

**IN THE NATIONAL CONSUMER TRIBUNAL  
HELD IN CENTURION**

Case Number: NCT/158492/2020/140(1)

In the matter between:

**NATIONAL CREDIT REGULATOR**

**APPLICANT**

AND

**YON XING SUPERMARKET (PTY) LTD**

**RESPONDENT**

Coram:

Ms H Alwar - Presiding Tribunal member

Date of adjudication in chambers – 12 September 2022

Date of judgment and order- 13 September 2022

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**JUDGMENT AND ORDER**

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**APPLICANT**

1. The Applicant is the National Credit Regulator (the Applicant), a juristic person established by section 12 of the National Credit Act, 2005 (the Act) with its physical address at 127 15<sup>th</sup> Road, Randjiespark, Midrand, Johannesburg, Gauteng.

**RESPONDENT**

2. The Respondent is Yon Xing Supermarket (Pty) Ltd ( the Respondent), a registered Credit Provider with registration number NCRCP8198, with its business address at 40 Scott Street, Uppington.

## **APPLICATION TYPE**

3. This is an application in terms of section 138 (1) (b)<sup>1</sup> of the Act for the Tribunal to confirm a settlement agreement as a consent order.
4. The Applicant has submitted a Settlement Agreement that the parties wish to be confirmed as a consent order (the settlement agreement). A reference to a section in this consent order refers to a section in the Act.

## **BACKGROUND**

5. The application arises out of a complaint initiated by the Applicant. The Applicant conducted an investigation into the business practices of the Respondent. The matter was set down for 15 March 2022. However, the parties requested that the matter be removed from the roll, as the parties intended to file a settlement agreement.
6. In summary, the settlement agreement records the Respondent's failure to take reasonable steps to conduct affordability assessments, entering into reckless credit agreements with consumers, and non-compliance with statutory reporting.
7. The settlement agreement also records that the Respondent will carry out an audit to identify credit agreements entered into with consumers without first taking reasonable steps to assess such consumers' financial means, prospects, obligations, and existing debt obligations. The Respondent will take necessary steps to remove adverse listings of consumers, take reasonable steps to have the judgments against consumers rescinded or abandoned, and refund consumers' cost of credit charges. The Respondent will also pay an administrative fine.
8. The Applicant and the Respondent agree that the settlement agreement may be confirmed as a consent order in terms of section 138 (1) (b).

## **ANALYSIS**

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<sup>1</sup> Section 138 (1) (b) provides that if a matter has been investigated by the National Credit Regulator, and the National Credit Regulator and the respondent agree to the proposed terms of an appropriate order, then the Tribunal without hearing evidence, may confirm the resolution or agreement as a consent order.

9. Section 138 (1) (b) must be read with section 150, which empowers the Tribunal to make an appropriate order in relation to prohibited or required conduct, and in subsection (d) includes confirming a “consent agreement” as an order of the Tribunal.
10. The Tribunal is satisfied that the settlement agreement correctly records the Respondent’s prohibited conduct; and that the Respondent has undertaken to perform a range of remedial actions. The Tribunal has considered that the Applicant and the Respondent have agreed that the settlement may be confirmed as a consent order in terms of section 138(1)(b).

## **CONCLUSION**

11. Consequently, the Tribunal is persuaded that it is appropriate to grant the application and confirm the settlement agreement as a consent order.

## **ORDER**

12. Accordingly, the Tribunal makes the following order:
  - 12.1 The settlement agreement that the Applicant and the Respondent concluded on 3 August 2022; which is annexed to this consent order as “Annexure A to NCR v Yon Xing Supermarket (Pty) Ltd NCT/158492/2020/140(1)”, is confirmed and made an order of the National Consumer Tribunal in terms of section 138(1)(b) of the National Credit Act, 2005; and
  - 12.2 There is no order as to costs.

DATED ON THIS 13TH DAY OF SEPTEMBER 2022

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**MS H ALWAR**  
**PRESIDING MEMBER**

**Authorised for issue by The National Consumer Tribunal**

**National Consumer Tribunal**

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