Financial Sector Transformation

MicroFinance South Africa

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1. Executive Summary

1.1. Introduction of MicroFinance South Africa (MFSA)

MFSA is a representative body of registered and legal microfinance Credit Providers. MFSA is the 'Recognised Voice of Reputable Microfinanciers in South Africa'. Our Vision is to ensure a sustainable Microfinance Industry. MFSA represents almost 1150 Microfinance Credit Provider offices, providing short term and unsecured credit, registered with the National Credit Regulator, as well as a significant proportion of Service Providers in the Sector. Geographically the MFSA members constitute a National presence with outlets situated in rural, semi urban and urban areas. Our member base range from small one office businesses to larger Credit Providers with more than 150 outlets, they include digital Credit Providers that originate and service credit online.

1.2. MFSA strategic Position

The South African Credit Market continues to be driven by extremely strong consumer demand. A well-functioning and profitable Credit Industry plays a crucial role in the effective functioning of the economy. The requirements of investors in relation to expected returns are high. Investors will be more willing to increase their stake in the Sector, should the market be allowed to work more freely with clear guidelines and predictable behaviour emanating from the oversight agencies.

The members of MFSA serve consumers who traditionally are not able to obtain services from 'high street' institutions. The fact that MFSA members over decades have been able to remain the credit provider of choice to this unique consumer grouping, speaks for itself from a consumer service and value proposition perspective. As consumers vote with their feet, clients who take up credit from MFSA members have continued to support the credit providers due to the unique relationships that they have established over years. In some cases MFSA members are the only remaining credit provider in many of the rural areas while more formal providers have withdrawn from the region due

to a lack of economy of scale and high costs associated with the business models.

The non-bank Microfinance Industry is a major employment generator and offers opportunities to individuals, many of which are in the deeper rural areas where unemployment is rife. Our members serve consumers who find it hard to gain access to high street credit, for reasons of credit profile and often geography. In contrast the banking industry that specifically provides long term loans has been shedding jobs over the past five years reducing the number of employment opportunities. This trend would seem to continue for the foreseeable future. Given the constituency of MFSA and our historical involvement in the sector, our response to your request is limited and focussed around our membership base and their specific market. MFSA wishes to place on record that although many of our members are relatively small, all credit in South Africa should be provided in line with the National Credit Act (NCA). MFSA specifically subscribes to and supports initiatives which open opportunities and choice to all consumers.

Transformation in the financial services sector has, until recently, followed a rather slow but interesting route. The signing of the Financial Sector Charter, however, means that an entirely new and exciting journey has begun. Having embarked on this journey, we need to maintain our momentum and ensure that we keep on track so that we can reap great rewards for the industry.

In the past 5 years, the MFSA has encouraged and educated it Members on the development around the Broad-Based Black Economic Empowerment legislation, and the Financial Services Sector BEE Codes. Over 95% of the membership based are small businesses and have an annual of under R10 million in turnover, and therefore by default are deemed to be a Level 4 BEE Contributor. The MFSA Members have also acknowledged that the drivers for

implementation to date have been a mixture between scoring points and addressing transformation in the workplace.

The Members of the MFSA also welcome government's drive to combat fronting practices and "grass rooting BEE" at the community will also play a major role, and the MFSA is committed to supporting this through its member base.

Where there is a legal or practical "impossibility" to comply with a measurement category or element and such legal or practical impossibility is validated (to set definition and criteria), then the MFSA will welcome the opportunity to engage with Government to resolves such issues.

The MFSA acknowledges that Transformation in the financial services sector is a fact. The charter is the visible manifestation of the industry's resolve to play a leading role in transforming the economy and empowering all South Africans. The journey towards a more equitable sector has begun in earnest and none of us can afford to be left behind.

2. Financial Sector Transformation

The South African Financial Sector remains highly sophisticated and with the assistance of development of technology South Africa is on the forefront of developments and ongoing transformation.

Transformation in the Financial Sector remains key in order to ensure that there is:

- Access and inclusion to appropriate financial products;
- Appropriate regulatory transformation and insight into implementation to ensure economic growth;
- Growth and support for enterprises in order to create more job opportunities;

- An opportunity in alleviating over indebtedness in the consumer credit market;
- Additional employment equity opportunities to ensure that the previously disadvantage generation forms part of sustainable economic growth.

Transformation has a number of focus areas that must achieve sustainable and responsible business in order to benefits preciously disadvantaged consumers. A number of initiatives has been successfully implemented by the financial sector including but not limited to banks, insurance and the microfinance industry. Taking the comment into consideration there is still a number of initiatives that can enhance transformation in South Africa.

3. Achievements of Transformation

3.1. Regulatory Changes

The Financial Sector has seen the implementation of a number of legislative changes taking place that has formalised the industry. The National Credit Act was implemented in 2007. T**he dti** amended the National Credit Act (NCA) in 2014 by promulgation of the National Credit Amendment Act (NCAA). The NCAA and the National Credit Regulations came into effect on the 13 March 2015.

The regulatory environment specifically the National Credit Act has transformed tremendously in order to ensure:
Some of the principle objectives of the Act are:

- To promote a fair and non-discriminating marketplace for the access of credit
- To prohibit unfair practices
- To promote responsible credit-granting practices by credit providers
- To prohibit reckless credit-granting

- To provide for the general regulation of consumer credit and improved standards of consumer information
- To promote black economic empowerment and ownership within the consumer credit industry
- To provide for debt restructuring in cases of over-indebtedness
- To establish national norms and standards relating to consumer credit
- To establish the National Credit Regulator and
- To establish the National Consumer Tribunal

*http://capetownproperty.blaauwberg.net/articles/national_credit_act_summary.php

According to a presentation done by Siphamandla Kumkani on 16 February 2017 in addition to the implementation of the National Credit Act the following regulatory changes also took place:

- *'The National Credit Regulations, of 13 March 2015, brought amongst others, the Criteria for Affordability Assessments, Powers of the NCR to Investigate Reckless Credit Lending and Powers of the NCT to Adjudicate Reckless Credit Lending matters.*
- *The Affordability Assessment Regulations, setting out the Criteria for Assessing and Verifying a Consumer's Financial Means to qualify for credit, became effective on the 14 September 2015.*
- *The Review of Limitations on Fees and Interest Rates Regulations, provided for the Capping of fees and interest rates charged as cost of credit, became effective on the 6 May 2016.*
- *Due to the Need to Monitor and regulate all credit providers, the Minister Prescribed the Threshold required for Credit Provider Registration by Notice on the 11 May 2016.*' The threshold is R0.

Government needs to assist the 'new entrants' (previously below the threshold) to the market by making regulations and compliance requirements easily understandable and implementable. Government needs to assist these new entrants' with training and support to ensure their businesses and business models remain sustainable. Government should promote the benefit from consumer to engage with registered and formal financial services providers. Non-compliant lenders and suppliers of services need to be transformed and ultimately sanctioned.

In addition the DTI states that the road ahead in order to achieve financial inclusion and access to finance the following aspects will also see some transformation with regards to regulation:

Credit Life Insurance

- *'The Final Credit Life Insurance Regulations were published in the Government Gazette on 09 February 2017. These regulations prescribe the capping of the amount to be paid by a consumer for Credit Life Insurance and prescribe a minimum benefits to be included in the Credit Life Insurance Policy.*
- *The Final regulations will come into effect in six months' time (9 August 2017) and will only affect credit agreements entered into on or after the effective date or date of enforcement. '*

The dti National Credit Amendment Bill 2017

- *'This review builds upon the comprehensive policy review of 2013 which informed the National Credit Amendment Act, 2014 (NCAA).*
- *The enforcement of the NCA should Primarily Reside with the NCR to exercise Administrative Enforcement Powers to realise the speedy and cost-effective resolution of disputes.*

- *To this end, the NCR should be empowered to Order Regulated Entities to Pay Administrative fines and Give Redress to consumers. The NCT should serve as an appeal and review body for the decisions of the NCR.*
- *The NCR should be given the Power to Declare Credit Agreements Reckless and Unlawful, and to Declare Provisions of credit agreements unlawful in line with its Assumption of Administrative Enforcement Powers.*
- *The NCR should be given the Power to Conduct Pro-active Investigations and Regulatory Audits to monitor compliance with the NCA without consumer complaints. More importantly, the NCR should Initiate Investigate and Audit "without reasonable suspicion" of NCA contravention.'*

National Credit Amendment Bill 2017 (Committee Bill) Debt Relief Measures

- *'The NCA should make provision for the Prescription of Debt Relief Measures to Alleviate Household Over-indebtedness in different economic circumstances.*
- *The Minister should be given the Power to Prescribe Debt Relief Measures through Regulations, after having considered the prevailing economic circumstances amongst other factors.*
- *Deliberations have taken place in Parliament where a number of Stakeholders were invited to make submission into the process.*
- ***the dti** Committee has decided to introduce a Committee Bill and **the dti** will only provide technical support to the process and all enquiries in respect of this process should be directed to Parliament. '*

According to the dti The Regulatory Measures referred to herein will ensure Responsible Credit Lending, Fair Access to Credit and Reduce the Persistent high levels of Over-indebtedness in South Africa.

*http://www.rebels.co.za/presentations/

Taking the above into consideration a number of transformation initiatives especially with regards to regulation has taken place in in the financial sector in order to alleviate over indebtedness and include fair and responsible credit.

3.1.1. Training

All of the agents within the Sector need to be accredited and receive mandatory training on an ongoing basis to ensure that they remain updated with regards to legislative changes.

Section 163 of the National Credit Act makes provisions for the functioning of agents who act on behalf of credit providers and/or consumers. The Amendment Bill provides that a credit provider, debt counsellor or payment distribution agent (now inserting a reference to the use of agents by debt counsellors or ADR's) must ensure that its employees or agents attend prescribed training in respect of the matters to which the NCA applies. Previously credit providers were simply required to ensure that such agents were trained. The amendment appears to imply that the NCR will prescribe training for these agents which will now be mandatory. This is a major breakthrough to ensure that fair and responsible credit is being granted to consumers.

3.2. Technology

The increased use of technology in providing financial services were introduced in the South African market. These included mobile & internet banking, access to financial services via online mechanisms and more recently the development of a new payment system to be introduced.

3.2.1. Payment Systems

The Authenticated Collections Project also known as DebiCheck has been developed since 2014. According the Payments Association of South Africa,

'Although the project aims to address much more than just Debit Order abuse, it is believed that it will enhance the safety and efficiency of the system in a substantial way – by reducing the number of unauthorised debit orders being processed by companies as well as consumer disputes being processed with "no authority to debit.

Walter Volker, the CEO of The Payments Association of South Africa (PASA) says: "Debit Order abuse not only has a significant impact on consumers, but also on the efficiency of the payment system. There are many scenarios where a company processes Debit Orders to a consumer's bank account without a proper or valid mandate, no mandate or with an expired one. In other instances, consumers request their banks to return Debit Orders which have already been paid even when a valid mandate is in place."

Authenticated Collections is the process whereby consumers will electronically confirm to their bank that you are in the process of doing business with a company/user and that you agree to the details of the specific Debit Order. Once you have authenticated your Debit Order, the bank will check the Debit Order payment instruction from the company/user against your authenticated mandate to ensure that the debit is within the parameters you agreed to, prior to processing. At this stage, this process will only be implemented for Early Debit Orders, and not for normal Debit Orders. This means that from a certain date, only Authenticated Debit Orders will be processed in the Early Processing Window and all other Debit Orders later in the day. The Authenticated Collections project introduces new criteria for collecting money in the Early Processing Window.

"Authenticating all Early Debit Orders is a means to protect consumers from unscrupulous companies who attempt to debit consumers' bank accounts without their permission," says Volker. "As a result, consumers will know who is debiting their bank account, when they will debit and how much will be

debited. At the same time, this new system will also protect Companies in that authenticated mandates will not be easily disputable by consumers. With the Authenticated Collections project consumers will in future know exactly which Debit Orders will be processed from their bank accounts in the Early Processing Window and will have the comfort that no additional unauthorised or rogue Early Debit Orders will be processed. I do believe that this will go a long way to curbing illegitimate debit orders, complaints and ultimately fraud.'
**http://www.pasa.org.za/home/2016/03/15/news*

The changes in the payments system is a clear indication of the current transformation and consumer protection that has been developed.

3.2.2. Data Integration: Project Evolution

The data environment has also introduces a number of initiatives due to legislative changes that has taken place. One of them is called Project Evolution. The vision of Project Evolution is to develop one unified consumer data set, enabling excellence in credit decisions, based on quality data, standardised input layouts and 48 hour credit bureau updates on all new, closed, settled and cancelled credit agreements.

'Clean' data will be available to all within the credit sector to ensure sustainable credit decisions can be made by all within the credit environment. Daily submissions by all data providers within 48 hours for new, closed, settled and cancelled credit agreements can be expected so more 'real time' information will be available.

4. Transformation Challenges

A number of challenges prohibit transformation in the sector. These include but are not limited to:

- The incentive to transform is not substantial to a number of stakeholders in the Financial Industry. Thus the priority to change businesses and

business models does not receive the necessary attention. A more focused approach is required with more substantial benefits in order to promote transformation in the industry.

- Consumer awareness remains problematic on the transformation agenda. Consumers are not educated enough and still remain unbanked. More effective consumer education needs to be implemented in order to ensure transformation does take place specifically with regards to access to credit and the use of technology and appropriate products.

5. What needs to be done

A number of initiatives still needs to be implemented in order to facilitate and enhance transformation in the financial sector. The transformation in the financial sector should ultimately lead to financial inclusion and should facilitate the use of a variety of appropriate products that is cost effective.

The following areas require additional attention:

- Effective monitoring of the implementation of formulated regulations and charters;
- Increasing access to education of financial services.

Institutions and credit providers that are in the deep rural areas should be utilised and incentivised when consumer financial education take place. Certain Financial institutions and credit providers, specifically Microfinanciers, have trusted relationships with their clients and the financial education element should be imbedded in their processes, because of the relationship already established with consumers this may be easier to implement. The Government should promote financial education by all financial institutions before any financial product is issued. Practical tools and easily understood material should be used in order to promote financial education and inclusion in order to see a decline in over indebtedness amongst consumers. Consumers

should also feel the benefit of these tools and education by reduced fees and charges.

6. Conclusion

In considering our submission Parliament is alerted to the following broader social economic factors which need to be considered:

- MFSA supports Transformation and equality in the Sector and wish to participate in these endeavours;
- MFSA supports competition in the market and our members are required to compete head on with high street instituions;
- No significant new entrance have joined the credit provision fraternity demonstrating that investors do not see the sector as attractive, and instead we have seen a significant exit of investors from the credit industry;
- Consumer choice in the formal market continues to be threatened whilst the underground market is flourishing;
- From a financial inclusion perspective MFSA members formally enable consumers from rural areas and previously disadvantaged communities to participate in a regulated market;
- MFSA members are employers who offer an opportunity of empowerment to staff and families including access to BANKSETA approved and accredited training and training technologies;
- MFSA members contribute to the *Fiscus* of the country via the various taxes and levies including but not limited to
    - PAYE
    - VAT
    - Company Tax
    - UIF
    - NCR Registration Fees
    - Utilities and Municipal Services
    - Sectorial, education and training levies (BANKSETA)

MFSA has over a number of years proven its willingness to engage with all appropriate Authorities and Regulators. We sincerely appreciate the opportunity to submit our submission and are committed to continue constructive and transparent inputs in the Sector. MFSA wishes to once again reiterate that the document could form the basis of further engagement between the Association and Government.

Regards,

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7. Bibliography

http://www.parliament.gov.za/live/content.php?Item_ID=10248

http://www.absip.co.za/home/transformation-in-the-financial-services-sector

http://www.google.co.za/url?sa=t&rct=j&q=&esrc=s&source=web&cd=8&cad=rja&uact=8&ved=0ahUKEwjfl-_SqrfSAhVLCcAKHdBfDgoQFghKMAc&url=http%3A%2F%2Fwww.bankseta.org.za%2Fdownloads%2Fconference2004%2FCharles_Okeahalam.ppt&usg=AFQjCNEnkPSieR5mWPXI_J3dYXOsTA0O8w&bvm=bv.148747831,bs.2,d.d2s

http://www.fscharter.co.za/page.php?p_id=1

http://www.treasury.gov.za/comm_media/press/2003/2003101701.pdf

http://www.thedti.gov.za/economic_empowerment/bee-strategy.pdf

http://bti2003.bertelsmann-transformation-index.de/60.0.html?&L=1

http://www.rebels.co.za/presentations/

http://capetownproperty.blaauwberg.net/articles/national_credit_act_summary.php

https://en.wikipedia.org/wiki/Broad-Based_Black_Economic_Empowerment

http://wiredspace.wits.ac.za/bitstream/handle/10539/20842/Final%20Report-15-10-2015.pdf?sequence=1&isAllowed=y

https://repository.nwu.ac.za/handle/10394/2889