Banks’ Adherence to the National Credit Act:

Its effects on domestic indebtedness and fragility in South Africa

By

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ABSTRACT

The South African credit industry is governed by the National Credit Act 34 of 2005 (NCA), which came into effect on 1st June 2006. This Act was created to bring about efficiency, transparency and accessibility to credit, which was not achievable under the predecessor provisions of the Usury Act 73 of 1968 and the Credit Agreements Act 75 of 1980. South Africa's credit history has been riddled with discrimination and unfair practices; therefore the NCA is seen as an important regulation in attempts to bring stability and equality to the financial sector. All credit providers are governed by the NCA and are subjected to strict regulations and compliance in terms of interest rates, fees, conduct and disclosure.

Unsecured credit is one of the credit agreements which is regulated by the NCA. This refers to all credit agreements that the credit provider and the consumer has entered into, where there is no tangible security offered as recourse for non-payment by the consumer. In statistics produced by the National Credit Regulator (NCR), figures showed an astounding growth in unsecured credit. It was therefore valuable to investigate the role that the NCA played in the growth of unsecured credit and the effect this growth has had on domestic indebtedness and fragility for the South African economy.

Both literature and primary data was drawn on to analyse the research problem. The primary data tools consisted of an interview instrument and a questionnaire instrument which was used to glean two perspectives on the subject researched. There were 10 interview respondents and 223 questionnaire respondents that were included in the sample. Interviews consisted of 8 open-ended questions which were aimed at respondents that had a good knowledge of the credit industry, the NCA and unsecured lending in South Africa. Respondents were categorised according to the sector they represented namely banks, regulators and investment companies. The questionnaire instrument consisted of 3 sections namely demographic information, knowledge of the NCA and debt information, with a total of 34 questions.

Given the literature on hand, the analysis of both primary data instruments provided results that showed that the NCA's regulations was a key driver in the growth of unsecured credit, alongside consumers' demand. The research also indicated that the incidence of a credit bubble bursting was minimal particularly due to the introduction of the National Credit Amendment Act 19 of 2014, which closed a few loopholes found in the NCA. A further inference that could be drawn is that banks have adequate credit assessment criteria and systems in place and are therefore in a position to profile consumers correctly. Consumers, it was found, are knowledgeable on credit related matters and in addition to this; there are many initiatives, by both banks and the government, for consumer credit education. Overall banks did comply with the NCA's regulations; however, it was found that it was the NCA's regulations that had effects on domestic indebtedness and by extension, the fragility on the economy.

DECLARATION

I, Virushka Kanniah, declare that the research conducted and presented in this dissertation is my own work, except where otherwise indicated and referenced accordingly. It is submitted for the degree of Masters of Management in Finance and Investment through the University of Witwatersrand. This research report has not, either in whole or part, been submitted for a qualification to any other educational institution.

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Signature of candidate Date

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NCA	National Credit Act 34 of 2005
NCAA	National Credit Amendment Act 19 of 2014
NCR	National Credit Regulator
SA	South Africa
FNB	First National Bank
SB	Standard Bank
NED	Nedbank
ABS	Absa Bank
ABIL	African Bank
CP	Capitec Bank
CCMR	Consumer Credit Market Report
CBM	Credit Bureau Monitor
IMF	International Monetary Fund

Chapter 1: Introduction

1.1. Current situation in South Africa

In the quarterly consumer credit market report (CCMR) published by the NCR, statistics showed that unsecured credit had risen from R7.6 billion in June 2008 to R21.6 billion for the year ended December 2013. The rise in unsecured credit has been a hotly debated topic as it is regarded as an early signal in the formation of a credit bubble in the macro-economy. Literature and history has shown that periods of strong credit growth have often been followed by a credit recession or crisis. For example, during the 2006 to 2008 period, banks lent mortgages relentlessly but just a few years later (2009-2011); they were still recovering from the financial crash and became very conservative in their lending. In the recent years, unsecured credit in South Africa (SA) has seen a tremendous growth spurt, with the largest lenders being African Bank and Capitec Bank (Reuters, 2012). Since then, the big four banks, who were previously scorched in the mortgage market, resolved to get a share of the unsecured credit market and consequently became very aggressive, seeing the attractiveness of the product.

Compliance & Risk Resources Pty Ltd (2012) investigated the increase of unsecured personal loans in South Africa’s credit market. It was established that the attractiveness of secured lending, for example mortgage loans, had reduced significantly in the recent years due to structural factors, while the increase in unsecured lending has largely been due to the sizable returns credit providers receive from this product. It was also claimed that most unsecured loans are written at very high interest rates, typically for higher risk customers and should the high growth trend continue over an extended period of time, consumer credit health will be negatively impacted.

Prior to the introduction of the NCA, South African consumers were governed by both the Usury Act 73 of 1968 and the Credit Agreements Act 75 of 1980. Most consumers had insufficient, if any, access to credit, and relied on other non-conventional ways of obtaining finance. This unconventional market was dominated by micro lenders, which are organisations that make loans to individuals who are not able to obtain financing from traditional lenders. These microlenders predominantly granted loans to lower income earners, who found it difficult to gain access to credit from formal and more traditional financial institutions, namely banks. These consumers were charged higher interest rates than would have been charged by traditional financiers. This scenario contributed to micro lenders earning their reputation of being unscrupulous. Given that a large percentage of South Africans are low and middle income earners, their only source of credit was through the utilisation of microlenders. These microlenders soon realised this was a lucrative business and exploited consumers to the fullest, at times even becoming violent. The NCA has effectively put a stop to this exploitation by firstly, making credit more accessible to consumers and secondly, by regulating the maximum interest rates that can be charged for these loans.

1.2. Overview of the National Credit Act

The NCA was introduced to South Africa in 2006. This act repealed both the Usury Act and the Credit Agreements Act, which governed credit agreements up until that time. The NCA’s most important objective was to level the playing field amongst credit providers and consumers in SA. It brought into existence a number of basic rights to consumers and governed the way in which credit providers are allowed to do business with consumers. In addition to this, the NCA governs the way consumers are

treated when applying for credit, during the term of the contract and, most importantly, to attempt to discourage conduct that would lead to over indebtedness. The responsibility lay in the hands of the credit provider to ensure that they do not lend recklessly and if found to be lending recklessly, would be seen to be in contravention of the act and liable to stiff fines and other penalties.

Unsecured credit is defined as smaller money loans (micro loans) re-payable in instalments, where the lender is given no assurance in any tangible form for repayment of the debt, which includes personal loans. This refers to all agreements greater than R8000 and/or repayable over more than 6 months. The maximum interest rate that can be charged under these kinds of agreements is linked to the South African Reserve Bank repurchase (repo) rate (6.5% as at 7 May 2014). This maximum rate is calculated as follows: (repo rate x 2.2) + 20% per annum, which means the current maximum rate that can be levied on unsecured credit agreements is 34.3% (as at 7 May 2014).

If the comparison is made with the interest rate that can be charged on unsecured credit agreements with the interest rate that can be charged on other credit agreements, it can clearly be seen that unsecured credit products are highly profitable. The growth in unsecured credit, as per figures published in the CCMR, has been at a phenomenal rate, which attests to the fact that the unsecured credit business is extremely lucrative for credit providers.

Terrones (2004) claimed that credit booms have five common characteristics, one being that they are often associated with banking and currency crises[1]. The analysis also concluded that credit booms follow a cyclical pattern, upward then downward economic activities for the country in question, indicating at worst, a recession. Although the study did not include SA as one of the emerging market economies, comparisons can be made with other emerging market economies. In a study of advanced economies, two key facts of modern business cycle was documented: financial-crisis recessions are more costly than normal recessions in terms of output; and for both types of recessions, more credit-intensive expansions tend to be followed by deeper recessions and slower recoveries (Jorda et al, 2010). Literature therefore shows that countries that experience high credit growth will eventually experience the consequences of a recession or other economic crisis.

1.3 Problem Statement

The NCA was promulgated in order to foster stability in the credit lending arena with the specific purpose of bringing about fair and transparent credit lending practices to both consumers and credit providers. An objective of the NCA is to curb reckless lending by credit providers and achieve integrity in the credit market. The onus is therefore on the credit provider to assess credit applications to ensure that consumers are not over indebted and can indeed take on additional debt. The credit provider needs to perform vetting of applications for credit, within reasonable measures, and take all pertinent information into account prior to lending to a consumer. In accordance with the NCA, a credit provider needs to access the consumer's debt repayment history; existing financial means; prospects and obligations; his/her understanding of the risks and costs of the proposed credit and his/her rights and obligations under a proposed credit agreement before entering into a credit agreement with the consumer. A credit agreement will be deemed reckless in

[1] The other characteristics that are common in emerging markets are that credit booms are much less common than episodes of rapid credit growth; they are synchronized across countries; they are somewhat asymmetric and there is almost a 70 percent probability that a credit boom coincides with either a consumption or investment boom, however the probability that a credit boom coincides with an output boom is less than 50 percent (Terrones, 2004).

terms of the NCA if the credit provider fails to conduct this assessment, irrespective of what the outcome of the assessment would have been.

Another key objective of the NCA is to make credit assessable to all consumers in order for them to buy wealth generating assets and not just the traditional furniture accounts. Prior to the NCA, the majority of South African consumers had very little access to credit, be it mortgages or unsecured credit. Feasibility (2009) noted that the distribution of credit still largely excluded the lower income bands of the population, which signified little potential for asset growth. The NCA has made it possible for more South Africans to legally access credit and start accumulating wealth. Furthermore the NCA was established to remove prejudices, biased practices and unsuitable disclosures in the market.

The increase in growth of unsecured credit is both a factor of demand and supply. From a consumers' perspective, unsecured lending is the quickest way in which to obtain credit, when compared to vehicle or mortgage finance, which requires valuations and other essential criteria to be finalised prior to approval and payout of the loan. This speediness does not come cheap though, since the interest rate on an unsecured loan contract can be as high as 30% per annum, when compared to a mortgage loan, which is, more often than not, very close to the prime interest rate. From a banks' perspective, the greatest attraction of the unsecured loan product is the high returns received over the term of the loan which can now be extended to as long as 84 months. The credit provider is compensated for the riskiness of these loans and is able to negate this risk by pricing accordingly, provided it falls within the pricing ambit of the NCA. Feasibility (2009) found that the NCA has had the biggest impact on pricing of unsecured loans. Previously, under the Usury Act, loans of up to R10000 were charged at a rate of 30% per month, which equates to 360% per annum. The NCA reduced this by more than 330% to approximately 30% per annum, depending on the repo rate.

By definition, a credit bubble forms when consumers build up debt to a point where they cannot make repayments. From this definition, it can be deducted that should the growth in unsecured credit continue to increase at its current rate, the South African economy will have a crisis brewing. Once consumers become over indebted, they start missing payments, which leads to a bad credit record and future credit extension opportunities diminish rapidly. Banks suffer from bad unsecured loans since they have no security to fall back on when default occurs, and these debts are subsequently written off, lowering profit margins for banks. Once this occurs, banks begin to adopt a conservative credit granting approach, lending only to credit worthy clients, with the requirement of security in the form of a deposit, surety, or an asset, as a cushion. This would leave most average South Africans without hope, particularly if they relied on credit to fund daily consumption as well as luxury items.

On the one hand, SAPA (2013) claimed that there is no credit bubble evolving in SA. The study reported findings by Roelof Botha and Ilsa Botha on how the increase in unsecured credit growth has helped SA recover from the recent global recession and was used for economic growth. However, van Onselen (2012a) suggested that there is a credit bubble forming in SA since the rate of growth in unsecured credit has risen to unprecedented levels which SA consumers cannot sustain. He explains the consequences of a credit bubble on SA's economy and questions whether the NCA, in fact, facilitated the evolving bubble scenario or could have done more to curb banks' lending at such high rates.

The National Credit Regulator (2012) highlighted the following undesirable practices brought to the attention of the NCR, in light of the increase in the granting of unsecured credit by credit providers to consumers:

1. High risk consumers are denied secured credit, yet sold unsecured credit by the same credit provider. Credit providers then earn higher returns, while doing less work in terms of unsecured transactions. Although this does not imply contravention of the NCA, the ethics are questioned.
2. Credit providers are offering consumers repeated disbursements of personal loans and charging an initiation fee on each disbursement, not on just the initial disbursement. In addition to this, minimal credit vetting is done at the further disbursement stage and thus leaving consumers with higher debt levels.
3. Overselling and incorrect contracting of credit insurance which provides very little protection to the consumer and his/her family.

The question then is whether the NCA has assisted in forestalling a credit bubble from developing or has, in fact, inadvertently aided the banks in forming this likely evolving bubble? Maya Fisher (2012) writes, "Ironically it was the National Credit Act that allowed banks to enter into microlending by setting rules such as how much could be charged for interest rates and administration costs. This effectively legitimised microlending and allowed banks to move into this lucrative industry". Before proceeding further, be aware that the theoretical underpinning of this research is the nexus between pro-cyclicality of credit extension and financial system fragility. This theoretical envelope is more elaborately laid out in the literature review chapter.

1.4 Objective

The purpose of this study is therefore to ascertain whether the NCA assisted banks in forestalling a credit bubble from forming in South Africa, or whether in fact it inadvertently aided the likelihood of financial fragility. The study will investigate the reasons behind the huge increase in the growth of unsecured credit as opposed to other forms of credit, why banks prefer this product relative to others in its asset portfolio and whether proper credit assessments are completed by banks prior to lending this product to minimise the risk of engaging in reckless lending.

1.5 Overview of the methodology

This study is designed to investigate whether the NCA has had an effect on banks with regards to their issuance of unsecured credit and/or whether the NCA has inadvertently aided the formation of an evolving credit bubble in South Africa. The study examines whether banks are conducting appropriate or sufficient credit vetting assessments prior to approving loans to consumers, specifically with regards to personal loans which form part of the unsecured credit product.

Both primary data and systematic review of literature was used to ascertain the empirical evidence on the suspicion that the NCA may have contributed to the acceleration in the formation of a credit bubble in South Africa. Interviews with banking officials from the following institutions: Absa Bank, First National Bank, Standard Bank, Nedbank, the NCR and various investment companies were conducted. The focus of the interview was on the levels of unsecured credit in SA and their views on the consequences thereof. It also included questions on credit vetting, responsible lending or the lack thereof and educational initiatives.

The questions focused on the following themes:

1. Drivers of unsecured credit in SA,
2. Credit assessment systems, and
3. Responsible lending or its lack.

In addition to the interviews, questionnaires were developed that were sent to at least 100 consumers with the hope of gathering information pertaining to the following issues:

1. Number of credit agreements they have entered into,
2. Amounts of unsecured debt and secured debt contacts they hold,
3. Knowledge on the NCA, and
4. Solicitations received via email, sms and telephone.

The researcher ensured that the questionnaire was distributed to all demographics (i.e. races groups, different age categories, both genders and different income categories) to ensure a diverse sample was obtained. This was used to assess the current state of knowledge by consumers and for information on the current financial situation of consumers.

Literature on the subject played an integral role in assessing the current state of affairs, particularly in better guiding this study, as a number of studies conducted on the research of the growth in unsecured lending in South Africa have been found.

1.6 Summary of findings

The research report investigated whether banks adhere to regulations imposed by the NCA and whether the adherence or non-adherence to the NCA has inadvertently aided the formation of a credit bubble in SA. By using both literature on the subject and primary data from interviews and questionnaires, it was found that the perception amongst scholars and respondents was that one of the main drivers in the growth of unsecured credit and hence the possibility of a credit bubble erupting was due to certain regulations imposed by the NCA. Notwithstanding other drivers of the growth of unsecured credit, the maximum interest rates and fees suggested by the NCA convinced banks, who are the largest of all credit providers in terms of disbursements that unsecured credit was more profitable and easier to execute than other credit products. The report also confirmed that banks generally conduct adequate credit assessments and generally have conservative credit granting systems. Banks, in part or whole, adhere to regulations set out by the NCA but the general consensus was that the NCA itself need to be re-evaluated. The National Credit Amendment Act 19 of 2014 was positively accepted by banks and other concerned parties as it addressed some flaws in the NCA.

1.7 Outline of the Research Report

The remainder of the research report will take the following form.

Chapter 2 contains a literature review including a review of credit booms and the consequences thereof, financial liberalisation and the current state of affairs in SA. It also includes the theoretical aspects of the NCA, unsecured credit agreements and credit regulation in SA. This also highlights the theoretical background to the study.

Chapter 3 narrows down key research questions that addresses the research objectives identified.

Chapter 4 of the paper describes the methodology used in the analysis. It includes detailed information around the research population, sample selection, profile of respondents, measuring instruments and methods applied. In addition to this, limitations of the study and any ethical considerations that arose were highlighted.

Chapter 5 presents the analysis and flags the main findings and results based on the questions identified in chapter 3 and is devoted to the impact assessment of the NCA and unsecured lending in SA. In this chapter both the interview and questionnaire instruments results are presented and discussed according to the observations gleaned from the findings.

Chapter 6 concludes the research with suggestions and recommendations based on the research questions and results from the data analysis performed. It also includes suggestions for further research.

Chapter 2: Literature review

This chapter provides a more deepened understanding of banking crises and the possible reasons as to why they occur in both developed and developing economies. It includes conclusions drawn from research conducted on financial liberalisation, which can possibly lead to fragility in the banking sector and the economy as a whole. The chapter begins with explaining the consequences of credit booms and banking crises and then proceeds to provide a more in depth view on the South African credit market. The NCA is then expounded on, with particular attention given to unsecured lending market and the growth thereof. Reckless lending and over-indebtedness is defined and contextualised, with reference to the NCA and the South African consumer. Finally the chapter concludes with the debt credit provisioning review process adopted in the South African market.

2.1 Credit booms and their consequences

A lending boom is defined as two consecutive periods in which the ratio of nominal private credit to nominal gross domestic product (GDP) deviates from the trend by a certain threshold. This threshold varies from 2 to 10 percentage points from GDP (Ottens et al, 2005). Although credit booms indicated strong economic growth, Ottens et al (2005), suggested that excessive growth in credit also significantly increased the likelihood of banking crises, specifically in emerging market economies. This view was shared by Terrones (2004), who stated that there was a difference between financial deepening and excessive credit expansion. Financial deepening is defined as credit growing faster than GDP whereas credit expansion was a moderate growth in credit, lower than that of GDP. It was this excessive credit expansion, particularly in emerging markets, that usually became unsustainable and eventually lead to the demise and collapse of the credit sector. Terrones (2004) concluded that booms are very cyclical in nature, where during up-swings, banks tend to extend credit on very favourable terms and during the period thereafter, referred to as down-swings, credit terms became stricter, leading to a decrease in both economic activity and private consumption[2].

The role of banks was to create credit by borrowing short and lending long (De Grauwe, 2008). This action creates a liquidity risk for banks and, thus could create a crisis should banks not be able to satisfy reverse deposit demands within a short period of time. A banking sector with a strong balance sheet is considered to be healthy. This trait was not only desirable for financial stability and credit growth but essential in the prevention or reduction of the severity of a banking crisis (Terrones, 2004). An economy that is considered healthy and lively is one that is able to move funds from savings to productive investment options. This process is hindered when a financial crisis occurs, whereby the economy is driven away from its equilibrium of high output to one of declining output and lost investment opportunities (Madubeko, 2010). Banking crises are more severe in emerging markets as they disrupt flow of funds to those dependent on it (Joyce, 2009). An event during which a country’s banking sector experiences bank runs, sharp increases in default rates accompanied by large losses of capital that results in public intervention, bankruptcy or the forced merger of major financial institutions is known as a financial crisis (Jorda et al, 2010). Systemic bank crises break out due to credit intensive booms and bring forth deep and long-lasting recessions

[2]Other conclusions derived from the study include: credit booms are associated with a rapid increase, and subsequent fall, in the price of non-tradable relative to tradable, consistent with the predictions of the literature surveyed; credit booms are accompanied by an increase in real stock prices and a subsequent dramatic drop; credit booms do not have a major effect on inflation, partly reflecting the high degree of trade openness of these economies; and lastly banks expand credit to the private sector by changing the composition of their assets and by increasing their external borrowing.

(Boissay et al, 2013). The larger the credit boom, (i) the higher the probability of a systemic banking crisis, (ii) the sooner the systemic banking crisis, and (iii) once the systemic banking crisis breaks out – the deeper and longer the recession.

The two documented stylised facts about the modern business cycle is that financial crisis recessions are more devastating than normal recessions and that the credit intensity of the expansion phase is closely associated with the severity of the recession phase for both types of recessions. Normal recessions are defined as two consecutive periods of decreased growth in GDP (Jorda et al, 2011). In other words, for a financial recession, in particular, the greater the drive by banks to extend credit, i.e. financial leverage, the more serious the consequences of the recession and the longer the economy will take to recover from the recession. This increased financial leverage raises the vulnerability of an economy to shocks.

Eichengreen and Arteta (2000) stated that among the causes of banking crises in emerging market economies was rapid domestic growth, large bank liabilities relative to reserves and deposit rate decontrol. Joyce (2009) included asset price declines, rapid increase in domestic credit and fiscal imbalances also as signs of a banking crisis. Financial globalisation multiplied the likelihood of banking crises or its severity. The monitoring of borrowers became more difficult when the volume of lending rose rapidly, hence the quality of loans declined. Rapid credit growth can trigger banking sector distress through two channels namely, macroeconomic imbalances and deterioration of loan capacity (Duenwald et al, 2005). Latter (1997) listed the causes of banking crises under the following headings, macroeconomic instability; poor strategies; weak management; inadequate control systems, operational failures and fraud.

After the 1930's banking crisis, the following three reforms were developed (De Grauwe, 2008):

- The central bank took responsibility of lender-of-last resort,
- Deposit insurance mechanisms were put into place,
- Prevention of commercial banks from taking on too many risks.

Although these reforms were put in place to prevent future crises from occurring, bankers relied on insurance by the central banks and governments in the form of lender-of-last resort and deposit insurance as a basis to take on further risk. Poor credit assessment was listed as one of the more common operational failures within a bank that could lead to a banking crisis[3] (Latter, 1997). Adverse credit selection occurred where banks tended to lend to credit unworthy consumers due to poor judgment and information asymmetries prevalent. This led to loans going bad more quickly than if proper credit assessment criteria were in place. Banks are attuned as intermediaries to deal with the problems associated with asymmetric information in the financial sector. Since banks did not have to share information, they have an incentive to spend resources on obtaining information which they can use in providing loans and setting interest rates, which allowed consumers to obtain finance at terms they deem reasonable. Banks can also monitor compliance with the conditions of a loan agreement (Joyce, 2009). Duenwald et al (2005) found that there was a swing from short term

[3]Other common operational failures as found by Latter (1997:25) include interest rate or exchange rate exposures; concentration of lending and connected lending; new areas of activity; unauthorised trading or position taking, associated with a failure of internal controls and other operational failures.

loans to medium and long term loans, which was a characteristic of a credit boom. This was labelled as a trait of an increase in confidence of both creditors and debtors.

Madubeko (2010) found that South Africa's policies such as exchange controls, interest rate policy and the National Credit Act insulated the country from the 2007/2008 global financial crisis, but only to an extent. The vulnerabilities soon surfaced after the crisis struck, which included the high rate of unemployment, high household debt ratios and the current account deficit.

In contrast to most literature, Sopanha SA (2006) established that only between 6-20% of credit booms in transition economies, of which SA was included, resulted in a crisis. Although divergent, the conclusions drawn still maintain the fact that credit booms usually precede a financial crisis, particularly for emerging market economies and to a lesser extent, advanced economies. From the conclusions drawn by these authors one can assume that excessive credit growth, more often than not, resulted in a crisis or in a recession, all dependent on the level of financial leverage.

2.2 Financial Liberalisation

For a variety of reasons, banking systems have developed in different ways among countries, but the trend has been towards an increasingly liberal stance by the authorities with regards to allowing banks to diversify their activities (Latter, 1997). Financial liberalisation often leads to financial crises – the link has usually been due to poorly-designed banking systems (Daniel and Jones, 2006). In the same study the results stated that even if the emerging economy has a well-designed banking system, after the period of low risk growth, the economy enters a period with an elevated risk of banking crises. For financial liberalisation to have predominantly positive effects, it must be accompanied by reliable institutional infrastructure, the proper conduct of monetary and fiscal policies, a reduction in corruption, and an increase in transparency and vigilant prudential supervision (Chauhan, 2012). Financial liberalisation is explained as all policies aimed at freeing "repressed" economies from the effects of growth-retarding policies such as low and often negative real interest rates and directed credit policies (Fowowe, 2008). Fowowe (2008) explained further that financial liberalisation included interest rate liberalisation, abolition of directed credit allocation, bank denationalisation, liberalising entry into the banking sector and strengthening of prudential regulation. Interest rate liberalisation was supplemented by the following changes: central banks were made more independent; reserve requirements and directed credit was eased; capital accounts were liberalised (foreigners were allowed to participate in capital markets); markets were set up for central bank debt and government debt; and state banks were privatised (The World Bank, 2005).

Before liberalisation, South Africa was a typically repressed country characterised by interest rate controls, direct controls, exchange controls and other forms of financial repression. A number of these controls have been lifted as the country went further towards full financial liberalisation (Sibanda, 2012). Sibanda (2012) also indicated that there are two conflicting views on the financial liberalisation-growth nexus. From one perspective, financial liberalisation lead to a more efficient credit distribution thus increased investment and economic growth, while on the other hand a negative relationship was found between openness and growth due to excessive risk-taking behaviour which increased economic volatility and therefore increased the chance of a financial crisis from occurring. Due to the low rates of economic growth experienced in these countries, the economic performances of Sub-Saharan African (SSA) countries have attracted significant attention

in recent years. The unsatisfactory growth in these countries was due to financial repression, which included interest rate ceilings which kept rates low and discouraged savings and thus investments. The effects of financial liberalisation were meant to free these countries and therefore allow growth (Fowowe, 2008).

Factors that provided the motivation for the move to financial liberalization were (The World Bank, 2005):

- Poor results,
- High costs, and
- Pressures from globalisation.

All three factors reflected on the urgent need to move toward financial liberalisation since the economies had little, if any, growth, no investments or savings, weak banking systems and the need to increase access to international financial markets.

Sibanda (2012) compiled the table below to summarise the main changes in the key dimensions of financial liberalisation for South Africa.

Table 1: Summary of the financial liberalisation process in South Africa

Credit Control	Interest Rates	Entry Barriers	Exchange Control	Reserve Requirements
Credit ceilings effected in 1965. Removed in 1980.	Interest rate controls removed in 1980, replacement in March 1998 of bank rate with a more market related repurchase rate.	Enhanced market entry (with permission in 1995 to foreign banks to open branches in South Africa); some new banks permitted after 1983; 50 new banks since 1990, development of new markets and further development of market for financial derivative; introduction/development of new financial instruments (e.g. commercial paper, equity options and futures contracts); continuous deregulation of the Johannesburg Stock Exchange.	Capital controls tightened in 1985, exchange controls on non-residents eliminated in 1995. Controls on residents relaxed in 1997.	Cash and liquidity requirements lowered in 1980.

Source: Sibanda(2012)

Sibanda (2012) and Chauhan (2012) concurred that financial liberalisation brought benefits to an economy in the form of growth and expansion but it needed to be implemented within a proper regulatory framework and legal structures in order for the country to reap those benefits. If challenges were not overcome, the economy will be more susceptible to financial crises. Chauhan (2012) specified that banks needed to be regulated due to a variety of financial crises and periods of

instability. In order to maintain public confidence (and reduce bank runs), banks needed to be regulated. This regulation also prevented banks from taking the types of risks that caused economic instability. Demirguc-Kunt and Detragiache (2002) found that moral hazard was problematic in liberalised financial systems, where huge risk-taking possibilities were at hand. They pointed out that in countries with weaker institutions, moral hazard problems was also greater because in these countries it was more difficult to supervise and control risk-taking activities by banks.

2.3 The South African Credit Market

South Africa is the economic powerhouse of Africa, leading the continent in industrial output and mineral production and generating a large proportion of the continents' electricity. The country has abundant natural resources, well developed financial, legal, communication, energy and transport sectors, a stock exchange which ranks among the top 20 in the world, and a modern infrastructure supporting efficient distribution of goods throughout the southern African region. In addition to the Johannesburg Securities Exchange (JSE), South Africa has a well-regulated banking sector, with the South African Reserve Bank (SARB) remaining independent (Madubeko, 2010). Deloitte (2012) stated that South Africa has one of the most sophisticated and sound banking and financial services sectors in the world.

South Africa's history was one of racial segregation brought about by the apartheid system which is defined as "the state of being apart" between race groups. Due to the injustice prevalent in South Africa, the international community sanctioned South Africa's trade and investment into or out of the country. In 2004 South Africa held its first democratic election which had the effects of eradicating its racially prejudiced history and thereby allowing sanctions against it to be lifted. Due to the legacy of apartheid, many South Africans, predominantly blacks, were left with little, if any, access to credit markets. These South Africans relied on income earned from employment and the use of micro lenders, more commonly known as loan sharks, to supplement any deficits in income.

The pioneers in modern South African microfinance date back to the 1980's (Porteous and Hazelhurst, 2004). This excluded loan sharks, who have been around much longer. Commercial lenders emerged later, sensing an opportunity in the market which surfaced after 2004, when many unbanked South Africans entered the credit market.

Prior to the introduction of the National Credit Act, the two collection techniques lenders utilised were:

- Cash lending: cash lenders withheld the consumers debit cards and pin numbers. This allowed lenders access to the consumers' bank accounts via automatic teller machine (ATM) withdrawals.
- Payroll deduction: the employers of consumers granted access to lenders for deductions of instalments directly from the salaries of consumers.

Both these collection techniques allowed lenders to take full advantage of the growing credit market by granting risk free loans to any consumer, whether they needed it or not. These lenders were guaranteed payment via the collection techniques described and therefore paid almost no attention to the consumers' financial state of affairs. This coupled with the interest rates allowed under the Usury Act 73 of 1968, made credit extension a highly appealing business.

Although there was a legitimate body to which micro lenders could belong, the Micro Finance South Africa (MFSA), Devnomics (2012) indicated that the activity of "loan sharking" still existed. This was mostly found in South African townships where predominantly lower income groups live. They still practised in a manner outlawed by the NCA, by withholding ATM cards and only handing them back after pay day, once they had collected their portion. Violence was very much a part of the collection methods and the interest charged was exorbitant. Although there was an increase in formal financial institutions and bank products, some individuals continued to utilise informal products such as a savings club or private money lenders. These sources were most often used for short slumps in income and when finance was needed quickly in order to fulfil an obligation. These sources, especially private lenders like loan sharks, were particularly expensive but individuals felt that they had no other choice (Finmark Trust, 2012).

The Micro Finance Regulatory Council's (MFRC) sole purpose was to improve consumer protection but this did not prove to be effective. With the consumer in mind, the Department of Trade and Industry (DTI) and the MFRC reviewed consumer credit regulations in SA and put forth the National Credit Act (NCA). The primary purpose of the Act was to achieve integrity in the credit market and remove the multitude of unfair practices, inappropriate disclosures and anti-competitive practices from the market. Another vital goal of the Act was that it put the onus on lenders to assess the borrowing capacity of a consumer before granting a loan in order to ensure that the consumers' credit levels were sustainable.

In general, consumers are protected by 3 types of regulations, which certain countries within developed financial sectors utilise. Parts of these regulations were included in the NCA in some form or the other (Goodwin-Groen and Kelly-Louw, 2006).These regulations are divided into the following 3 pillars:

Pillar 1 This pillar was implemented by the Swiss Bundesgesetz Uber den Konsumentenkredit. This pillar states that lenders should keep within consumers borrowing capacity where their disposable income should be enough to repay all loans within 36 months. Similarly the NCA required a lender to conduct credit assessments of a consumers' ability to pay and requires full financial disclosure by consumers upon application for credit.

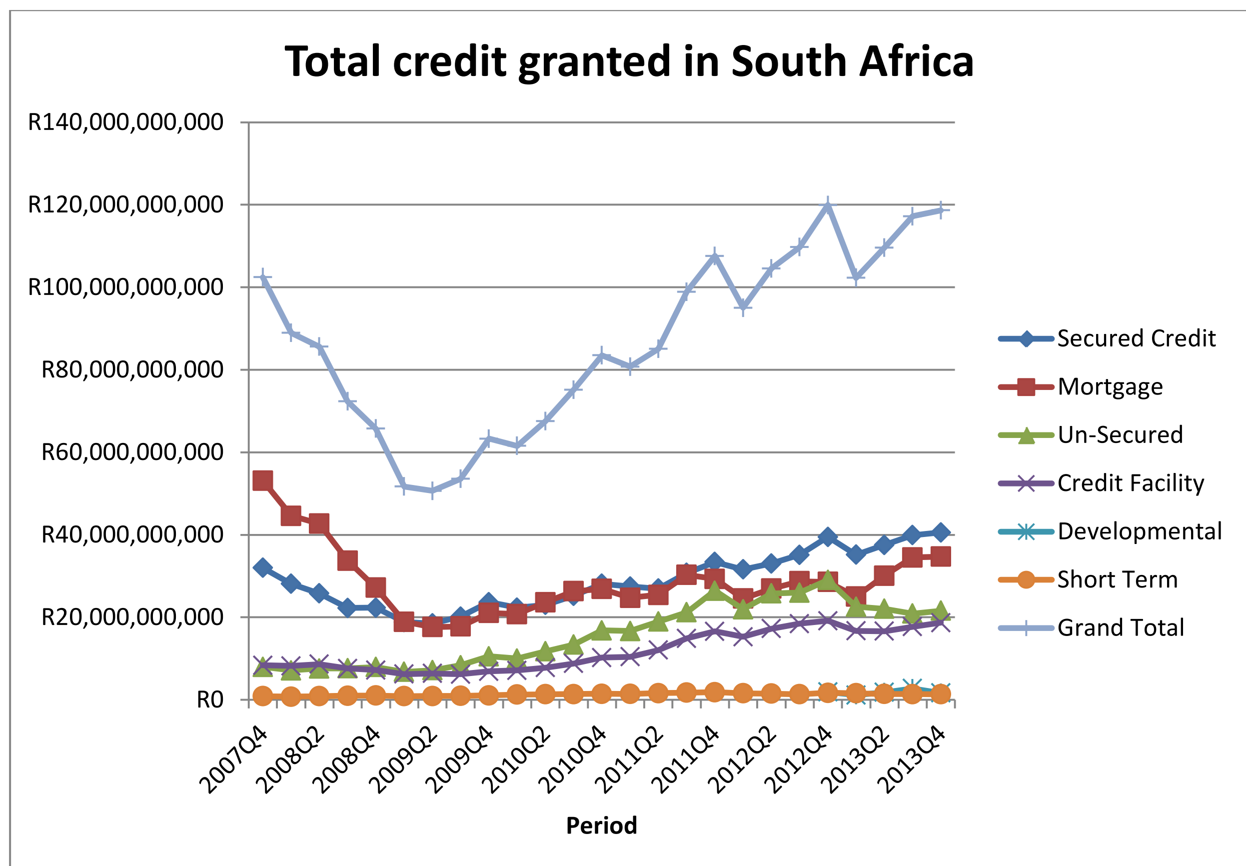
Pillar 2 Lenders were obligated to disclose, in plain language, all costs associated with a credit product. The European Union and United States have implemented this regulation. Directives 87/102/EC and 98/7/EC of the European parliament and of the Council introduced a specified method of calculating the "annual percentage rate of charge" (APRC). This method stated the equivalence of loans on the one hand and repayments and charges on the other. The annual percentage rate thus had to include all charges to the consumer, meaning all costs of the credit including interest and other charges that are directly connected with the credit agreement. Furthermore, any advertisement or offer displayed in the business premises in which a credit agreement or the arrangement of a credit agreement was offered and which included a rate of interest or any figures relating to the cost of the credit, must also include a statement of APRC. The NCA required comprehensive disclosure of all interest and other fees and charges payable on the principal debt in percentage and

rand value, together with a repayment schedule 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 *(section 92 of the Act read with regulations 28 and 29)*. Furthermore the NCA has strict disclosure provisions, depending on the type of advertisement, which must be complied with.

Pillar 3 This pillar was the regulation in terms of interest rate caps. The NCA included maximum rates of interest applicable to seven different types of credit. These were effectively the usury limits.

In the quarterly publication issued by the NCR, the CCMR indicated that total credit granted in South Africa during quarter one of 2008 was R80.7 million while total credit granted during quarter four of 2013 was R118.6 million, a 46.9% increase. For more related statistics, see Figure 1 and Table 2 below, which are discussed further in the following paragraph.

Figure 1: Total credit granted in South Africa from Q4 2007 to Q4 2013



Source: CCMR statistics issued by NCR

The CCMR splits each credit type by size of agreement, granted by level of income and indicated the age analysis of the gross debtors' book. In addition to total credit granted, the report also provided the split between credit providers and types of credit agreements. From quarter one of 2008 to quarter four of 2013, banks continued to grant more than 80% of the total credit granted to consumers. The remainder was split between non-bank vehicle financiers, retailers and other credit

providers, although none very significant. The table below indicates the distribution of credit agreements for each fourth quarter from 2008 to 2013.

Table 2: Distribution of Credit granted by credit agreement

Agreement	Q4 2008	Q4 2009	Q4 2010	Q4 2011	Q4 2012	Q4 2013
Mortgages	41.34%	33.31%	32.17%	27.24%	23.85%	29.26%
Secured Credit	33.97%	37.39%	33.66%	31.03%	32.92%	34.20%
Credit Facilities	11.00%	10.92%	12.27%	15.42%	15.99%	15.76%
Unsecured Credit	12.12%	16.65%	20.15%	24.58%	24.24%	18.22%
Short term Credit	1.57%	1.74%	1.75%	1.72%	1.42%	1.16%
Developmental credit	0%	0%	0%	0%	1.58%	1.41%
Total	100%	100%	100%	100%	100%	100%

Source: CCMR statistics issued by the NCR

Note that in 2012 the NCR had expanded on the number of credit providers whose figures were incorporated into the production and publication of the CCMR. This incorporation was effective from the fourth quarter of 2012 and had not been applied retrospectively. Developmental credit had also been introduced for the first time in the quarter four of 2012 edition of the CCMR. That inclusion has influenced the trends in all categories of credit for both “total credit granted” and the “gross debtors’ book” and was more evident on the unsecured and short term credit categories.

Credit touches the lives of millions of South Africans, with many dependent on it for their very survival. It not only has the potential to create opportunities for individuals to access goods and services, start businesses, obtain education or improve living standards, but also served as a shock-absorber during periods of financial hardship. Although credit can have positive implications for the person accessing it, it can also destroy a person’s financial security, hence the need for caution especially in circumstances where there was no access obtained before.

2.4 Unsecured credit in South Africa

In a study of household debt, wealth and saving, Prinsloo (2002) identified the micro finance industry as a factor that influenced household debt since the beginning of the 1990’s. He confirmed that this industry played a major part in extending credit to the low income households and had been partly responsible for the growing concerns about the levels of indebtedness of the household sector. Post introduction of the NCA, not much has changed, except that micro lenders were no longer the only players in the unsecured credit arena. SA’s debt to income ratio rose from below 40% in the 1980’s to around 80% in 2014 (Fakir, 2014).The author went on to explain the concern expressed when the savings rate in SA was taken into consideration, which was by far the lowest when compared to SA’s peers in other emerging markets.

Table 2 above showed the increasing growth in unsecured credit from 2008 to 2012. This supported literature around the topic of the growth in unsecured credit which indicated that in 2011 and 2012, the levels of unsecured levels peaked in South Africa, making it a cause for concern by the NCR,

SARB and investors. Since banks granted the majority of created credit to consumers, it was safe to assume that unsecured personal loans were largely granted by banks.

As defined by the NCA 34 of 2005, unsecured credit agreements are those agreements with a tenor of more than 6 months and/or an amount of more than R8000, without tangible security provided to the lender as a resort to, should the borrower be in a position where he/she was unable to pay for the loan. This definition highlighted the fact that the major difference between unsecured and secured lending was the fact that when an unsecured loan was granted, the lender had no recourse to the consumer should he default. The lender should therefore be compensated for the additional risk with this type of agreement as opposed to mortgage or vehicle finance where the financial asset can be sold to recover any outstanding debt, should the borrow default.

The NCA's stipulated that the maximum interest rate applicable to unsecured credit is 20% + 2.2xrepo rate. When compared to the maximum interest rates on other credit agreements, it was noticed that margins earned on unsecured loans were much greater. See Table 3 below for various types of interest rates as stipulated by the NCA.

Table 3: Maximum Prescribed Interest Rates

Agreement Type	Maximum Prescribed Interest rate
Mortgage agreements	[(RR x 2.2) + 5%] per year
Credit facilities	[(RR x 2.2) + 10%] per year
Unsecured credit agreements	[(RR x 2.2) + 20%] per year
Developmental credit agreements	
For the development of a small business	[(RR x 2.2) + 20%] per year
For low income housing (unsecured)	[(RR x 2.2) + 20%] per year
Short term credit transactions	5% per month
Other credit agreements	[(RR x 2.2) + 10%] per year
Incidental credit agreements	2% per month

Source: National Credit Act 34 of 2005

Where,

a) RR stands for reference rate, being the prevailing SA Reserve Bank Repurchase (repo) Rate;
b) The interest rate on short term credit transactions and incidental credit agreements must be disclosed as a monthly interest rate, in such disclosure as was required by the Act.

In a report by the Democratic Alliance (2013), it was noted that the relationship between the repo rate and the maximum interest rate on unsecured personal loans was exponential, leaving consumers disproportionately negatively affected should there be an increase in the repo rate. Given that the repo rate has remained stable since until 2012, this has not had any effect on consumers but since the SARB's decision to increase interest rates in more recent times, the number of customers with impaired records has been notably increasing.

An additional source of revenue to lenders is the initiation fee levied on all credit agreements at the acceptance stage of a credit agreement. Table 4 lists the fee applicable to credit agreements, as stipulated by the NCA 34 of 2005.

Table 4: Maximum Initiation fee

Agreement Type	Maximum initiation fee
Mortgage agreements	a) R1000 per credit agreement, plus, 10% of the amount of the agreement in excess of R10000 b) But never to exceed R5000
Credit facilities	a) R150 per credit agreement, plus, 10% of the amount of the agreement in excess of R1000 b) But never to exceed R1000
Unsecured credit agreements	a) R150 per credit agreement, plus, 10% of the amount of the agreement in excess of R1000 b) But never to exceed R1000
Developmental credit agreements	
For the development of a small business	a) R250 per credit agreement, plus, 10% of the amount of the agreement in excess of R1 000 b) But never to exceed R2 500
For low income housing (unsecured)	a) R500 per credit agreement, plus, 10% of the amount of the agreement in excess of R1 000 b) But never to exceed R2 500
Short term credit transactions	a) R150 per credit agreement, plus, 10% of the amount of the agreement in excess of R1 000 b) But never to exceed R1 000
Other credit agreements	a) R150 per credit agreement, plus, 10% of the amount of the agreement in excess of R1 000 b) But never to exceed R1 000
Incidental credit agreements	Nil

Source: National Credit Act 34 of 2005

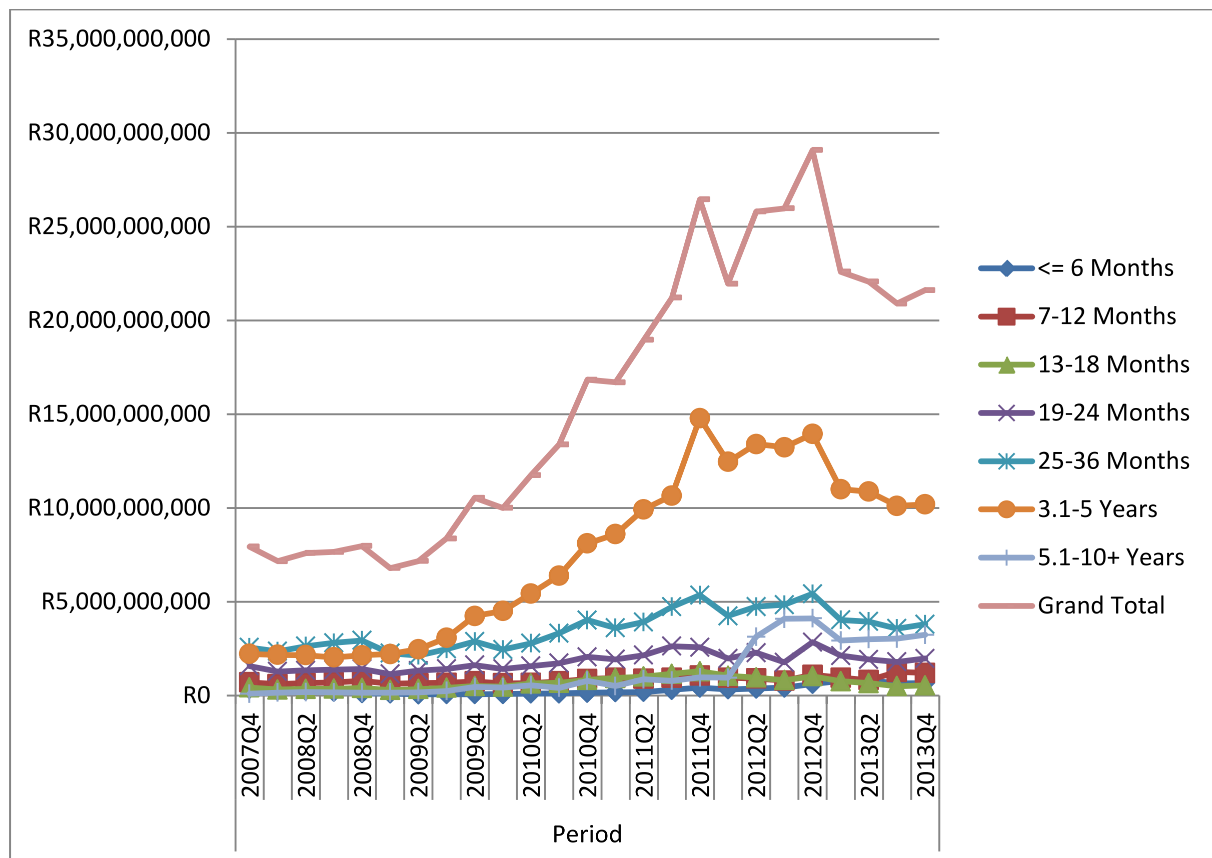
Where,

a) The amount of the agreement is the amount deferred in terms of the agreement.

An important supplementary condition applicable to initiation fees is that the fee may never exceed 15% of the principal debt. The Act also stated that the maximum service fee prescribed is R50 per month. If this fee was levied on a transaction basis or on a combination of periodic and transaction bases, the total of such fees may not exceed the monthly or annual limit.

In Figure 2 below, the level of unsecured debt is depicted from quarter four of 2007 to quarter four of 2013.

Figure 2: Growth of Unsecured credit by term



Source: CCMR

Credit granted to households by way of unsecured credit grew at a far slower pace between 1970 and 1980 but since 1982 this increased more rapidly (Prinsloo, 2002). Prior to the NCA, Saambou Bank, Unifer and African Bank were the market leaders in the unsecured lending space. They were effectively legitimate micro-lenders with a total loan book of over R14 billion. Their success lay in the collection methods utilised, which was directly from the salaries of consumers, which meant an almost risk free loan from a micro-lenders perspective (Leriba Consulting, 2013). This allowed micro lenders to perform minimal affordability assessments on consumers and loan to primarily civil servants whose possibility of retrenchment was zero to none. When the direct salary deductions were stopped, Saambou Bank and Unifer saw a quick deterioration in their loan books and both collapsed. African Bank foresaw the need for a change in collection method prior and was therefore able to survive.

South African banks soon gained momentum after the 2007/2008 world financial crisis and entered the unsecured lending arena, noting the huge profit potential available. The initial unsecured market comprised of smaller players such as African Bank and Capitec Bank. These financial institutions identified and responded to the high-margin opportunities in this arena (Euromonitor International, 2014). Larger banks followed, although slow at first, lending only to their existing customer base. This soon changed when larger banks became more aggressive realising the massive profit potential in the unsecured lending field. First Avenue Investment Management (2012) called this the “gold rush” mentality by lenders due to the cost pressures hitting bottom lines. African Bank (2012)

reported that banks wanted a piece of the market share due to higher pricing ability, perceived superior returns on equity earned by micro-lenders and the ability, in respect of higher income customers, to reduce PD's[4]and LGD's[5] by leveraging existing retail banking products (e.g. secured loans, current accounts etc.). They were able to get high margin lending from unsecured loans. Pricing for unsecured loans were very close to the maximum allowed under the NCA and even more profits were made from the additional initiation fees, monthly service fees and credit life insurance allowed on unsecured loans (Leriba Consulting, 2013 and Compliance and Risk Resources, 2012).

Many studies conducted have come to the conclusion that the growth in unsecured lending was driven by both supply and demand factors (First Avenue Investment Management, 2012 and African Bank, 2012) but Compliance and Risk Resources (2012) observed that supply and demand factors cannot be viewed in isolation. The growth in unsecured lending needs to be analysed in totality as it is multi-dimensional in nature. Butters (2013) agreed that both the demand and supply of unsecured lending have fuelled its growth. The demand had remained fairly high and banks had an appetite to lend due to the source of funds being almost freely available via wholesale funding (asset managers), retail deposits and equity markets. African Bank (2012) noted support shown for the supply push of unsecured lending due to the significant increase in credit bureaus enquiries, which suggested a pre-scoring activity by banks. This supply push was driven by the profitability of unsecured loans when taking into account all costs i.e. initiation fees, monthly service fees and credit life insurance policy instalments which can amount to as much as 70% of revenue (First Avenue Investment Management, 2012). Unsecured lending offered benefits to both parties under the contract but the rise was essentially supply driven (Deloitte, 2012). Euromonitor International (2014) suggested that unsecured lending bridged the gap that many South Africans faced due to higher utility costs putting pressure on disposable income. The challenging economic conditions made vulnerable consumers turn to unsecured lending to fund daily expenses.

McLachlan (2012a) reported that the unsecured lending model revolved around three main and simultaneous activities that balance the relatively high risk of a single unsecured loan into a lower risk and highly profitable portfolio of unsecured loans: 1) Borrowing long where the lender must source long term funds at as low as possible interest rates[6] 2) Lending short where the lender enters into short term, high interest contract for small amounts. This allowed the lender to lend for shorter terms at higher rates without running into liquidity or solvency issues and 3) Understanding the consumer where the lender needed to analyse each consumer in terms of their ability to repay the loan.

African Bank (2012) and Deloitte (2012) found that a feature of unsecured lending that was prevalent among all lenders in that space was the growth in higher value, longer term loans to relatively higher income earners. The unsecured lending framework was initially designed for low income earners but statistics show that higher income earners had become more active in that market. The statistics produced by the NCR confirmed this finding. Table 5 below depicts the

[4] Probability of Default (PD) is a financial term describing the likelihood of a default over a particular time horizon. It provides an estimate of the likelihood that a borrower will be unable to meet its debt obligations.
[5] Loss Given Default (LGD) is the share of an asset that is lost when a borrower defaults. LGD is facility-specific because such losses are generally understood to be influenced by key transaction characteristics such as the presence of collateral and the degree of subordination.
[6] This can take the form of debentures, preference shares, term loans or even equity.

distribution of unsecured loans changed from more than 30% in the R0-R3500 income category in quarter four of 2007, to more than 30% in the greater than R15000 income category in quarter one of 2012 (Devpruth, 2012).

Table 5: Unsecured lending by Income category

Income Category	2007Q4	% Distribution 2007 Q4	2012Q1	% Distribution 2012 Q1
R0-R3500	2 584 314 175	32.59%	2 469 519 652	11.27%
R3501-R5500	1 145 099 857	14.44%	1 809 407 494	8.26%
R5501-R7500	846 752 565	10.68%	2 466 268 788	11.25%
R7501-R10K	898 391 477	11.33%	2 627 019 069	11.99%
R10.1K-R15K	1 054 652 562	13.30%	4 609 711 639	21.04%
>R15K	1 399 505 857	17.65%	7 932 030 974	36.20%
Grand Total	7 928 716 493	100.00%	21 913 957 616	100.00%

Source: Devpruth, 2012

The change in lenders appetite was not due to the switch from secured lending to unsecured lending but rather the drive by lenders due to the economic attractiveness of unsecured lending versus other forms of credit. Finance theory explains that underlying returns influence how companies allocated capital. Higher returns (as a function of interest rates charges, loan initiation fees and credit life insurance) therefore attracted significant amounts of capital to the unsecured market (Butters, 2013). Compliance and Risk Resources (2012) cited the reasons for more unsecured loans granted, as per credit providers, was the NCA changing the limitations of the amount and tenor on unsecured loans. With the advent of the NCA, unsecured loans of up to R230000 with a tenor of up to 84 months were offered, whereas prior to the NCA, personal loans were limited to R10000 with a maximum term of 36 months. Kochan and O'Neill (2012) shared this view by stating that banks suffered more from shortages of liquidity than capital constraints therefore unsecured loans were seen as a boost to return on equity without tying up cash in mortgage lending.

African Bank and Capitec Bank showed growth of 219% and 656% respectively in their unsecured books over the past 5 years. The reason for the massive growth was due to the SARB keeping interest rates constant. This allowed both institutions to increase loan sizes and maturities of their unsecured loans. The study did however state that those banks were at risk when they loan to customers whose primary bank accounts were at a different institutions and therefore whose credit profiling was more difficult to analyse and predict (Kochan and O'Neill, 2012). African Bank (2012) concurred with this view in that transactional banks assume that they had the ability to manage the risks inherent in unsecured lending to their own customers since they had the privileged access to customers' salary accounts, in particular high income customers where these transactional accounts are more common.

Devpruth (2012) and Compliance and Risk Resources (2012), both described the constrained growth in mortgages, since 2008, could have had to an extent, meant that consumers who previously could access mortgage finance may select unsecured credit as an alternative to meet their needs. They mentioned that unsecured credit could not be a full substitute to secured lending due to the product features of unsecured lending, but can be seen as complimentary. Euromonitor International (2014) and Butters (2013) agreed with this conclusion and included that the constrained growth in the mortgage market was due to the unfavourable property market conditions with depressed property market values, costs relating to bond origination, debt review process challenges, relatively low margins and increases in capital requirements.

Fisher-French (2012) stated that the liquidity requirements under Basel III will further drive up the cost of funding especially of longer term home loans, making them less profitable. This made banks focus on profit drivers, one of which was the high margin unsecured credit product. Both this study and Butters (2013) rationalised that the spike in the growth rate of unsecured lending was due to previously unbanked consumers who entered the market and gained access to unsecured debt therefore pushing up the amounts. In addition to this, clients who have built up good credit records over the years were now able to get longer term and larger amount of loans as opposed to before they built such profiles. First Avenue Investment Management (2012) and Deloitte (2012) concurred that at the current levels of unsecured lending, no bubble was evident and therefore the bigger banks were safe. They did however note that Capitec Bank and African Bank were exposed to more danger and therefore needed to exercise caution.

2.5 Credit bubble in South Africa

Leriba Consulting (2013) and SAPA (2013) explained the reasons as to why there was no credit bubble forming in SA due to the growth in unsecured lending. This view was shared by Masekomeng et al (2012) which stated that the growth in unsecured credit did not pose an undue risk to the banking system in the short term. The one reason provided was that when compared to Saambou Bank and Unifer, the difference was that very little depositor funds were exposed to unsecured lending. The funds were sourced through other forms (bonds and equity) for smaller banks and bigger banks have huge balance sheets where unsecured lending comprised a very small percentage overall. The other explanation offered was that the growth in unsecured lending was necessary as it was essential for economic growth in South Africa, which was needed after the 2007/2008 financial recession. Both reasons seemed plausible in the short term. The question then was what about the long term?

McLachlan (2012a) confirmed that larger listed entities that supplied unsecured loans had maintained their ability to raise capital, post the 2007/2008 credit crisis, but these loans had shorter terms (i.e. providers of capital demand quicker repayments) than before the crisis. Smaller players were not that lucky. They found it more and more difficult to obtain capital and therefore turned to shorter maturity capital (e.g. debt capital) as a form of financing of their loan books. In addition to the ability to raise capital, the impact of unsecured lending on larger commercial banks was limited as it constituted a small portion of their loan portfolio (McLachlan, 2012a). The report also differentiated between larger rated unsecured lenders who will be cushioned by their sizeable capital buffers, high margins and strong underwriting capabilities, should there be a drastic deterioration in asset quality. The other less sophisticated non-bank unsecured lending providers (unrated) remained the most exposed to deterioration in asset quality, particularly because of their weaker underwriting capabilities and lower capital and profitability buffers.

First Avenue Investment Management (2012) noted that a feature of any lending bubble is that credit losses tend to hit all-time low levels just before the bust. The end of the cycle can arrive in one of two ways, 1) In an epic scale bubble where loans made at a peak of the cycle become bad almost instantaneously and 2) the cycle could end where larger players in the market start becoming stricter on lending, pushing customers to the other financiers left. This overflow would increase market share for these smaller lenders at an alarming rate, hopefully jolting them into realising that they need to also tighten underwriting criteria. This will terminate the blowing of an epic scale

bubble before it gathers the potential energy to bring down the economy as a whole. The National Treasury had a similar view in that unsecured credit does not pose significant risks to financial stability (Clark, 2012). It attributed most of the increase in growth of these loans to larger loans being granted over a longer period of time. The National Treasury Medium Term Budget Policy Statement (MTBPS), however, flagged concerns over the practices related to garnishee orders where some loans eventually resulted in repayments of up to ten times of the original amount loaned to consumers. SARB's concern was on systematic risk and not just pushing the consumer agenda and since unsecured lending was a small component of the big four South African banks (Absa bank, FNB, Nedbank and Standard Bank), systematic risk was relatively limited (Devnomics, 2012). SAPA (2013) did, however, make reference to credit providers conducting themselves in a responsible and transparent manner while still remaining ethical and compliant. It shared the view that irresponsible or inappropriate lending standards, often by banks, were one of the possible causes of credit bubbles. Adewale (2014) made mention that financial institutions had exploited the loopholes in the NCA, which did not expressly cover unsecured lending, and had therefore made huge profits from this type of credit, while not overtly lending recklessly.

Masekomeng et al (2012) established that when South Africans use of unsecured loans was compared to the Ugandan market for the same type of product, Ugandans used these loans for economic purposes (i.e. financing of working capital and cashflow for business purposes or for asset appreciation purposes). South African data showed that these loans were used to finance lifestyle purchases which lead to no economic appreciation or wealth creation. This view was shared by Adewale (2014). First Avenue Investment Management (2012) and Devpruth (2012) tried to find the uses of unsecured loans obtained from financial institutions. Although it showed that a percentage was used on housing, building and renovations, a large percentage could not be accounted for, termed as “other” which led to the assumption that these loans were used for consumption and short lived benefits. This consumption category was the main concern which fuelled the argument of a credit bubble developing in South Africa.

Devnomics (2012) explained that there are indications, on the one hand, that banks were pushing clients away from secured credit in favour of unsecured personal loans, while on the other hand a micro-lender in the field raised the fact that unsecured lending only relied on the affordability assessments that are being conducted and therefore is easier to grant loans. Therefore there was no concern that a bubble was emanating in that market. In their view, a bubble like the property bubble which was quite massively influenced by a drop in underlying asset value and a lack of demand for property was not likely to occur in a similar form in the unsecured space because affordability was the only driver to the granting of unsecured loans. Compliance & Risk Resources (2012) showed that the majority of unsecured personal loans advanced were to consumers that were vulnerable to changes in economic conditions and should economic conditions deteriorate, these consumers will be severely impacted. These consumers may also be exposed to events that impact them directly for example a dread disease. Leriba Consulting (2013) suggested regulatory amendments which included a standardised affordability test, regulation of the informal industry and regulation of rate disclosures to allow comparisons to be made. Deloitte (2012) agreed that due to the rapid increase in unsecured lending, preventative measures against future stress in the system may need to be considered in the event the growth rate continued at an accelerated pace.

Both First Avenue Investment Management (2012) and the Democratic Alliance (2013) revealed that consumers didn't shop around to compare quotes in order to obtain the best deal from a lender in terms of interest rates and other fees or even to compare another product instead of an unsecured loan. One possible reason was that consumers were not aware that they could shop around or they just took the easy option of settling for what was given to them. Compliance & Risk Resources (2012) stated that factors that had influenced the growth in unsecured lending included the relative ease and speed at which an unsecured personal loan was obtained when compared to other types of credit.

Consumers didn't appreciate the full or true cost of credit; they only focused on the monthly instalment payable, which not only highlighted the financial illiteracy of the majority of consumers in South Africa but also the desperation by consumers to supplement income, no matter what the cost. Lenders have therefore been quite innovative, steering customers to lengthy terms and therefore higher amounts lent (Butters, 2013 and McLachlan, 2012a). Since consumers did not have the level of financial literacy to understand the impact of a difference in interest rate percentage, they mainly relied on rand values presented (Devnomics, 2012). The writer referred to a report published in 2005 by researchers from the United States of America on findings done in SA where marketing strategies were investigated. They found that consumers were not only influenced by the instalment of a loan but also by the tenor of a loan and were therefore more likely to choose a loan with a lower instalment (higher rate but longer term) than one with a lower interest rate.

Compliance and Risk Resources (2012) and Roestoff and Coetzee (2012) found that a high proportion of consumers with impaired accounts at credit bureaus were a concern from a consumer credit health perspective. This was the reason for further regulation of credit market which will not eliminate or significantly reduce an undesirable level of debt stress in the market. The NCR also suggested that impaired records needed to be monitored to see if the increasing trend was persistent or just seasonal (National Credit Regulator, 2012).

2.6 The National Credit Act 35 of 2005

The credit industry in South Africa is a large and complex environment, hence it is not surprising that new legislature will bring to the fore the various viewpoints of stakeholders in this industry, who are influenced by the role they fulfil within the credit value chain. The NCA does not necessarily have conflicting objectives, but objectives which will have to be weighed against each other, more specifically when it came to simultaneously providing access to credit and reducing the problems associated with high debt on both the economy and society (Devnomics, 2012).

The National Credit Regulator (NCR) introduced the National Credit Act 35 of 2005, which repealed and replaced the Usury Act 73 of 1968 and Credit Agreements Act 74 of 1980, both of which previously governed the credit market in SA. The NCA was borne out of the need for a single system that could regulate the credit industry in South Africa (Pieterse, 2009). The South African Law Reform Commission found that the South African credit market was dysfunctional and subsequently highlighted the following problem areas (Pieterse, 2009):

- Fragmented and outdated legislation,
- Ineffective consumer protection, particularly in relation to consumers in low-income groups,
- High cost of credit and, in some areas, access to credit,

- Rising levels of over-indebtedness, and
- Reckless behaviour by credit providers and exploitation of consumers by micro-lenders, intermediaries, debt collectors and debt administrators.

Due to these problems identified, the decision was made to introduce a single law that would be supervised by a single regulator. This led to the promulgation of the National Credit Act in 2005.

The preamble of the act states the following (NCA 34 of 2005):

The act was created 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 standard of consumer information; to promote black economic empowerment and ownership within the consumer credit industry; to prohibit certain unfair credit and credit-marketing practises; 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.

The NCR was therefore mandated to monitor the industry and report irregularities and inconsistencies identified. One of the objectives of the NCA was to level the playing fields amongst credit providers and consumers with regards to the manner in which credit was granted, how consumers were treated when applying for credit and during the relationship with the credit provider and to limit over-indebtedness by placing the responsibility on credit providers to ensure they didn't grant credit recklessly. See Appendix 1 for the purposes of the NCA 34 of 2005.

Feasibility (2009) found that the NCA bridged the gap between the capped usury market and the uncapped exempt market for microloans. According to the study the greatest impact that the NCA has had was on the pricing of microloans, which dramatically decreased after its implementation. While there was a need for increased compliance, the credit market framework was designed for encouraging access to credit. This access to credit was made possible through the relatively high interest rate caps in respect of unsecured personal loans as well as other revenue streams available to credit providers, including credit life insurance premiums. If these had to change, access to credit will be impacted (Compliance and Risk Resources, 2012).

Renke (2011) stated that one purpose of the NCA was to protect customers. This purpose was attained by, amongst others, promoting responsibility in the credit market by avoidance of over-indebtedness by consumers and deterring reckless credit by credit providers. According to Goodwin-Groen and Kelly-Louw (2006), the fundamental purpose of the NCA was to achieve integrity in the credit market. For so long the South African credit market had been riddled with biased and unfair lending practices, inappropriate disclosures and an imbalance between credit providers and consumers. The NCA was developed with the objective of righting these injustices.

The NCA conferred the following rights to all consumers (NCA 34 of 2005):

- The right to apply for credit (*section 60 of the NCA*),
- The right not to be discriminated against when applying for credit (*section 61 of the NCA*),
- The right to be given reasons for credit being declined (*section 62 of the NCA*),
- The right to be given documents in an official language that the customer understands (*section 63 of the NCA*),
- The right to be given documents in plain and understandable language (*section 64 of the NCA*),
- The right to be given documents related to the credit transaction (*section 65 of the NCA*),
- The right to confidential treatment (*section 68 of the NCA*), and
- The right to access and challenge information held by a credit bureau (*section 72 of the NCA*).

The Act requires the NCR, amongst other things, to promote the development of an accessible credit market and particularly to address the needs of (Devnomics, 2012):

- Historically disadvantage persons;
- Low-income persons;
- Remote and isolated communities; and
- Low-density communities.

According to the NCA a credit agreement is defined as: "an agreement between a credit provider and a consumer in which:

- The credit provider supplies goods or services or lends money to the consumer and;
- The consumer pays for the goods or services or repays the money borrowed in instalments over a period of time; or
- Where the consumer is to make a single payment, this payment is made on a future date agreed upon by the consumer and the credit provider; and
- The consumer has to pay interest, fees or charges on the outstanding balance of the money borrowed or the amount owing on the goods and services supplied by the credit provider;
- The consumer and the credit provider enter into a pawn transaction, discount transaction, instalment sale agreement, mortgage agreement, or lease agreement;
- The credit provider enters into a credit guarantee agreement with one person where this person promises to pay a debt incurred by another consumer upon receiving a demand from the credit provider."

The agreements that don't fall within the ambit of the NCA include closer than arm's length transactions, agreements where the credit provider is the South African Reserve Bank (SARB), agreements that are large agreements in terms of which the consumer is a juristic person with an asset value or turnover above the threshold value of R1 million at the time of conclusion of the agreement and agreements in which the credit provider is situated outside the borders of South Africa (Goodwin-Groen and Kelly-Louw, 2006).

Adewale (2014) argued that although an increase in credit consumption is beneficial to the economy, unlimited credit consumption eventually decreases disposable income of consumers. The

NCA's role is specifically to address the opportunistic behaviour of credit providers, while still warning consumers of the dangers associated with taking on too much debt.

About 23% of adults (those people over the years of 18) said their households' financial situation worsened when compared to 2001 and this resulted in increased borrowing and lower savings. The reasons for borrowing were closely related to the economic challenges people experienced (Finmark Trust, 2012). The report showed that by 2012 borrowing done at financial institutions increased across all demographics. This increase was largely due to the access to credit and financial inclusion, which the NCR was required to address. The Act required the NCR to promote the development of an accessible credit market, particularly to address the needs of historically disadvantaged persons, low income persons and remote, isolated or low density communities. Feasibility (2009) showed that access to credit for low income earners still posed a challenge, but research showed that post NCA, in roads were being made.

The NCA's impact on credit providers was twofold. Firstly the financial impact of compliance to the Act was considerable in direct and indirect terms. The level of credit granting to prevent over-indebtedness and maximum fees and interest rates reduce profitability to credit providers. In addition to this, the NCA prescribed more rigorous processes from initial stages of a credit application though to recovery of debt and reporting (Devnomics, 2012).

Section 101 (1) of the Act stipulates the cost of credit. This section explains all the costs included under a credit agreement, which must not require payment by the consumer of any money or other consideration, except –

- a) *The principal debt, being the amount deferred in terms of the agreement, plus the value of any item contemplated in section 102,*
- b) *An initiation fee, which –*
    - i. *May not exceed the prescribed amount relative to the principal debt, and*
    - ii. *Must not be applied unless the application results in the establishment of a credit agreement with that consumer,*
- c) *A service fee, which –*
    - i. *In the case of a credit facility, may be payable monthly, annually, on a transaction basis or on a combination of periodic and transaction basis, or*
    - ii. *In any other case, may be payable monthly or annually, and*
    - iii. *Must not exceed the prescribed amount relative to the principal debt;*
- d) *Interest, which –*
    - i. *Must be expressed in percentage terms as an annual rate calculated in the prescribed manner; and*
    - ii. *Must not exceed the applicable maximum prescribed rate determined in terms of section 105;*
- e) *Cost of any credit insurance provided in accordance with section 106*
- f) *Default administration charges, which –*
    - i. *May not exceed the prescribed maximum for the category of credit agreement concerned, and*
    - ii. *May be imposed only if the consumer has defaulted on a payment obligation under the credit agreement, and only to the extent permitted by part C of Chapter 6, and*

g) *Collection costs, which may not exceed the prescribed maximum for the category of credit agreement concerned and may be imposed only to the extent permitted by Part C of Chapter 6.*

Madubeko (2010) and Adewale (2014) both agreed that the NCA had played a part in protecting South Africa from the 2007/2008 financial crisis, if not in whole, most definitely in part. In addition to this, banks were not extensively exposed to global financial products but they did experience a decrease in profits and increase in strain due to the crisis (Madubeko, 2010). Fakir (2014) bluntly stated that the NCA and the NCR were meant to protect consumers from unscrupulous lenders and provide a more stable and regulated environment but both have not met this undertaking.

It was reported that the NCA exerted both positive and negative influences on the access to credit. Although the interest cap was lifted in order for credit providers to profitably serve those that could not be served before, the NCA required credit providers to perform affordability assessments, which could have an adverse effect on the granting of credit (Feasibility, 2009). Prinsloo (2002) stated that the availability of credit made it easier for households to spend. This increase in credit convinced consumers to buy now instead of putting it off for the future. The NCA made this possible by creating access to credit, specifically to those who could and probably would never have had such access.

Bonorchis (2012) confirmed that under Basel III, a global set of banking rules was being implemented over the next six years where the registrar can apply what was known as a counter-cyclical buffer, which meant lenders would have to hold additional capital when his agency determined credit growth was excessive.

The NCA was noted to be a great improvement on its predecessors and was comparable to international legislature, more specifically to the European Union (Renke, 2011). Although the NCA was world-class there were a few areas that required further attention, namely consumer education, high costs of credit for smaller loans and the prescribed court orders with regards to reckless lending. More consumers enjoyed its protection with regards to prevention of unnecessary consumer spending, reckless credit lending and over-indebtedness.

2.7 Over-indebtedness and reckless lending

Reckless credit and over-indebtedness were new concepts introduced by the NCA into the South African legal system. In layman's terms reckless credit is the granting of credit without performing proper affordability assessments at the point of granting credit and over-indebtedness is when consumers could not satisfy all debt obligations taking into consideration financial means, prospects and other obligations. The issue of over-indebtedness and reckless credit are determining factors in granting further credit to a consumer who already could not afford current debt. It is therefore the ultimate determinant of the credit worthiness of a consumer. Should a consumer be over-indebted, no further credit should be granted to this consumer.

NCA 34 of 2005 states that credit is said to be lent recklessly if either

- *the credit provider took no steps to assess the proposed consumers general understanding and appreciation of the risks and costs of the proposed credit agreement and his rights and obligations under the agreement, his repayment history for credit, existing financial means,*

prospects and obligations and where there was a reasonable basis to conclude that any commercial purpose may prove to be successful, if the consumer has such a purpose for the credit, or

- *after conducting an assessment, the credit provider still entered into the credit agreement with the consumer despite the fact that the preponderance of information available to the credit provider indicated that the consumer did not generally understand or appreciate his risks, costs or obligations under the proposed credit agreement; or if entering into the credit agreement would make the consumer over-indebted (see section 80 (1) read with section 81 (2) of the National Credit Act)*

Over-indebtedness was defined as follows[7] (NCA 34 of 2005):

"*A consumer is over-indebted if the preponderance of available information at the time a determination is made indicates that the consumer is or will be unable to satisfy in a timely manner all the obligations under all credit agreements to which the consumer is party, having regard to that consumer's:*

a) financial means, prospects and obligations, and
b) probable propensity under all the credit agreements to which the consumer is a party, as indicated by the consumer's history of debt repayment,"

In layman's terms over-indebtedness is when a consumer cannot pay his debts, mostly when he failed to pay the monthly instalment due. More formally, a consumer is over-indebted if he is or will be unable to satisfy in a timely manner all obligations under all credit agreements to which he is a participant (De Villiers, 2010).

Reckless credit does not apply to juristics, but only to natural persons. It also does not apply to school or student loans, emergency loans, public interest credit agreements, incidental credit agreements and temporary increases[8].

Given that one of the causes of the increase in over-indebtedness in 1990's was the lax regulatory environment, many have come to believe that the primary tool for addressing over-indebtedness was tighter regulation of the suppliers of credit. This rationale was perhaps most evident in the NCA, which explicitly lists the prevention of over-indebtedness as one of its main objectives.

Problems brought on by over-indebtedness can be summarised as follows (Goodwin-Groen and Kelly-Louw, 2006):

- Over-indebtedness and the debt servicing burden reduce household disposable income; reduce household consumption and household welfare.
- Over-indebted consumers were less likely to meet municipal service payments, which in turn undermines local authority income and capacity.
- Over-indebted consumers could not make maintenance payments or meet other personal social commitments.

[7] Section 79 of NCA 34 of 2005
[8] Section 86 Part D of NCA 34 of 2005

- Defaulting borrowers get summonsed and receive default judgments. This impaired their credit records and in most cases mean that they were denied access to conventional finance for many years.
- Consumers that have defaulted may not qualify for housing loans or other forms of conventional credit. They may be locked into high risk/high cost forms of finance, with the high cost of finance further undermining household welfare in the future.
- Social welfare payments received by households may well be diverted to servicing high-interest loans; to meeting legal expenses related to opposing judgments; or to meeting payments that result from judgments having been granted. In each instance, the social grant had been diverted away from the intended purpose of increasing the income and welfare of the beneficiaries. Rather than the targeted beneficiaries benefiting from such payments, financial institutions increase interest income, lawyers increase fees and debt collectors and debt administrators increase income.
- To recover the losses from loans to defaulting borrowers, lenders have to increase interest rates on loans to the client base that do meet their commitments.

Devnomics (2012) highlighted two forms of over-indebtedness. One is general over-indebtedness, which occurred usually though a change in circumstances, after the consumer had entered into the credit agreement. The other is termed reckless over-indebtedness where the mere entering into the agreement was putting the consumer into a situation of over-indebtedness, i.e. the lending was reckless. Reckless lending can only be argued by a consumer if via a debt counsellor, it has been established the consumer was indeed over-indebted. The aim of approaching a debt counsellor is to be declared over-indebted, have protection and have debt restructured by using the consumers' current and future monthly cashflows to conduct an assessment (de Villiers, 2010).

Calomiris (2009) examined the fine line that government must tread between protecting consumers from becoming over-indebted and supporting the profitability of credit providers so as to increase access to credit. Amongst developing countries, the South African case was unique in that the government had expressly indicated its desire to increase access whilst at the same time protecting consumers from becoming over-indebted. Given that this protection was typically introduced through administrative measures that were costly to the credit providers, there was a trade-off between the government's objective of increasing access to finance and that of preventing indebtedness. The government was caught somewhere in the middle. Karodia and Soni (2014) share the same opinion. Nyaruwata (2009) stated that although credit vetting was mandatory according the NCA, compliance costs had risen quickly making it discouraging to lenders, which resulted in less of an incentive to increase credit growth especially in the smaller loan category. Nyaruwata (2009) also concluded that it was clear that the government's regulations have not been set so as to reduce the incidence of becoming of becoming over-indebted. With the maximum interest rates and the use of maximum service and initiation fees charged by credit providers, consumers can still very easily become party to an agreement that could lead to over-indebtedness.

The onus is on credit providers to prove that with the information provided, an assessment test was conducted, and a loan was granted or not. Prior to the National Credit Amendment Act 19 of 2014, the affordability assessment conducted by a credit provider was based on their policies and procedures. The Act did not specify what the affordability assessment needed to be comprised of, it just needed to be conducted. Due to this ambiguity in the NCA, the National Credit Amendment Act

introduced compulsory affordability assessment regulations where credit providers were required, prior to granting credit, to determine the financial means and prospects of a consumer, the consumers existing financial obligations and their debt repayment history. In addition to this, there were minimums to be set aside for food, accommodation and travel and this needed to be excluded from income in order to get a more realistic picture of affordability.

The Act also stipulated that consumers needed to be truthful and fully comply with requests by credit providers when applying for credit. If it is alleged in court that a consumer under a credit agreement was over-indebted, the court may either refer the matter directly to a debt counsellor to evaluate the consumers' circumstances and make a recommendation to court in terms of *section 86 (1)*[9] or declare that the consumer was over-indebted and make any order envisaged in *section 87*[10] to relieve the consumers' over-indebtedness (de Villiers, 2010). *Section 83*[11] of the Act sets out measures a court can apply when making orders regarding findings of reckless credit granting, which included setting aside the consumers obligations or part thereof, suspension of the effect of the credit agreement and the restructuring of the consumers total debt obligations.

Appendix 2 includes the credit industry code of conduct to combat over-indebtedness in terms of *section 48 (1) (b)* of the NCA. This code provided the commitments made by credit providers to ensure that responsible lending was conducted and that the consumer went through a comprehensive and thorough assessment prior to granting credit.

An unintended consequence of the NCA is its use by consumers as a way to lessen their responsibility of attaining credit without becoming over-indebted. These consumers were of the opinion that the NCA should make certain that they can afford the credit that they have applied for and should additionally sort out any issues that may arise (Devnomics, 2012). Regrettably if consumers don't disclose information to credit providers, the credit provider can arrive at the wrong decision, in which case, it is the consumer who is accountable for becoming over-indebted. The report also highlighted the abuse of the 60 day period by consumers. This 60 day period is used to establish a debt restructuring plan but consumers instead used this as a payment holiday. Statistics showed that consumers would ensure that critical assets like cars and houses were up to date but with the abuse of the 60 day period, this proved no longer the case. Another unintended consequence of the NCA was the inability to restructure loans by credit providers (Devnomics, 2012). Although the Act is meant to provide assistance to consumers who get into financial difficulty, the reckless lending test is not properly explained hence challenging to credit providers. The same report explained this concept by way of the following example. Historically credit providers could restructure a loan allowing consumers extended payment terms and capitalising arrear amounts to help reduce pressure on a consumer. Post NCA, credit providers were hesitant to conduct such restructures as this would effectively be construed as entering a new contract which would need to meet affordability criteria. In the case of financial difficulty, a new agreement would more easily be termed reckless lending. The credit provider would therefore rather remain committed to the old contract than a new, more manageable contract for fear of being deemed reckless.

[9] Section 86 (1) of NCA 34 of 2005
[10] Section 87 of NCA 34 of 2005
[11] Section 83 of NCA 34 of 2005

The National Credit Amendment Act 19 of 2014 addressed the need for proper and realistic guidelines in terms of credit assessment processes. The NCA allowed credit providers to accept any disclosure made by consumers in terms of income and expenditure even though it was a blatant understatement of reality, as this would still be deemed a credit assessment conducted and therefore could not be construed as reckless credit granting. Credit providers were aware of the steep sanctions that could be imposed for reckless credit granting (fines and agreements set aside and therefore become unrecoverable) hence they ensured an assessment was done, however only relied on consumer disclosure, which if can be proven was conducted accordingly, the credit provider cannot assume responsibility for over-indebtedness.

2.8 The debt review process

The Insolvency Act 24 of 1936 and the NCA's objectives were not created to deny creditors of their entitlement but merely to regulate the manner and extent of their received payment (Roestoff and Coetzee, 2012). De Villiers (2010) reported that the NCA suggested the route of debt review as the first alternative and less drastic option before debt enforcement in courts were embarked upon. It normally started at the initiative of the consumer who realised that he/she needed help and therefore approached a debt counsellor on his/her own accord. The consumer may also apply for a debt review after receiving a *section 129 (1)* notice from a credit provider in which this option is indicated. If a consumer alleged over-indebtedness under a credit agreement in a court, this court can refer the matter directly to a debt counsellor for debt review (de Villiers, 2010). A debt counsellor does not declare a consumer as over-indebted. The debt counsellors' duty is only the assessment of possible over-indebtedness and possible reckless lending (Roestoff et al, 2009).

The concept of a debt counsellor was introduced by the NCA. The debt counsellor was defined, according to regulation 1 of the NCA of 2005 as, "*a neutral person who is registered in terms of section 44 of the Act, offering a service of debt counselling", the latter being understood as "performing the functions contemplated in section 86 of the Act.*"

Roestoff et al (2009) pointed out that the debt counselling process relied on the consumer, credit provider and debt counsellor working together and in good faith. Due to the increase in impaired records at credit bureaus, the process of debt review was highly necessary but since it was not effective, most customers end up in the sequestration process. Roestoff and Coetzee (2012) stated that the primary objective of the Insolvency Act was to ensure an orderly and fair distribution of the debtors' assets in circumstances where these assets were insufficient to satisfy all creditors' claims. An alternative to sequestration was debt review,[12] which the purpose was not to relieve consumers' obligations but to achieve either a voluntary debt re-arrangement or a debt re-arrangement by the Magistrates' court.

The step by step debt review process listed below (Arde, 2013):

1. When you apply for debt counselling, you have to fill out an application form, called Form 16, which you submit, together with all your credit agreements, to a debt counsellor.

[12] Other alternatives include administration orders and pre-liquidation composition with creditors (Roestoff and Coetzee, 2012).

2. The first thing the debt counsellor does is assess whether you are over-indebted or debt stressed, and whether or not your creditors were reckless in granting you credit.

3. The debt counsellor has 30 business days, from the date of your application, in which to make this determination.

4. Within five business days of accepting your application for debt counselling, your debt counsellor must inform all your creditors and the credit bureaus of your application. The debt counsellor does this by sending your creditors a prescribed form (Form 17.1) and calling on them to issue a certificate of balance (which is a “certified notice of the balance of a customer’s account, and accrued interest and charges, at the close of business on a specific date”).

5. So that you continue to pay your creditors throughout the process, your debt counsellor will draw up an interim repayment plan, which he or she must submit to a registered payment distribution agency (PDA).

6. During the first 60 business days from the date of your application to be placed in debt counselling, legal action may not be taken against you in respect of debts that are “under review”. This means that if the credit provider has not already proceeded with legal action against you, you have two months in which to negotiate a payment arrangement. But if your creditors have already begun taking action against you in respect of certain of your debts, you don’t enjoy this protection, and these debts can be excluded from debt counselling.

7. Within five business days of receiving a Form 17.1, your creditors are required to provide your debt counsellor with certificates of your account balances. This information helps the debt counsellor to determine whether or not you are over-indebted and to conduct an affordability assessment. The affordability assessment is aimed at working out how much you can realistically afford to spend on debt repayments.

8. Once your debt counsellor has determined whether you are over-indebted or debt stressed, he or she is obliged to follow a certain procedure as prescribed in the National Credit Act. The procedure will depend on the debt counsellor’s determination.

9. If your debt counsellor determines that you are over-indebted and legally eligible for debt counselling, he or she must notify all your creditors and the credit bureaus of this by sending them a prescribed form, Form 17.2, marking the appropriate paragraph that confirms you are over-indebted.

10. If your debt counsellor determines that you are not over-indebted or eligible for debt counselling, he or she must reject your application and send a Form 17.2 to all your creditors and the credit bureaus, marking the paragraph that confirms that you are not over-indebted.

11. If your debt counsellor determines that you are over-indebted, he or she will draw up a repayment plan to rearrange your debt obligations in line with what you can realistically afford. Your debt counsellor must submit the plan to your creditors for their consent within 60 business days of receiving your application for a debt review.

12. If all your creditors accept your debt counsellor’s repayment proposal, your debt counsellor must obtain a consent order from the National Consumer Tribunal or a magistrate’s court, again within 60 days.

13. If you or any of your creditors rejects the repayment proposal, your debt counsellor must refer the matter to a magistrate’s court with a recommendation, which he or she will seek to have made an order of court. A magistrate can reject the debt counsellor’s recommendation if he or she considers the proposal unreasonable. Unless the magistrate gives the counsellor another chance to improve on the proposal, this has the effect of a termination of the debt review process.

14. If your creditors accept the repayment plan, or if a magistrate's court agrees to the repayment plan, a PDA will channel your revised payments to your creditors. You make these payments directly to the PDA. The PDA is responsible for providing monthly statements to you and payment schedules to your debt counsellor and creditors, as well as attending to queries from the respective parties. (You can be charged three percent of distributable income by a PDA, but this is capped at R500 a month.)

15. Once all of your debts have been paid, your debt counsellor will issue you with a clearance certificate and will notify the credit bureaus that you are no longer in debt counselling. The fact that you were in debt counselling will be expunged from your credit record, but if you had judgments against you, these will remain on your record for the remainder of the five-year data retention period.

A pivotal problem in the debt review process was that the exact procedure to be followed when conducting a debt review was not fully regulated in the Act or the Regulations (de Villiers, 2010). Roestoff et al (2009) explained that debt counsellors provided consumers with insufficient information on the debt counselling process, which posed a significant challenge to the review process. The solution provided was a possible enhancement of Form 16. Roestoff and Coetzee (2012) explained that the debt review process did not offer the consumer an opportunity to obtain discharge from pre-existing indebtedness. They offered the following as shortcomings of the debt review process:

- Only applicable to agreements under section 8 of the Act.
- Agreements where a credit provider has proceeded to enforce are excluded. This is achieved by a section 129 notice being sent to a consumer once he/she was in default.
- There was no time limit prescribed in respect of a payment plan.

Roestoff et al (2009) cited the following reasons for the ineffectiveness of the debt counselling process:

- A sharp increase in the number of consumers applying for debt review and a concomitant shortage of competent debt counsellors.
- Many debt counsellors trained and registered by the NCR do not practise because it was not feasible for them to do so.
- Consumers were still uneducated on the objectives of the debt review process. Debt counsellors often failed to inform consumers of the consequences of debt counselling. Consequently many consumers were under the erroneous impression that debt counselling afforded them a payment holiday.
- Consumers were often not willing to accept that they cannot maintain the same standard of living that got them into their financial predicament in the first place.
- Credit providers failed to take responsibility for the negative consequences of credit granting and do not appreciate the fact that they will have to take losses and write-off debts.
- Although an application for debt review stops credit providers from taking legal action against the consumer, nothing stops the credit provider from pursuing the debt.
- The amount of debt concerned often does not justify the legal costs that will be incurred to take the matter to court.
- Legal uncertainty existed regarding the interpretation of the NCA's provisions pertaining to the debt counselling process.

Devnomics (2012) made the following recommendations around updating the legislature on the debt counselling process:

1. Debt counsellors should have a certain number of years of general experience in addition to debt counselling experience and a tertiary qualification.
2. Jurisdiction as to whether or not the High Court of the Magistrates court has powers in terms of section 85 needs clarity.
3. A new form (Form 16) should be introduced to advice consumers on the consequences of the debt review process.
4. To allow for recovery of some of the debt counselling fees from credit providers, regulations and section 86 (3) need to be changed.
5. Amendment of Section 86 (2) to refer to Section 130 instead of section 129.
6. Introduction of prescribed forms for the credit providers to submit their certificates of balance.
7. Amendment of section 86 (6) to include the instance where a recommendation was made by the debt counsellor in terms of section 86 (7) (c) and provide for the obtaining of a consent order when a debt restructuring proposal is accepted by all credit providers.
8. Clarity was needed on the procedure to be followed in court when a matter was referred to the Magistrate Court because the consumer and credit providers could not reach consensus on a debt restructuring proposal. Issues around jurisdiction need to be addressed.
9. Amendment of section 86 (7) (c) and section 87 to provide for the fact that the court could enforce a discharge of part of the consumer's debt obligations.
10. Amend section 14 (a) to add Payment Distribution Agents (PDA) to the parties that the NCR should regulate in addition to credit providers, credit bureaus and debt counsellors and set standards for operation in terms of having sufficient human, financial and operational resources to enable the function as well as relevant and adequate administrative measures and controls to enable an efficient and accurate performance of the function.
11. Regulate the process to be followed when a consumer or the debt counsellor withdraws from the process outlining notifications required as well as setting out the implications for the consumer.

Only after certain stakeholders met in July 2008, a new set of rules and procedures to streamline the debt review process was published, however several problems still remained.

In order to address this dilemma, the NCR introduced the following acts:

- Draft debt counselling regulations were issued in May 2009.
- Application was lodged with the High Court of South Africa to obtain a declaratory order with respect to the difficulties that particular debt counsellors experience when taking proposals to court.
- It commissioned the Law Clinic at the University of Pretoria to investigate the reasons for the ineffectiveness of the debt review process and to identify the parties who were to blame for these.

Karodia and Soni (2014) provided the following preventative steps to minimise the risk of over-indebtedness in the future:

- Setting of proper affordability criteria and clear definition of a reckless loan.
- Credit granting should not only be affordable but suitable to the consumers need.
- Credit providers need to enhance disclosure to a consumer in terms of products offered and alternatives to suit consumers' needs.
- Review of interest rate limits prescribed by the NCA.
- Strengthening of regulatory monitoring, supervision and enforcement to ensure the shutting down of unregistered credit providers and full compliance by registered credit providers.
- Regulators should act in unison.
- Reviewing of regulatory framework for credit insurance policies that are sold with or linked to credit.
- Setting norms and standards for emolument attachment orders issued for credit.
- Setting norms and standards for access to the payments systems, including debit orders.
- Extending and strengthening the debt collection laws to apply to law firms.
- Regulating credit linked deductions allowed on employer payroll systems.
- Investigating simpler and lower cost insolvency arrangements for lower and middle income people.

Karodia and Soni (2014) also explained the following as the South African governments rescue efforts towards the abuse of debt (Arde, 2013):

- Engaging with lenders and their industry associations to provide relief to qualified distressed borrowers by reducing their instalment burden, without additional cost to the borrower.
- Engaging with lenders to take steps to withdraw certain categories of existing emoluments attachment orders for credit, and to use such orders for future credit only as a last resort and according to a robust code of conduct.
- Encouraging employers to investigate the legitimacy of all emolument attachment orders they may be enforcing against their employees (for purposes of credit, not child or spousal maintenance) and to write to credit providers to reduce or even remove all onerous orders.
- Government was also considering regulating debt collection firms, including law firms, to ensure that they do not indulge in unscrupulous debt collection practices.
- Enabling major lenders to provide voluntary debt relief measures to distressed borrowers without charge, in addition to the current debt counselling process, subject to compliance with the NCA and Financial Advisory and Intermediary Services Act.

Fakir (2014) contended that the money lending industry should not only undergo essential review, but also be changed to an industry which caters to the needs of the poor instead of being an industry that feeds of extortion. He went on to explain that the Marikana massacre that occurred in South Africa was due to workers having higher levels of debt than income could sustain.

2.9 Recent developments in South Africa's unsecured lending space

Banks extended unsecured credit generously, knowing that since it consisted of only a small percentage of their total book debt, the risk of systemic failure was contained. African Bank, unlike other banks, was not a deposit taking institution, but was well aware of the considerable margins available in the unsecured lending market. Calomiris (2009) claimed that a survey of banking crises suggested unusual bank vulnerabilities to risk inviting micro-economic rules of the banking game

established by governments. In the South African space, it can be argued that ABIL took excessive risk in the unsecured market, although well aware of consequences of its actions. The NCR can be liken to Calomiris's governments by establishing the maximum interest rates that could be charged on unsecured loans, making it a highly profitable business. ABIL was also aware that SARB, the lender-of-last-resort, would not allow the entity to collapse for two reasons. One and most importantly, it would send a wave of shock to investors and possibly cause a bank run and two, a major shareholder of ABIL was the government workers pension fund. Chauhan (2012) found that in most countries the central bank oversees the deposit insurance activities of banks and acts as a lender-of-last resort. Both these activities called for banks to be effectively regulated so that they did not take advantage of these facilities by lending recklessly and thus exposing themselves and the economy to risks. Chauhan (2012) also noted that the deposit insurance activities protects depositors (South Africa does not have deposit insurance) and the lender-of-last resort were facilities offered by the central bank to illiquid but solvent banks or to insolvent banks that were "too big to fail."

Although regulators, investors and many scholars concurred that SA was not at risk of developing a credit bubble in the unsecured lending space, they still expressed their concern regarding the rate at which it was growing. This was not a superfluous concern especially due to the recent troubles faced by microlender, African Bank. African Bank's financial problems left SA's financial sector shaken and sent waves of panic throughout the international financial community, which left rating agencies no choice but to downgrade not only ABIL, but Capitec Bank and SA's big four banks (Absa Bank, First National Bank, Nedbank and Standard Bank). This was done despite protests from SARB assuring rating agencies that African Bank's downfall was particular to the bank and would not affect other banks in the industry. In 2014 ABIL went public with the message of needing around R8.5 billion in extra cash in order to meet obligations to investors and creditors. This was only a few months after a rights issue in which it raised new cash. The request by ABIL led to a massive drop in share price and investor confidence, which ultimately led to the downfall of African Bank. This downfall was wholly to blame on the institutions' business model which consisted of very little and insignificant deposits, while it provided unsecured personal loans and credit cards to low income earners. The institution did not diversify its activities and based on the demand for unsecured personal loans, the model seemed to make business sense at the time. As time passed though, African Bank's debtor book was not as profitable as before since consumers were not able to pay and in addition to this, were offered more loans by the bank itself. These ill-advised business conducts led to the banks ultimate downfall and demise. The bank is currently under curatorship.

Chapter 3: Research questions

In the past few years, both locally and internationally, there have been frequent studies conducted on the growth of unsecured lending in South Africa, but all these studies were done specifically to investigate the supply and demand factors that fuelled the growth of unsecured credit. The phenomenon being researched in this study is banks adherence to the NCA and its effects on domestic indebtedness and fragility.

The research questions below have been developed to understand how the NCA has impacted SA's credit industry, particularly in relation to the unsecured personal loans arena. The questions will determine if banks, in particular, utilised certain loopholes in the Act to extend credit in excess and thereby create a cause for concern. The research questions will firstly try to understand the real impact of the NCA on the credit industry in SA, more specifically in relation to unsecured lending. Secondly the aim is also to understand what fuelled the growth in unsecured lending in SA. Thirdly, is to investigate whether banks perform suitable and relevant credit assessments on consumers and what these credit assessments entail and finally to investigate whether the NCA was one of the main drivers in the growth of unsecured credit.

General research question:

Did the NCA assist banks in forestalling a credit bubble from forming in SA or did the NCA in fact inadvertently aid the process?

Specific research questions from review of empirical extant studies:

- Does the consumer fully understand the NCA (including reckless lending, debt counselling services and credit bureau judgements)?
- What are the reasons for the unprecedented growth in unsecured loans in SA?
- What measures are in place to curb reckless lending and consumer over-indebtedness in SA?
- How effective is the NCA in regulating credit in SA?
- Was there a credit bubble developing in SA due to the growth in unsecured credit?

Specific research questions from literature review:

- What causes a banking crisis?
- What effect did the NCA have on the SA credit industry?
- What are the major limitations in the NCA?
- What are the shortcomings of the debt review process by financial services firms in SA?

These questions seek to determine if the NCA, prior to the National Credit Amendment Act 19 of 2014, was one of the reasons banks increased their unsecured loan books. Experts' views, via interviews, on these questions will be explored to hopefully gain some insight into the issues of the research question. Questionnaires will provide a sample on the general SA population in terms of demographics, number of loans and payment schedules. The gleaned information from interviews and surveys will be appropriately analysed as to provide answers to the research questions. This process commences in the next chapter.

Chapter 4: Data and Methodology

This chapter provides a description of the research design and research methodology that will be used to analyse the research problem. The data and survey tools used to collect information are explained and in addition to this, this chapter provides clarity on the scale used to analyse data, how the results should be interpreted and the nature and form of the data. Finally, this section also presents the limitations and ethical considerations of the research design and methodology used.

Qualitative research is carried out when there is a need to understand meanings, beliefs and personal experiences. Quantitative research is used to measure variables and produce statistics based on the results obtained. This study used both qualitative research methods in the form of an interview, and quantitative research methods, in the form of questionnaires, to gather pertinent information applicable to the study.

4.1 Research design and methodology

Despite the fact that the NCA has been studied in various research projects, the specific research problem of interest here has not been adequately studied. For this reason primary data in the form of interviews and questionnaires are considered to be best suited to this study and are used accordingly. Qualitative and quantitative research methods were chosen to provide a holistic view on the research subject in question. This provided both a contextual interpretation and a statistical analysis.

The interviews provided a good starting point to obtain opinions of informed respondents. These respondents include officials from banks, the NCR and investment companies. The qualitative research methodology was used in that primary data was gathered through interviews to explore attitudes, perceptions, behaviours and experiences of stakeholders. The purpose of the questionnaire was to gather information from respondents, across all demographics regarding their knowledge on the NCA and their debt exposure.

According to Rea and Parker (2005), there are factors that are present that make sample survey research an appropriate method. Firstly adequate secondary data is not available (Rea and Parker, 2005). Since the growth in unsecured lending has reached its peak, many studies have concentrated on this phenomenon but not much research has been conducted specifically on the adherence of banks to the NCA and how this affects domestic indebtedness and fragility. The interviews conducted were best suited to provide informed opinions on the research problem and the questionnaire was used to supplement the information obtained. This primary data forms the basis of the research study.

Secondly there is a desire to generalise findings from small subpopulations to a larger population (Rea and Parker, 2005). The questionnaire was intended to provide a sample from the larger population as it would not be possible, within the period of time and financial means at the researcher's disposal, to obtain information from the entire South African consumer population. Therefore a smaller subpopulation can be used to make inferences regarding the general consensus.

Thirdly, the target respondent population is accessible (Rea and Parker, 2005). The target respondent population of the study includes individuals that are knowledgeable of the South African

credit market. These individuals include banking officials, officials from the National Credit Regulator and officials from investment companies. The general SA population was used to respond to the questionnaire.

Finally the data to be obtained is of a personal, self-reported nature (Rea and Parker, 2005). Although sufficient information is provided from literature reviewed, the interviews provided primary data based on respondents' personal experiences and perceptions. The questionnaire is based on fact rather than behaviours and therefore provided definitive numbers for the study. All respondents, of both the questionnaire and interview, answered independently and were not persuaded to choose any particular response. The respondents to the questionnaire will remain anonymous as the questionnaire contained sensitive information and anonymity was assured to encouraged honest answers.

Of the 500 questionnaires distributed to individuals, 223 submitted completed questionnaires. The response rate for the questionnaire was 44.6%.

Interview requests were sent to the following institutions:

- Absa Bank
- Standard Bank
- Nedbank
- First National Bank
- National Credit Regulator
- Banking Association of South Africa
- Kutana Investment Corporation
- First Avenue Investment Management
- National Empowerment Property Investment Trust
- 36One Asset Management
- Small Caps Investments
- Wonga Financial Services
- Investec Bank

Of the 14 interviews requested, 11 were conducted, which provided a response rate of 78.6%.

The data from the responses to the questionnaires and interviews are analysed and the results are utilised to address the research problem. At this juncture it is appropriate to recall the structure of the study to be as follows: Firstly an outline of the research problem as well as the purpose of the study is provided. The literature review then follows. Next the research question is expanded on, followed by the process and design utilised in the collection of data, the analysis of data, reporting of the findings and finally the conclusion and recommendation for further research.

4.2 Data collection

In this research study, data was collected via two tools namely an interview and a questionnaire instrument. Participants were encouraged to respond as honestly as possible and responded on a completely voluntary basis. The interview instrument comprises of eight open ended questions pertaining to the NCA and unsecured lending. This is used to get views from particular organisations

that were directly affected during the period of high growth in unsecured personal loans. Section A of the questionnaire instrument is used to gather demographic information from participants, which includes five dimensions in terms of age, gender, race, income group and residential demographics of participants. Section B is based on an ordinal scale in order to identify the depth of knowledge of the NCA by the participant. This section of the questionnaire used a 5 point Likert scale to gauge the understanding of the NCA by the participants. The Likert scale showed the degree to which the respondent agrees (Agree; Strongly Agree), disagrees (Disagree; Strongly Disagree) or is neutral (Neither agree nor disagree) towards the test statement. Section C is based on an ordinal scale intended to identify participants' information about debt.

All interviewees were contacted prior to the interview to gain permission to conduct the interview. In order to get a holistic view, bank officials, officials from regulators and officials from investment companies were contacted and the same interview conducted although not all questions were applicable to all interviewees. Some interviews were conducted face-to-face while others via email where interviewees responded to the questions and forwarded answers via email to the researcher. All face-to-face interviews were recorded and treated with confidentiality. The interviews followed a logical manner although respondents were given an opportunity to provide additional comments that were not part of the original questions. The face-to-face interviews lasted between 30 minutes to an hour and were held at the respondents offices based in the Johannesburg area. Follow-ups were required in certain instances and the response rate was good.

Two forms of distribution of the questionnaires to participants were used; namely email and hand delivery. Questionnaires were emailed to individuals for completion and emailed back to the researcher within the stipulated time period. Others were printed out and handed directly to the participant for completion and collected by the researcher. Both methods of distribution were used in order to maximise the response rate by participants and both methods of distribution required follow-ups by the researcher when the time period stipulated had expired.

A questionnaire is deemed valid if it allows for accurate data to be collected and reliable if it is collected consistently. Validity refers to the extent to which a test measures what it was intended to measure. Reliability is concerned with the accuracy and precision of a measurement procedure (Ellis and Levy, 2008). Both reliability and validity contributed to the quality of the data collected. The data collected via the questionnaire approach was deemed appropriate as it allowed the research to study a sample in order to infer characteristics about the population. The questionnaires were structured in a manner that made reading and completing responses straightforward. The questionnaires aimed to obtain information regarding consumers' demographics as well as financial obligations and preferences. All questions were close-ended and provided a number of alternatives from which the respondent was instructed to choose.

4.3 Statistical Analysis

4.3.1 Interview and questionnaire

The interview consisted of 8 questions aimed at getting information from each respondent based on personal experiences and company policy in terms of their credit qualifications performed, consumer education initiatives, the NCA's relevance to the South African credit market and measures to prevent reckless lending. These questions will be elaborated on and the answers from

respondents will be summarised and presented in the following chapter. The results are presented using tables in order to formulate a general consensus in answers. A copy of the interview is attached as Appendix 3.

The questionnaire consists of 34 questions, divided into 3 sections. The next chapter will elaborate on each section, providing an analysis of each section and of the answers supplied by the sample population. The results of the questionnaire are analysed using graphical representation such as pie charts and line graphs and a tabulation of results. A copy of the questionnaire is attached as Appendix 4.

4.3.2 Interview sample

The total responses of the interview respondents are provided in a tabulated form in the following chapter. The interview sample can be described as the total number of respondents to the interview categorised by type of organisation. The interview consisted of a total of 11 responses comprising of 4 bank officials, 2 officials from a regulator and 5 officials from investment companies.

4.3.3 Questionnaire sample

The total responses to the questionnaire are provided in a tabulated form in the next chapter. The questionnaire sample can be described as the number of respondents to the questionnaire categorised by income levels. All respondents are South African citizens, predominantly from the Gauteng and Kwa-Zulu Natal provinces. The questionnaire sample consists of a total of 223 respondents. Appendix 5 shows the breakdown of the total respondents by:

- Age
- Province
- Gender
- Race
- Income categories

4.4 Constraints

The list below indicates the constraints encountered in this study.

- There was limited access to statistics and information in relation to banks' lending practices.
- The respondents interviewed represent their respective organisations but may not necessarily be representative of the organisations view of the questions asked.
- Research was limited to banks and no other credit providers, who also had an effect on the growth in unsecured lending in South Africa
- Due to time, practicality and cost constraints, some interviews were emailed to respondents. Minimal face-to-face interviews were conducted.
- Due to time and resource constraints, the sample size is limited; however it was sufficient enough to provide consistent and valid findings.

4.5 Ethical Considerations

Since both research tools involved human respondents, ethics played a vital role in this research report. All reasonable steps have been taken to ensure that there was no violation of any ethical standards. Prior to interviews conducted, the researcher requested permission from the respondent. Each respondent, both for the questionnaire and interview, completed each tool on a voluntary basis and were not coaxed into choosing a particular answer. These tools were completed by respondents in their own time and at their own discretion. Questionnaires were anonymously distributed with all information kept confidential. Respondents were requested not to include names, surnames, telephone numbers or identity numbers on the questionnaire. This allowed respondents to be truthful when answering questions and would potentially improve the quality of data from the questionnaire.

All participants received an invitation to participate in the questionnaire. A copy of this invitation is attached as the introductory part of Appendix 3. The invitation contained the following information:

- The purpose of the study including information stating that the study was for fulfilment of a Masters' degree as well as the event under investigation,
- Personal details of the researcher,
- The issue of confidentiality and anonymity, and
- Indication of the time required to complete the questionnaire.

All sources of literature utilised in this research study have been referenced using the guidelines provided by the Wits Business School (WBS). There was no intentional misrepresentation of findings of the research study and all data was reported in its totality.

Chapter 5: Results of the Study

This chapter presents the results of the analysis conducted and hopefully provides answers to the questions of this study as identified in chapter three. The chapter will elaborate on the results obtained from the instruments utilised, namely an interview instrument and a questionnaire, to gain pertinent data from the sample population. The responses of both the interview and questionnaire are examined and elaborated on. The interview comprised of 8 questions associated with the issues of the NCA, unsecured lending in South Africa and policies for credit assessment of respondents. The interview respondents are categorised by the type of organisation the interviewees represent namely, banks, regulators and investment companies. An analysis of each questions' response by the sample is provided. Open-ended questions, which is sometimes viewed as broad and therefore there is scope for interpretation by each respondent based on their own experience, knowledge and abilities, were asked in the interview. The total number of responses to the questionnaire and the number of responses within each income category are presented. The questionnaire is divided into 3 sections, namely section 1: demographics, section 2: Knowledge on the NCA and section 3: Debt information of respondents.

5.1 Analysis of responses to interview questions

The interview consisted of 8 questions which were sent to respondents from the following sectors: banks, regulators and investment companies. All respondents answered the questions to the best of their knowledge, abilities and experience. Table 6 below provides a breakdown of responses by sector.

Table 6: Responses by sector

Response	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
Banks	4	36.36%	4	36.36%
Regulators	2	18.18%	6	54.54%
Investment Companies	5	45.45%	11	100.0%

The sample of respondents to the interview represents those individuals that have a good knowledge and understanding of the credit industry and the NCA. There were 11 respondents to the interview, with the majority being investment companies (45.45%) then followed by banks (36.36%) and 18.18% was officials from the National Credit Regulator. A detailed analysis of respondents' answers to each question is shown on table 7 below.

Table 7: Summary of responses per interview question

Question	Banks	Regulator	Investment companies
1. In your opinion what was the main driver in the increase of unsecured loans in South Africa	The majority of the 4 banks agreed that post the 2007/2008 financial crisis, banks had a smaller appetite for mortgages and greater appetite towards unsecured lending. Other drivers included new customers entering credit markets and lower interest rates. An additional driver mentioned was the strong wage increases, which allowed banks to take advantage of consumers' improved affordability and therefore offer larger loans with longer terms.	On the demand side, there existed a low income community who did not have houses or cars and used unsecured loans to fill this need. On the supply side, the interest rates prescribed by the NCR made unsecured credit highly attractive to banks which fuelled the growth. Included in the supply side was the change in amount and terms caps under the NCA.	All companies agreed that the NCA was the main driver of unsecured credit by removal of minimum deposits and the increasing of maximum periods and maximum interest rates. On the demand side, consumers fuelled the growth in unsecured lending in order to fund needs and desires. From the supply side, the NCA made unsecured lending highly profitable.
2. Do you think there is the risk of a credit bubble in South Africa due to the unprecedented growth in unsecured loans? Explain why?	The majority of the 4 banks agreed that there was no risk of a credit bubble due to the following reasons: • Stricter lending policies in place since 2012 • National Credit Amendment Act further regulated affordability calculations 1 bank agreed there is a risk but it is limited to lower income categories that are not credit knowledgeable.	The NCR's official position is that the regulator is not examining the growth from a systemic risk perspective. The regulator was however concerned with the number of people moving into default categories and with the number of impaired records as per the Credit Bureau Monitor's statistics. The concern is that consumers are locked in debt contracts and used loans for consumption purposes. The NCR's mandate is restricted to market conduct.	The majority view was that the African Bank matter was isolated and majority of analysts believe that there is no credit bubble evident in the economy. Post 2012, unsecured credit has seen negligible growth therefore the probability of a bubble bursting is minimal as lenders have become more cautious. There is a need, however, for lending practices to be reviewed.
3. Specifically referring to banks, in South Africa, do you think that adequate credit qualifications are being	All banks agreed that adequate credit qualifications are performed. The banks	The general view is that banks do perform adequate credit qualifications prior to	Banks, in general, have conservative policies, although still quite aggressive in lending.

performed prior to lending to consumers?	used internal scoring systems, credit bureaus and criteria stipulated by the NCA and the National Credit Amendment Act.	lending to consumers. The NCR did state that it was the lower end credit providers that tipped the scales in terms of reckless lending; it was not the big banks that acted in this fashion.	Fees and interest earned on loans allowed credit providers to be aggressive and not perform adequate credit assessments. Another element that was elaborated on was that consumers can be dishonest by overstating income and understating expenses.
4. What are your initiatives in terms of consumer education specifically referring to over-indebtedness?	Banks have initiatives in place – some have advanced tools while others agree that they could enhance current systems put in place.	The NCR's main objective is over-indebtedness, therefore there are numerous campaigns being organised. A point made is that not all cases can be resolved at the level of debt counsellors. The NCR did state that consumers are very aware of the NCA, NCR, debt counselling and their rights but they don't want to change their habits and lifestyles.	n/a
5. In your opinion, has the National Credit Act assisted or hindered lending in South Africa? Explain why?	The majority of banks agreed that the NCA assisting lending in South Africa by: • Protecting banks from 2007/2008, financial crisis • Increased access to credit in SA, • Protecting consumers and credit providers and , • The requirement of submitting all credit agreements to a credit bureau, which was not in effect prior to	The NCA has assisted lending in South Africa, which can be attested to by the increase in the amount of credit granted.	The general view from the investment companies interviewed is that the NCA has assisted lending in South Africa. The National Credit Amendment Act addresses the NCA's inefficiencies in terms of affordability criteria. The NCA was also helpful in protecting South Africa, to an extent, during the 2007/2008 financial crisis.

	the NCA (meaning credit providers relied only on consumer disclosure). A single bank did suggest that the NCA has hindered lending by prescribing maximum interest rates and fees allowing the industry to price at these maximums therefore increasing the cost to consumers.		
6. As a consumer and official of your organisation, would you say that the National Credit Act has provided adequate protection against reckless lending? Explain how?	The majority of banks agreed that the NCA has provided adequate protection against reckless lending but only when followed prudently and regulated in the spirit of good faith. Banks did note that even if the NCA provided protection, it was necessary to be vigilant against consumers who are dishonest in their disclosures. A single bank disagreed with the NCA providing adequate protection since the Act was not specific enough.	The NCR agrees that the legislature needs to be tightened as it is not specific enough. The National Credit Amendment Act offered the necessary additions to the legislature, specifically with regards to affordability by adding the following conditions: • Requesting proof of income from consumers, • Requesting a credit bureau report on consumers, and • The consumer cannot enter into a credit agreement with a credit report older than 7 days for all agreements except mortgages that requires a report not older than 14.	n/a

7. In your opinion, how can the National Credit Act be more effective in curbing reckless lending practices in South Africa?	Each bank had a divergent view. The regulation of smaller players in the market and the National Credit Amendment Act is an improvement in terms of the affordability requirements. Clarification was also needed regarding what is classified as reckless lending.	The National Credit Amendment Act assists in the curbing of reckless lending activities.	There needs to be more execution and enforcement of the NCA. Another way suggested was the decrease in maximum interest rates, fees and credit limit fees, which will reduce questionable lending. The National Credit Amendment Act addresses most issues relevant to assisting reckless lending.
8. What measures do you have in place for your protection against non-payment by consumers?	• Credit life insurance is made compulsory for unsecured debt (it provides cover against death, permanent and temporary disability, dread disease and retrenchment), • Collections and recoveries channels and legal channels Enhanced scorecards to price client according to level of risk to better predict default.	n/a	n/a

This table provides a synopsis of respondents' answers to the questions asked during interviews.

5.2 Summary of responses to questionnaires

5.2.1 Demographic summary: Section A of questionnaire

Below indicates the demographic information from the sample respondents to the questionnaire instrument with regards to age, geographic location, gender, ethnic group and income category. The total number of respondents from the sample was 223. See Appendix 5 for tabulated information.

Figure 3: Total sample categorised by age

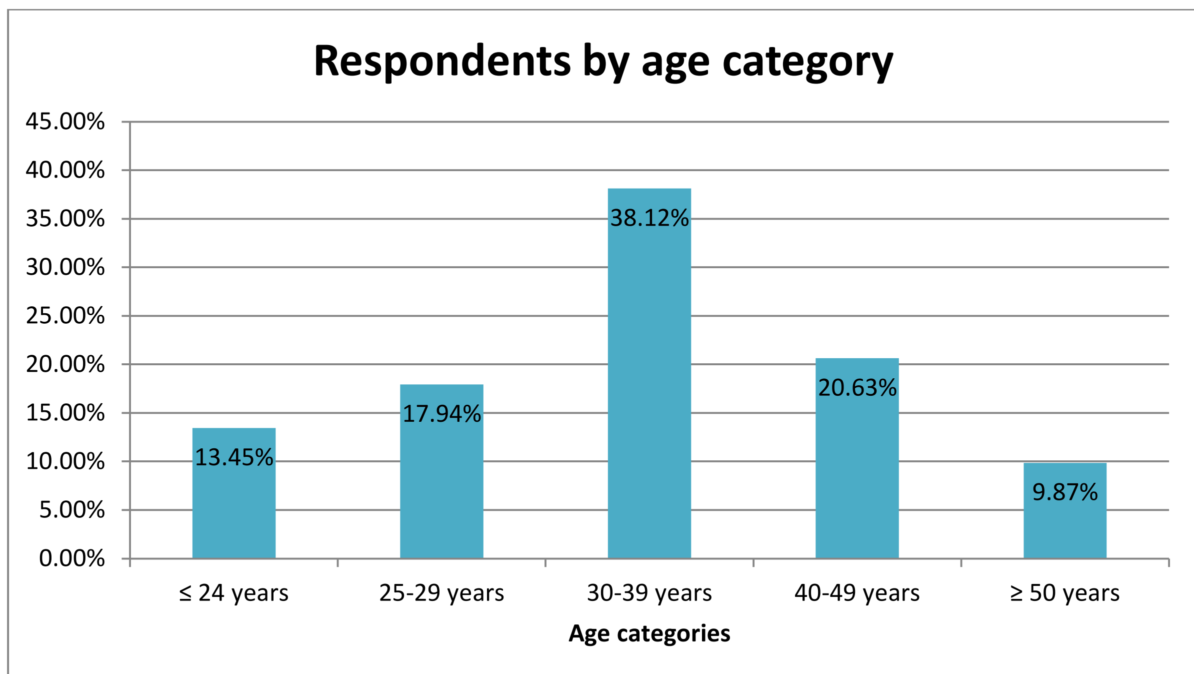


Figure 4: Total sample categorised by geographic location within South Africa

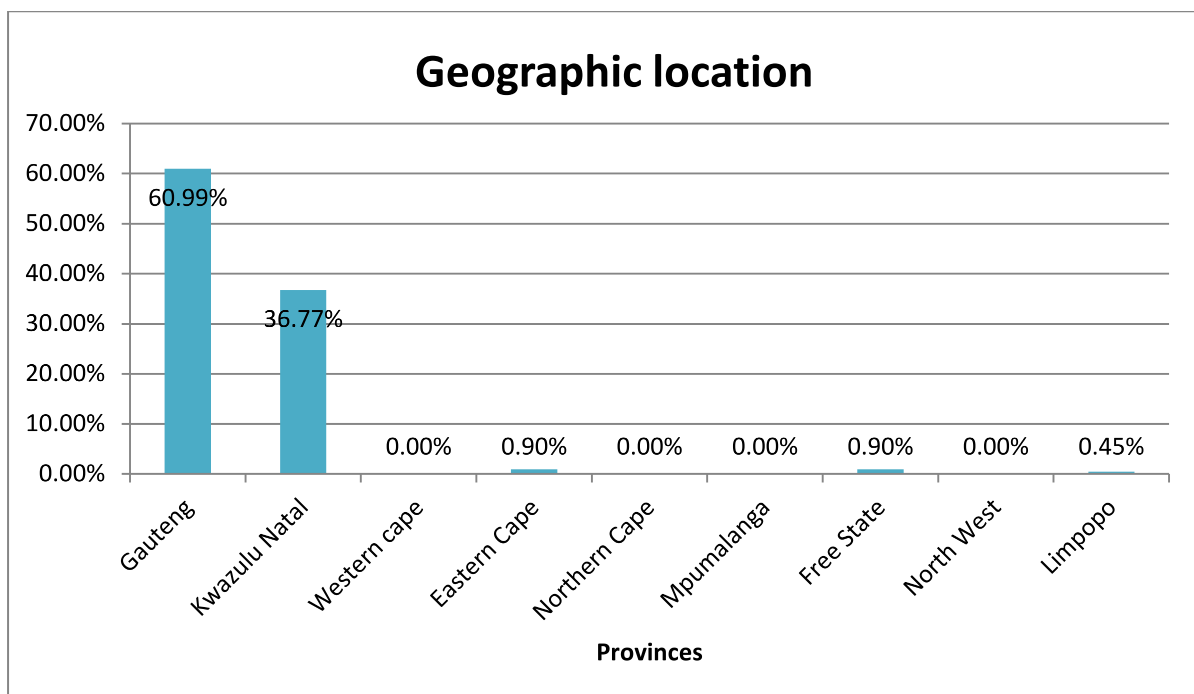


Figure 5: Total sample categorised by gender

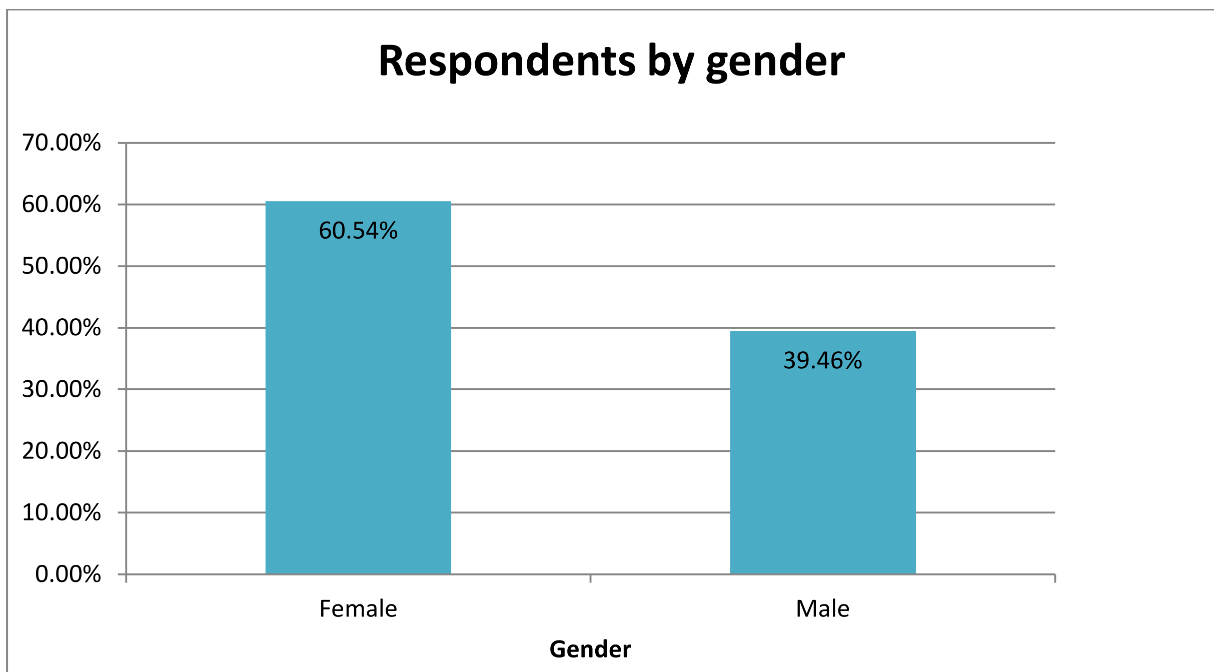


Figure 6: Total sample categorised by ethnic group

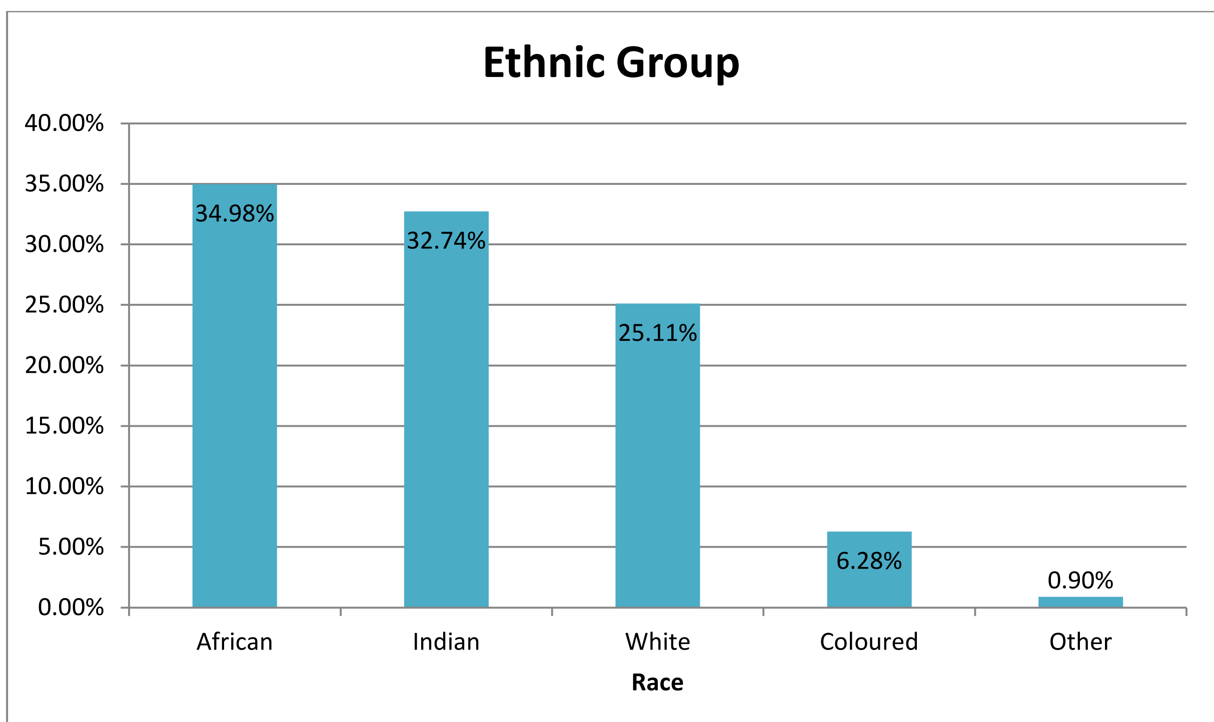
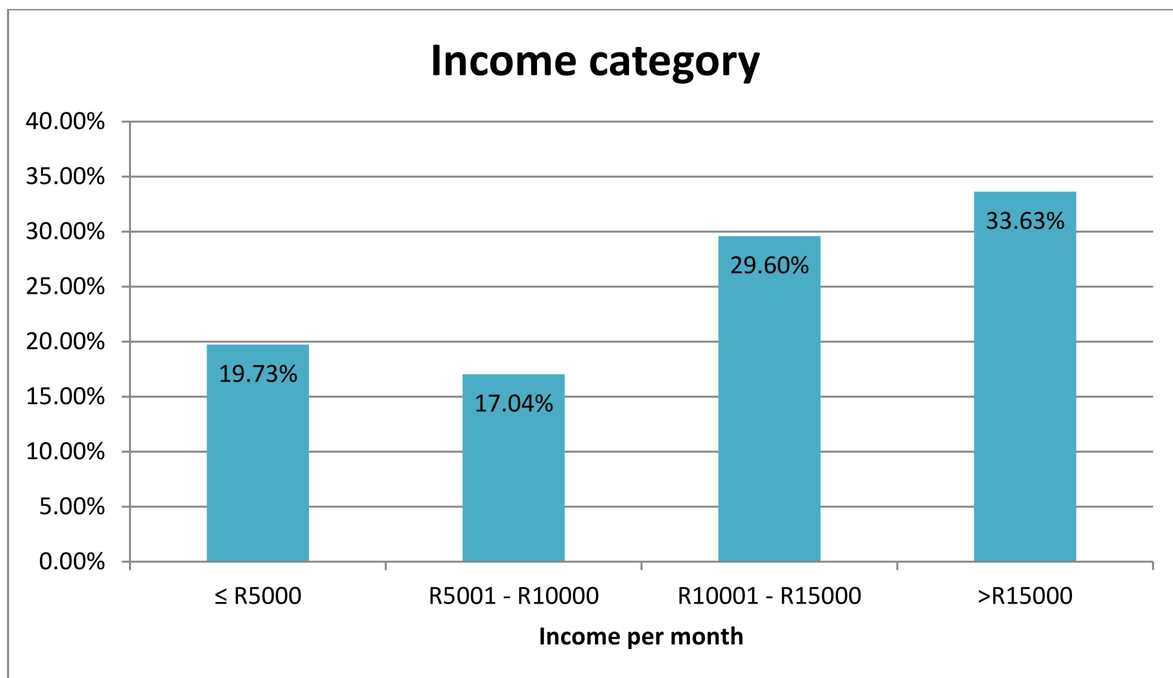


Figure 7: Total sample categorised by income category



From the figures displayed above, it can been noticed that the sample includes a diverse and fair spread of consumers from all age groups, both genders, all ethnic groups and all income categories. The majority of respondents (almost 98%) are from the two most populated provinces within South Africa, Gauteng (almost 61%) and Kwa-zulu Natal (almost 37%).

5.2.2 NCA knowledge: Section B of questionnaire

This section provides the entire samples' responses to Section B of the questionnaire. This section used the Likert scale to gauge respondents' answers. These questions are structured to gain insight on the knowledge of respondents to the NCA, over-indebtedness and general credit principles.

Table 8: Responses to Section B of questionnaire

Question		Strongly agree	Agree	Neutral	Disagree	Strongly Disagree	Total
1	The NCA was explained to me when I took out any product at a bank or retailer	15.70%	25.11%	18.39%	24.22%	16.59%	100.00%
2	I understand my rights as a consumer under the NCA	25.11%	33.63%	18.39%	15.25%	7.62%	100.00%
3	I know who to contact should a bank or retailer not act in a fair manner	25.56%	26.01%	16.59%	17.94%	13.90%	100.00%
4	I understand the term "over-indebtedness" and the consequences it has on me	25.56%	26.01%	16.59%	17.94%	13.90%	100.00%
5	I understand that I am able to use the services of a debt counsellor should I not be able to pay back my debt owed to a bank or retailer	33.18%	40.36%	14.80%	6.28%	5.38%	100.00%
6	I know that NCA was created to protect me, the consumer, from unfair and illegal practices by banks and retailers	36.77%	42.15%	10.31%	5.83%	4.93%	100.00%
7	I know that a personal loan costs me more than vehicle finance	35.87%	32.29%	17.49%	8.52%	5.83%	100.00%
8	I know that credit life insurance is not compulsory for a personal loan	28.70%	23.32%	26.46%	13.90%	7.62%	100.00%
9	I know that I can shop around for better interest rates	43.50%	39.46%	9.42%	3.59%	4.04%	100.00%
10	I know that if I cannot pay back my loan, I will be listed on a credit bureau	54.71%	36.32%	6.28%	0.90%	1.79%	100.00%

According to the information provided by the total sample of respondents, all test statements, with the exception of number 1, show that more than 50% of respondents either strongly agree and/or agree with the test statement presented. Test statement 1, however, provides an equal weighting from respondents in terms of strongly agree and/or agree and disagree and/or strongly disagree with both comprising of 41% of respondents. The remaining 18% was neutral to the test statement.

Test statement 1 focuses on whether the credit provider explained the NCA to the consumer prior to taking out a credit product. The analysis provides an equal weighting between strongly agree and/or agree and disagree and/or strongly disagree.

Test statement 2 is directed at the consumers' knowledge of the NCA. Although the majority of the sample (59%) strongly agreed and/or agreed with the test statement, a large portion (41%) was either neutral, disagreed or strongly disagreed.

Test statement 3 is also directed at the consumers' knowledge of the NCA, more specifically when a credit provider does not act in a non-discriminatory manner. The result of this test statement show that only 52% of the respondents strongly agreed and/or agreed with the test statement.

Test statement 4 specifically refers to the concept of over-indebtedness, the consumers' knowledge of it and its consequences on the consumer. The majority (77%) of the respondents strongly agreed and/or agreed to the test statement.

Test statement 5 referred to a debt counsellor's services. In line with test statement 4's results, a large number of respondents (74%) strongly agreed and/or agreed.

Test statement 6 focuses on the consumers NCA knowledge, which resulted in 79% strongly agreeing and/or agreeing with the test statement.

Test statement 7 focuses on the consumers' comprehension of finance costs relating to unsecured debt when compared to secured debt. A large portion of respondents (68%) strongly agreed and/or agreed to the test statement while 17% remained neutral and 14% disagreed and/or strongly disagreed.

Test statement 8 gives attention to credit life insurance, which according to the NCA is not compulsory to a consumer who obtains a personal loan. The results of this test statement show 52% strongly agreeing and/or agreeing to the test statement.

Test statement 9 can be linked to test statement 7, with the focus on a consumers' comprehension of finance costs. Majority of the participants (83%) strongly agreed and/or agreed to the test statement.

Test statement 10 refers to a credit bureau. This test statement received the most strongly agreed and/or agreed responses (91%) of the total sample allowing the research to conclude that consumers are well aware of judgments and having an adverse credit record.

5.2.3 Section C of questionnaire

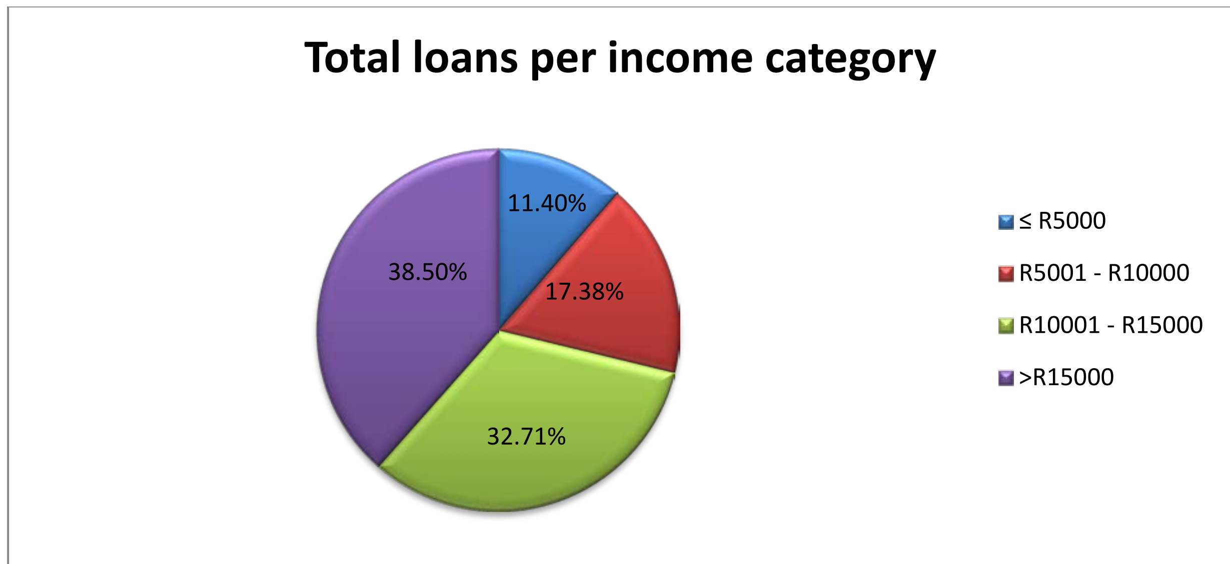
This section provides the results obtained from the data received from respondents relating to their debt usage and preferences. The results will be examined in greater detail in Chapter 6, the conclusion of the study.

5.2.3.1. Total loans issued per income category

The results of this section provide information around the notion that more credit is granted to higher income categories than lower income categories. According to the results of the

questionnaire, the majority of loans (71.20%) are issued to respondents' who earn more than R10000 per month (net income). See Figure 8 below.

Figure 8: Total loans issued per income category



5.2.3.2. Payment methods per income category and per product

The results of this section offer information of the respondents' preference with regards to monthly payment of credit cards, personal loans and store cards. It is useful to ascertain which income category lags with regards to payment of instalments and which income category pays more than the monthly instalment due. The results are discussed further in Chapter 6 of this study.

Table 9: Credit cards

Income category	I pay the full outstanding balance due every month	I pay the minimum monthly payment due every month	I pay as much as I can every month	I pay whenever I can, sometimes missing a months due instalment	Total
≤ R5000	36.36%	27.27%	36.36%	0.00%	100.00%
R5001 - R10000	8.33%	54.17%	33.33%	4.17%	100.00%
R10001 - R15000	29.27%	21.95%	48.78%	0.00%	100.00%
>R15000	38.46%	24.62%	35.38%	1.54%	100.00%
Total sample	30.50%	29.08%	39.01%	1.42%	100.00%

Table 9 above displays the pattern of repayment, per category of income, of each respondent regarding credit card instalments. A result that is derived is that from the total sample of respondents, the majority pays either the full amount due or the minimum amount due or as much as they can, while a very small number (2 credit card loans out of 141 loans or 1.42%) pay whenever they can afford to, resulting in missing instalments. From this 1.42%, one respondent belongs to the

R5001 to R10000 income category and the other respondent to the greater than R15000 income category.

Table 10: Personal Loans

Income category	I pay more than the minimum monthly payment due every month	I pay the minimum monthly payment due every month	I pay whenever I can, sometimes missing a months due instalment	Total
≤ R5000	60.00%	20.00%	20.00%	100.00%
R5001 - R10000	35.71%	57.14%	7.14%	100.00%
R10001 - R15000	34.48%	65.52%	0.00%	100.00%
>R15000	34.78%	60.87%	4.35%	100.00%
Total sample	38.16%	56.58%	5.26%	100.00%

Table 10 above displays the pattern of payment of each respondent regarding personal loan instalments, per category of income. Another result that is evident is that a small number from the total sample chose to pay their instalments due whenever they can afford it, sometimes missing a payment (5.26%). Another evident result is that 20% of personal loans in the less than R5000 income category chose to pay their personal loan instalment whenever they can, sometimes missing a month's instalment while 60% of consumers in the same income category chose to pay more than the minimum monthly instalment due. In all other income categories, the majority of respondents chose to pay only the minimum monthly instalment due.

Table 11: Store Cards

Income category	I pay more than the minimum monthly payment due every month	I pay the minimum monthly payment due every month	I pay whenever I can, sometimes missing a months due instalment	Total
≤ R5000	50.00%	40.00%	10.00%	100.00%
R5001 - R10000	70.00%	23.33%	6.67%	100.00%
R10001 - R15000	69.57%	30.43%	0.00%	100.00%
>R15000	63.16%	36.84%	0.00%	100.00%
Total sample	63.89%	32.64%	3.47%	100.00%

Table 11 above displays the pattern of payment of store card instalments, per category of income. The result that is observable is that a small number (5 loans) from the total sample of 144 chose to pay their instalments due whenever they can afford it, sometimes missing a payment (3.47%). Another evident result is that 10% of personal loans in the less than R5000 income category chose to pay their store card instalment whenever they can, sometimes missing a month's instalment.

5.2.3.3 Total debt per income category

This section provides findings of the total debt, per category of unsecured debt, owed by each income category. Figures 9, 10 and 11 shows that the amount of debt obtained from the unsecured products (credit cards, personal loans and store cards) are not aligned to respondents' level of income per month.

Figure 9: Credit card debt

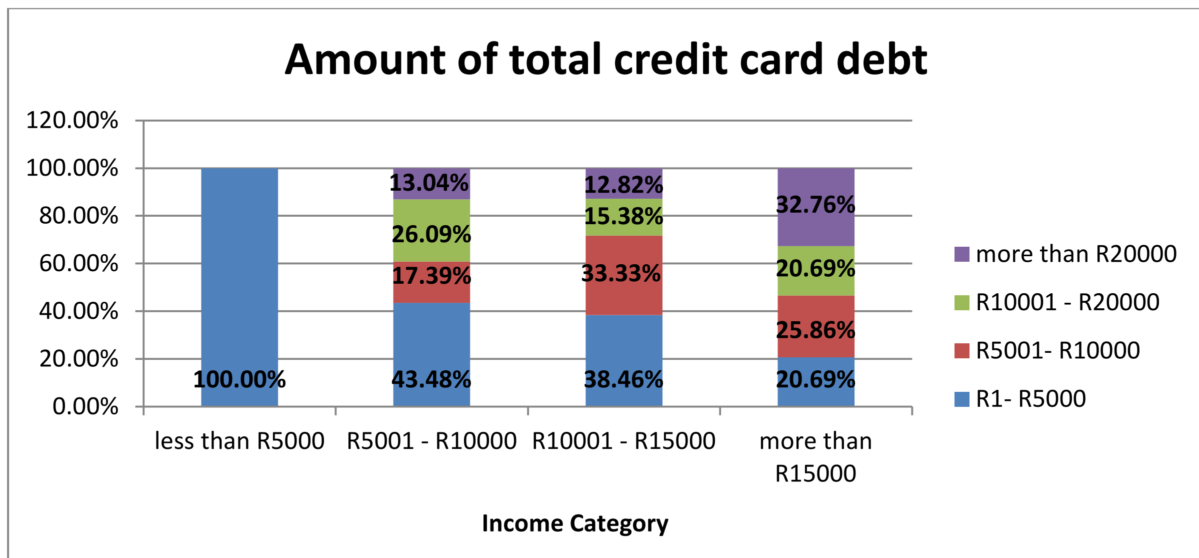
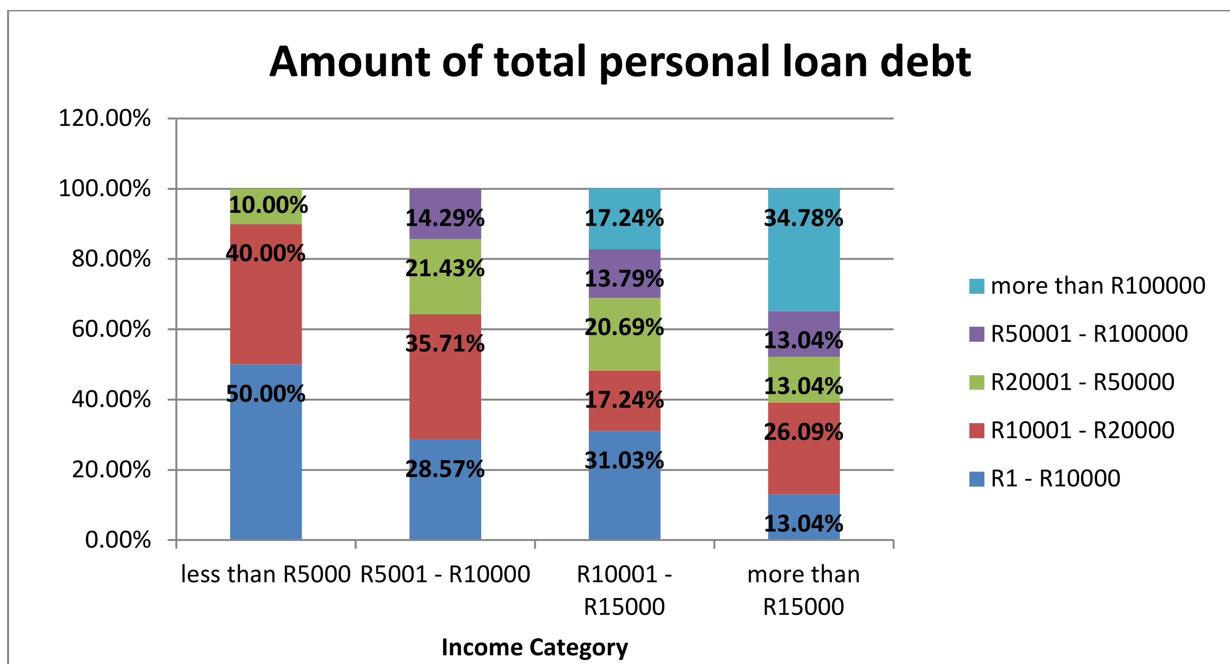


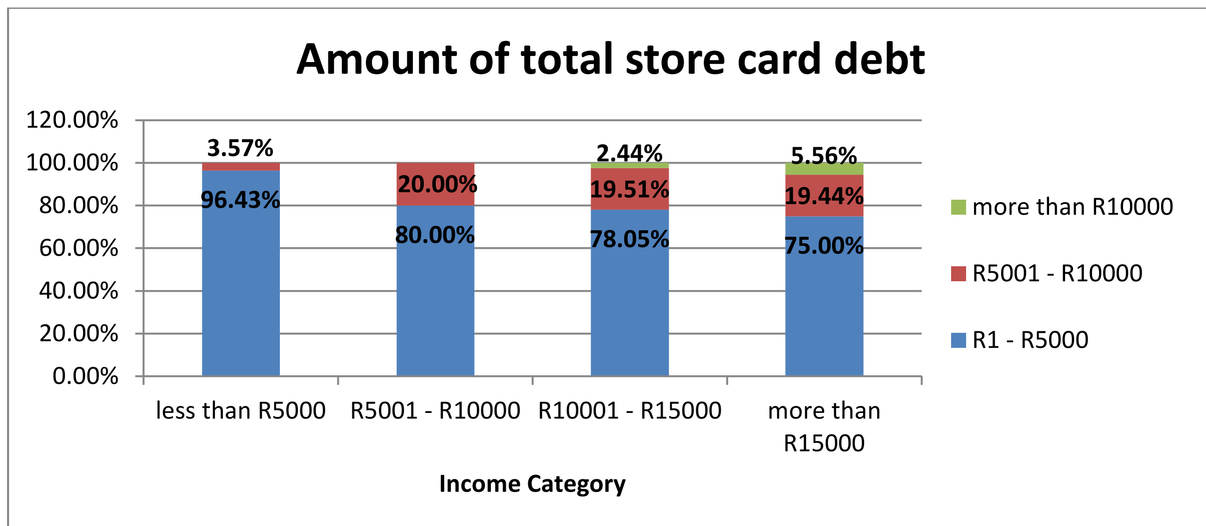
Figure 9 above indicates that in the less than R5000 income category, 100% of respondents with credit cards, have total credit card debt of not more than R5000, whereas all other income categories indicated a split between all amounts of total credit card debt.

Figure 10: Personal loan debt



Unlike Figure 9, for respondents who earn less than R5000 per month, Figure 10 indicates that 50% of respondents have personal loan debt of up to R10000, 40% of respondents have personal loan debt of up to R20000 and 10% suggests an amount up to R50000. All other income categories have a fair split in the total personal loan debt. Another result from the research reveals that 14.29% of respondents who earn between R5001 and R10000 per month own personal loan debt up to R100000 and 17.24% of respondents who earn between R10000 and R15000 per month own over R100000 personal loan debt.

Figure 11: Store cards



Store card debt on the other hand is largely dominated to below the amount of R5000 in all income groups while still in the less than R5000 income category, 3.57% of the sample have store card debt of between R5001 to R10000. In the higher income categories, store card debt of more than R10000 is evident.

The results present the following findings for respondents who earn less than R5000 per month:

- Total credit card debt is an amount up to R5000,
- Total personal loan debt can be as high as R50000, and
- Total store card debt is up to an amount of R10000.

5.2.4 Results for Uses of debt

This section offers information regarding the uses of credit cards and personal loans by the sample. The sample is categorised by income groups, gender, location and age. The results of the section are utilised to ascertain what each category of the demographics used the debt product for.

5.2.4.1. Per income category

Tables 12 and 13 show the usage of credit cards and personal loans respectively, per category of income.

Table 12: Usage of credit cards

Income category	I use it to buy essential items like food, petrol etc.	I only use it when necessary, like making internet purchases, air ticket purchases etc.	I use it to buy luxury items, like brand named clothes, computer equipment etc.	Total
≤ R5000	63.64%	18.18%	18.18%	100.00%
R5001 - R10000	70.83%	25.00%	4.17%	100.00%
R10001 - R15000	31.71%	58.54%	9.76%	100.00%
>R15000	33.85%	50.77%	15.38%	100.00%
Total sample	41.84%	46.10%	12.06%	100.00%

The results of Table 12 above indicates that the majority (46.10%) of credit card debt holders use their cards to purchase luxury items while 41.84% use their cards for essential items like food and travel. The sample also shows that a majority of respondents (63.64%) in the less than R10000 income category used credit cards to buy essential items like food and petrol while majority of respondents from the higher than R10000 income categories used credit cards for purchasing items that could not be bought with cash.

Table 13: Usage of personal loans

Income category	I used my personal loan to help me to pay for expenses when I did not have enough cash to pay	I used my personal loan to make improvements on my home (building improvements and general caretaking of home)	I used my personal loan to buy a car	I used my personal loan to consolidate all my debt in order to pay one monthly instalment	I used my personal loan to pay for the deposit on my house	Total
≤ R5000	50.00%	10.00%	0.00%	40.00%	0.00%	100.00%
R5001 - R10000	28.57%	42.86%	7.14%	14.29%	7.14%	100.00%
R10001 - R15000	37.93%	31.03%	6.90%	20.69%	3.45%	100.00%
>R15000	30.43%	26.09%	8.70%	30.43%	4.35%	100.00%
Total sample	35.53%	28.95%	6.58%	25.00%	3.95%	100.00%

The major response evident from the results according to Table 13 above reveals that consumers with personal loan debt have used loans to supplement shortages in income (35.53%), while this is closely followed by the use of personal loans for building improvements (28.95%). Another outcome which supports literature is that personal loans are used for debt consolidation (25%). Respondents from the less than R5000 income category favoured using the personal loans for consumption purposes and debt consolidation, while none used their loans to buy cars or pay for deposits on

houses. The other income categories follow the general trend of the sample where the personal loans are used either for consumption purposes, home improvements or debt consolidation.

5.2.4.2 Debt category per gender

Tables 14 and 15 provide results on usage of credit cards and personal loans per gender category.

Table 14: Credit cards

Gender	I use it to buy essential items like food, petrol etc.	I only use it when necessary, like making internet purchases, air ticket purchases etc.	I use it to buy luxury items like, brand named clothes, computer equipment etc.	Total
Male	52.54%	32.20%	15.25%	100.00%
Female	34.15%	56.10%	9.76%	100.00%
Total sample	41.84%	46.10%	12.06%	100.00%

Table 15: Personal loans

Gender	I used my personal loan to help me to pay expenses when I did not have enough cash to pay	I used my personal loan to make improvements on my home (building improvements and general caretaking of home)	I used my personal loan to buy a car	I used my personal loan to consolidate all my debt in order to pay one monthly instalment	I used my personal loan to pay for the deposit on my house	Total
Male	36.11%	27.78%	11.11%	25.00%	0.00%	100.00%
Female	35.00%	30.00%	2.50%	25.00%	7.50%	100.00%
Total sample	35.53%	28.95%	6.58%	25.00%	3.95%	100.00%

Tables 14 and 15, both show that females have more credit card and personal loan debt than males, though the ratio in the personal loan category is negligible. The majority of both genders use of personal loans was for consumption purposes, while closely followed by home improvements and debt consolidation.

5.2.4.3 Debt category per province

Tables 16 and 17 display the respondents preferred usage of credit cards and personal loans respectively, per province they reside in.

Table 16: Credit cards

Province	I use it to buy essential items, like food, petrol etc.	I only use it when necessary, like making internet purchases, air ticket purchases etc.	I use it to buy luxury items like brand named clothes, computer equipment etc.	Total
Gauteng	38.75%	48.75%	12.50%	100.00%
Kwazulu-Natal	44.07%	44.07%	11.86%	100.00%
Western cape	0.00%	0.00%	0.00%	0.00%
Eastern Cape	0.00%	0.00%	0.00%	0.00%
Northern Cape	0.00%	0.00%	0.00%	0.00%
Mpumalanga	0.00%	0.00%	0.00%	0.00%
Free State	100.00%	0.00%	0.00%	100.00%
North West	0.00%	0.00%	0.00%	0.00%
Limpopo	100.00%	0.00%	0.00%	100.00%
Total sample	0.00%	0.00%	0.00%	100.00%

Table 16 above shows that almost 50% of respondents from both Gauteng and Kwa-zulu Natal provinces used their credit cards for necessary purchases that could not be made with cash. Although this is a large amount, it is closely followed by respondents, in both provinces, using their credit cards to make essential purchases that could be made with cash, yet made on credit.[13]

Table 17: Personal loans

Province	I used my personal loan to help me to pay expenses when I did not have enough cash to pay	I used my personal loan to make improvements on my home (building improvements and general caretaking of home)	I used my personal loan to by a car	I used my personal loan to consolidate all my debt in order to pay one monthly instalment	I used my personal loan o pay for the deposit on my house	Total
Gauteng	29.79%	29.79%	4.26%	29.79%	6.38%	100.00%
Kwazulu-Natal	44.44%	25.93%	11.11%	18.52%	0.00%	100.00%
Western cape	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Eastern Cape	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Northern Cape	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Mpumalanga	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Free State	100.00%	0.00%	0.00%	0.00%	0.00%	100.00%
North West	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Limpopo	0.00%	100.00%	0.00%	0.00%	0.00%	100.00%
Total sample	35.53%	28.95%	6.58%	25.00%	3.95%	100.00%

[13] The provinces of the Free State and Limpopo both show results of 100%. This is due to the very small number of respondents from these provinces which have been included in the sample.

When compared to Gauteng's respondents, Kwa-zulu Natal's sample shows a bias towards using personal loans for consumption purposes (44.44%). Gauteng is evenly favoured with using personal loans for consumption, home improvements and consolidation at 29.79% each.

5.4.2.4 Debt category per age category

Tables 18 and 19 give information on the usage of credit cards and personal loans, per age category.

Table 18: Credit cards

Category	I use it to buy essential items like food, petrol etc.	I only use it when necessary like making internet purchases, air ticket purchases etc.	I use it to buy luxury items like brand named clothes, computer equipment etc.	Total
≤ 24 years	12.50%	62.50%	25.00%	100.00%
25-29 years	48.28%	34.48%	17.24%	100.00%
30-39 years	42.11%	52.63%	5.26%	100.00%
40-49 years	36.36%	45.45%	18.18%	100.00%
≥ 50 years	57.14%	35.71%	7.14%	100.00%
Total sample	41.84%	46.10%	12.06%	100.00%

Table 18 above shows that 62.50% of respondents below the age of 25 years use their credit cards for making necessary purchases. All other age categories are split fairly between using credit cards to make essential purchases and using credit cards to make necessary purchases. Also evident is that a minority number of respondents from all ages use credit cards to buy luxury goods.

Table 19: Personal loans

Category	I used my personal loan to help me to pay expenses when I did not have enough cash to pay	I used my personal loan to make improvements on my home (building improvements and general caretaking of home)	I used my personal loan to by a car	I used my personal loan to consolidate all my debt in order to pay one monthly instalment	I used my personal loan o pay for the deposit on my house	Total
≤ 24 years	66.67%	16.67%	16.67%	0.00%	0.00%	100.00%
25-29 years	42.86%	14.29%	7.14%	35.71%	0.00%	100.00%
30-39 years	30.56%	30.56%	2.78%	30.56%	5.56%	100.00%
40-49 years	22.22%	44.44%	11.11%	16.67%	5.56%	100.00%
≥ 50 years	100.00%	0.00%	0.00%	0.00%	0.00%	100.00%
Total sample	35.53%	28.95%	6.58%	25.00%	3.95%	100.00%

Table 19 shows that majority of consumers younger than 30 years used personal loans to fund deficits in cash whereas older respondents used personal loans for either deficits in cash, home improvements or debt consolidation.

5.2.5 Results of debt exposure per gender

The figures presented below provide results on the total debt owed, per gender category.

Figure 12: Credit cards per gender

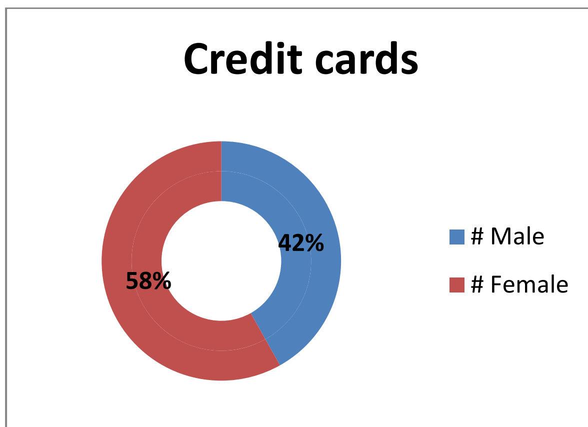


Figure 13: Personal loans per gender

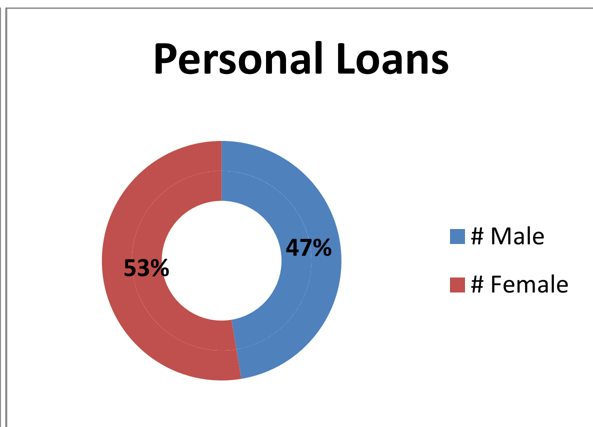


Figure 14: Store cards per gender

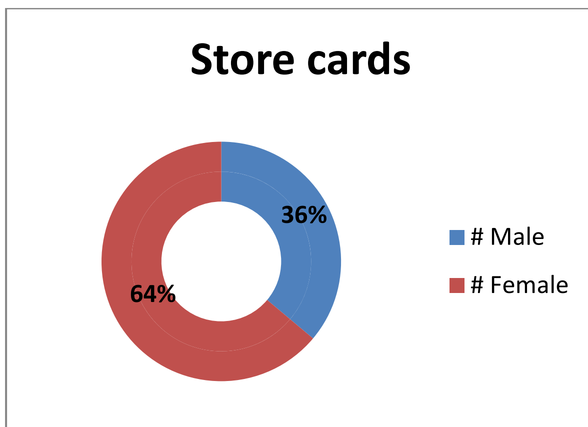


Figure 15: Housing loans per gender

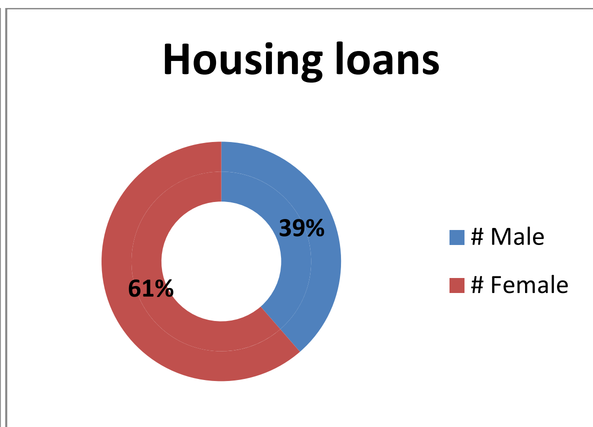
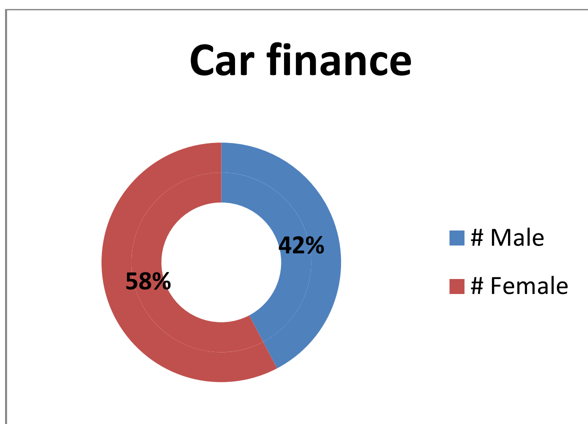


Figure 16: Car loans per gender



Figures 12, 13, 14, 15 and 16 above illustrate that in each category of credit product, namely credit cards; personal loans; store cards; housing loans and car finance loans, female respondents dominate each debt usage.

5.2.6 Results of each income category categorised by race and total income

Figures 17, 18, 19 and 20 below illustrate the type of debt predominantly shared by a race group in a specific category of income. These results can provide information with regards to which race group in South Africa might be the most indebted, and which product is favoured by each race group.

Figure 17: Income category: less than R5000

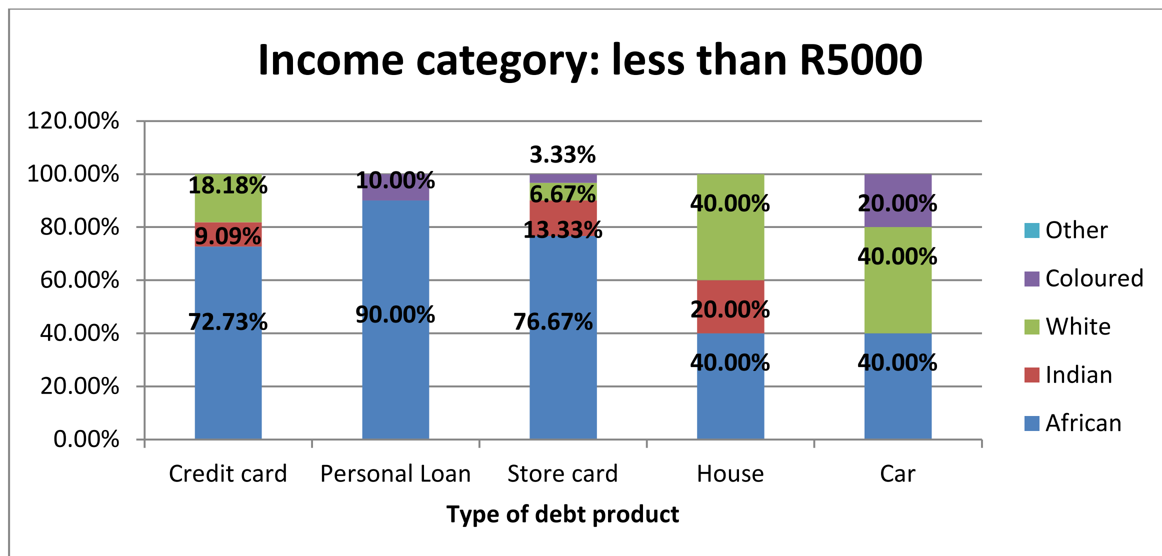


Figure 17 above shows that credit card debt, personal loan debt and store card debt is predominantly owed by Africans in the less than R5000 income category. Secured debt (house and car debt) is shared between all ethnic groups from the sample of respondents.

Figure 18: Income category: R5001 – R10000

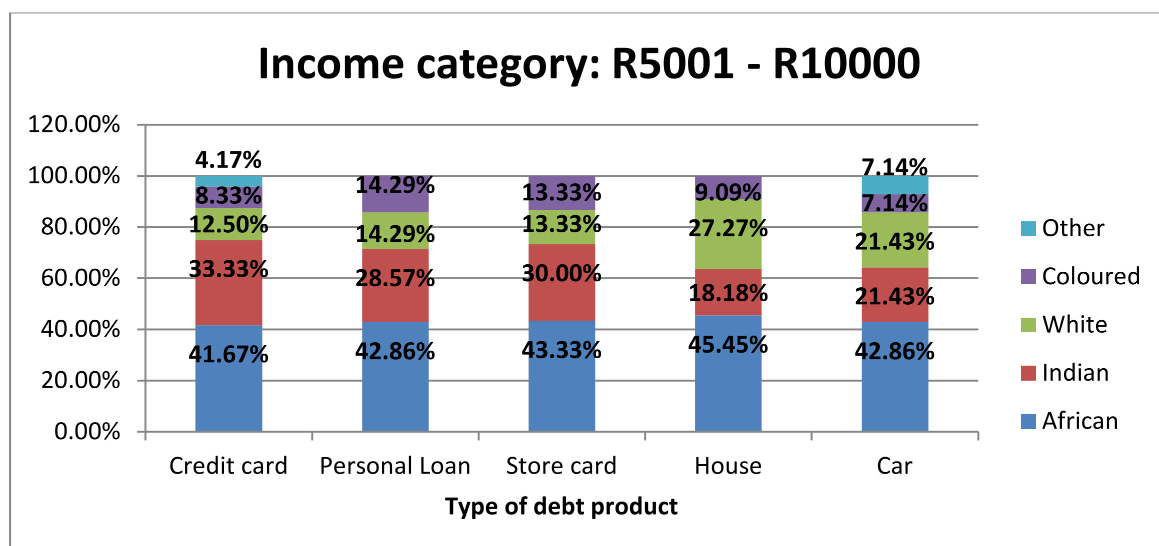


Figure 18 above indicates that all races in the R5001 to R10000 income category contribute to the total debt obligation in each category of debt.

Figure 19: Income category: R10001 – R15000

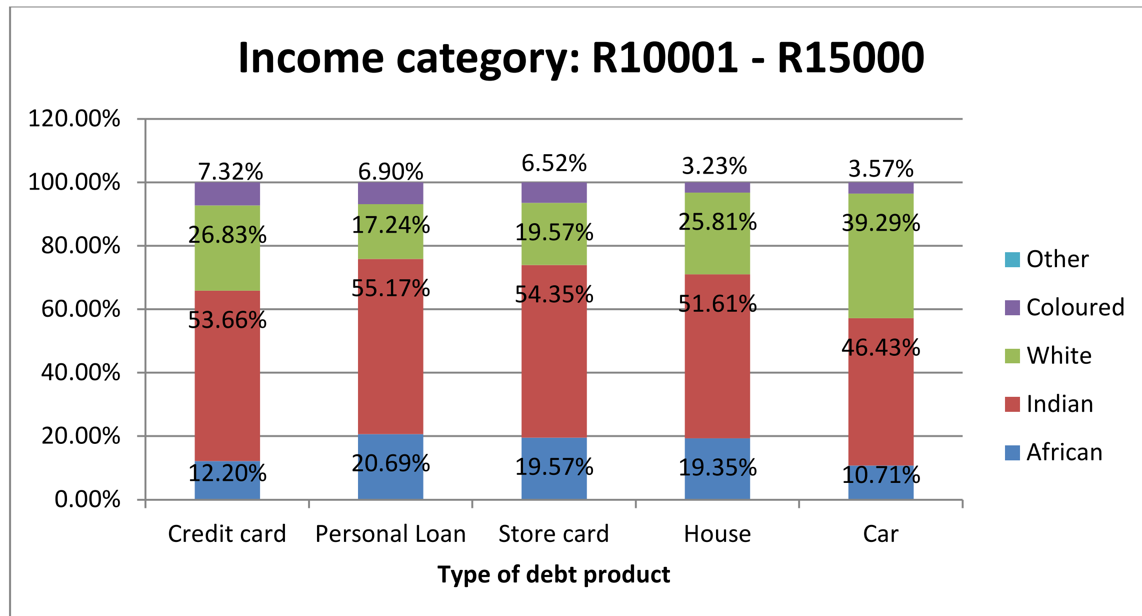
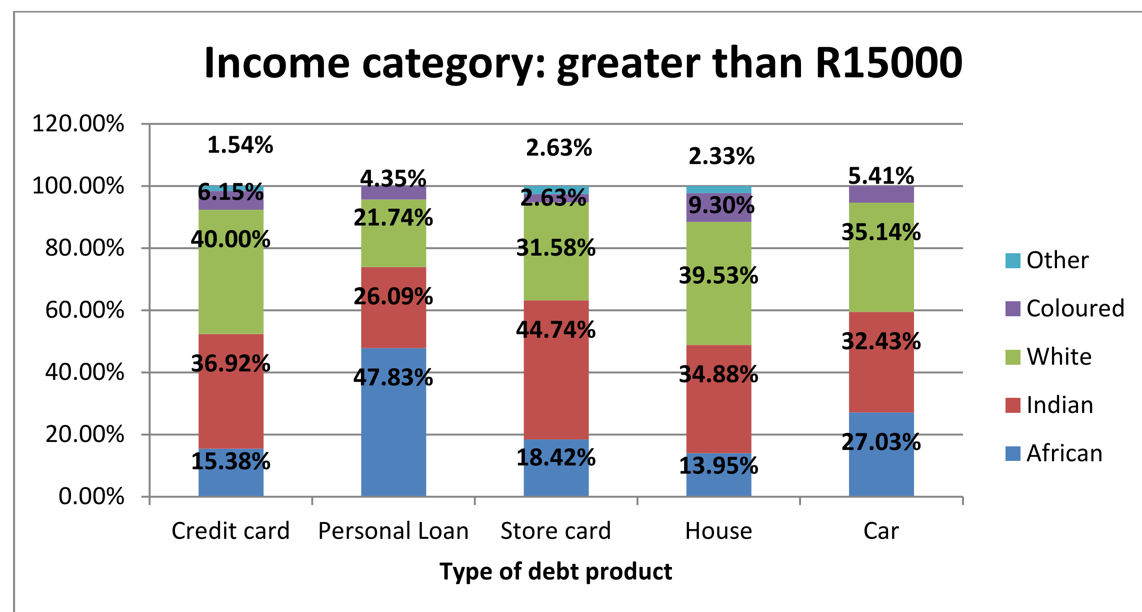


Figure 19 above reveals that Indians dominate all categories of debt in the R10001 to R15000 income category.

Figure 20: Income category: greater than R15000



In the greater than R15000 category of income, Figure 20 above indicates that across all classes of debt, all races namely Africans, Indians, Whites and Coloureds share a fair portion.

5.2.7 Unsolicited communication

Unsolicited communication refers to emails, smses and calls received by respondents inviting the respondent to take up a pre-approved loan. According to the National Credit Act, this type of action is illegal, yet from the number of responses below, it can be gathered that this action is still practiced.

Figure 21: Number of total respondents receiving unsolicited pre-approved loans

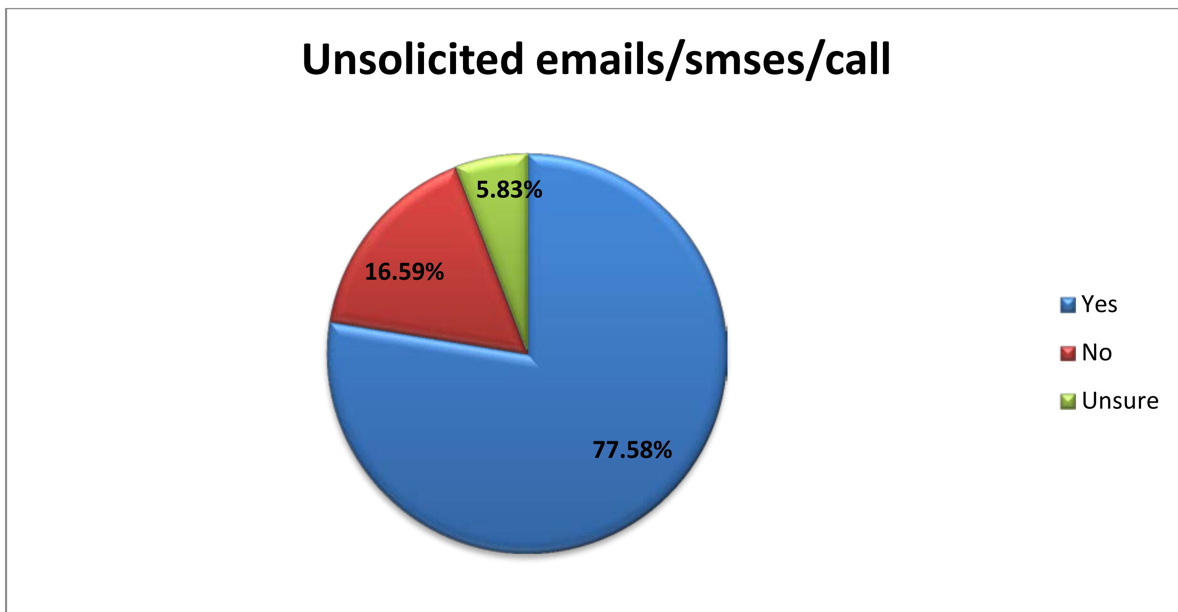


Figure 21 shows a large portion (77.58%) of total respondents received unsolicited communication via emails, smses or calls.

Chapter 6: Conclusion

The National Credit Act 34 of 2005 was adopted by the South African government on 1 June 2006. The Act's main objective was to level the playing field amongst consumers and credit providers. It therefore regulates the credit industry by imposing regulations which credit providers have to abide by. The NCA introduced a framework within which credit providers need to operate with regards to how consumers must be treated, fees and maximum interest rates imposed and to prevent reckless lending. The act also introduced the concept of debt counsellors, who came into existence with the sole purpose of assisting over-indebted consumers.

This study investigates the adherence by banks, in particular, to the NCA, specifically concerning its effect on domestic indebtedness and fragility. The research is especially concerned with the growth of unsecured lending in South Africa and whether the NCA inadvertently fuelled this growth with the regulations it imposed on banks, who are the largest credit providers and who have the largest disbursements of unsecured loans in South Africa. The research is also concerned with consumer over-indebtedness and the role banks played in this subject. All stakeholders, including the South African government, regulators, credit providers and consumers have been impacted by the growth in unsecured lending. The insight provided in this research should be of particular importance to regulators and governmental organisations, which could use the findings of the study to prevent or circumvent future potential predicaments of this nature. This chapter provides the conclusion to the research report, including a summary of the major findings from the data gathering instruments and review approaches used to examine the research issues and suggestions for further research.

6.1 Summary of findings

6.1.1 Interview summary

Question	Summary of answers
1. In your opinion what was the main driver in the increase of unsecured loans in South Africa?	From a supply perspective, all respondents concluded that the main driver of the increase in growth in unsecured debt in South Africa was the ability for credit providers, under the enforcement of the NCA, to price unsecured loans at much higher margins than other credit products and to provide higher loan amounts over longer terms. This made unsecured credit a more profitable product than other forms of credit. From a demand perspective, consumers were also a driver in unsecured credit since they had a need to supplement disposable income. These loans were used for consumption purposes and for the lower income consumers who did not fit the profile to afford assets, were used to purchases cars or houses. The resultant was that the growth in unsecured loans in South Africa was due to both a supply-push by credit providers and demand-pull by consumer.
2. Do you think there is the risk of a credit bubble in South Africa due to the unprecedented growth in unsecured loans? Explain why?	The majority of banks and investment companies concurred that there was no risk of a credit bubble however there was a need to exercise caution due to the growth in unsecured loans observed. The NCR also expressed concern over the number of credit profiles of consumers showing impaired records but the NCR's official position is on market conduct and not systemic risk. Although there is minimal concern around a credit bubble developing the respondents all agreed that more caution should be taken by both credit providers and consumers. If the trend

	persistently continues and more consumers reported with impaired records, the likelihood of a bubble emerging is eminent.
3. Specifically referring to banks, in South Africa, do you think that adequate credit qualifications are being performed prior to lending to consumers?	All respondents agreed that banks perform adequate credit ratings on consumers applying for loans. Due to the systems in place (internal score cards and credit bureau reports) banks can almost accurately profile a consumer, provided that the consumers is honest in his/her disclosure. The researcher was able to conclude that banks do perform adequate credit scoring prior to granting a loan.
4. What are your initiatives in terms of consumer education specifically referring to over-indebtedness?	Banks have various tools in place for consumer education initiatives, although some are more advanced tools than others. The NCR also has various educational initiatives centered on over-indebtedness. The consumer is able to get information from various sources on credit and over-indebtedness but it's the consumer who needs to want to change their lifestyle in order to not become over-indebted.
5. In your opinion, has the National Credit Act assisted or hindered lending in South Africa? Explain why?	All respondents concurred that the NCA has assisted lending in South Africa. The NCA's main objective is to make credit accessible the many unbanked South Africans, which, according to the total credit disbursed (as per the CCMR statistics), it has.
6. As a consumer and official of your organisation, would you say that the National Credit Act has provided adequate protection against reckless lending? Explain how?	Both respondents to this question agreed that the NCA did provide adequate protection to the consumer against reckless lending practices, but due to loopholes in the Act, there were ways to circumvent this. The National Credit Amendment Act 19 of 2014 therefore offered further regulations to assist in curbing reckless lending and provide more stringent laws which credit providers need to abide by.
7. In your opinion, how can the National Credit Act be more effective in curbing reckless lending practices in South Africa?	The respondents to this question agreed on the following ways that the NCA could be more effective in curbing reckless lending practices: • Introduction and strict regulation and enforcement of the National Credit Amendment Act and, • Regulation of smaller credit providers who tended to be more reckless in lending than banks. Respondents also suggested that the NCR lower maximum interest rates and fees applicable to credit agreements, particularly unsecured debt. This will ensure lenders are stricter in lending.
8. What measures do you have in place for your protection against non-payment by consumers?	This question was only applicable to banks that had various instruments in place to protect against non-payment by consumers. The result also included credit life insurance, which banks made compulsory to consumers who applied for unsecured loans.

6.1.2 Questionnaire summary

The questionnaire comprised of 3 sections namely demographic information, knowledge of the NCA and respondents loan information and behaviour.

Section A of the questionnaire shows that the sample represented a satisfactory number of respondents from each age category, gender, ethnic group and income category. Due to timing

constraints experienced, the geographic locations were restricted to respondents from the two largest provinces in South Africa namely, Gauteng and Kwa-zulu Natal; although a minority (2%) did indicate other provinces as their geographic location. Statistics South Africa (2011) stated that Gauteng is the most densely populated province in South Africa, with 12.2 million people, and Kwa-zulu Natal is the second most densely populated province with 10.2 million people. The researcher maintains that this sample therefore provides a representative set of inferences about the general South African consumer.

Section B provided 10 test statements on the NCA. Respondents had to choose either strongly agree, agree, neither, disagree or strongly disagree to each test statement. The results of this section show that more than 50% of all respondents either strongly agreed or agreed to test statements two to ten. Each test statement referred to the respondents' knowledge of the NCA. The results of test statements two to ten demonstrates that 1 out of every 2 consumers is fairly knowledgeable on the NCA, over-indebtedness, finance costs, debt counselling and credit bureau information. The perception from these test statements is that most consumers are conversant on credit matters.

Test statement 1 was the only test statement that resulted in equally divergent views. The test statement specifically referred to the NCA being explained to a consumer by a credit provider prior to a loan being granted. These divergent views led the researcher to conclude that in some instances credit providers do explain the NCA to the consumer and in other instances, the Act is not explained.

Test statements 2, 3 and 6 of section B of the questionnaire focused on the respondent's knowledge of the NCA. Test statement 6 showed more than 70% of respondents either strongly agreeing or agreeing to the test statement, while test statements 2 and 3 have just over 50% of respondents either strongly agreeing or agreeing. The perception is that there still exists a large population of consumers who are not fully conversant of the principles of the NCA.

Test statements 4 and 5 refer to the concept of over-indebtedness and debt counselling, respectively. Both test statements received more than 70% of respondents either strongly agreeing or agreeing to it. This was perceived as an encouraging response and showed that the majority of South Africans are aware of these concepts.

Test statements 7 and 9 focuses on the respondents' knowledge of finance costs associated with credit agreements. Test statement 7 refers to a personal loan costing more than vehicle finance, of which 68% of respondents either strongly agreed or agreed to the test statement. Although a large portion of respondents strongly agreed and/or agreed to the test statement, 14% either strongly disagreed or disagreed to the statement. This demonstrated that a small minority was still unaware of the true cost of an unsecured loan. Test statement 9 referred to the ability of a consumer to shop around for better interest rates. The majority of the sample either strongly agreed or agreed to the test statement, reinforcing that consumers are knowledgeable about credit matters, although in some instances, only certain information.

Test statement 8 referred to credit life insurance, which is a very contentious topic in the credit market, particularly the unsecured credit market. According to the NCA, credit life insurance is not a compulsory product to be sold when obtaining a personal loan, yet both the interview results and questionnaire results contradict this. The results showed that only 22% and 20%, respectively, strongly disagreed and/or disagreed or were neutral to the test statement. This led to the conclusion

that a large portion of the sample, and by inference, South African consumers, was misled into believing that credit life insurance was a compulsory condition when applying or being granted a personal loan. This conclusion, coupled with the banks interviewed who stated that they insisted on credit life insurance, showed that the Act was been manipulated according to internal bank policies and not regulations. Banks made credit life insurance a condition for granting credit, which assisted in not only reducing risks associated with personal loans but also bulking up profits from the product for banks.

Test statement 10 refers to a credit bureau. Majority of respondents (91%) either strongly agreed and/or agreed to the test statement. This is consistent with literature which describes most consumers as being aware of the consequences when listed on a credit bureau. The results also prove that consumer efforts by the NCR and debt counsellors are successful.

Section C of the questionnaire was intended to elicit specific debt information from respondents. The results are categorised according to income categories, usages of debt, gender groups and ethnic groups. From the results found, various conclusions can be drawn and inferences made about the South African credit consumer.

Firstly the results found that more than 70% of loans were issued to respondents who earned income of more than R10000 per month. This result has two sides that are applicable. In one instance this could be the case because from sample consisted of more respondents who earned over R10000 than under R10000 income per month, or from the under R10000 income category, the respondents did not own debt. In the other instance, if the inference is made to the South African consumer, it would be justified to deduce that higher income earners are the income group being targeted and approved loans by credit providers. Lower income earners are not granted credit due to affordability or due to credit providers focusing on higher income earners to their exclusion from consideration.

Another deduction that can be made from the results is that the majority of respondents pay credit card, personal loan and store card debt on time and either pay the minimum or more than the minimum instalment due. The majority of respondents who do tend to miss an instalment in any one of the debt categories listed above, earn below R10000 income per month. This result can be perceived as lower income categories being over-indebted and not having sufficient income to support the levels of debt.

The results also indicated that lower income earners have categorically higher personal loan debt that is not in proportion to their levels of income earned. Credit card and store card debt can be largely justified to levels of income in this category. These results can be two fold, where firstly credit providers could have used joint income from a household to extend personal loan debt to an individual, or a more reasonable explanation is that credit providers were not accurately assessing personal loan applications or consumers were dishonest in their disclosures which resulted in higher loan amounts, probably over longer terms, to be granted.

When income categories are compared in conjunction with uses of credit cards, it was found that respondents who earned less than R10000 per month used credit cards for essential purchases, that is in lieu of cash and those respondents who earned in the excess of R10000 per month used credit cards for necessary purchases, luxury purchases as well as for essentials. Personal loan debt uses are

distributed differently among the income groups yet concentrate around three main uses namely, paying for expenses where there is a shortfall in cash, home improvements and debt consolidation. The lowest income category validates literature reviewed on the subject who referred to personal loans being used dominantly to supplement shortfalls in income and to consolidate debt. The result also allows the researcher to conclude that consumers do use personal loan debt for consumption purposes, as confirmed by various sources of literature.

6.2 Key takeaways

This study's aim was to investigate the role the NCA has played in the creation of an unsecured lending bubble in South Africa. In addition to this objective, the study aimed to find the key drivers of unsecured credit, the reason for unsecured credit being the preferred product offered by banks, and whether adequate credit assessments were conducted by banks prior to lending to consumers.

From the literature reviewed and the instruments utilised to obtain information, a few key findings were discovered. One of the major drivers in the unsecured loan debt market was the maximum interest rates allowed under the NCA. This permitted banks to price at higher margins thereby achieving higher levels of profits than if other types of credit were granted. Another key driver to unsecured lending in South Africa was the need by consumers to supplement income. These two drivers, acting in unison, drove the unsecured credit book to unprecedented levels and received local and international attention. Although literature and interviews did confirm that there was no concern of a credit bubble bursting, both sources did confirm the need to exercise caution by both credit providers and consumers.

From an affordability assessments' perspective, although conclusions corroborate that banks perform adequate credit assessments on consumers prior to lending, the sample respondents under the R10000 income categories showed unjustifiable debt levels. This could mean that loans were obtained from sources other than the banks interviewed or that credit assessments allowed high value loans to consumers with insufficient levels of income, due to other factors taken into consideration.

There is a strong perception that the NCA has been beneficial in the credit industry. It has allowed access to credit by many South Africans who previously did not have access to the credit market, and thereby assist in enhancing the lives of these South Africans. Finally the study was also able to highlight weaknesses in the Act, which has already largely been addressed in the National Credit Amendment Act, although not entirely. The credit life insurance subject is still controversial and has not been adequately addressed by the Act. In addition to this, the debt review process in SA needs review and alignment in order for it to work as it was intended, especially with the growing number of credit records becoming adverse. This concept is important for future consumer credit health and wellbeing.

6.3 Recommendations for further studies

The findings of this research paper suggest that there are opportunities within the context of the NCA to conduct further research that may be beneficial to interested parties. Although the NCA has been in existence for a few years, there are important loopholes that can be addressed via further

research. The National Credit Amendment Act 19 of 2014 does bring forward significant improvement but continuous research will help ensure continual efficiency and effectiveness.

This research was based on the four big banks in South Africa, namely Absa Bank, First National Bank, Nedbank and Standard Bank. An opportunity exists to utilise data of all credit providers within the credit industry in order to ascertain the impact other credit providers have on the credit industry. Not all credit providers within SA are registered with the NCR. The introduction of the total number of credit providers should provide more insight in terms of credit assessment policies, reckless lending practices and additional disbursements, which is currently unavailable.

Since most consumers are not aware, off hand, of the rates of interest they pay on debt, a further study should compare the interest rates paid on secured and unsecured debt segregated by income categories, age groups, genders, ethnic groups and geographic locations. This examination could possibly supply information on the basis utilised by credit providers to ascertain interest rates applicable to consumers and whether these interest rates are solely obtained using risk based pricing methodology or whether there are other factors that play a role in pricing of credit agreements.

A particularly impactful study would be to investigate the impact of a decrease in the maximum interest rates and fees imposed by the NCA. The investigation could measure the impact a decrease would have on the South African credit industry, specifically with regards to access to credit. The challenge that would be faced by the South African government would be to, while reducing interest rates and fees applicable to loans, still allow the credit market to remain accessible by making it profitable to credit providers to extend credit. The trade-off will be noteworthy.

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Appendix 1: Purposes of the National Credit Act 34 of 2005

The purposes of the National Credit Act (2005)

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 practises;
- 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 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 African, 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 obligation;
h) Providing for 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.

Appendix 2: Credit Industry Code of Conduct to Combat Over-indebtedness in terms of section 48 (1) (b) of the National Credit Act (NCA)

1. Preamble

1.1 The Code to combat over-indebtedness contains valuable provisions aimed at (a) preventing over-indebtedness and (b) measures for consumers who are experiencing financial difficulties due to over-indebtedness and are entitled to enter the statutory debt counselling process under the NCA.

1.2 As a credit provider, we hereby subscribe to this code. We recognise that while the majority of our consumers incur debt in a responsible and sustainable manner, a certain number of consumers may from time to time experience financial difficulties resulting in over-indebtedness.

1.3 We undertake to implement a range of measures to ensure that we comply with the provisions of the NCA in respect of applications for credit and the statutory debt review in other that (a) consumers cannot afford credit are not granted credit and (b) debt review cases are expeditiously resolved.

1.4 We recognise that consumers should not be provided with credit unless they are able to afford the credit for which they have applied. We recognise that where possible, over-indebted consumers should preferably obtain relief through consensual arrangements with their credit providers matched by reciprocal commitments from their side with the aim to allow them to recover from their financial difficulties. The achievement of both of these aims constitutes the primary objectives in this Code.

2. Our commitments

2.1. To prevent over-indebtedness:

We will:

2.1.1. Lend responsibly to our consumers to avoid over-indebtedness from occurring where possible, subject to the consumer's comprehensive and truthful participation in the application process

2.1.2. Take all internal consumer credit performance information as well as all the information available on credit bureaus into consideration when granting credit to consumers.

2.1.3. Diligently and accurately report to the credit bureaus and, once established, the National Register of Credit Agreements envisaged in section 69 of the NCA in the prescribed manner and form.

2.1.4. Conduct an affordability assessment on each credit application or extension thereof.

2.1.5 Ensure that affordability assessments consider all the financial means and obligations of the consumers and shall collaborate with registered credit bureaux to ensure that additional datasets are made available to credit bureaux for use by credit providers in affordability assessments.

2.1.6. Take into consideration the affordability assessment guidelines issued by the NCR from time to time when conducting affordability assessments.

2.2 To maintain relationships with other stakeholders in the statutory debt review process

We will:

2.2.1. Support and co-operate fully with the NCR, debt counsellors and payment distribution agencies to facilitate agreement and co-operation amongst the respective stakeholders.

2.2.2. Make every effort in good faith to engage with debt counsellors and payment distribution agencies in order to resolve operational difficulties that may occur in implementing this Code.

2.2.3. Act co-operatively, fairly and reasonably in liaising with a consumer and a debt counsellor representing the consumer in the debt review process.

2.3 To establish and implement internal policies and resources

We will:

2.3.1. Ensure that the necessary measures are put in place in our businesses to facilitate the implementation of our commitments under this Code, including:

- 2.3.1.1. Having in place clear internal policies and procedures regarding the treatment of debt review applications;
- 2.3.1.2. Having a single appropriate mandated point of contact in our business with adequate resources to deal with all such matters;
- 2.3.1.3. Ensuring that the policies and procedures our lawyers must follow reflect our commitments set out in this Code;
- 2.3.1.4. Ensuring that our employees and representatives adhere to our commitments set out in this Code.

2.3.2. Diligently implement all the terms and consequential payment arrangement adjustments of any debt restructuring agreements to relieve over-indebtedness reached in the statutory debt counselling process where the debt counsellor has complied with all relevant legal and regulatory requirements.

2.3.3. Ensure that our employees are aware of procedures for handling complaints and disputes and the debt counselling processes to resolve financial distress due to over-indebtedness.

2.3.4. Not terminate debt review proceedings or resort to litigation in respect of the affected credit agreements whilst consumers acting in good faith, have lodged complaints with the NCR.

2.4. To establish and implement complaint and dispute resolution policies and procedures

We will:

2.4.1. Have internal policies and procedures to resolve consumer complaints and disputes in accordance with the NCA.

2.4.2. If a consumer or debt counsellor (on behalf of the consumer) lodges a complaint, we will endeavour to resolve the complaint ourselves. If they are not satisfied with the outcome, we will advise them to refer the complaint to the NCR.

2.5. To create and support consumer awareness and education initiatives

We will:

2.5.1. Make available through our websites, branch offices and periodically with statements to our consumers, educational material to:

- 2.5.1.1. Improve our consumers' ability to manage their finances;
- 2.5.1.2. Assist our consumers to avoid over-indebtedness;
- 2.5.1.3. Warm them about the negative consequences of taking on too much credit;
- 2.5.1.4. Inform them about their right to apply for debt counselling when they appear to be over-indebted;
- 2.5.1.5. Support national and/or joint industry initiatives, as well as initiatives by independent or non-profit organisations aimed at promoting consumer education and financial literacy;
- 2.5.1.6. Periodically engage independent researchers to measure the levels of consumer awareness in respect of the matters referred to in this section.

2.6 Reporting

We will report annually to the NCR on:

2.6.1 The initiatives that we have undertaken and supported as well as the resources allocated to promote consumer awareness and education.

2.6.2 Statistical information on:

2.6.2.1. The number of debt re-arrangement proposals received;

2.6.2.2. The number of proposals accepted and rejected respectively, broken down according to type of credit transaction involved;

2.6.2.3. The number of debt reviews terminated and the reasons for the termination;

2.6.2.4. The number of debt review orders rescinded and the reasons for the rescission.

2.6.3. Our progress in regard to carrying out our obligations under this Code.

3. Monitoring and compliance

3.1. The NCR will monitor the implementation of and compliance with the Code.

4. Review of the Code

4.1 The NCR will review this Code as and when it considers it appropriate to do so.

5. Date of Commencement

5.1 This code shall come into effect on the 1st May 2013 and replaces the current code.

6. Definitions

In this code, the following expressions have the following meanings:

"code" means this Credit Provider's Code of Conduct to combat over-indebtedness.

"Consumer" has the meaning given to it in section 1 of the NCA.

"Credit Provider" means a registered Credit Provider as defined in section 1 of the NCA.

"NCA" means the National Credit Act 34 of 2005.

"NCR" means the National Credit Regulator as established in terms of the NCA.

Appendix 3: Interview questions

1. In your opinion what was the main driver in the increase of unsecured loans in South Africa?
2. Do you think that there is the risk of a credit bubble in South Africa due to the unprecedented growth in unsecured loans? Explain why?
3. Specifically referring to banks in South Africa, do you think that adequate credit qualifications are being performed prior to lending to consumers?
4. What are your initiatives in terms of consumer education specifically referring to over indebtedness?
5. In your opinion, has the National Credit Act assisted or hindered lending in South Africa? Explain why?
6. As a consumer and official of your organisation, would you say that the national credit act has provided adequate protection against reckless lending? Explain how?
7. In your opinion how can the National Credit Act be more effective in curbing reckless lending practices in South Africa?
8. What measures do you have in place for your protection against non-payment by consumers?

Appendix 4: Copy of questionnaire

Dear Participant,

My name is Virushka Kanniah and I am a master's student at Wits Business School. For completion of my qualification, I am required to submit a thesis comprising of a relevant topic in finance. For my research component I am examining the adherence by the banks in South Africa to the National Credit Act 34 of 2005 (NCA) and the National Credit Act Amendment Bill gazetted 29 May 2013, specifically aimed at examining the levels of unsecured debt in South Africa. As a fellow South African, I am inviting you to participate in this research study by completing the attached questionnaire.

The questionnaire will take approximately 10 minutes to complete. There is no compensation for responding to this questionnaire, but your response will be greatly appreciated. In order to ensure that all information remains confidential, please do not include your name. If you choose to participate in this questionnaire, please answer all questions as honestly as possible and return the document no later than 31 October 2014. Participation in this survey is completely voluntary.

Thank you for taking the time to assist me in my educational endeavours.

Sincerely,

Virushka Kanniah

Tel: 0837803324

Email: virushka.kanniah@gmail.com

Questionnaire

Participant number: _________________________(for office use only)

A. **Demographic information**

1. What is your age? Please Circle

≤24 years	1
25 – 29 years	2
30 – 39 years	3
40 – 49 years	4
≥ 50 years	5

2. Where do you live? Please circle

Gauteng	1
Kwazulu-Natal	2
Western Cape	3
Eastern Cape	4
Northern Cape	5
Mpumalanga	6
Free State	7
North West	8
Limpopo	9

3. What is your gender? Please circle

Male	1
Female	2

4. What is your ethnic group? Please circle

African	1
Indian	2
White	3
Coloured	4
Other	5

5. Approximately how much to you earn every month? Please circle

Please note this refers to take home pay (i.e. after taxes, pension etc)

≤R5000	1
R5001 – R10000	2
R10001 – R15000	3
>R15000	4

B. National Credit Act (NCA)

Please circle the most appropriate statement with 1 being strongly agree and 5 being strongly disagree.

		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
1.	The NCA was explained to me when I took out any product at a bank or retailer.	1	2	3	4	5
2.	I understand my rights as a consumer under the NCA.	1	2	3	4	5
3.	I know who to contact should a bank or retailer not act in a fair manner.	1	2	3	4	5
4.	I understand the term "over-indebted" and the consequences it has on me.	1	2	3	4	5
5.	I understand that I am able to use the services of a debt counsellor should I not be able to pay back my debt owed to a bank or retailer.	1	2	3	4	5
6.	I know the NCA was created to protect me, the consumer, from unfair and illegal practices by banks and retailers.	1	2	3	4	5
7.	I know that a personal loan costs me more than vehicle finance.	1	2	3	4	5
8.	I know that credit life insurance is not compulsory for a personal loan.	1	2	3	4	5
9.	I know that I can shop around for better interest rates.	1	2	3	4	5
10.	I know that if I cannot pay back my loan, I will be listed on a credit bureau	1	2	3	4	5

C. Personal Debt Information

1. How many credit cards do you own? Please circle

0	1
1-2	2
>2	3

2. What is your total amount of credit card debt? Please circle

R0	1
R1 – R5000	2
R5001 – R10000	3
R10001 – R20000	4
>R20000	5

3. What do you use your credit card for? Please circle

I do not own a credit card	1
I use it to buy essential items like food, petrol etc	2
I only use it when necessary like making internet purchases, air ticket purchases etc	3
I use it to buy luxury items like brand named clothes, computer equipment etc	4

4. Approximately how much is your monthly credit card instalment? Please circle

R0	1
R1 – R1000	2
>R1000	3

5. How many personal loans do you have? Please circle

0	1
1-2	2
>2	3

6. What is the total amount of your personal loan(s)? Please circle

R0	1
R1 – R10000	2
R10001 – R20000	3
R20001 – R50000	4
R50001 – R100000	5
>R100000	6

7. What did you use your personal loan(s) for? Please circle

I do not have a personal loan	1
I used my personal loan to help me to pay expenses when I did not have enough cash to pay	2
I used my personal loan to make improvements on my home (building improvements and general caretaking of home)	3
I used my personal loan to buy a car	4
I used my personal loan to consolidate all my debt in order to pay one monthly instalment	5
I used my personal loan to pay for the deposit on my house	6

8. Approximately how much is your personal loan monthly instalment? Please circle

R0	1
R1 – R1000	2
R1001 – R5000	3
>R5000	6

9. How many store cards do you own (e.g. Edgars, Truworths, etc)? Please circle

0	1
1-2	2
>2	3

10. What is the total amount of store card debt that you have? Please circle

R0	1
R1 – R5000	2
R5001 – R10000	3
>R10000	4

11. Approximately how much is your monthly store card instalment? Please circle

R0	1
R1 – R500	2
R501 – R1000	3
>R1000	4

12. Do you own a house? Please circle

No	1
Yes, still paying for it	2
Yes, fully paid for	3

13. Do you own a car? Please circle

No	1
Yes, still paying for it	2
Yes, fully paid for	3

14. What is the total amount of your car and mortgage debt? Please circle

R0	1
R1 – R500000	2
R500001 – R1500000	3
>R1500000	4

15. What is the total monthly instalment on your car and mortgage debt? Please circle

R0	1
R1 – R5000	2
R5001 – R15000	3
>R15000	4

16. Which payment option do you choose to pay your credit card debt Please circle

I do not own a credit card	1
I pay the full outstanding balance due every month	2
I pay the minimum monthly payment due every month	3
I pay as much as I can pay every month	4
I pay whenever I can, sometimes missing a months due instalment	5

17. Which payment option do you choose to pay your personal loan Please circle

I do not have a personal loan	1
I pay more than the minimum monthly payment due every month	2
I pay the minimum monthly payment due every month	3
I pay whenever I can, sometimes missing a months due instalment	4

18. Which payment option do you chose to pay your store card debt? Please circle

I do not have a store card	1
I pay more than the minimum monthly payment due every month	2
I pay the minimum monthly payment due every month	3
I pay whenever I can, sometimes missing a months due instalment	4

19. Do you ever receive emails/sms's/phone calls giving you a "pre-approved" loan? Please circle

Yes	1
No	2
Unsure	3

Appendix 5: Tabulated results of responses to questionnaire by distinct grouping

Table 1: Number of respondents by gender

Gender	Number	Percentage
Female	135	61%
Male	88	39%
Total	223	100%

Table 2: Number of respondents by geographic location

Region	Number	Percentage
Gauteng	136	61%
Kwazulu Natal	82	37%
Western cape	0	0%
Eastern Cape	2	1%
Northern Cape	0	0%
Mpumalanga	0	0%
Free State	2	1%
North West	0	0%
Limpopo	1	0%
Total	223	100%

Table 3: Number of respondents by ethnic group

Ethnic Group	Number	Percentage
African	78	35%
Indian	73	33%
White	56	25%
Coloured	14	6%
Other	2	1%
Total	223	100%

Table 4: Number of respondents by age

Respondents by age category		
Category	Number	Percentage
≤ 24 years	30	13%
25-29 years	40	18%
30-39 years	85	38%
40-49 years	46	21%
≥ 50 years	22	10%
Total	223	100%

Table 5: Number of respondents by income category

Income category	Number	Percentage
≤ R5000	44	20%
R5001 - R10000	38	17%
R10001 - R15000	66	30%
>R15000	75	34%
Total	223	100%