This document relates to the National Credit Amendment Act 19 of 2014 & National Credit Regulations including Affordability Assessment Regulations of 2015.

We combine trusted advice, quality data, training, world-class analytics and innovative applications to help you make smart business decisions throughout the credit life-cycle.

Compuscan is a registered credit bureau in terms of the National Credit Act (NCA). NCR No: NCRCB6

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On Friday, 13 March 2015, the Department of Trade and Industry published the Government Gazette No. 38557, addressing Amendments to the National Credit Act 34 of 2005. This included the National Credit Regulations including Affordability Assessment Regulations, as well as the Amendment of Regulations for matters relating to the functions of the National Consumer Tribunal.

This latest publication forms part of a series of legislative changes since the beginning of 2014, when the Removal of Adverse Consumer Credit Information and Information Relating to Paid-up Judgments took effect.

At the end of 2014, the Amendments to the National Credit Act were published and underwent a draft and feedback process to eventually come into effect on 13 March this year. With no corporate leniency allowed, the National Credit Amendment Act (“NCAA”) is thought to have the most significant impact on the credit industry since the National Credit Act as we knew it, was implemented in 2005.

The Regulations address a number of matters, including:

– The continuous removal of paid-up adverse information
– Newly introduced affordability assessment criteria
– Changes in credit bureau data retention periods

Furthermore, the NCAA also provides for changes to the debt counselling process and the requirements for obtaining clearance certificates.

**THE AIMS OF THE NATIONAL CREDIT ACT**

- Increase access to credit
- Assist consumers to make informed decisions
- Create mechanisms to deal with debt
- Promote fair competitive markets
Regulation 17 now mandates bureaus to display the following data. Take note: Credit providers must use this data for the purpose of scoring and credit assessments.

<table>
<thead>
<tr>
<th>CATEGORIES OF CONSUMER CREDIT INFORMATION</th>
<th>DESCRIPTION</th>
<th>RETENTION PERIOD</th>
<th>COMPUSCAN SOLUTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Details and Results of Disputes Lodged by Consumers</td>
<td>Number and nature of complaints lodged and whether a complaint was rejected. No information may be displayed on complaints that were upheld</td>
<td>6 months</td>
<td>Previously 18 months</td>
</tr>
<tr>
<td>Enquiries</td>
<td>Number of enquiries made on a consumer’s record, including the name of the entity/person who made the enquiry and a contact, if available</td>
<td>1 year</td>
<td>Previously 2 years</td>
</tr>
<tr>
<td>Payment Profiles</td>
<td>Factual information pertaining to the payment profile of the consumer</td>
<td>5 years</td>
<td>No change</td>
</tr>
<tr>
<td>Adverse Classifications of Enforcement Action</td>
<td>Classification related to enforcement action taken by a credit provider</td>
<td>1 year OR within the period prescribed by S71A* of the Act</td>
<td>Previously 2 years</td>
</tr>
<tr>
<td>Adverse Classifications of Consumer Behaviour</td>
<td>Subjective classifications of consumer behaviour</td>
<td>1 year OR within the period prescribed by S71A* of the Act</td>
<td>All behavioural adverse classifications will be removed in line with the amended prescribed period or when settled. No impact to Compuscan products</td>
</tr>
<tr>
<td>Debt Restructuring</td>
<td>As per S86 of the Act, an order given by the Court or Tribunal</td>
<td>Within the period prescribed by S71(1) of the Act (new requirement)</td>
<td>No impact to Compuscan products</td>
</tr>
</tbody>
</table>
### AFFORDABILITY ASSESSMENTS

The affordability criteria are applicable to all consumers, credit providers and credit agreements. There are a number of exceptions, which include where the consumer is a juristic person (inclusive of a sole proprietor and a trust) and developmental credit agreements, study loans, incidental credit agreement, emergency loans and temporary increase of credit under a credit facility.

Credit providers should determine the consumer's current financial means and prospects (income), as well as the consumer’s existing financial obligations (expenses). There is an obligation on credit providers to calculate a consumer’s discretionary income and the credit provider must take reasonable practicable steps to validate gross income by requesting three months’ bank statements or payslips.

If a consumer is not a salary earner, the credit provider should request the latest three documents confirming proof of income or the latest three months' bank statements. If a consumer is self-employed, the credit provider should request the latest three months' bank statements or the latest financial statements.

Note: While the Regulations do not specifically state this, it is assumed that the credit provider should retain the payslips or bank statements as proof of compliance with the regulations. Recent National Credit Regulator (“NCR”) audits on credit providers indicate that the NCR requires copies of these documents to be retained.
The consumer is obliged to provide authentic documentation to the credit provider to allow the credit provider to conduct the affordability assessment.

**Note:** This is interpreted to mean either an original document or a certified copy.

When calculating the consumer’s discretionary income, the credit provider must take the gross income, statutory deductions and minimum living expenses, as per the expense norm table (as published in the Regulations), as well as all debt obligations into account. In certain exceptional circumstances the credit provider will be allowed to accept lower declared expenses, provided that the consumer completes a questionnaire (which is contained in a Schedule to the Regulations).

As mentioned, the credit provider should also take the consumer’s debt repayment history into account. This enquiry must be performed within seven business days prior to approving credit or increasing the existing credit limit, or within 14 business days for mortgages.

Enhanced disclosure requirements are now a requisite from credit providers. The credit provider must disclose the credit cost multiple and the total cost of credit in the pre-agreement statement and in the quotation to the consumer. If the credit cost multiple is disclosed for credit facilities, the credit cost multiple should be based on one year’s full utilisation of the proposed credit limit. The total cost of credit should include (but is not limited to) the principal debt, interest initiation fee, service fee aggregated to the lifespan of the loan and credit insurance (also aggregated to the lifespan of the loan).

**Note:** The credit cost multiple is the ratio of the total cost of credit to the advanced principal debt. In essence, the total cost of credit is divided by the advanced principal debt, which would indicate the ratio.

Consumers can lodge a complaint with the credit provider if they are aggrieved by the outcome of the assessment, after which the consumer can approach the NCR if they do not agree with the outcome of the complaint.

**ENQUIRIES FOR EMPLOYMENT PURPOSES**

An enquiry for employment purposes may only be performed if the recruitment agent certifies that the request relates to a position requiring honesty in dealing with cash or finances. Furthermore, it is required that the job description of such positions should be clearly defined.
Sources of information are not allowed to submit prescribed debt to the bureau. Adverse information may only be submitted to the bureau if:

i. it has not been prescribed;
ii. the consumer failed to make the minimum payment for a period of three consecutive billing cycles;
iii. the consumer was given 20 business days’ notice of the intention to submit the adverse information to the bureau;
iv. the consumer does not pay the outstanding arrears within the notice period; or
v. after the notice period referred to in (iii) has lapsed.

Upon settlement of the amount in arrears, the data source must, in its next data submission, advise the credit bureaus that the arrears amount has been settled. The bureaus are then required to update the consumer’s profile within seven business days.

Upon settlement of the capital amount of a judgment debt, the source of the information must advise the bureaus. The bureaus are then required to update the consumer’s profile within seven business days.

All credit providers must submit credit information to all credit bureaus in the prescribed form and manner. To date no guidelines have been issued by the NCR and it is uncertain in what format the information should be submitted to the bureaus.

Note that the NCAA now requires all credit providers that meet the minimum requirements (which have yet to be published but are expected to include credit providers who have a turnover exceeding R 1.00) to register with the NCR. Therefore, all credit providers are required to submit information to all registered credit bureaus and all credit providers must perform the affordability assessment and conduct a bureau enquiry.

Mandatory training for credit providers, debt counsellors, as well as alternate dispute resolution and payment dispute agents has been stipulated in the Regulations, and can be viewed here.

Are you NCAA compliant?

To ensure you remain compliant in your operations, Compuscan Academy will be hosting national compliance seminars to assist companies and individuals in understanding the Amendments to the National Credit Act.

Focusing on changes in definitions and addressing the interpretation of the National Credit Act, the seminar will further answer the questions as to the new compliance requirements to which all credit providers are expected to adhere.

Click here for more information