

The National Credit Act

Limiting access to finance or protecting low income consumers?

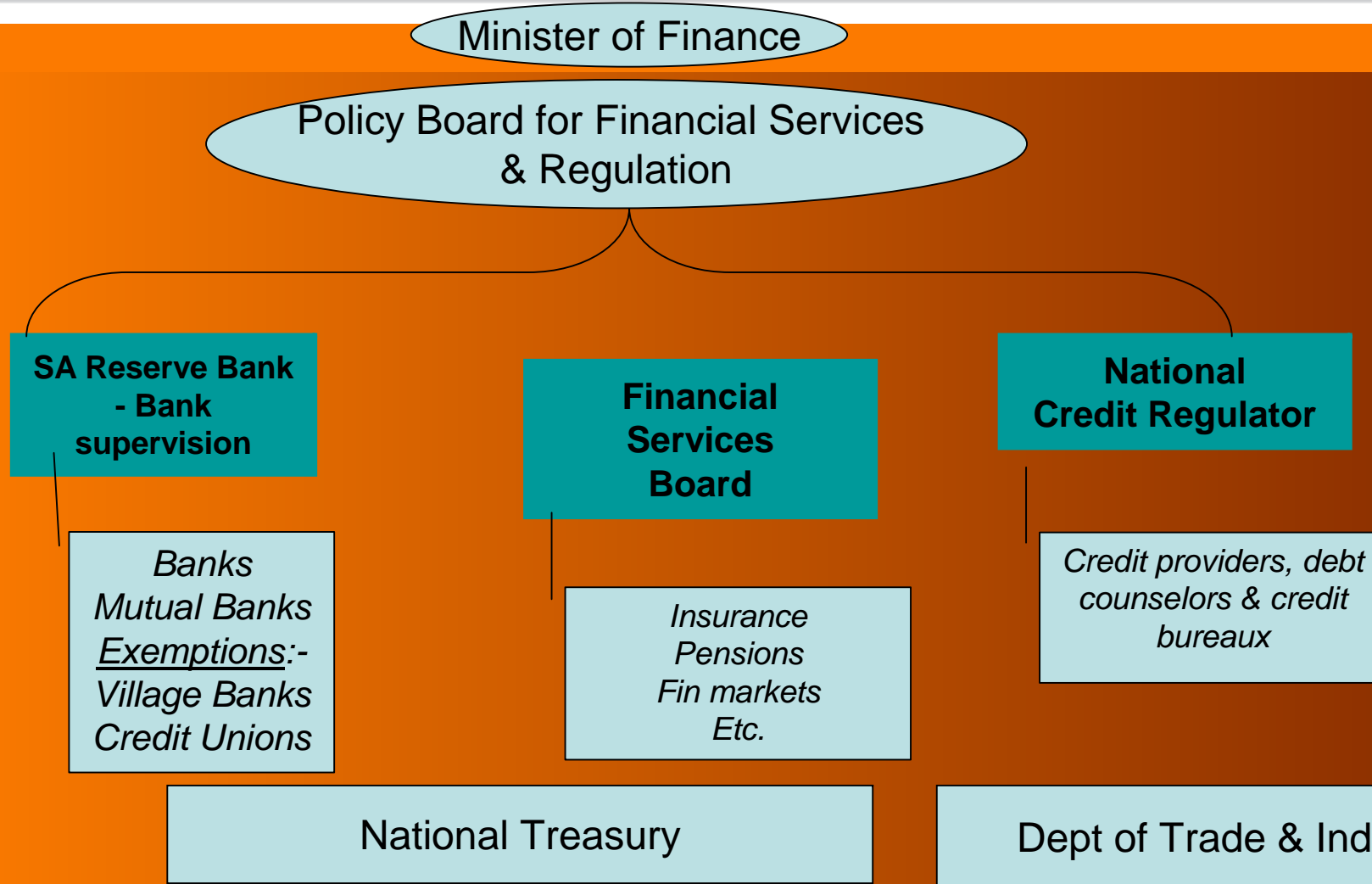
NCR

National Credit Regulator



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SA Regulatory Structure



Theoretical & conceptual framework(s)

OECD Approaches
EU / US

World Bank
|
CGAP

Regulatory prerequisites
... for efficient financial markets,
... for addressing market failures
Also efficiency in allocation of resources
... nuanced, reflective of profile &
dynamics of different countries

De-regulation
Little attention to market conduct
No regulation of interest rates
Standard recipes
Private sector dominated
No role for public sector
Special micro-finance programmes

Cruickshank – UK
Wallis – US
... SA benchmark

“Don’t Rush to Regulate”
“Interest Rate Ceilings &
Micro-finance”

NCR View: allow evolution, expanded services

- ***Regulatory & legislative reform, infrastructure, institutional development***
 - ***“... in order for an efficient, competitive, market to develop,***
 - ***“... integration of formal and informal financial sectors ...”***
 - ***“... equivalent treatment of different institutions, products”***
 - ***“... in which individuals and SMMEs can access financial services at the lowest possible cost***
- “... from a diverse range of profit & non-profit financial service providers ...”***

1. *Protect the incomes of the working poor*

Protect incomes by curbing overselling & undesirable credit market practices

- How ?
 - Marketing & sales limitations
 - Reckless lending limitations
 - Over-indebtedness & debt counseling → rehabilitation
 - Disclosure, interest rate regulation ...

2. *Level playing fields*

Level fields → more competition → better prices ... → new providers entering market

- How ?
 - Preferences in payment systems illegal
 - Equal access to payment systems
 - Contractual preferences outlawed (90(2)m)
 - Common law right of set-off curbed (90(2)n & 124)
 - Monitoring of competitive behaviour & refer to Competition Commission

3. *Curtail reckless operators*

Reckless operators increase risk for everyone else, particularly if they have the ability to stand in front of the cue, by

- Increasing cost for providers & consumers*
- Curb provision of longer term, larger and cheaper products*

- How curbed ?

- Reckless lending rules*
- Obligation on magistrates at debt enforcement*
- Measures to combat preferences*

4. *Standardised & simplified disclosure*

Disclosure → show real cost of credit → use credit cautiously → able to compare products

- How ?
 - Prescribed quote for all agreement, binding 5 days
 - Pre-agreement disclosure, prescribed for small agreements
 - Insurance not capitalised
 - Plain language, official languages ...

5. *Mechanisms for rehabilitation*

Prevent spiral of increasing number of desperate borrowers, with every incentive to defraud system ... & destruction of family incomes

- How ?
 - Over-indebtedness & debt counseling provisions
 - Debt restructuring provisions
 - Debt counselors
 - Notice to consumers prior to enforcement

6. *Interest rates and fees*

Current approach fragmented market, penalised small transactions & low income clients;

... → discourages credit providers from providing small transactions ... → abusive pricing practices ... → debt traps

- New approach:-
 - Move away from exempted / non-exempted split
 - Separate interest from initiation & other fees
 - Standardise administration fees
 - Link interest to repo rate
 - Disincentive for roll-overs & for over-loading debt stressed individuals
 - Outlaw capitalisation of single premium insurance

7. *Business finance*

Create more flexible conditions for provision of business finance

- How ?
 - Large legal entities exempted altogether
 - Large transactions of SMEs also exempted
 - All juristic persons exempted from certain sections (reckless lending + interest rate control)
 - But, owner businesses treated as personal finance

8. *Development Credit*

Avoided the consumer protection measures from curtailing developmental finance (including small business finance)

- How ?
 - Defined as the primary purpose of the Act
 - Regulator has specific task to promote & support development of accessible credit market
 - Many sections create the ability for either Minister to create special conditions (through regulation),
 - Or Regulator to approve special procedures
 - Commercial lenders can also register for development credit

9. *Improve credit information system*

To improve quality & extent of information,

→ improve ability to assess risk & differentiate between low & high risk clients

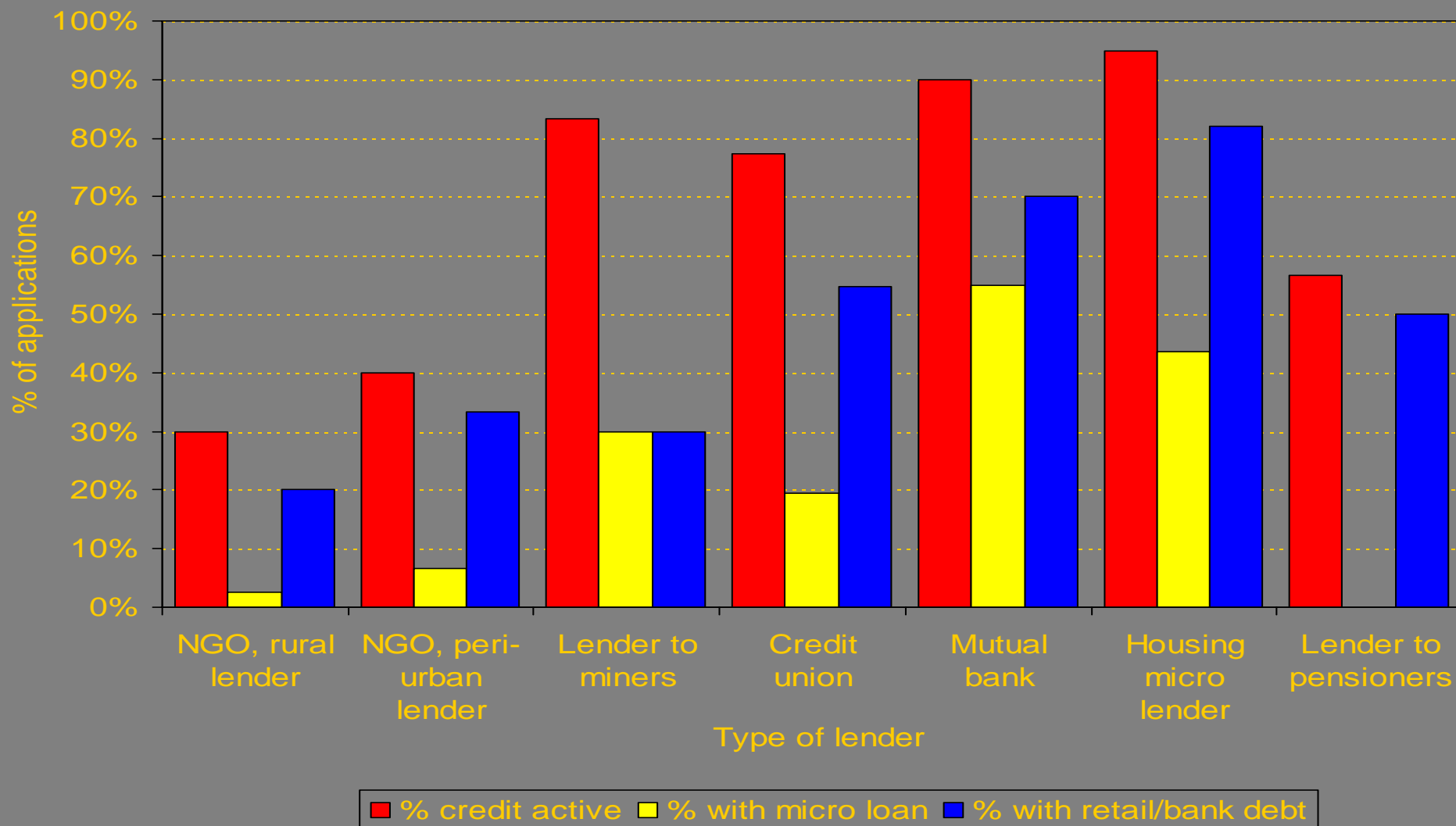
- How ?
 - Bureaus regulated
 - Legal responsibility for data quality
 - Regulate categories of data
 - Credit Register, to increase scope of data

Credit through banking & non-banking sectors

R billions	2002			2006		
	Banking Sector	Non-Banking Sector	Total by Category	Banking Sector	Non-Banking Sector	Total by Category
Mortgage Advances	192.13	7.00	199.13	463.25	44.56	507.81
Overdrafts & Other Advances	50.13	2.50	52.63	74.14	5.89	80.08
Leasing Finance	11.04	0	11.04	38.63	0	38.63
Installment Sales	41.37	13.80	55.17	81.79	65.89	147.68
Credit Cards	13.11	5.88	18.99	39.79	16.38	56.17
Micro-Loans		7.31	7.31		8.45	8.45
Insurers					4.20	4.20
Unregistered		0.90	0.90		1.30	1.30
Total	307.78	37.39	345.17	697.59	146.67	844.27

Credit here, credit there, credit everywhere...

CREDIT ACTIVITY OF BORROWERS PER INSTITUTION



Thank You

Website

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The dynamics of SA credit market

- 14 million people have a credit record = covers economically active population
- Every credit active person has 3-4 accounts listed on a credit bureau
- 2.7 in 10 people have some adverse / judgement classification
- Thus majority have positive credit records from which they can leverage credit
- Approx 50% of woman have credit records

Conclusion

- No doubt that Act will drastically affect the manner in which many aspects of credit market is operating
- Current position not sustainable, and
 - Extreme damage to consumers
 - Undesirable credit provider practices
- Which undesirable practices ?
 - ... credit life insurance; preferences; garnishees; blacklisting; negative option selling; misleading disclosure; extreme interest rates; extreme over-indebtedness; no possibility for rehabilitation; admin orders; inflated debt collection; arbitrage between cash & credit prices; payroll practices ...*

***But note stage of development of SA credit market
This law may not be appropriate for less developed markets***