

## **Regulator will ensure National Credit Act promotes fair access to credit**

Concerns have been expressed that the National Credit Act (NCA) — which has been gradually enacted since 1 June 2006 and will come into full effect on 1 June 2007 — will hamper economic growth and housing development in unintended ways.

Some housing developers fear that financial institutions will be setting unreasonably strict requirements for applicants to qualify for project finance, while others worry that the checking of the credit exposure of future borrowers required by the Act will be a protracted process that will slow down home-loan approvals, resulting in lost sales.

In response to these concerns, the National Credit Regulator (NCR), which was established by the NCA in June last year, gave the assurance that countering concerns through educating the credit applicants about their rights and the implications of the Act, investigating and solving complaints and settling disputes, were precisely what the Regulator has been tasked to do.

“One of the main purposes of the Act is to remove discrimination of any kind from the process of credit allocation. Property developers need not be concerned because over-indebtedness or project unviability would therefore be the only acceptable grounds for the refusal of credit. Therefore, if developers or other consumers feel that unfair requirements are being set, or that credit contracts are trying to circumvent the new legislation, they can report it to the NCR”, a spokesperson in the legal division of the NCR explained.

She said that if complainants were not satisfied with the way the NCR ruled on a complaint or dispute, they had the further recourse of launching an objection with the National Consumer Tribunal, which was established in September last year.

In the worst-case scenario, should any administrative measures or unforeseen legal implications result from the NCA and become unintended impediments to development and economic growth, the NCR has also been tasked to advise Government on policy and legislation to rectify such consequences.

The NCR spokesperson also pointed out that the NCA provisions not only provide better protection to consumers, including property developers, against unfair exploitation or discrimination, but also give them greater control over their credit records. Some of these regulations are:

- The language in credit agreements must be simple and understandable.
- Reasons must be provided if a credit application is declined.
- Interest and fees are regulated on all agreements.
- The Credit Bureaux is regulated and is obliged to take reasonable steps to verify the accuracy of any consumer credit information that is reported to it by credit providers.
- Anyone has the right to a free Credit Bureaux record once a year.
- You are entitled to challenge any inaccurate information about you on Credit Bureaux records or on the National Credit Register.
- The Credit Bureaux and/or the National Credit Regulator will be obliged to investigate the accuracy of the information that you challenge without any charge to you.
- Registered debt counsellors will be available as from 1 June 2006 to assist over-indebted consumers with restructuring debts to prevent the unnecessary forfeiture of assets.
- The National Credit Register will provide a one-stop point where credit worthiness can be checked quickly and efficiently.

Jo Pelsler, MD of Sable Homes residential property developers, said that his company is not concerned that the NCA will have a negative effect on the industry. Instead he welcomes curbs to prevent the reckless granting of credit as in the best interests of the industry in the long run, as the curbs reduce the risk of the market being flooded with repossessed homes.

Pelsler's only concern is that the process of credit granting might initially get bogged down, as it will be a long process to train staff at financial institutions to understand and know how to comply with the NCA.