- **Amendment to the National Credit Act**
- Effective from 13 March 2015 a new section 126B was introduced into the National Credit Act 34 of 2005. The new section 126B reads as follows:
- ***126B.*** *(1) (a) No person may sell a debt under a credit agreement to which this Act applies and that has been extinguished by prescription under the Prescription Act,1969 (Act No. 68 of 1969).*
    - *(b) No person may continue the collection of, or re-activate a debt under a credit agreement to which this Act applies—*
        - *(i) which debt has been extinguished by prescription under the Prescription Act, 1969 (Act No. 68 of 1969); and*
        - *(ii) where the consumer raises the defense of prescription, or would reasonably have raised the defense of prescription had the consumer been aware of such a defense, in response to a demand, whether as part of legal proceedings or otherwise.''.*
- Section 126B(1)(a) prohibits credit grantors selling prescribed debt relating to credit agreements which fall within the National Credit Act.
- Section 126B(1)(b)(i) makes it an offence to collect on debt where a debtor has raised the defense of prescription in terms of the Prescription Act. The latter part of Section 126B(1)(b)(ii) extends the protection of the defense to uneducated consumers who are not aware of the existence of the defense of prescription.
- It follows that this additional protection does not extend to a consumer who was aware of; alternatively was made aware of the defense of prescription. Therefore, where the Credit Provider can prove that the consumer was aware of the existence of the defense, alternatively was made aware of the defense of prescription and did not raise the defense of prescription, the re-activation and continued collection of prescribed debts is not prohibited.