



SALE OF DEBT REVIEW LEADS AND CONSUMER PERSONAL INFORMATION

CIRCULAR 04 OF 2022

1. BACKGROUND

1.1. The National Credit Regulator (“NCR”) has observed alarming trends of entities purporting engage in the sale of debt review leads (containing consumers’ personal information). The type of personal information sold includes consumers’ names and surnames; identity numbers; contact numbers; credit scores; and consumer debt review statuses. The objective of this circular is to alert and firmly warn the credit industry against this practice.

1.2. The NCR has issued several circulars and media press release regarding misleading marketing practices within the debt counselling profession. These practices do not only subvert the debt counselling industry, but also constitute unlawful activities that are contrary to the provisions of the National Credit Act, 34 of 2005 (“NCA”).

2. PROHIBITION OF THIS CONDUCT BY THE NCA AND THE NCR STANCE ON THE MATTER

2.1. The NCR directs all interested parties and registrants to the provisions of section 68 of the NCA, the confidentiality provision, which heralds the significance of consumer protection, especially, the protection of personal information.

2.2. In particular, section 68(1)(a) of the NCA prohibits the processing of consumer personal information for purposes other than what is permitted and/or required by the NCA. Furthermore, section 68(1)(b) of the NCA states that any person who receives, compiles, retains or reports any confidential information pertaining to a consumer must protect the confidentiality of that information, and in particular, must report or release that information only to the consumer or to another person: (i) to the extent permitted or required by the NCA or other applicable legislation; or (ii) as directed by the consumer or an order of court or the National Consumer Tribunal. These provisions expressly prohibit the sharing of consumer personal information with any person and/or juristic person without the consumer’s consent or an order of court or otherwise as authorised by legislation.

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.

2.3. The NCA further criminalises this prohibited conduct and those found to be guilty are liable to conviction by way of a fine, and/or imprisonment not exceeding a period of 12 (twelve) months. Any person involved in the purchase and/or sale of debt review leads and/or consumer personal information is therefore instructed to desist immediately.

2.4. The NCR encourages all registrants to ensure that they comply with these provisions and refrain from engaging in the disclosure, purchase and/or sale of any confidential information concerning the affairs of any person. This practice not only contravenes the NCA, it also constitutes a contravention of the Protection of Personal Information Act, 4 of 2013, which the Information Regulator of South Africa ("**Information Regulator**") is empowered to monitor and enforce compliance with.

2.5. The NCR has reported this prohibited conduct to the Information Regulator and will continue to monitor this trend within the credit industry. Any person who is aware of persons or entities purporting to sell consumers' personal information and/or receives an offer to purchase such personal information must promptly report this practice to the NCR and the Information Regulator. Any failure to comply with the provisions of the NCA will be met with investigation by the NCR, and where applicable, further prosecution and/or referral to the Information Regulator.

FOR MORE INFORMATION OR TO REPORT ANY OBSERVED PROHIBITED CONDUCT

Please contact **Tshepa Makhaya** on tmakhaya@ncr.org.za or **Pule Songo** on psongo@ncr.org.za or **Mmadikwa Phoshoko** on mphoshoko@ncr.org.za

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