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A Legal Conspectus of Some Role-Players in the Development of Financial Education in South Africa

Howard Chitimira[1], Phemelo Magau[2]

Abstract: Financial education can be described as the process by which financial consumers could improve their understanding of financial concepts, products and risks through objective advice, information and/or instructions. This article discusses the role of the selected role-plyers in the development of financial education in South Africa. Accordingly, the roles of the National Treasury and the National Consumer Financial Education Committee (NCFEC), the Banking Association South Africa (BASA), the South African Reserve Bank (SARB), the Pudential Authority, the Provincial Consumer Protection Authorities (PCPAs), the Provincial Consumer Protection Offices (PCPOs), the debt counsellors and estate administrators are discussed. The role of these selected role-players is discussed to determine whether they have adopted appropriate and adequate measures to ensure the robust and consistent combating of financial illiteracy among low-income earners in South Africa. Moreover, this article also discusses the enforcement of the duties of these role-players in so far as they are supposed to develop financial education in South Africa, especially against the backdrop of the ongoing coronavirus (COVID-19) pandemic.

Keywords: financial education; low-income earners; financial literacy; financial illiteracy; financial planning

1. Introductory Remarks

The concept of financial education can be described as the process by which financial consumers could improve their understanding of financial concepts, products and risks through objective advice, information and/or instructions (see OECD, 2005; also see Akpinar & Koch, 2019, p. 21). South Africa is characterised by low levels of financial education among low-income earners due to the lack of a robust financial education regulatory framework (see Ssebagala, 2017, p. 237; also see Visagie & Van Schalkwyk, 2020, p. 3; Engelbrecht, 2008, p. 254; Chummun, 2017, p. 798). These low levels of financial education are evidenced by low savings rates, low signing-up of financial services and financial products and a lack of understanding of basic financial terminology and concepts on low-income earners in South Africa (Chummun, 2016, p. 3; INSOL, 2001, pp. 28-29; Rand, 2004, p. 2; Hogarth, 2006, pp. 1-33). Given the complexities of South Africa's highly developed financial sector and the recent

[1] Research Professor & Professor of Securities & Financial Markets Law, Faculty of Law, North West University, Address: Private Bag X2046, Mmabatho, 2735, South Africa, Corresponding author: Howard.Chitimira@nwu.ac.za.

[2] Lecturer, School of Law, University of KwaZulu-Natal, Address: Private Bag X2046, Mmabatho, 2735, South Africa, Corresponding author: ptmagau@gmail.com. This article was influenced in part by Magau's Doctor of Laws (LLD) thesis entitled: *A Comparative Legal Analysis of the Promotion of Financial Education for Low-Income Earners in South Africa*, pp. 76-97. Consequently, he wishes to acknowledge the expert input of Prof H Chitimira.

changes in financial services and financial products delivery, the need for systematic and coordinated financial education initiatives is essential (Sibanda & Sibanda, 2006, p. 10; Nanziri & Leibbrandt, 2018, p. 1; Sharock, 2016, 63; Chitimira & Magau, 2021, p. 6). Put differently, the need to promote financial education for low-income earners in South Africa cannot be taken for granted by the government, regulatory bodies and other relevant stakeholders. This is because financial education constitutes an indispensable set of life skills that can enable low-income earners to survive financially and make informed decisions regarding their finances (National Treasury, 2014, pp. 18-19; Financial Stability Board, 2013, pp. 27-28; Engelbrecht, 2008, pp. 1-18). Within the modern and complex financial sector in South Africa, financial consumers need financial education to make sound decisions regarding financial planning, investing, spending, budgeting and saving their money (See related comments by Fox, Bartholomae & Lee, 2005, pp. 197-209; also see related comments by Worthington, 2008, p. 350; Wagland & Taylor, 2015, p. 33).

The promotion of financial education is vital for curbing financial illiteracy and improving financial resilience among the low-income earners in South Africa (see related comments by Atkinson & Messy, 2013, pp. 18-19; also see Zait & Bertea, 2014, p. 38). Nonetheless, most low-income earners in South Africa do not have appropriate and adequate financial education on managing their finances well and utilising basic financial services and products optimally (Chitimira & Ncube, 2020, pp. 25-37; Nanziri, 2016, p. 110-114; Lusardi & Mitchell, 2014, p. 6). This has been caused by several factors including the adoption of inadequate measures by the government, regulatory bodies and other relevant role-players to effectively promote the financial education of low-income earners in South Africa (see related comments by Ssebagala, 2017, p. 237; Sibanda & Sibanda, 2016, p. 5; Chitimira & Ncube, 2020, pp. 7-20). Accordingly, a robust and consistent approach by the government, regulatory bodies and other relevant role-players in adopting adequate financial education initiatives could enhance the promotion of financial education for low-income earners in South Africa (Sibanda & Sibanda, 2016, p. 5; Mishi, Vacu & Chipote, 2012, p. 2). This will enable low-income earners to make informed financial decisions to avoid over-indebtedness and other related challenges in South Africa (Gathergood, 2011, p. 3). Without a basic understanding of and control over financial resources and without some form of financial planning, low-income earners cannot make rational choices concerning their financial affairs (Engelbrecht, 2008, p. 253; Marvinac & Ping, 2004, p. 13).

In light of the above, this article discusses the role of the selected role-plyers in the development of financial education in South Africa. Accordingly, the roles of the National Treasury and the National Consumer Financial Education Committee (NCFEC), the Banking Association South Africa (BASA), the South African Reserve Bank (SARB), the Prudential Authority, the Provincial Consumer Protection Authorities (PCPAs), the Provincial Consumer Protection Offices (PCPOs), the debt counsellors and estate administrators are discussed. The role of these role-players is discussed to determine whether they have adopted appropriate and adequate measures to ensure the robust and consistent combating of financial illiteracy among low-income earners in South Africa. Moreover, this article also discusses the enforcement of the duties of these role-players in so far as they are supposed to develop financial education for low-income earners in South Africa against the backdrop of the ongoing coronavirus (COVID-

19) pandemic (Hamadziripi & Chitimira, 2021, pp. 27-28; National Treasury Republic of South Africa, 2020).

2. The Role of Some Role-Players in the Development of Financial Education in South Africa

2.1. The Role of the National Treasury and the NCFEC

The National Treasury is a pivotal body that plays a significant role in governing finance-related matters in South Africa (Pearson, Pillay & Chipkin, 2016, p. 1). The legislative legitimacy of the National Treasury is entrenched in the Constitution of the Republic of South Africa, 1996 ("Constitution", see s 216). The Constitution outlines the broad legal powers and responsibilities of the National Treasury (s 216 of the Constitution; Ajam & Fourie, 2014, p. 50). The National Treasury is responsible for overseeing and coordinating the management of the South African national government finances (Segatti & Pons-Vignon, 2013, pp 537-540; Ajam & Fourie, 2014, pp. 50). It promotes the sustainable and efficient management of public finances in order to enhance good governance, socio-economic development and financial economic development in South Africa (ss 213-230 of the Constitution; see further the Public Finance Management Act 1 of 1999 as amended (PFMA), see ss 5-16). Moreover, it is mandated to ensure proper accountability, transparency and sound control of the finances of national government to effectively manage public finances to curb financial crimes in South Africa (see s 216 of the Constitution; also see ss 5-16 of the PFMA; Ajam & Fourie, 2014, p. 50). In addition to this, the National Treasury has the mandate to promote finance education for all financial consumers, including low-income earners in South Africa to increase financial literacy (see ss 213-230 of the Constitution; see further ss 5-16 of the PFMA; also see Chitimira & Ncube, 2020, p. 11). To achieve this mandate, the National Treasury has established the NCFEC in the year 2012 (Raccanello & Sundaram, 2018, pp. 8-15; also see Chitimira & Ncube, 2020, p. 28). The NCFEC consists of various members including representatives of financial industry associations, financial self-regulatory organisations, the civil society, government departments, trade unions, provincial treasuries, the ombudsman schemes, and non-governmental organisations (NGOs) (see Raccanello & Sundaram, 2018, p. 15; also see Chitimira & Ncube 2020, p. 28). Notably, the NCFEC was mainly established for the promotion of financial education and financial literacy in South Africa, particularly for low-income earners and historically disadvantaged persons (Organisation for Economic Co-operation and Development (OECD), 2016, p. 62; Ifeanyi, Rena & Prinsloo, 2019, pp. 1121-1123). In addition to this, the NCFEC was established to supervise the implementation of financial education strategies (see Chitimira & Ncube, 2020, p. 29; see further OECD, 2016, pp. 62; Ifeanyi, Rena & Prinsloo, 2019, p. 1123). The NCFEC has to carry out this obligation in line with the National Treasury's directives for the promotion of financial education for all financial consumers, including low-income earners in South Africa.

Notably, the NCFEC seeks to address financial exclusion by developing financial education programmes aimed at teaching financial consumers to avoid reckless lending and over-indebtedness in South Africa (OECD, 2016, p. 62; Department of Trade and Industry, 2019, pp. 1-2; Atkinson and Messy, 2013, pp. 7-49). To this end, the National Treasury, the Financial Sector Conduct Authority (FSCA), the Financial Services Consumer Education Foundation (FSCEF) and the NCFEC jointly introduced the "Money Smart Week South Africa" (MSW) in 2018. The MSW is one of the financial education programmes of the National Treasury and the NCFEC, which sought to promote financial education among low-income earners and curb their over-indebtedness (s 3(e) of the NCA; also see related comments by Chitimira & Magau, 2021, p. 294; see further Coovadia, 2017, pp. 2-15). The MSW is a vital initiative to promote financial education for low-income earners which can be supported by both public and private financial sectors in South Africa (see related comments by Worthington, 2013, p. 16; also see Australian Securities and Investments Commission, 2011). However, more still needs to be done by the National Treasury and the NCFEC to promote the financial education of low-income earners in South Africa. The National Treasury and the NCFEC are yet to adopt relevant and adequate measures to promote financial education to low-income earners in South Africa during the prevailing COVID-19 pandemic (Hamadziripi & Chitimira, 2021, pp. 27-28; National Treasury Republic of South Africa, 2020).

2.2. The Role of BASA

The BASA was conceived when the then Council of South African Banks (COSAB) was merged to be one association. The merger was made up of four different associations deal with certain aspects of the banking sector, namely; the Clearing Bankers Association, the Association of General Banks, the Association of Mortgage Lenders, and the Merchant Bankers Association (Carrim, Fubbs & Wicomb, 2017, p. 3; Chitimira & Ncube, 2020, p. 18). After the merger, the COSAB was later renamed the Banking Council South Africa (BCSA) in March 1998. The mandate of the BCSA was to address challenges which were prevalent in the South African financial sector, in particular, the banking sector. Nevertheless, despite the changes in its formation and names, the COSAB and the BCSA were never conferred with the powers to promote financial education for financial consumers (see related comments by Carrim, Fubbs & Wicomb, 2017, p. 2; Chitimira & Ncube, 2020, p. 18). In March 2005, the BCSA was reinvented and renamed the BASA as is currently known (Carrim, Fubbs & Wicomb, 2017, p. 2; Chitimira & Ncube, 2020, p. 18). The reinvention of the BASA was aimed to change the mandate as well as its oversight role and function over the banks which subscribe to it in South Africa (Carrim, Fubbs & Wicomb, 2017, p. 2; Chitimira & Ncube, 2020, pp. 18). The BASA currently represents about 33 registered banks in South Africa (Carrim, Fubbs & Wicomb, 2017, pp. 2; Chitimira & Ncube, 2020, p. 18). Unlike its predecessors, the BASA is mandated to promote financial education. For instance, the BASA in partnership with the South African Savings Institute (SASI), has launched several programmes for the promotion of financial education (Wentzel, 2016, pp. 329-339; Coovadia, 2018, pp. 8-9). Some of the financial education programmes the BASA has launched in 2008 include, the Teach Children to Save South Africa (TCTSSA) and the StarSaver programme (Wentzel, 2016, pp. 329-339; Coovadia, 2018, pp. 8-9). These two programmes sought to empower children about the significance of saving money (Wentzel, 2016, pp. 329-339; Coovadia, 2018, pp. 8-9). Saving money is one of the key elements necessary for the promotion of financial education in South Africa (see related comments by Fox, Bartholomae & Lee, 2005, pp. 195, 197, 208 and 209; Worthington, 2008, pp. 350; Wagland & Taylor, 2015, p. 33). In 2018, the BASA through its Market Conduct Division, initiated the discussions with other relevant financial sector authorities on the Conduct of Financial Institutions (COFI) Bill 2018. The COFI Bill was part of the BASA's efforts to promote financial education in South Africa (Chitimira & Ncube, 2020, pp. 18; Coovadia, 2017, pp. 2; Coovadia, 2018, pp. 8-9). The authors note that, the COFI Bill was intended to review and regulate how financial customers are treated by financial institutions in the South African financial sector (Chitimira & Ncube, 2020, p. 18; Coovadia, 2017, p. 2; Coovadia, 2018, pp. 8-9). Furthermore, the BASA requires financial institutions to comply with the Broad-Based Black Economic Empowerment Code (B-BBEE) to transform South Africa's financial sector through enhancing financial education and inclusion of low-income earners (Coovadia, 2018, pp. 8-11; Chitimira & Ncube, 2020, p. 18).

The BASA is aware that most low-income earners in South Africa do not have the knowledge and confidence to access basic financial services and products owing to, *inter alia*, the lack of financial education and onerous requirements by financial institutions (Coovadia, 2017, pp. 2-15; Coovadia, 2018, pp. 8-9; Finmark Trust, 2015). As a result of low-income earners limited financial literacy and general financial exclusion, most of them are forced to rely on the use of cash, which is challenging to manage. For instance, only about 77% of adult South Africans have access to bank accounts, while the rest are excluded from accessing the formal financial sector (see Coovadia, 2018, pp. 8-9; see further Coovadia, 2017, pp. 2-15; Finmark Trust, 2015; also see Chitimira & Ncube, 2020, p. 34). Therefore, despite BASA's attempts for promoting a better financial inclusion of low-income earners, most financial consumers cannot access financial products and services (see related comments by Chitimira & Ncube, 2020, pp. 34; also see Coovadia, 2018, pp. 8-9). For instance, about 23% of the South African adult population cannot access basic financial services and products in the formal financial sector partly due to a lack of financial education (Chitimira & Ncube, 2020, p. 34; also see Coovadia, 2018, pp. 8-9). In this regard, it is submitted that the BASA should prioritise the promotion of financial education to low-income earners in South Africa, especially during the prevailing COVID-19 pandemic (Chitimira & Ncube, 2020, p. 8; Chummun, 2016, p. 3). This will help to curb financial illiteracy and financial exclusion among low-income earners and improve the ever-changing financial and banking sector.

2.3. The Role of the SARB

The SARB was established in 1921 following the dissolution of the Lombaard Bank in terms of the Currency and Banking Act 31 of 1920 ("Currency and Banking Act"; De Jager, 2006, pp. 159-160) which was repealed and substituted by the South African Reserve Bank Act 90 of 1989 ("SARB Act"), see ss 2-3; Rossouw & Padayachee, 2011, pp. 53-54). The SARB is the central bank of South Africa that is established as a juristic person responsible for protecting and maintaining the value of the South African currency to promote balanced and sustainable economic growth in terms of the Constitution and the SARB Act (see ss 223-225 of the

Constitution; Oksiutycz, 2012, pp. 1-7; see Sharrock, 2016, p. 64; see related comments by Rossouw & Padayachee, 2011, p. 54; De Jager, 2013, p. 342).

The SARB is primarily responsible for making and issuing banknotes and coins in South Africa (see s 10 of the SARB Act; Sharock, 2016, p. 64; De Jager, 2013, p. 342). It is also responsible for implementing regulations and procedures for establishing, conducting, monitoring, regulating and supervising payment, clearing and/or settlement systems in South Africa (s 10 of the SARB Act; Sharrock, 2016, p. 64; De Jager, 2013, p. 342). Another important function of the SARB is the supervision of banking institutions in South Africa (see ss 10 & 10A of the SARB Act; also see further Sibanda & Sibanda, 2016, p. 5; Shawe & Colegrave, 2019; Mnyande, 2010, p. 2). As the central bank, it is also responsible for regulating the exchange rates and currency rates to curb money laundering and encourage all financial consumers to make legal financial transactions in South Africa (s 10 of the SARB Act; Malan, Nagel & Pretorius, 2018, pp. 2-6; Sharock, 2016, p. 64). The authors submit that given the extensive responsibilities of the SARB, the promotion of financial education should have been a mandate which the SARB fosters through the supervision of banking and related financial institutions in South Africa (see ss 10 & 10A of the SARB Act; also see further Sibanda & Sibanda, 2016, p. 5; Shawe & Colegrave, 2019; Mnyande, 2010, p. 2).

The SARB can accept monetary deposits (s 10(1)(e) of the SARB Act). The SARB may also collect money for other financial institutions to enable all financial consumers, including low-income earners to have access to financial products and services in South Africa (s 10(1)(e) of the SARB Act). Notwithstanding this, it remains unclear how the SARB is promoting financial education for financial consumers, particularly low-income earners in South Africa. In this regard, the authors submit that the SARB should enforce its regulatory and supervisory role over banking institutions and other related financial institutions to ensure the consistent promotion of financial education to all persons to improve their financial literacy, financial planning, investing, spending, budgeting and saving money (see ss 10 & 10A of the SARB Act; Malan, Nagel & Pretorius, 2018, p. 6; also see related comments by Fox, Bartholomae and Lee, 2005, pp. 195, 197, 208 & 209; also see related comments by Worthington, 2008, pp. 349-350; Wagland and Taylor, 2015, p. 33). The SARB could leverage on the collaboration and cooperation between itself and other financial regulators including the FSCA to promote financial education for low-income earners in South Africa (see ss 12, 26 & 76 of the FSR Act; also see related comments by Van Niekerk and Van Heerden, 2020, pp. 108-114; also see further related comments by Van Heerden & Van Niekerk, 2018, pp. 154-155). The cooperation and collaboration between the SARB and the FSCA could be facilitated through entering into Memorandums of Understanding (MOU) that clearly outline the terms and the extent of the cooperation and collaboration to promote financial education for low-income earners in South Africa (see ss 26 & 76 of the FSR Act; also see related comments by Van Niekerk and Van Heerden, 2020, p. 116; see further related comments by Ferran, 2002, pp. 257-293; also see more related comments by Godwin, Kourabas and Ramsay, 2016, pp. 273-283). This could help the low-income earners to deal prudently with their finances, especially during the ongoing COVID-19 pandemic, where the livelihood of most financial consumers has been negatively affected (Hamadziripi & Chitimira, 2021, pp. 27-28; National Treasury Republic of South

Africa, 2020). Moreover, this could enable all financial institutions in South Africa to ensure that low-income earners make informed financial decisions to avoid over-indebtedness and other related challenges (Gathergood, 2011, p. 3). Furthermore, the promotion of financial education by the SARB could help the low-income earners to have a basic understanding of and control over financial resources to make sound money management choices (Engelbrecht, 2008, p. 253; Marvinac & Ping, 2004, p. 13).

2.4. The Role of the Prudential Authority

The Prudential Authority was established under the FSR Act as an independent juristic person operating within the administration of the SARB (see s 32 of the FSR Act). The objective of the Prudential Authority is to promote and enhance the safety and soundness of financial institutions which provide financial products and securities services in South Africa (see s 33(a) of the FSR Act). The Prudential Authority must also promote and enhance the safety and soundness of market infrastructures in South Africa (see s 33(b) of the FSR Act). In addition to this, the Prudential Authority must protect financial customers against the risk that those financial institutions may fail to meet their legal obligations (see s 33(c) of the FSR Act). Moreover, the Prudential Authority must also assist in maintaining financial stability in South Africa (see s 33(d) of the FSR Act).

To achieve its objective, the Prudential Authority has several functions which include regulating and supervising financial institutions which provide financial products or securities services and market infrastructures in South Africa (see s 34(1)(a) of the FSR Act). The Prudential Authority must also co-operate with and assist the SARB, the Financial Stability Oversight Committee, the FSCA, the NCR and the Financial Intelligence Centre (see s 34(1)(b) of the FSR Act). The Prudential Authority must also co-operate with the Council for Medical Schemes and support sustainable competition in the provision of financial products and financial services (see s 34(1)(c) and(d) of the FSR Act). In addition to this, the Prudential Authority must also support financial inclusion in South Africa (see s 34(1)(e) of the FSR Act). Nonetheless, despite its objective of promoting and enhancing the safety and soundness of financial institutions and market infrastructures as well as protecting financial consumers against risk, the Prudential Authority is not expressly empowered to promote financial education for low-income earners in South Africa. In this regard, it is submitted that the promotion of financial education by banking institutions should be one of the functions of the Prudential Authority in order to achieve its objective.

2.5. The Role of the PCPAs and the PCPOs

The CPA was passed into law in 2008. One of its objectives was to “promote a fair and accessible marketplace for consumer products and services to develop good norms and national standards for consumer protection in South Africa” (see ss 3, 4 and 8–78 of the CPA; also see Chitimira & Ncube, 2020, p. 344; see also Chitimira, 2020, p. 278; see further Chitimira & Ncube, 2021, p. 75). Moreover, the CPA “prohibits any unfair marketing and related business practices that are unlawful to financial consumers in South Africa" (see s 3(1)(d)-(e) of the CPA; also see Chitimira & Magau, 2021, 12; also see Chitimira & Ncube, 2020, p. 344; Chitimira, 2020, p. 278; Chitimira & Ncube, 2021, p. 75). The CPA also promotes best practices and standards for the spreading and disseminating relevant consumer information in South Africa (Woker, 2010, p. 217). In this regard, it is submitted that the CPA encourages the promotion of financial education and consumer protection for all financial consumers to help them manage their finances more prudently (see ss 83-106 of the CPA; also see Jacobs, Stoop & Van Niekerk, 2020, pp. 302-398; Chitimira & Ncube, 2020, pp. 15-17). To this end, the PCPAs and the PCPOs were established under the CPA to increase consumer financial education in South Africa (see ss 83-106 of the CPA; also see Jacobs, Stoop & Van Niekerk, 2020, pp. 302-398; Chitimira & Ncube, 2020, pp. 15-17).

Notwithstanding the establishment of PCPAs and PCPOs, there are still high levels of over-indebtedness among South African financial consumers, especially low-income earners who are financially illiterate and ill-equipped to manage their finances well (Rootman & Antoni, 2015, p. 474; Sibanda & Sibanda, 2016, p. 1; Ssebagala, 2017, p. 235; Woker, 2010, p. 217; National Credit Regulator, 2019, p. 2). The authors submit that this has been caused by a failure on the part of the PCPAs and the PCPOs to adopt appropriate and adequate measures to promote financial education for low-income earners in South Africa. The CPA does not have specific provisions that oblige the PCPAs and the PCPOs to provide financial education to all financial consumers, particularly low-income earners (see ss 3, 4 and 8–84 of the CPA; also see Jacobs, Stoop & Van Niekerk, 2020, pp. 302-398; Chitimira & Ncube, 2020, pp. 15-16). It is submitted that the lack of statutory provisions that impose duties on the PCPAs and the PCPOs to promote consumer financial education should be seen as a gap under the CPA (see ss 83-106 of the CPA; also see Jacobs, Stoop & Van Niekerk 2020, pp. 302-398; Chitimira & Ncube, 2020, pp. 15-16). Accordingly, the authors submit that this lacuna could be addressed through an amendment of the CPA to have specific provisions that will oblige the PCPAs and the PCPOs to provide financial education to all financial consumers, particularly low-income earners in South Africa (see ss 83-106 of the CPA; also see Jacobs, Stoop & Van Niekerk, 2020, pp. 302-398; Chitimira & Ncube, 2020, pp. 15-16). The promotion of financial education has become more urgent due to the ongoing COVID-19 pandemic. The PCPAs and the PCPOs have not adopted any measures or strategies to help financial consumers to manage their personal finances during the prevailing COVID-19 pandemic (Hamadziripi & Chitimira, 2021, pp. 10-11; National Treasury Republic of South Africa, 2020). The authors submit that the PCPAs and the PCPOs could promote financial education by adopting practical measures to promote financial education for financial consumers in South Africa. Such measures could include updating the websites of PCPAs and PCPOs to caution financial consumers of scammers who might take advantage of the pandemic and offering free financial counselling to financial consumers. This could help not only to avoid the over-indebtedness of low-income earners but also to ensure that they are not financially excluded (Wentzel "Financial Literacy in South Africa" 329 and 332; Arun T and Kamath R "Financial inclusion: Policies and Practices" 2015 *IIMB Management Review* 267, 271). The lack of appropriate financial education has contributed to the low-income earners being financially excluded in South Africa (Chitimira & Ncube, 2020, p. 8; Chummun, 2016, p. 3; INSOL, 2001, pp. 28-29).

2.6. The Role of Debt Counsellors

Debt counsellors have an important role to play in assisting over-indebted financial consumers and promoting financial education in South Africa (see s 44 read with s 86 of the NCA; also see Woker, 2016, pp. 21-46). The NCA provides financial consumers, including low-income earners with an opportunity to review their debt and restructure it to grant them debt relief through the assistance of debt counsellors (s 3(g) read with s 86 of the NCA). For instance, debt review can take place when a debt counsellor makes a recommendation on behalf of the applicant to the Magistrates' Court for it to grant an order to rearrange the applicant's financial obligations (s 86(7)(c)(ii)(aa)-86(7)(c)(ii)(dd) of the NCA; see also Mabe, 2019, pp. 1-6). A debt counsellor refers to a natural person who is registered as such and who is offering the service of debt counselling (see s 44 of the NCA). The term debt counselling is not defined in the NCA. The regulations, however, define it as performing the functions contemplated in section 86 of the NCA and that is the debt review process. A debt counsellor should also meet the minimum requirements stipulated in the NCA (see s 44 read with s 86 of the NCA; also see Woker, 2016, p. 46). Besides assisting over-indebted persons during the debt review process, debt counsellors can also facilitate debt rearrangements with creditors. The authors submit that the provision of debt counselling is one of the ways of promoting financial education to financial consumers in South Africa.

Notwithstanding the above, the role and functions of debt counsellors are statutorily limited. Previously, debt counsellors could not provide financial advice to financial consumers, unless they were registered with the FSB as a financial advisor under the Financial Advisory and Intermediary Services Act 37 of 2002 ("FAIS Act", see s 1; also see related comments by Kilian, 2019, p.7). However, it is unclear if debt counsellors have to register with the FSCA to provide financial advice. Financial advice in terms of the FAIS Act is defined as "any recommendation, guidance or proposal of a financial nature furnished, by any means or medium, to any client or group of clients" (see s 3 of the FAIS Act; also see related comments by Lawack-Davids, 2011, p. 714). The provision of financial advice is also one of the ways through which financial education is provided to financial consumers by debt counsellors in South Africa.

A debt counsellor is not allowed to interfere with the affairs of a financial consumer. The decision to apply for debt relief and the restructuring of debt must be made by the consumer concerned. Notwithstanding this, a debt counsellor is not precluded from making his/her views regarding a debtor's financial position when making his/her recommendation to the Magistrate Court (see s 86(7) of the NCA; Mabe, 2019, p. 6). The debt counsellor must know about other possible legal avenues to assist consumers to get out of their over-indebtedness. The debt counsellor may recommend to the Magistrate Court that a debtor should apply for an administration order if he/she deems it necessary to manage the debtor's financial affairs, depending on the circumstances (s 74 of the Magistrates Courts Act 32 of 1944 "Magistrates

Courts Act"; Boraine, 2003, p. 225; Pete, *et al*, 2013, 406; *Fortuin v Various Creditors* 2004 (2) SA 570 (C) 573; *Ex parte August* 2004 (3) SA 268 (W) 271). Debt counsellors are not expressly empowered to provide financial education to financial consumers under the *NCA* (see s 44 read with s 86 of the NCA; also see Woker, 2016, pp. 46-47). The authors submit that it would have been more reasonable if debt counsellors were expressly empowered to provide consumers with financial education, especially given the fact that they deal with over-indebted persons (see s 44 read with s 86 of the NCA; also see Woker, 2016, p. 46). The provision of financial education by debt counsellors would be worthwhile to low-income earners who struggle to make sound financial decisions in South Africa, especially those whose livelihoods have been negatively affected by the COVID-19 pandemic (Hamadziripi & Chitimira, 2021, pp. 27-28; National Treasury Republic of South Africa, 2020). Additionally, debt counsellors' provision of financial education to low-income earners could help curb over-indebtedness among such consumers in South Africa (see s 3 of the FAIS Act; see related comments by Kilian, 2019, 7; see further related comments by Lawack-Davids, 2011, p. 714). The authors submit that some of the COVID-19 related measures that the debt counsellors should adopt include the use of innovative technology to provide financial counselling and education to low-income earners. The use of innovative technology and online financial counselling will be effective even during the restrictions in the movement of people due to COVID-19.

2.7. The Role of Administrators under the Magistrates Court Act

The Magistrates Courts Act makes provision for a statutory debt relief measure known as an administration order (s 74 of the Magistrates Courts Act; Boraine, 2003, p. 225; Pete, *et al*, p. 406; *Fortuin v Various Creditors* 2004 (2) SA 570 (C) 573; *Ex parte August* 2004 (3) SA 268 (W) 271). An administration order is a debt relief measure which is available to assist over-indebted financial consumers, including low-income earners (s 74 of the Magistrates Courts Act; Boraine, 2003, p. 225; Pete, *et al*, 2013, p. 406; *Fortuin v Various Creditors* 2004 (2) SA 570 (C) 573; *Ex parte August* 2004 (3) SA 268 (W) 271). Unlike other debt relief measures, such as sequestration proceedings, debt review and debt intervention, an administration order is intended to deal with smaller estates in a cheap manner (see s 3-12 of the Insolvency Act 24 of 1936 "Insolvency Act"; see ss 86 & 86A of the NCA; also see Chitimira & Magau, 2020, p. 211). In comparison with other debt relief measures, an administration order constitutes a cheaper form of debt relief, which can be used as an alternative to sequestration proceedings to assist over-indebted consumers in South Africa with debt relief (see Boraine, 2003, p. 225; Pete, *et al*, 2013, p. 406; *Fortuin v Various Creditors* 2004 (2) SA 570 (C) 573; *Ex parte August* 2004 (3) SA 268 (W) 271; see also *African Bank Ltd v Weiner* 2005 (4) SA 363 (SCA) 366). Under an administration order, financial consumers have an opportunity to be provided with debt relief by means of debt restructuring and rearrangement of debt which is a process facilitated by the Magistrate Court (*Weiner v Broekhuysen* 2003 4 SA 301 (SCA) 305 E-F; *Madari v Cassim* 1950 (2) SA 35 (D) 38; Van Loggerenberg, 1997, p. 305). The Supreme Court of Appeal, in *Bafana Finance Mabopane v Makwakwa* 2006 (4) SA 581 (SCA) 583, provided that the primary aims of an administration order include, among others, the protection of illiterate, poor and low-income earners. As such, the *Magistrates Courts Act* empowers the Magistrate Court appoint an administrator to take control of the estate of the debtor and manage payment of debts due to creditors through an administration (s 74(1)(b) of the Magistrates Courts Act; Boraine, 2003, p. 225; Pete, *et al*, 2013, p. 406; *Fortuin v Various Creditors* 2004 (2) SA 570 (C) 573; *Ex parte August* 2004 (3) SA 268 (W) 271; s 9 of the Constitution; see Coetzee, 2016, p. 55).

The *Magistrates Court Act* does not empower the administrator to provide financial education to debtors. This is a legislative oversight since an administration order is a debt relief measure to assist low-income earners who cannot extract themselves from their debts. It is submitted that the powers and functions of administrators should be extended to include the provision of financial education to low-income earners for them to manage their finances more prudently to avoid over-indebtedness. The authors also argue that administrators should leverage on the use of technology and virtual platforms to provide debt relief to low-income earners in South Africa during the prevailing COVID-19 pandemic.

3. Concluding Remarks

This article demonstrated that various statutory and related measures were introduced from time to time by the South African government, policymakers, financial institutions and other relevant role-players in a bid to promote financial education for all persons (Chitimira & Ncube, 2020, pp. 344-346; Woker, 2010, p. 217; Sibanda & Sibanda, 2016, p. 5). The establishment of various role-players in terms of, *inter alia*, the NCA, FSR Act and CPA to promote financial education for financial consumers is a welcome move towards curbing financial illiteracy among low-income earners in South Africa (see related comments by Hastings, Madrian & Skimmyhorn, 2013, p. 349). Despite the establishment of the National Treasury, the NCFEC, the BASA, the SARB, the Prudential Authority, the PCPAs, and the PCPOs, there have been various shortcomings regarding enforcing the duties of such bodies to promote financial education to low-income earners in South Africa.

The authors have noted that the National Treasury and the NCFEC have made commendable efforts to promote financial education among low-income earners in South Africa. However, more robust measures for the sustainable promotion of financial education to low-income earners in South Africa should be adopted by both the National Treasury and the NCFEC. It was further noted that despite BASA's efforts to promote the financial inclusion of low-income earners, about 23% of the adult South African population is still financially excluded from accessing basic formal financial services due to the lack of financial education (Chitimira & Ncube, 2020, p. 17; Coovadia, 2018, pp. 8-9). In this regard, it is submitted that the BASA should prioritise the promotion of financial education to low-income earners in South Africa. Additionally, as discussed in this article, it is unclear how the SARB promotes financial education for low-income earners in South Africa. In this regard, it is submitted that the SARB could utilise its supervisory role over banks and related financial institutions to ensure the sustainable and consistent promotion of financial education to all persons in South Africa (see ss 10 and 10A of the SARB Act; also see Malan, Nagel & Pretorius, 2018, pp. 6-7). Similarly, it was noted that despite its objectives of promoting and enhancing the safety and soundness of financial institutions and market infrastructures as well as protecting financial consumers against risk, the Prudential Authority is not expressly empowered to promote financial education for low-income earners in South Africa. In this regard, it is submitted that the promotion of financial education by banking institutions should be one of the functions of the Prudential Authority in order to achieve its objective.

It was also noted that the CPA does not have specific provisions that oblige the PCPAs and the PCPOs to provide financial education to all financial consumers, particularly low-income earners in South Africa (see ss 85-106 of the CPA; also see Jacobs, Stoop & Van Niekerk, 2020, p. 302-398; Chitimira & Ncube, 2020, pp.15-16). Accordingly, the authors submit that the CPA should be amended to have specific provisions that will oblige the PCPAs and the PCPOs to provide consistent and sustainable financial education to all financial consumers, particularly low-income earners in South Africa.

Furthermore, the role of debt counsellors is statutorily limited since they are not expressly empowered to provide financial education to financial consumers under the Magistrates Court Act. The authors submit that it would be more reasonable for debt counsellors to be statutorily empowered to provide financial consumers with financial education, especially given the fact that they usually deal with over-indebted persons. This could be done by an amendment to the Magistrates Court Act. Additionally, providing financial education by debt counsellors to low-income earners would help curb over-indebtedness among such consumers in South Africa. It was noted that the Magistrates Court Act does not empower the administrator with any duties to provide financial education to debtors. This is an oversight because an estate administration order is a debt relief measure to assist low-income earners who cannot extract themselves from debt. It is submitted that the powers and functions of estate administrators should be extended to include providing financial education to low-income earners.

The main submission of this article is that, in order to promote financial education successfully in South Africa, there is a need to revamp the roles of the relevant role-players discussed in this article regarding the promotion of financial education for low-income earners. These role-players include the SARB, the BASA, the PCPAs, the National Treasury and the NCFEC, the Prudential Authority, administrators and the debt counsellors. The revitalisation of the roles of these role-players in the promotion of financial education could be done through, *inter alia*, developing financial education programmes targeting all the financial consumers, particularly low-income earners in South Africa (Renke, 2011, p. 208; Chitimira & Ncube, 2020, p. 10). These role-players could also prioritise harnessing the media as a platform and/or a tool to impart financial education (Atkinson & Messy, 2013, pp. 40-42).

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