



# Industry Developments, Trends and Practices

## **CIRCULAR NO. 1 OF 2015: THE INDUSTRY DEVELOPMENTS, TRENDS AND PRACTICES**

The purpose of this circular is to communicate certain concerning trends observed by the National Credit Regulator ("the NCR") and to ensure the implementation of applicable corrective measures.

### **1.1 Telephonic debt counselling enquiries and applications:**

The NCR has noted that some debt counsellors' operating call centres use untrained agents to solicit debt counselling applications and place consumers under debt counselling without consent and proper assessment by the debt counsellor.

Some debt counsellors conduct counselling services telephonically and place consumers under debt counselling without their consent and in certain instances consumers are placed under debt counselling upon enquiry. These consumers are placed under debt review without their consent and a completed and signed Form 16.

In terms of regulation 24 (1) (a) (b) of the National Credit Act ("the Act"), the consumer must submit a completed form 16 and provide supporting documents to a debt counsellor in order to be declared over-indebted.

Debt counsellors are advised to refrain from this practice with immediate effect. The NCR considers this practice as a serious contravention of the provisions of the Act and will take action deemed appropriate against offenders.

### 1.2 Use of NCR logo and misleading marketing practices

The NCR has noted with grave concern the use of the NCR logo and the misleading content on some of the marketing material advertising debt counselling services. Below are examples:

<p><b>Save money and pay less to your creditors.</b></p> <p><b>Need more money in your pocket? Apply for Debt Counselling.</b></p>	<p><b>We reduce your debt repayments with up to 50% and a guaranteed reduction in interest.</b></p>	<p><b>We can save you between 30-35% on your monthly repayments giving you back between R3 000 – R3 500 per month on a current repayment plan</b></p>
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The NCR finds this to be prohibited conduct as it is misleading, misrepresents the spirit and objectives of the Act regarding debt counselling and contravenes the intellectual property legislation.

Debt counsellors are instructed to desist using such prohibited and misleading content in their marketing materials and remove the NCR logo used with immediate effect. Failure to stop the practice will be viewed as a contravention of the Act and the NCR will take appropriate action deemed necessary.

### 1.3 Transfers

The NCR has noted an alarming increase in the number of transfer requests received and has embarked on a project to identify the root cause in order to remedy the situation. The preliminary finding is that the transfers are due to bad or improper service provided by the outgoing debt counsellors and in certain instances consumers are influenced by the new debt counsellors to transfer for no valid reasons.

This practice undermines the spirit of the Act on debt counselling and must be halted with immediate effect.

### 1.4 Referral of matters to court

The NCR is aware of some debt counsellors collecting legal fees and not referring matters to court. Debt Counsellors are instructed to refrain from this practice. Failure to adhere to the instruction will leave the NCR with no option but to take appropriate action.

### 1.5 Credit Industry Forum (CIF) – Consumer representatives

The CIF has welcomed South African National Consumer Union (SANCU) and Consumer International (CI) as consumer representatives to the Forum.

#### For more information:

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