



NOTICE TO REGISTRANTS: OBSTRUCTIVE BEHAVIOUR DURING AN INVESTIGATION

CIRCULAR 04 OF 2023

The National Credit Regulator (“NCR”) has noted with concern that certain registrants have been obstructing appointed Inspectors of the NCR from exercising their powers or performing their duties delegated to them in terms of Section 25 of the National Credit Act, 34 of 2005 (“Act”).

Once a complaint has been initiated either in terms of Section 136(1) or (2) of the Act, the NCR will direct an Inspector in terms of Section 139(1)(c) of the Act to investigate the complaint as quickly as practicable.

The Chief Executive Officer (“CEO”) of the NCR will issue the appointed Inspector with a certificate in terms of Section 25 of the Act, which certificate serves to confirm the appointment of the Inspector to conduct the investigation. The certificate will contain the name and identity number of the appointed inspector as well as the known details of the entity or individual to be investigated. This certificate will be presented to the entity or individual by email or in person. The appointed Inspector may be requested to produce an Identity Document to confirm the identity of the inspector and to confirm the details as it appears within the certificate, however the Identity Document will not be presented for copying or retention purposes.

Appointed Inspectors are not required to make appointments or provide prior notification before conducting an investigation.

The Act obliges all registrants to permit appointed inspectors to enter the premises of registrants or any entity or individual against whom a complaint has been initiated and from where activities are performed and/or services rendered at any time during an entity’s normal business hours to conduct the investigation. Furthermore, apart from being a contravention in terms of the Act and Conditions of registration, it is an offence in terms of the Act to hinder the administration of the Act, which includes the obstruction of an investigation by the NCR’s appointed Inspector.

Disclaimer:

While the NCR has taken reasonable care to ensure the factual accuracy of this Circular, it cannot guarantee such accuracy, especially with regards to future events. Accordingly, NCR does not accept any liability for damages incurred by any party as a result of decisions or actions taken on the basis of information supplied in this Circular.

Registrants are warned that the NCR will take the necessary action against any registrant that hinders the duties of appointed Inspectors or does anything that is calculated to improperly influence an appointed Inspector concerning any matter connected with an investigation. The Inspectors will further upon any hinderance proceed to either issue a warrant of search and seizure to conduct the investigation with the assistance of members of the South African Police Services (“SAPS”) or will proceed to issue a summons for an individual whether registered or not registered to appear in person before the NCR and to present all documentation as listed in the summons. The NCR will further not hesitate to open a criminal case against any individual who hinders it from fulfilling its regulatory mandate.

It is also worth noting that the SAPS may when in attendance find cause to further investigate allegations by consumers where such allegations amount to fraud, for example where consumers allege to have been placed under debt review without consent.

Should there be any doubt or hesitance pertaining the identity of the inspectors, registrants may first engage the NCR directly by way of telephone and email. Such verifications will however not result in a postponement of the investigation.

The NCR urges all registrants to cooperate with the NCR’s appointed Inspectors during investigations.

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