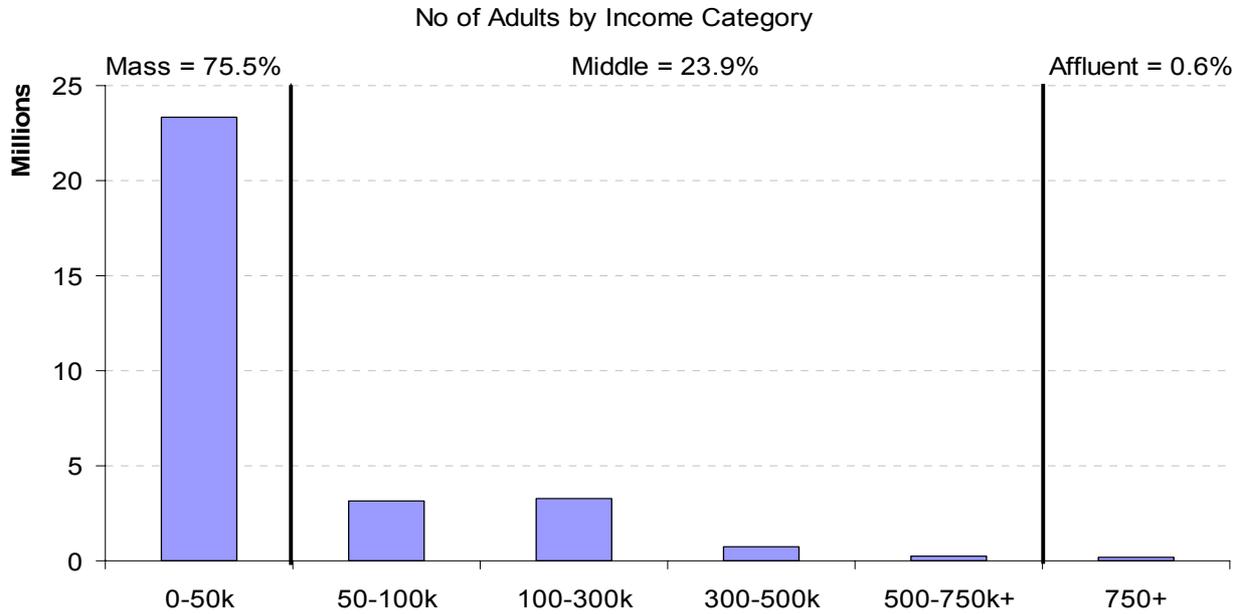
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**9. APPENDICES:**

**Appendix 9.1: Income disparities 2006 – 2007**



*Source: Prof. Carel van Aardt, Unisa*

## Appendix 9.2: The purposes of the National Credit Act (2005) as cited by Goodwin-Groen (2006)

The preamble to the National Credit Act provides that the main purpose of this Act is:

- 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 promote black economic empowerment and ownership in the consumer credit industry;
- To prohibit certain unfair credit and credit-marketing practices;
- To promote responsible credit granting and use, and for that purpose to prohibit reckless credit granting;
- To provide for debt re-organisation in cases of over-indebtedness;
- To regulate credit information;
- To provide for registration of credit bureaux, credit providers and debt counselling services;
- To establish national norms and standards relating to consumer credit;
- To promote a consistent enforcement framework relating to consumer credit;
- To establish the National Credit Regulator and the National Consumer Tribunal; to repeal the Usury Act (1968) and the Credit Agreements Act (1980); and
- To provide for related incidental matters

Section 3 of the National Credit Act sets out all the specific objectives of the Act:

The purposes of this Act are to promote and advance the social and economic welfare of South Africans, promote a fair, transparent, competitive, sustainable, responsible, efficient, effective and accessible credit market and industry, and to protect consumers, by:

- a) Promoting the development of a credit market that is accessible to all South Africans, and in particular to those who have historically been unable to access credit under sustainable market conditions;
- b) Ensuring consistent treatment of different credit products and different credit providers;
- c) Promoting responsibility in the credit market by –
  - (i) Encouraging responsible borrowing, avoidance of over-indebtedness, and fulfilment of financial obligations by consumers; and
  - (ii) Discouraging reckless credit granting by credit providers, and contractual default by consumers;
- d) Promoting equity in the credit market by balancing the respective rights and responsibilities of credit providers and consumers;
- e) Addressing and correcting imbalances in negotiating power between consumers and credit providers by:
  - (i) Providing consumers with education about credit and consumer rights;
  - (ii) Providing consumers with adequate disclosure of standardised information in order to make informed choices; and
  - (iii) Providing consumers with protection from deception, and from unfair or fraudulent conduct by credit providers and credit bureaux;
- f) Improving consumer credit information and reporting, and regulating credit bureaux;
- g) Addressing and preventing over-indebtedness of consumers, and providing mechanisms for resolving over-indebtedness based on the principle of satisfaction by the consumer of all responsible financial obligations;
- h) Providing for a consistent and accessible system of consensual resolution of disputes arising from credit agreements; and
- i) Providing for a consistent and harmonised system of debt restructuring, enforcement and judgment, which places priority on the eventual satisfaction of all responsible consumer obligations under credit agreements.”

The Wallis Report (1997) on the “purpose of regulation” stated: “The first purpose (of regulation), which applies in all sectors of the economy, is to ensure that markets work efficiently and competitively.

Regulation for this purpose includes rules designed to promote adequate disclosure, prevent fraud or other unfair practices and prohibit anti-competitive behaviour such as collusion or monopolisation. This type of regulation does not materially alter or prescribe the nature of products or services, but simply aims to ensure that they are traded in fair and efficient markets”.

In the context of the National Credit Act this means that creditworthy borrowers from low-income households and the small and micro sectors are not excluded from access to finance/credit.

The fundamental purpose of the Credit Act is to achieve integrity in the credit market and remove the multitude of unfair practices, inappropriate disclosure and anti-competitive practices from the market.

## **Appendix 9.3: Main components of the National Credit Act and Regulations as cited by Goodwin-Groen (2006)**

The National Credit Act consists of 173 sections grouped under nine chapters:

- Chapter 1: Interpretation, Purpose and Application of the Act;
- Chapter 2: Consumer Credit Institutions;
- Chapter 3: Consumer Credit Industry Regulation;
- Chapter 4: Consumer Credit Policy;
- Chapter 5: Consumer Credit Agreements;
- Chapter 6: Collection, Repayment, Surrender and Debt Enforcement;
- Chapter 7: Dispute Settlement Other Than Debt Enforcement;
- Chapter 8: Enforcement of Act; and
- Chapter 9: General Provisions.

There are three schedules. The first contains rules on conflicting legislation, the second stipulates the amendment of legislation and the third contains transitional provisions. This report focuses on the main components of the National Credit Act. It is not a comprehensive discussion of all the provisions or a detailed discussion of the application of the Act. The National Credit Act must be read with the Regulations promulgated in terms thereof (published in *Government Gazette* 28864 of 31 May 2006, *Regulation Gazette* No 8477, R489). The Regulations are complementary to their enabling sections in the National Credit Act. They provide for matters not specifically dealt with by the sections of the Act, for instance they further regulate the manner in which credit providers provide credit.

The National Credit Regulations consist of 76 regulations grouped under ten chapters:

- Chapter 1: Interpretation and Application of Act;
- Chapter 2: Registration requirements, criteria and procedures;
- Chapter 3: Consumer Credit Policy;
- Chapter 4: Consumer Credit Agreements;
- Chapter 5: Interest and Fees;
- Chapter 6: Dispute Resolution;
- Chapter 7: Record-keeping and Registers;
- Chapter 8: Compliance and Reporting;
- Chapter 9: Transitional Provisions; and
- Chapter 10: Prescribed Forms.

There are also two schedules. The first contains the prescribed forms referred to in the Regulations, while the second sets out the prescribed fees payable for certain services, for example a fee charged by a credit bureau in respect of a credit record may not exceed R20.

## Appendix 9.4: Consumer Credit Law in Selected Countries

<b>Table 1: Consumer Credit Law in selected Countries</b>			
	<b>Pillar I</b>	<b>Pillar II</b>	<b>Pillar III</b>
<b>France</b>		APRC includes all costs and has to be published	A loan is stated as usury when the rate exceeds the average effective rate of the prior quarter (published by the Bank of France) by one-third
<b>Germany</b>		APRC includes all costs and has to be published	If the APR is double the market interest rate and there has been abuse of an exigency, inexperience, lack of judgment or substantial weak will, the interest rate is illegal according to court orders
<b>Switzerland</b>	Attachable incomes to be high enough to pay back the credit within 36 months	APRC includes all costs	Interest CAP usually fixed below 15 percent per annum
<b>United Kingdom</b>		APRC includes all costs and has to be published	Usurious credit agreements can be reopened by court
<b>United States</b>		APR includes all costs according to the Federal Truth and Lending Law	Different regulations in every state
<b>South Africa</b>	National Credit Act requires lenders to assess the client's ability to pay	All costs must be disclosed in terms of National Credit Act Regulations	Regulations provide for maximum rates of interest applicable to seven different types of credit

*Source: Goodwin-Groen, 2006*

## Appendix 9.5: National Credit Act – Interest Rate and Fee Regulations

Total cost of credit (TCOC) and interest estimates for developmental credit (SME's)									
Loan Size	Period	Maximum	Maximum	Maximum	Total Cost	Repayment	i%pa	i%pa	Effective i%
	(mnths)	Interest rate	Initial fees	Service fees	Of credit	(excluding	(Including	(Including	(cumulative
		36.50%	15.00%	50	(TCOC)	Service fees)	TCOC)	TCOC)	p.a)
250	1	7.60	37.50	50.00	95.10	-296.24	38.5%	462.0%	4881.0%
500	1	15.21	75.00	50.00	140.21	-592.49	28.5%	342.0%	1926.6%
750	2	45.63	112.50	100.00	258.13	-451.02	21.7%	260.4%	955.2%
1000	2	60.83	150.00	100.00	310.83	-601.37	19.6%	235.2%	766.6%
1,250	3	114.06	187.50	150.00	451.56	-508.61	16.2%	194.7%	507.4%
1,500	3	136.88	225.00	150.00	511.88	-610.33	15.3%	183.7%	452.6%
1,750	4	212.92	262.50	200.00	675.42	-541.96	13.3%	159.5%	347.3%
2,000	4	243.33	300.00	200.00	743.33	-619.38	12.8%	153.4%	323.6%
2,250	5	342.19	337.50	250.00	929.69	-565.66	11.4%	137.4%	267.2%
2,500	5	380.21	375.00	250.00	1,005.21	-628.52	11.1%	133.5%	264.6%
2,500	6	501.88	387.50	300.00	1,189.38	-579.97	9.9%	119.1%	211.2%
2,750	6	547.50	400.00	300.00	1,247.50	-628.50	9.5%	113.8%	196.7%
3,000	7	691.98	412.50	350.00	1,454.48	-588.78	8.7%	104.1%	171.4%
3,250	7	745.21	425.00	350.00	1,520.21	-630.98	8.4%	100.5%	162.6%
3,500	8	912.50	437.50	400.00	1,750.00	-597.59	7.8%	93.6%	146.2%
3,750	8	973.33	450.00	400.00	1,823.33	-635.05	7.6%	91.0%	140.4%
4,000	9	1,163.44	462.50	450.00	2,075.94	-606.42	7.1%	85.8%	129.0%
4,250	9	1,231.88	475.00	450.00	2,156.88	-640.20	7.0%	83.8%	124.8%
4,750	10	1,444.79	487.50	500.00	2,432.29	-615.30	6.6%	79.8%	116.6%
5,000	10	1,620.83	500.00	500.00	2,620.83	-646.14	6.5%	78.2%	113.4%
5,250	11	1,756.56	512.50	550.00	2,819.06	-624.23	6.3%	75.0%	107.0%
5,500	11	1,840.21	525.00	550.00	2,915.21	-652.67	6.1%	73.8%	104.6%
5,750	12	2,098.76	537.50	600.00	3,236.26	-633.23	5.9%	71.2%	99.6%
6,000	12	2,190.00	550.00	600.00	3,340.00	-659.66	5.8%	70.2%	97.8%
6,250	13	2,471.35	562.50	650.00	3,683.85	-642.28	5.7%	68.0%	93.7%
6,500	13	2,570.21	575.00	650.00	3,795.21	-667.03	5.6%	67.2%	92.2%
6,750	14	2,874.38	587.50	700.00	4,161.88	-651.41	5.4%	65.3%	88.9%
7,000	14	2,980.83	600.00	700.00	4,280.83	-674.71	5.4%	64.6%	87.7%
7,250	15	3,307.81	612.50	750.00	4,670.31	-660.60	5.3%	63.1%	84.9%
7,500	15	3,421.88	625.00	750.00	4,796.88	-682.66	5.2%	62.5%	83.9%
7,750	16	3,771.67	637.50	800.00	5,209.17	-669.86	5.1%	61.1%	81.5%
8,000	16	3,893.33	650.00	800.00	5,343.33	-690.83	5.1%	60.6%	80.6%
8,250	17	4,265.94	662.50	850.00	5,778.44	-679.20	5.0%	59.4%	78.6%
8,500	17	4,395.21	675.00	850.00	5,920.21	-699.20	4.9%	59.0%	77.9%
8,750	18	4,790.63	687.50	900.00	6,378.13	-688.61	4.8%	58.0%	76.1%
9,000	18	4,927.50	700.00	900.00	6,527.50	-707.76	4.8%	57.6%	75.5%
9,250	19	5,345.73	712.50	950.00	7,008.23	-698.09	4.7%	66.7%	73.9%
9,500	19	5,490.21	725.00	950.00	7,165.21	-716.48	4.7%	66.3%	73.4%
9,750	20	5,931.26	737.50	1,000.00	7,668.76	-707.64	4.6%	55.5%	72.0%
10,000	20	6,083.33	750.00	1,000.00	7,833.33	-725.36	4.6%	55.2%	71.5%

## Appendix 9.6: List of Experts and Interview Coverage:

INTERVIEW DETAILS			INTERVIEW COVERAGE			
Category	Name and Surname	Function / Position	Pre NCA	Micro Lending Sales	Post NCA	Impact on South Africa
Banking Expert	Lee-Anne Beazley	Absa General Manager Contact Centre Performance	Yes	Yes	Yes	Yes
Banking Expert	Eugene Ehlers	Absa Head of Product and Pricing	Yes	Yes	Yes	Yes
Banking Expert	Amanda Van Heerden	Absa Legal and Compliance Advisor	Yes	Yes	Yes	Yes
Banking Expert	Gerret Oosthuizen	Absa Head of Sales Micro Lending	Yes	Yes	Yes	Yes
Banking Expert	Norwin Lederer	Group Programme Manager NCA	Yes	Yes	Yes	Yes
Banking Expert	Dr Gerhard Coetzee	Absa Head of Micro Finance	Yes	Yes	Yes	Yes
NCA Expert	Carolyn Englebrecht		Yes	No	Yes	Yes
NCA Expert	Kamantha Naidoo	National Credit Regulator	Yes	No	Yes	Yes
Banking & NCA Expert	Piet Smit	Absa Micro Lending Business Analyst	Yes	Yes	Yes	Yes
Banking & NCA Expert	Puleng Mpshe	Absa Micro Lending Product Planning Consultant	Yes	Yes	Yes	Yes

## Appendix 9.7: Letter to Participants



Dear Mr / Ms Participant,

Thank you for your willingness to participate in the research report I am compiling on the “Impact of the National Credit Act on Micro Lending Sales in a Bank in South Africa”

The information gathered from this questionnaire will be used for analysis in a research report investigating the impact of the National Credit Act on Micro Lending Sales in a bank in South Africa. For purposes of this study more information will be gathered in order to understand what the industry perceptions are - aligned to data analysis, have been completed around the impact on the consumer / customer and the financial industry, prior to this interview.

The main theme is to understand what the impact was on the consumer with regards to their repayment behaviours before and after the implementation of the NCA. Our interview is expected to last about an hour, and will help us to understand what your views are regarding this topic. Your participation is voluntary and you can withdraw at any time without penalty. Of course, all data will be kept confidential. If you have any concerns, please contact me or my supervisor. Our details are provided below

**Researcher name:** Zelna Rossouw  
**Email:** [Zelna.Rossouw@absa.co.za](mailto:Zelna.Rossouw@absa.co.za)  
**Phone:** 082 771 1819

**Researcher Supervisor Name:** Gavin Price  
**Email:** [priceg@gibs.co.za](mailto:priceg@gibs.co.za)  
**Phone:** 011 771 4000

**Signature of Participant:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature of Researcher:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Appendix 9.8: Respondent Information and Interview Questions

### 1. Respondent Information

Name of Respondent: \_\_\_\_\_

Position in Company: \_\_\_\_\_

Name of Company: \_\_\_\_\_

### 2. Questions:

#### Research Question 1:

1.1 What are your views on the assumptions made with regards to the outcome before the implementation of the National Credit Act in light of the:

- a. The Consumer
- b. The Absa Micro Lending Business Unit
- c. The Micro Lending environment in South Africa.

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## Appendix 9.9: Interview Guide

### 1. Introduction:

- Zelna Rossouw, Gordon Institute of Business Science MBA research
- Purpose of the study
  - Investigate the impact of the National Credit Act has on the repayment of a micro loan before and after the implementation of the Act.
  - Investigate what the environment and atmosphere was before and after the implementation of the NCA
  - Understand views and perceptions
- Explain why micro lending is investigated instead of unsecured lending.
- Explain anonymity if required.
- Explain process of data collection and analysis and how many other respondents were / will be interviewed.

### 2. Collect Demographic Information

- Name
- Life stage information
  - Age
  - Qualifications
  - Name of company
  - Position in company
  - Number of years in current company
  - Number of years in unsecured lending products
  - Understanding of the National Credit Act
  - Understanding of the Micro Lending Market
  - Understanding of the current state of affairs in South Africa

### **3. Closing comments**

- What advice would you give your current customers regarding their house hold debt?
- Do you think we can expect more positive things from the NCA?

### **4. Sharing of Previous Comments**

- Share findings and / or personal experiences in an attempt to gain a deeper level of trust and sharing.
- Share findings regarding statistical analysis done on the collections book, financial performance etc. to create broader understanding on the research.

### **5. Thank Respondent**

- Send email to thank respondent for their time.
- Create space for further sharing if possible and / or required

### **6. Notes**

- Body language and emotional state