

Credit Ombud believes withdrawal of codes will have adverse effects

The National Credit Regulator issued a notice of intention on 12 November to withdraw approval of various voluntary Codes of conduct signed by players in the credit industry, as well as the bodies administering them.

Commenting on this move yesterday, the Credit Ombud Manie van Schalkwyk says, "We believe this will have not only extensive adverse effects on the credit industry, but also on consumers."

The NCR said it was proposing the withdrawal of approval of the Codes, including an industry Code to Combat Over-indebtedness and the withdrawal of recognition of various associations, including the National Debt Mediation Association (NDMA), Debt Counsellors Association of South Africa (DCASA), Payment Distribution Association of South Africa (PDASA) and the Credit Ombud.

Van Schalkwyk said the various codes of conduct were established on the recommendation of the Debt Review Task Team set up by the NCR in 2009. The task team analysed capacity constraints, process weaknesses, inadequate compliance and the failure of the NCA as major problems in the debt counselling process. "The report is a little over two years old and, within two years, the Codes have solved many of the problems caused by inadequate processes in the NCA."

He said if problems had been identified in the Codes, it could be negotiated with the NCR and all the relevant role players. "By scrapping the Codes, the market will be unregulated to the disadvantage of consumers."

He explained that a possible course of action would be for the NCR to recommend amendments to the Codes if they needed improvement and to approve a separate code for debt counsellors who did not wish to subscribe to the current code - provided it was in line with the NCA and obligations of the NCR.

"A more important role of the Codes has been to fill in serious gaps in the NCA itself. They have been successful in that they finally got the different parties to work together and improve protection of consumers."

He was concerned that the notice of intention to withdraw approval and recognition made no alternative suggestions for improving the debt counselling process.

Successful two-year implementation

Recent reports of the Credit Ombud and the NDMA show that these two bodies successfully resolved thousands of complaints annually.

The Codes and bodies administering them have been working successfully and the Credit Ombud would be happy to participate in a process under a new task team to promote equity between credit providers and consumers, to improve the mechanisms for doing so and to play a role in continuing to provide its accessible system of consensual resolution of disputes required by the NCA.

He explained that the Credit Ombud was a recognised Ombud scheme under Section 11 of the Financial Services Ombud Services Act and served as an alternative dispute resolution agent under the NCA.

"Consumers are entitled by law to refer their disputes to the Credit Ombud and that right cannot be taken from them. The Credit Ombud has statutory recognition which cannot be withdrawn by the NCR," he concluded.

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