Evaluation of Housing Finance Mechanisms in

South Africa

Vuyisani Moss
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<td>Amalgamated Banks of South Africa</td>
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<td>BASA</td>
<td>Banking Association of South Africa</td>
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<td>BoE</td>
<td>Bank of Executors</td>
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<td>CIDA</td>
<td>Canadian International Development Agency</td>
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<td>CSIR</td>
<td>Center for Scientific and Industrial Research</td>
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<td>EU</td>
<td>European Union</td>
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<td>FSB</td>
<td>Financial Services Board</td>
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<td>Financial Sector Charter</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>GEAR</td>
<td>Growth, Employment and Redistribution Strategy</td>
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<td>GTZ</td>
<td>German Technical Assistance Corporation</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>JHC</td>
<td>Johannesburg Housing Company</td>
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<td>LOA</td>
<td>Loan Officers Association</td>
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<td>Abbreviation</td>
<td>Full Form</td>
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<td>MBS</td>
<td>Mortgage Backed Securities</td>
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<td>MFRC</td>
<td>Micro Finance Regulatory Council</td>
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<td>MIF</td>
<td>Mortgage Indemnity Fund</td>
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<td>MoU</td>
<td>Memorandum of Understanding</td>
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<td>NGO</td>
<td>Non Government Organisation</td>
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<td>National Home Builders Registration Council</td>
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<td>National Housing Forum</td>
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<td>Peoples Housing Process</td>
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<td>Peoples Housing Partnership Trust</td>
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<td>Properties in Possession</td>
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<td>Record of Understanding</td>
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<td>SAHAC</td>
<td>South African Housing Advisory</td>
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<tr>
<td>Acronym</td>
<td>Full Form</td>
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<td>SARB</td>
<td>South African Reserve Bank</td>
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<td>SHF</td>
<td>Social Housing Foundation</td>
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<td>SHIs</td>
<td>Social Housing Institutions</td>
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<td>SPVs</td>
<td>Special Purpose Vehicles</td>
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<td>TUHF</td>
<td>Trust for Urban Housing Finance</td>
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<td>UN</td>
<td>United Nations</td>
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<td>USA</td>
<td>United States of America</td>
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<td>USAID</td>
<td>United States Agency for International Development</td>
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<tr>
<td>UUDP</td>
<td>Urban Upgrading and Development Programme</td>
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<td>WB</td>
<td>World Bank</td>
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Abstract

This paper examines the housing finance mechanisms in South Africa. The paper provides the macro-economic context in which housing finance is provided. The article discusses the role of the state in facilitating access to housing finance as well as the roles of multilateral institutions and other agencies. The article further examines the role of the private sector and the instruments that are in place to access housing finance through the existing market. What emerges from this article is that the state has put in place a variety of instruments and taken a range of measures to facilitate access to housing finance. However the way that private financial institutions particularly commercial banks have not changed despite the state creating institutions that can carry some of the intermediary risk associated with extending loans to the lower income housing market. This has resulted in an increasing housing backlog in South Africa. However, despite the constraints, there are valuable lessons to be learnt from the housing finance system in South Africa.
Chapter One: The South African Economy and Demographics

1.1 Introduction

The extent of the housing problem and lack of scale delivery in South Africa is aptly demonstrated not only by the demand for affordable housing but by the extent of the acute housing shortage and the population that live in slums and informal housing conditions. This crisis is further compounded by the unwillingness of traditional lenders to make loans to low income earners for housing. On the demand side, though the government prides itself by an impressive record delivery of more than 1,8 million houses since 1994. The backlog however is becoming monumental as it is rapidly growing from 2.4 million to 3 million households that are under-housed or un-housed\(^1\). This demand led government to hastily investigate different alternatives to deal with the Reconstruction and Development Programme’s (RDP) promise of better living conditions and standards for the majority of South Africans.

The fact that a staggering 16 million people (36%) have no access to any hygienic sanitation and 3,5 million have no access to safe drinking water is astounding\(^2\). The tragic irony of this is that government’s success in fast tracking the delivery of basic services to as many poor communities as possible is causing the local government to start buckle under the pressure. Though there has been a shortage of housing stock for middle income earners, the poorest segment of the population benefited the most from the government subsidy programme. Households in the low income end have been the primary beneficiaries of government capital subsidy programme with more than 1,8 million houses built from 1994 to March 2005.

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\(^1\) Please see annexure 1 on the breakdown of housing delivery, backlog, type of dwelling etc.
\(^2\) Financial Mail, September 2005
The government plans to increase the number of houses being built by 12% from the current average of 200,000 units per year in its intensive effort to free the nation of slums. The aim is not only to increase the construction of houses in the R150,000 to R200,000 range targeted at workers such as nurses, teachers and police but also to fulfill government’s ambitious goal of freeing the nation of slums and eradicating the informal settlements by 2014 which is very much in line with the United Nations’ Millennium Development Goals.

1.1.1. Economy

To understand clearly the nature and scope of housing finance system in South Africa it is critical to know the economic fundamentals within which housing finance mechanisms are located. South Africa has the most sophisticated free-market economy on the African continent. The country represents only 3% of the continent's surface area, yet it accounts for approximately 40% of all industrial output, 25% of gross domestic product (GDP), over half of generated electricity and 45% of mineral production in Africa.

The country's economic system however has a marked duality. A sophisticated industrial economy has developed alongside an underdeveloped informal economy. The industrial economy has an established infrastructure and economic base with great potential for further growth and development whereas the informal economy presents both untapped potential and a developmental challenge for South Africa. South Africa is also a gateway for investment into Sub-Saharan Africa and since 1994, South Africa's trade with and investment in other African States has increased significantly.

1.1.2 Economic Performance

The South African economy grew by 2.2% during 2001, 3% during 2002; 1.9% in 2003; 2.9% in 2004, and the government expects it to grow by 3.6% in 2005 and 4% in 2006. This growth has been spurred on by the current macro-economic policy, Growth, Employment and Redistribution (GEAR) which was implemented in 1996. Features of GEAR include liberalisation, fiscal discipline, export-oriented growth, privatization, labour flexibility, a focus on stabilising financial markets in South Africa through the gradual lowering of interest rates while keeping the inflation low (Government Gazette, 1996). These elements of the macro-economic policy are based on the neo-liberal framework of the International Monetary Fund (IMF) and the World Bank.

The inflation rate has generally declined over the past few years and the Reserve Bank as mandated by the government expects to meet its inflation target of consumer price inflation between three and six per cent. The prime overdraft interest rate has declined from 17% at the beginning of 2003 to 10.5% at present. The national debt dropped from 48% of GDP in March 1997 to 36.8% for 2003/2004. The 2002/2003 budget deficit was R31.4 billion (2.6% of GDP).

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3 National Department of Housing website, national delivery report
4 The South African Reserve Bank report posted on its website
5 The South African Reserve Bank report, a quarterly publication 2005
6 See Annexure on Growth, Employment and Redistribution Strategy (GEAR)
α See list of figures on the history of interest rates in South Africa
However, in his budget speech in 2004, the Minister of Finance announced that the deficit will rise to 3.1% of GDP in 2004/2005\(^7\).

### 1.2 Demographics

South Africa has a total population of 44,8 million and 18,261,294 (39%) is economically active. According to Labour Force Survey by Statistics South Africa only 11.91 million of the economically active are employed. The official unemployment rate is currently at 26.5% of the country's economically active population. If one includes those who have given up looking for employment, it is standing at 40.5%. However the official statistics must be viewed on the basis that statistics for the informal sector of the economy are generally not readily available. The Government views the unemployment problem seriously and is investigating the introduction of wage subsidies for employers to boost employment in the short term of unskilled but employable persons. The Government also intends to boost its public works programme to provide employment to unskilled and unemployed persons, concentrating on 21 urban and rural nodes identified in terms of the Government's Urban Renewal and Integrated and Sustainable Rural Development Programmes.

#### 1.2.1 The HIV/AIDS Pandemic

HIV/AIDS has become a major health problem in South Africa and has significant implications for housing finance and the economy in general. Various studies have shown increases in the percentage of the population with HIV/AIDS and it is estimated that approximately one out of every nine South Africans has HIV/AIDS. This problem has been recognised by Government and a budget of R2,1 billion has been allocated to fund its anti-retroviral drug provision programme over the next three years. The total amount allocated by Government to HIV/AIDS between 2004/2005 and 2006/2007 is R 12.3 billion\(^8\)

#### 1.2.2 HIV-AIDS and Housing Finance

In the vast majority of cases, however, the security offered by the borrower alone is not satisfactory and a sustainable income is crucial to the viability of the loan. In those cases, the bank requires life assurance and if the applicant is HIV+, he/she will have difficulty getting that insurance and it is likely to be at a very high premium level. According to Ndinda (2004) the security of tenure for individuals infected and household affected has become a critical issue in South. Her assertion is that people infected with HIV-AIDS are likely to lose their land and housing in the absence of life assurance policies.

In their efforts to deal with this potential scourge the banks through their mother body the Banking Association of South Africa (BASA) are working with the Life Officers’ Association (LOA) and the Financial Services Board (FSB) to try and find a mechanism whereby life assurance can be obtained cheaply and easily.

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\(^7\) Minister’s budget speech 2004/05  
\(^8\) National Department of Health budget report
A large number of existing mortgage borrowers are, in fact, insured against a death attributable to an AIDS-related disease. The banks report that in cases where orphaned children are left alone to deal with the debt left behind by their parents the banks resort to the life cover and the loan is then paid up and the orphans receive a mortgaged house. On the issue of bank’s lending to HIV-AIDS victims, the banks in South Africa state that they do not discriminate against HIV-AIDS victims.
1.2.3 Mortgage Insurance Cover

The Office of the Banking Adjudicator (OBA) calls on South Africa's banking industry to undertake a comprehensive audit of all mortgage loans to ensure that adequate insurance cover is available to homeowners across the broad spectrum of society.

Every bank has a record of approved home loans. According to Melville⁹, it seems insufficient attention is being paid to the compulsory insurance requirement, resulting in tragedy, confusion and additional cost for customers. "Recurring problems need to be addressed before more pressure is placed on existing structures."¹⁰

Many creditors insist that clients, particularly those at the lower end of the market, either cede existing life policies or take out new policies to cover the outstanding amount of their home loans. But tragically, the Adjudicator receives several cases where, following the death of the breadwinner, it is discovered that no life insurance was in place, creating an intolerable burden for the bereaved family members.

Many live under the misconception that a policy was taken out at the same time the bond was registered, only to discover on the death of their loved one that the policy was never issued. From time to time, a policy is issued initially, but later lapses due to the non-payment of premiums. Wherever practicable, innocent people should be protected from this type of emotional turmoil. In light of this, the Office of the Banking Adjudicator proposed that all communications to customers regarding insurance should clearly indicate if life or homeowners cover is referred to.

A bank employee concerned with mortgage bonds should be fully trained to ensure that insurance cover is actually issued and that the customer understands clearly which party is to pay the premiums and how.

The bank should also ensure that the appropriate policy documentation is sent to the customer. To draw the customer's attention, provisions relating to insurance should be in bold. Particular care should be taken to clarify arrangements for the continuation of insurance once the mortgage is settled.¹¹

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⁹ Banking adjudicator
¹⁰ Cited from the Press statement released by the Banking Adjudicator Neville Melville
¹¹ This information was accessed from the office of the banking adjudicator
Chapter Two: The History of Housing in South Africa

2.1 From Pre 1922 to 2004

Pre 1922
The Housing Act (No 35 of 1920) was introduced under the terms of which a Central Housing Board, was established to control the housing departments of local authorities and supervise the lending of government funds for the building of housing for blacks.

1923 – 1929: The Native (Urban Areas) Act of 1923
New legislation called for the establishment of three forms of accommodation – hostels, locations and native villages. Local Authorities assumed greater responsibility for housing but the extent of housing delivered was limited and fell short of need.

1929 – 1948: Industrial development, urbanization
During 1938 and 1948 there was a large and rapid influx of population into urban areas. Sub economic loans to local authorities for non-white housing for slum clearance resulted in some housing development. Construction of new housing declined in 1943 and 1944.

1948 to 1960: The Nationalist Government & separate development
The Group Areas Act of 1950 provided stricter implementation of the policy of segregated residential areas. Large-scale resettlement of Blacks, Coloured and Indians under the Group Areas Act commenced. In 1947 the four roomed, 51/6 prototype was developed and constructed at scale in all black townships.

1960 to 1975: Increased segregation & tighter influx control
Influx control tightened even further, homeland development was undertaken and there was further restriction of movement into white areas. The rights of blacks to reside in urban areas was further restricted with the use of housing permits allocated only to qualified males over the age of 21 who were employed.

1975 to 1977: Leasehold rights, widespread rioting and housing shortages
The strict policies introduced during the previous phase were reassessed and adjusted. The most significant reversal was the re-introduction of leasehold rights for blacks in these areas. In January 1976 a General Minute of the Department of Bantu Administration and Development was circulated giving details of a home ownership

12 During apartheid, the term ‘Black’ referred to all the non-White groups. In post apartheid South Africa the term meaning of the term ‘Black’ shifts depending on the context. In affirmative action, BEE type of contexts it refers to all non-Whites. In ordinary usage-Whites, Indians and Coloureds use it to refer to Africans. The term African in post-apartheid South Africa has also attained new meaning. Since Mbeki’s 1999 speech ‘I am an African’ the meaning of African has become more ambiguous. However it is generally used to refer to the people indigenous to the country- that is Africans and not settler communities such as the whites or Indians or even mixed race people – Coloureds.
scheme for blacks. This provided title on the basis of a 30 year lease. Reduced housing development in the preceding period manifested itself through critical housing shortages.

**1977 to 1980: Legislative and policy changes and protests over rent increases**

Legislative and policy changes introduced represented the acceptance of the permanence of urban blacks and a recognition that their rights needed to be extended, e.g. introduction of a 99 year leasehold scheme in April of 1978 through the Blacks (Urban Areas) Consolidation Amendment Act No. 97 of 1978 which made private sector finance available, provided access to building society loans & enabled employers to assist in acquiring homes.

**1980 to 1994: Private sector development and increased political strife**

During the first half of the 1980’s the delivery of housing by the private sector aimed at black middle income families grew steadily, but by mid decade people started to default on bond repayments as interest rates rose. Self help housing emerged as a form of housing delivery focussing on owner builders and starter and incremental housing. The removal of influx control saw informal settlements growing and projects emerged which focused on upgrading (e.g. site and service) rather than removal. Government also sought to rid itself of the extensive rental housing stock through the Sale and Transfer of Housing scheme.

**1994 to 2004: New democratic South Africa**

The Housing White Paper was promulgated in December 1994 and sets out the framework for the new National Housing Policy which aimed to promote the rate and scale of delivery. The promulgation of the Housing Act, No 107 of 1997 (the Housing Act) legislated and extended the provisions set out in the Housing White Paper.  

**2.2 Government Development Strategy and Housing Finance Before 1994**

By the early 1990’s the Housing Sector was fragmented, inconsistently funded and lacked role definition and defined lines of accountability. There were fifteen Departments that dealt with Housing, namely one general affairs department, three own affairs departments, the Department of Development Aid, four provincial authorities, and ten self-governing homeland authorities, and more than 60 national and regional state corporate institutions. These bodies were implementing some twenty different subsidy systems. In addition South Africa’s apartheid history had left the government with many inappropriate laws and procedures that needed to be repealed or amended.

The post-apartheid state was therefore faced with the challenge of phasing out the apartheid type subsidies, the numerous housing departments, laws and policies and harmonizing these into a single national housing programme that reflected the new democratic dispensation.

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13 Cited from the report compiled by Mathew Nell and Associates dealing with history of black housing in South Africa
Lack of capacity: The legacy of the past also resulted in a depressed housing sector which lacked capacity both in terms of human resources and materials to speedily provide housing.

Non-payment of housing loans and service payment boycotts: The 1980’s were characterised by bond, rental and service payment boycotts initiated by the civic movement and communities, aimed at undermining the status quo. As a result of this many households were reluctant to and unable to re-commence paying their bonds, rents and services.

Lack of end user finance: For a number of reasons including the non-payment of housing loans, service payment boycotts etc. many lenders are reluctant to lend to low income families. As a result, many low-income families are unable to access housing loans, even if they could afford to. This problem is made worse by phenomena such as redlining and discrimination, poorly designed credit instruments, and a lack of willingness to save by households.

Insufficient land: Slow and complex land identification, allocation and development processes resulted in insufficient land for housing development purposes.

Inappropriate standards: Infrastructure, service and housing standards were inappropriate to the needs of the low-income market, resulting in difficulties in providing affordable housing products.

Different requirements between Provinces: There are major differences between the housing needs experienced by different provinces. For example in terms of the 1996 census Gauteng and Western Cape generally have housing backlogs in urban areas, while in Polokwane and Eastern Cape the housing backlogs are generally in rural areas. Given the different problems in the different provinces, different policy responses are necessary.

Special needs of women: The demographic trends in South Africa clearly demonstrate that women are generally poorer with less access to resources than other groups. For example the 1996 census showed that 26% of female heads of households earn less than R500 per month, compared to 13% of male heads of households. Women therefore need special attention in terms of housing provision.

Inexperienced housing consumers: Because of apartheid many people have never bought or rented a house, or know anyone who has. There are therefore many inexperienced housing consumers. Such consumers often make mistakes or fall prey to unscrupulous operators who steal their money.

A culture of building: Many cultural groups in South Africa have a culture of building where individuals and households are able to build their own homes. This is a significant opportunity whereby poor households are able to save money by building their own homes.

The Housing Sector as a contributor to the economy: The Housing Sector if effective can contribute significantly to the national economy. The Housing Sector has the potential to increase employment and individual wealth, improve the balance of payments, reduce inflation, encourage households to save, increase the demand for
consumer goods and services, impact positively on the health of households and increase the Gross Domestic Product. Given these factors investment into the housing sector has an important contribution to make to the overall economic growth of South Africa.

2.3 The Reconstruction and Development Programme (RDP)

The RDP was introduced as an integrated, coherent socio-economic policy framework. It sought to mobilise all our people and our country's resources toward the final eradication of the results of apartheid and the building of a democratic, non-racial and non-sexist future. It represents a vision for the fundamental transformation of South Africa. That integrated process of transformation must ensure that the country develops strong and stable democratic institutions and practices characterised by representativeness and participation becomes a fully democratic and non-racial society becomes a prosperous society, having embarked upon a sustainable and environmentally friendly growth and development path addresses the moral and ethical development of society.

The Government, through a process of consultation with various stakeholders and the different tiers of government has identified the following programmes as the key medium and long-term programmes to drive implementation of the RDP: meeting basic needs; urban and rural development; democratisation and institutional reform; and economic restructuring

2.3.1 Addressing socio-economic imbalances and uneven distribution of resources

South African economy was built on systematically enforced racial division in every sphere of our society. Rural areas were divided into underdeveloped bantustans and well-developed, white-owned commercial farming areas. Towns and cities were divided into townships without basic infrastructure for blacks and well-resourced suburbs for whites. Segregation in education, health, welfare, transport and employment left deep scars of inequality and economic inefficiency. Violence has had a devastating effect on our society and the need to restore peace and a sense of community security, as well as the prevention of domestic violence, was paramount.

A programme was required that is achievable, sustainable and meets the objectives of freedom, and an improved standard of living and quality of life for all South Africans within a peaceful and stable society characterised by equitable economic growth.

The RDP was designed to be such a programme. It provided the framework within which choices can be made, and within which needs can be matched with affordability and
factors constraining our ability to supply. The RDP involved both the Government and the people in identifying needs and the obstacles

2.4 The Record of Understanding

Government signed the Record of Understanding [ROU] in October 1994 with the Association of Mortgage Lenders. Its purpose was firstly to increase the availability of credit and secondly to undertake a range of risk alleviation interventions.

The risk alleviation interventions comprise the Masakhane Campaign, the Mortgage Indemnity Fund, Servcon Housing Solutions and the National Home Builders Registration Council. These interventions are briefly summarised below.

The Masakhane Campaign: This is a government driven campaign, initiated by the Departments of Housing and Constitutional Development and the former office responsible for the RDP. Although this is a campaign initiated by national government it is undertaken at all spheres of government.

The campaign seeks to change public perceptions and attitudes regarding the rights and responsibilities of individuals, communities and local government. Specifically, it aims at encouraging individuals to pay their rates, service and mortgage or rental payments, contribute towards their community and feel a sense of community pride.

The campaign is ongoing and receives special attention annually in the context of a Masakhane Focus Week. The Mortgage Indemnity Fund: The Mortgage Indemnity Fund [MIF] was a wholly Government-owned Company established as a short term intervention [for a three year period] in June 1995. Its purpose was to encourage mortgage lenders to resume lending at scale in the affordable housing market, in neglected areas in the country, in a sustainable manner.

Its main focus was to provide financial institutions with indemnity insurance for a limited period against loss in certain areas, if they were unable to repossess properties due to a breakdown in the due process of law. In order to achieve this the MIF assessed and provided cover to accredited financial institutions, assessed prioritised areas and provided accreditation for these areas and resolved problems in areas that were unable to be accredited.

The MIF was closed in May 1998 in terms of its original agreed mandate. During its period of operation it was able to generate R10 billion in new loans. In addition it played

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15 Bulk of the information is cited from the RDP policy document accessible from the polity website
an essential bridging role between government, financiers and communities attempting to lay the foundation for a healthy and sustainable future relationship. 

2.5 The Evolution of the South African Housing Finance System

The pre-1994 period in housing finance was marked by a myriad of initiatives that were unacceptable to the incoming policy makers because of their different ideological perspectives but nonetheless it set the agenda and scene for what was to come in the late 1990’s both in terms of policy, lending behavior and practices in the housing finance market. The decade leading up to 1994 was marked by widespread resistance to service and mortgage payments by residents in the erstwhile black townships.

The financial sector, especially retail banks experienced the brunt (15% defaults estimated at R10 billion) of the rent and mortgage boycotts. During the 1980s this situation worsened with financial institutions unable to effectively enforce their lien over the properties, which they financed. Consequently, new mortgage lending in township areas had come to a halt in 1994, and no other housing finance products were widely available.

The mortgage form of collateral proved to be of high risk from two perspectives: firstly, the rule of law proved to be ineffective resulting in the justice system being unable to evict residents in default to allow banks to process a new mortgage to take over the loan obligation; and, secondly, the consistent lack of enforcement led to the deterioration of the physical condition of the homes to such an extent that the asset value declined.

The pressure of the political reform process nevertheless continued and during this early transition phase towards a democratically elected government in 1994, the South African Housing Advisory Council (SAHAC), under the chairmanship of Dr J H de Loor was given a mandate in October 1990 to revise the then policy and formulate a new housing

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16 Information drawn from a number of reports, these include the department of housing report on housing institutions, President Mandela Speech during his inaugural Address to a joint sitting of parliament, 24 May, 2004 the MIF closure report, report on the record of understanding, report on Nedic summit agreement on Redlining
17 Cited from a study by A. Pillay on financial constraints for low income housing
18 De Ridder, 1997- Estimated the 15% of the loans were in default as apposed to an industry norm of less than 3% for the housing sector.
19 SAHAC was a task group comprising of both public and private sector players and other co-opted experts from the housing, finance, economics and development disciplines.
20 Dr J H de Loor was appointed chairman by to ASHAC by the then National Party Minister L. Wessels, responsible for Local Government, Housing and Public Works.
strategy. A report with specific recommendations was produced in April 1992 and handed over to government. This report formed the basis for wider consultation with developers, bankers, housing NGOs (Non-government Organizations) and activist from the politically aligned movements.

The process leading up to the compilation of the report was severely criticized particularly by the NGO sector and activist that represented the anti-apartheid movements of civil society, but in analyzing later developments it became clear that some of the recommendations or substantive policy directives manifested themselves in what we now know as the current housing dispensation.

The National Housing Forum (NHF) was then formed with representatives from a wide range of political parties, housing professionals, developers and the finance sector. This forum was also plagued with issues that were politically motivated and eventually interest and energy was lost in trying to forge a new policy dispensation for low-income housing that would address the housing needs of the majority of the population.

The NHF existed between 1992 and 1994 and comprised of representatives from a wide range of political parties, housing professionals, developers, and the finance sector. This forum was however plagued with issues that were politically motivated and eventually interest and energy was lost in trying to forge a new policy dispensation for low income housing that would address the housing needs of the majority of the population. According to Khan and Ambert (2003) the process did not permit the voice of the landless and homeless to shape the Housing Policy. Despite the tenuous debates and with minor alterations, the NHF proposal became the new housing policy for South Africa when the White Paper on housing was published.

The downward slide in the retail intermediation capacity began in 1996 when Community Bank closed for business as a result of poor market sentiment on the part of its shareholders realizing that the bank was spending higher than normal costs to manage what was perceived to be a high risk portfolio. This phenomenon continued during the late 1990s into the 2000s which saw the loss of other small banks such as New Republic Bank, FBC Fidelity, the purchase by Amalgamated Banks of South Africa (ABSA) of Unibank and the buyout by Board of Executors (BOE) of Cashbank. In 2002 Saambou another small bank closed its doors to its clients. This trend marked the weakening of second tier retail institutions that had demonstrated the capacity and willingness to deal with the low-income earner. Large banks argued that the risks of underwriting small mortgages were increasing and the profit margin on loans less than R80 000 was making banking operations unsustainable. In summary there was pressure to develop a National Housing policy that could address the backlog and the recognize that alternative retail lending capacity had to be created with or without the key banks to make credit available to the majority of South Africans.

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21 Cited from Donaldson and Marais, 2002: 186
22 First attempt to set up a community housing bank that was capitalized by the public and private sector.
During 1993/4 the frustration of not being able to secure vacant possession on mortgaged properties experienced by the mortgage-lending sector together with the installation of the new government led to the rapid conclusion of an agreement between government and the mortgage lenders. In 1994 a Record of Understanding (ROU) was signed in terms of which government accepted responsibility for the enforceability of law and order by; providing guarantees on the historic problem loans, which were ring fenced into a portfolio to be managed by a joint venture between government and the lending community. To accomplish this, the company SERVCON was established jointly. The aim of the RoU was to enable commercial banks to continue to be the main delivery channel through which housing finance could be accessed and to make additional credit available that would be used to augment the new capital subsidy programme. In 1995 the Mortgage Indemnity Fund (MIF) was established to provide insurance cover against political risk in the areas approved for lending by the MIF.

2.6 Housing Finance and the New Political Dispensation

The Reconstruction and Development Programme (RDP) formed basis for the thinking around creating new development institutions to deal the issue of poverty and adequate housing opportunities for low and moderate income households. In 1994 the state had contemplated establishment of a State Retail Housing Bank but was convinced in 1996 instead to establish the National Housing Finance Corporation (NHFC) to be the key wholesale lender to the housing finance sector. The state decided against a retail role, this was based on the poor performance and financial loss experienced through the South African Housing Trust (SAHT). Pre 1994 the SAHT was the state’s main vehicle to deliver housing by being both the developer and provider of end-user finance as opposed to a wholesale lender which provides funding to intermediaries also know as Retail Finance Institutions (RFIs) who in turn on-lend to end-users. The SAHT incurred huge defaults (25 000 mortgage loan in default).

The huge bad debts incurred by SAHT made it unable to rehabilitate and eventually was closed down by the government. Bolstering the housing finance sector the National Urban Reconstruction and Housing Agency (NURCHA) was established. During late 1990s three international visits were undertaken by representatives of the newly elected government to investigate the relevance of other housing finance models. Of note was the visit in 1998 by the then Minister of Housing to the United Kingdom where the role of the Federation of Social Housing Institutions impressed the South African delegation.

23 Vacant possession refers to the ability of lenders to perfect their security over properties financed without resistance from the homeowner and pressure groups.
24 Discussed in details below
25 Discussed in details below
26 Discussed in details above
27 This is the risk associated with politically motivated actions such as violence between opposing political parties or community based actions that were politically motivated towards preventing the sheriff from successful evictions.
28 Discussed in details below
29 Cited from A. Pillay- report on low income housing finance
30 Role and Impact of NURCHA discussed below
Through bilateral co-operation with the British government, technical assistance was mobilized to set up the Social Housing Foundation (SHF)\(^{31}\) in South Africa. The Rural Housing Loan Fund (RHLF)\(^{32}\) was established in 1996 along the lines of the NHFC as a wholesale lender with a specific mandate to serve the housing needs of rural inhabitants.

While the housing finance system was being set up, government designed a unique capital subsidy scheme that was to kick-start the low income housing market. During 1995 to 2001 one million subsidies were allocated and 90% of these were allocated to people earning less than R1500 per month, 8% to people earning between R1501 per month to R2500 per month and remainder to those earning less than R3500 per month\(^{33}\). The targeting of the subsidies was perfect in that the poorest segment of the population benefited the most. However, the consequence is that subsidies have distorted the low-income housing market by creating a concentration of housing product in the price range R20 000 to R25 000 with a typical size unit of 36m\(^2\). The subsidy scheme led to mass construction of core RDP housing of monotonous dimensions with little choice and differing quality particularly use of cheaper and inferior material to cut down on costs and the beneficiaries not being happy with the end product. To deal with the need to maintain quality the National Home Builders Registration Council (NHBRC)\(^{34}\) was established in 1995.

The supply of housing in the low-income market government through the subsidy policy began to increase to the extent that 200 000 units were delivered per annum since 1996. Other provincially and locally base state sponsored institutions also joined the finance system to boost the pace of delivery. The Gauteng Partnership Fund and the Metropolitan Housing Institutions are examples of these delivery additions.

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\(^{31}\) Discussed below in details  
\(^{32}\) Discussed below in details  
\(^{34}\) Discussed below in details
Chapter Three Government and Public Sector Role Players in Housing Delivery

3.1 The Evolution of the New Policy Environment

The housing market inherited by the South African Government in 1994 had severe abnormalities as a result of the policies and political turbulence of the pre-democratic era. The National Housing Policy formulated and implemented, is strongly influenced by the need to address and normalise these problems. Consequently, the Policy takes advantage of a number of opportunities that also exist within the environment. The aim of the Department of Housing is to determine, finance, promote, co-ordinate, communicate and monitor the implementation of policy for housing and human settlement.

Access to housing and secure accommodation is an integral part of government's commitment to reduce poverty and improve the quality of people's lives. Since the launch of the White Paper on Housing in December 1994, housing in South Africa has undergone fundamental changes. Between 1994 and June 2004, the Housing Programme provided more than 1.6 million housing opportunities to more than seven million people. During the same period, a total of 2.4 million subsidies were approved. The Minister of Housing, Dr Lindiwe Sisulu, unveiled the Comprehensive Housing Plan for the Development of Integrated Sustainable Human Settlements in September 2004. Cabinet approved the Plan as a framework for housing programmes in the next five years. It provides for comprehensive oversight by government in promoting the residential property market. This includes the development of low-cost housing, medium-density accommodation and rental housing; stronger partnerships with the private sector; social infrastructure and amenities. The Plan also aims at changing spatial settlement patterns, informed by the need to build multicultural communities in a non-racial society.
According to the Plan, the Government takes responsibility for providing the bare minimum for the hard-core poor (income levels 0 R1 500) by providing them with a full housing subsidy of R28 000. The poor (income levels R1 500 – R3 500) will also receive the full subsidy but will be required to provide either a small contribution or sweat equity. A newly created subsidy band in terms of the Plan targets the middle-income level (those earning R3 500 to R7 000 per month) for whom government will pay a deposit. The role of the private sector will be enhanced through the collapsing of subsidy bands, as well as the removal of blockages relating to down-payments for indigents and pensioners.

Beneficiaries’ spousal income will also be assessed. A fixed rate and other new loan products will be developed, including an option to convert the capital grant, where linked to home ownership or rental, into an annuity-based grant or benefit. Employers will be encouraged to make their contribution through employer-assisted housing. Barriers to housing trade will be removed through amendments to the Housing Act, 1997 [(Act 107 of 1997), to reduce the period during which resale on the private market is prohibited from eight to five years. Access to title deeds will be enhanced through the implementation of measures to stimulate a renewed uptake in the Discount Benefit Scheme, and the establishment of a high-priority focus on completing the registration of transfer in respect of houses constructed under the existing Housing Programme. All programmes will be focused on ring-fencing informal settlements and replacing these with more adequate forms of housing. In addition, greater co-ordination will be effected between national, provincial and local government.

3.1 The Evolution of the New Legislation and Policy Framework

3.1.1 Rental Housing Act, 1999

The Rental Housing Act, 1999 (Act 50 of 1999), which came into operation on 1 August 2001, defines the responsibility of government in respect of the rental housing market. It sets out the duties and responsibilities of both landlords and tenants, and provides for the establishment of rental housing tribunals in the provinces, thus allowing for a speedy and cost-effective resolution of disputes between landlords and tenants. Among other things, the Act prescribes that:

Leases may be oral or in writing. Tenants can demand a written lease.

The landlord must give the tenant a written receipt.

The landlord may require the tenant to pay a deposit before moving in.

The balance of deposit and interest must be refunded to the tenant by the landlord not later than 21 days after the expiration of the lease. In response to the need for rental housing in urban-based metropolitan areas, the Department facilitated the development of rental housing stock. Rental housing policy was finalised at the end of 2004 and the rental housing subsidy was expected to be implemented in 2005/06.

Three rental housing tribunals were set up in Gauteng, the Western Cape and North West. Other provinces are in the process of establishing similar tribunals. The Act gives these tribunals the power to make rulings in line with those of a Magistrate’s Court.
3.1.2 Home Loan and Mortgage Disclosure Act, 2000

The Home Loan and Mortgage Disclosure Act, 2000 (Act 63 of 2000), provides for the establishment of the Office of Disclosure and the monitoring of financial institutions serving the housing-credit needs of communities. It requires financial institutions to disclose information, and identifies discriminatory lending patterns. The Act is aimed at promoting equity and fairness in lending and disclosure by financial institutions, and will be implemented as soon as the regulations of the Act have been promulgated.

The Act aims to eradicate discrimination and unfair practices by encouraging banks and financial institutions to grant home loans to all its clients. It compels banks and financial institutions to disclose annual financial statements so that their lending practices in respect of home loans can be monitored. The Department of Housing also continues to participate in the deliberations of the Financial Services Charter to monitor the extent to which the targets set for the allocation of credit to low-income communities are met.

3.1.3 Housing Consumer Protection Measures Act, 1998

In terms of the Housing Consumer Protection Measures Act, 1998 (Act 95 of 1998), residential builders have to register with the National Home-Builders Registration Council (NHBRC) and are obliged to enrol all new houses under the NHBRC's Defect Warranty Scheme.

The aim of the Act is to protect home owners from inferior workmanship. Builders are responsible for design and material defects for three months, roof leaks for a year, and any structural failures of houses for five years. NHBRC inspectors may assess workmanship during and after the building process. Banks are compelled by law to insist on home-builder registration and enrolment prior to granting a mortgage loan or finance. All new government-subsidised housing units constructed as part of approved projects enjoy protection against shoddy workmanship by housing contractors.

Through the Act, properties that were built with funding from the Government's housing subsidy grant only, now enjoy protection against structural defects and must comply with minimum technical norms and standards. Previously, the properties of the poor did not qualify for such protection. The NHBRC ensures that registered builders deliver within the minimum housing standards.

3.1.4 Prevention of Illegal Eviction and Unlawful Occupation of Land Act, 1998


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35 For more details on the Act please see annexure two which is the copy of the Act
It also prohibits the receipt of payment as a fee for arranging the occupation of land without the consent of the owner, and repeals obsolete laws relating to illegal squatting. The Act provides a process for fair eviction of unlawful occupiers, and distinguishes between occupiers who have been residing on land for less than six months and those who have been residing on land for more than six months.

3.1.5 Community Reinvestment Bill

The Community Reinvestment Bill which was published for comment in 2003, has been put on hold pending the outcome of affordable housing lending targets identified in the Financial Services Charter. The Department of Housing will lead the Government's response to the opportunities presented by the Charter. A framework is expected to be developed within which affordable housing finance deals and partnerships between the finance and public sectors can be structured. Non-housing urban-development opportunities presented by the Charter will also be explored in an effort to increase private investment in community facilities in residential neighbourhoods.

The Community Reinvestment Bill is a sequel to the Home Loan and Mortgage Disclosure Act, 2000 and will provide for mechanisms to ensure that more home loans are allocated to low- and medium-income borrowers. However, the Bill will not compel housing-finance institutions to take risks in meeting their community-reinvestment obligations.

3.1.6 Social Housing Policy

The primary housing policy developments in 2003/04 included a new social housing policy. The policy will create an enabling environment for both private and public-sector investments in social housing projects. The policy, and associated legislation, will support urban regeneration, integration and densification initiatives that promote greater urban efficiency. On 15 August 2004, Minister Sisulu and the European Union Ambassador, Mr Michael Lake, launched a R160-million Social Housing Programme in Pretoria.

Rental housing is central to the Department of Housing's strategy to provide alternative and cheap accommodation to those who work in urban areas. The Programme serves as a vehicle for providing housing under different tenure options like co-operative housing and instalment sale.

3.1.7 Public-Sector Hostel Redevelopment Programme

The Department is revising the hostels policy to replace it with a policy that will enable the creation of humane living conditions, and provide affordable and sustainable housing.

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36 See annexure three on the details of the Bill
on either a rental or home-ownership basis. Several pilot redevelopment projects have been launched.

The Department has also prepared a set of technical specifications for the upgrading or provision of new services, and the upgrading (redevelopment) of hostel buildings. Amendments to the implementation guidelines, which will direct the redevelopment of the Public-Sector Hostels Redevelopment Programme, were expected to be finalised by the end of the 2004/05 financial year.

3.2 Fiscal: Government Expenditure

The Department received R4.8 billion in 2004/05 to finance national and provincial housing programmes. The allocation is made annually on the basis of a formula that takes into account the backlog in each province, the number of households in the various income categories of the subsidy scheme, the ratio between urban and rural housing, and the performance of the relevant provincial government. Total departmental expenditure was expected to increase from R3.3 billion in 2000/01 to R5.5 billion in 2006/07. The People's Housing Process (PHP) recognises the efforts and initiatives of those who prefer to build their own houses and are prepared to commit their resources, skills and energies to this task. It provides technical, financial and other support to these people. Funding is administered through the provincial Housing departments, while the People's Housing Partnership Trust (PHPT) helps build the capacity to speed up delivery.

3.2.1 Capacity-building Strategy

One of the major constraints in housing delivery is the lack of capacity, which entails an efficient workforce and the installation of appropriate technology, equipment and systems for monitoring, evaluation and reporting purposes. The Department continues to provide support to and assist provinces to ensure effective and efficient implementation of the National Housing Programme. The strategy and guidelines for housing capacity-building, as well as guidelines for provincial housing-capacity business plans were developed. National housing code workshops were held at both national and provincial level, aimed at capacitating internal and provincial officials, including municipal officials and councillors, and increasing knowledge on housing policies, programmes and legislation.

In April 2004, the Department announced the amended version of the National Housing Programme dealing with housing assistance in emergency circumstances.

The National Housing Programme for Housing Assistance in Emergency Housing Circumstances was instituted in terms of the Housing Act, 1997. The amendment relates to the provision of the Constitution that everyone has the right to have access to adequate housing, and that the State must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of this right.

37 Please refer to annexure 1 for breakdown of backlog and housing delivery per province
The main objective of this Programme is to provide temporary housing relief to people in urban and rural areas who find themselves in emergencies, such as when their existing shelter has been destroyed or damaged, their prevailing situation poses an immediate threat to their life, health and safety; they have been evicted or face the threat of eviction. The assistance involves prioritising funds from the provincial housing allocations to municipalities to accelerate land development, and the provision of basic municipal engineering services and temporary shelter.

3.2.2 National Housing subsidy Programme

Individual ownership subsidies are allocated to help beneficiaries acquire ownership of fixed residential property (housing opportunities) for the first time. New housing-subsidy programmes are being developed and certain existing programmes have been enhanced, including rental and social-housing subsidies. The housing-subsidy programmes, including project-linked subsidies, are being revised to introduce a procurement-compliant regime, consolidation subsidies, PHP, rural subsidies and institutional subsidies.

The Department increased housing subsidies by up to 11.68% with effect from April 2004. The subsidy for beneficiaries earning from zero to R1 500 rose by R2 700, from R23 100 to R25 800. Beneficiaries earning between R1 501 and R2 500 received a R1 500-subsidy increase, from R14 200 to R15 700. The subsidy for beneficiaries earning between R2 501 and R3 500 rose from R7 800 to R8 600. Subsidies for the indigent, including the aged, people with disabilities and the health-stricken, were increased from R22 800 to R25 580. The consolidation subsidy for beneficiaries earning R1 500 was increased from R10 900 to R12 521, and for indigents from R13 400 to R15 000.

The Department has designed a housing scheme to effectively cater for people with disabilities. People with visual impairment and other disabilities will get an additional amount to the normal subsidy to make their homes more accessible and comfortable, in accordance with their physical needs. In February 2004, the Department approved an extension to the existing housing subsidies for people with disabilities.

-Project-linked subsidies

This housing subsidy mechanism enables a qualifying household to access a complete residential unit, which is developed within an approved project-linked housing subsidy project for ownership by the beneficiary.

-Individual subsidies

An individual subsidy provides qualifying beneficiaries with access to housing subsidies to acquire ownership of serviced stands. It also allows the beneficiary to enter into house-building contracts, or to purchase existing, improved residential property which is not part of approved housing-subsidy projects.

This subsidy furthermore helps qualifying beneficiaries who wish to increase their subsidies by accessing credit, as well as beneficiaries who do not qualify for credit.
- Consolidation subsidies
This subsidy mechanism affords former beneficiaries of serviced stands, financed by the previous housing dispensation (including the Independent Development Trust's site and service schemes), the opportunity to acquire houses.

- Institutional subsidies
The institutional subsidy is available to qualifying institutions to enable them to create affordable housing stock for persons who qualify for housing subsidies.

The subsidy is paid to approved institutions to provide subsidised housing on deed of sale, rental or rent-to-buy options, on condition that the beneficiaries may not be compelled to pay the full purchase price and take transfer within the first four years of receiving the subsidy.

Institutions must also invest capital from their own resources in the project.

- Relocation assistance
Relocation assistance provides an alternative option to defaulting borrowers who were three months in arrears on 31 August 1997, and where the option of rehabilitating these mortgage loans is not affordable. This alternative provides an opportunity to obtain affordable housing with the assistance of the housing subsidy. A person who is eligible for relocation assistance is required to enter into a relocation agreement, so as to relocate to affordable housing.

- Discount Benefit Scheme
The Discount Benefit Scheme promotes home ownership among tenants of State-financed rental stock, including formal housing and serviced sites. In terms of this Scheme, tenants receive a maximum discount of up to R7 500 on the selling price of the property.

Where the discount amount equals or exceeds the purchase price or loan balance, the property is transferred free of any further capital charges. Rural subsidies: informal land rights. This housing subsidy is available to beneficiaries who enjoy only functional tenure rights to the land they occupy. This land belongs to the State and is governed by traditional authorities. The subsidies are only available on a project basis and beneficiaries are supported by implementing agents. Beneficiaries also have the right to decide on how to use their subsidies either for service provision, the building of houses or a combination thereof.

In a Nutshell
South African housing policy is therefore strong in its commitment to achieve a holistic concept of adequate housing by supporting citizens to achieve this vision incrementally. To ensure effective delivery and scaling up of housing finance mechanisms as well as easy access to credit, the government introduced significant interventions. Of note to this effect, it’s four key interventions: (i) the Breaking New Ground Housing Strategy (2005).
The strategy collapses the subsidy system and creates a three tier category of income groups for better targeting. In the categorization, the hard core poor (income levels 0 - R1,500) receive the full housing subsidy of R28,000\(^\text{B}\). The poor (income levels R1, 500 - R3, 500) receive too the full subsidy. A new subsidy band is created for affordable housing targeting the middle income level (those earning R3, 500 to R 7,000 pm), for whom government pays deposit. (ii) the promulgation of the Home Loan and Mortgage Disclosure Act (2000).

The Act aims at promoting fair lending practices which requires disclosure by financial institutions of information regarding the provision of home loans and also to disclose their reasons for not advancing a home loan or mortgage to low income earners; (iii) the Community Reinvestment Bill\(^{38}\) (2003). The Bill aims to compel all financial institutions to engage in the provision of mortgage finance to make housing finance available to the lower end of the market. (iv) the New National Credit Bill (2004). The Act aims protect consumers from deceptive and unfair conduct by credit providers and credit bureaus. Further, it aims to educate consumers about credit and their rights.

3.3 The National Housing Institutions

The Department of Housing's support institutions play an important role in enhancing the norms and standards of housing, as well as making housing finance more accessible to all South Africans.

The institutions are the National Home Builders Registration Council (NHBRC), the National Housing Finance Corporation (NHFC), the National Urban Reconstruction and Housing Agency (NURCHA), Servcon Housing Solutions, Thubelisha Homes, the Social Housing Foundation (SHF), the PHP and the Rural Housing Loan Fund (RHLF).

3.3.1 National Home-Builders Registration Council

The NHBRC was established in terms of the Housing Consumer Protection Measures Act, 1998' The Council protects the interests of consumers and regulates the home-building industry. Before the commencement of the Act, the National Home-Builders Regulation Council was established as a Section 21 company. Its main objective was to promote the common interests of persons occupied in the business or profession of home-building, through the regulation of the home-building industry. In August 1995, the NHBRC (Pty) Ltd also established the National Home-Builders Registration Council Fund (Pty) Ltd. The main objective of this company was to establish an indemnity fund to promote the interests of contractors, by making funds available through the NHBRC on an ex gratia basis to finance the rectification of defects in housing units in circumstances where contractors were either unable or not liable to do so.

On 26 March 2001, a statutory council was established in accordance with the provisions of the Housing Consumer Protection Measures Act, 1998. The two former Section 21

\(^{38}\) Please refer to annexure on RDP houses on what subsidy delivers in terms of end product, size and quality of the unit

\(^{38}\) The copy of the Bill is attached in the annexure
companies were consequently dissolved and all their assets and liabilities were transferred to the statutory council.

More and more members of the public want to purchase homes which are enrolled with the NHBRC. The NHBRC's major source of revenue is the enrolment of new homes. In 2003/04, the NHBRC registered some 19 448 home builders and enrolled 281 462 homes. It also conducted 470 921 inspections during that period and received 16 288 complaints.

3.3.2 National Housing Finance Corporation

The NHFC was set up by the Department of Housing in 1996 with a mandate to ensure that every South African with a regular source of income is able to gain access to finance, and to acquire and improve a home of his or her own. The institution operates under specific exemption from the Banks Act (Act 94 of 1990) and received all its primary funding capital of R880 million from the government. As one of the country's premier development-finance institutions, the Corporation acts as a wholesale funder and risk-manager, facilitating access to housing finance for low- and moderate-income communities.

The mission of the NHFC is to ensure:

Development and appropriate funding of institutions, providing affordable housing finance at retail level. Such finance is aimed at the lowest possible income levels able to afford credit on a sustainable and commercial basis. Development and appropriate funding of institutions offering a variety of tenure options for residential purposes, in the under- and unserviced segments of the housing market. Sustained and growing mobilisation of savings in the housing process, through appropriate intermediaries. The NHFC Business Plan states that it aims to create housing opportunities for low- and moderate-income families by:

funding or underwriting the funding of intermediaries and institutions to promote broader access to housing building adequate and sustainable capacity within the organisations it funds partnering organisations and institutions to deliver innovative housing-finance solutions. Between May 1996 and February 2004, the NHFC approved facilities totalling more than R1,6 billion, and disbursed R1,5 billion. In 2003/04, 55 loans to the value of more than R632 million were disbursed to finance 220 602 houses. Through its lending activities, more than 46 146 new housing units had been built by February 2004. Over 171 510 loans had been originated and facilitated, and a total of 62 new and emerging institutions had been supported. More than 1,1 million people's lives had been improved through the NHFC's funding activities.

3.3.3 National Urban Reconstruction and Housing Agency

NURCHA was formed as a partnership between the South African Government and the Open Society Institute (OSI) of New York, United States of America (USA), in May 1995 to arrange finance for housing.
Over the years, NURCHA has raised additional financing through Swedish, Norwegian and US agencies, and through the Futuregrowth Fund, Overseas Private Investors' Corporation and Rand Merchant Bank. It is a tax-exempt, non-profit-making company. In 2004/05, government awarded NURCHA a R3 034 000 grant. Operational expenses are funded by an initial allocation from government and a grant from the OSI. Since 1995, NURCHA has expanded its mission to expedite the:

construction of housing for low-income households
creation of viable communities through financing the construction of housing-related infrastructure and community facilities.

By the end of the 2003/04 financial year, NURCHA had received claims totalling R4,8 million for 55 housing projects. Since 1995, NURCHA has supported the building of 135 421 houses, of which 13 827 were built during 2003/04.

3.3 The National Programmes

NURCHA uses a variety of interventions to arrange and package finance for those delivering housing to low-income households, infrastructure, and community facilities:

Bridging-finance loans for small contractors: NURCHA lends money to small/emerging contractors building subsidy housing. To assist contractors and developers who are unable to access bridging finance from a bank, NURCHA has entered into agreements with financial intermediaries that have specifically tailored products to ensure the appropriate flow of finance to projects. Applicants requiring this form of funding are normally contractors who also require financial management support.

Bridging finance loans for established contractors: NURCHA lends directly to established developers and contractors developing subsidy housing, credit-linked housing in the R50 000 to R180 000 selling price range, infrastructure and community facilities. Established contractors are required to provide a minimum of 30% of the project bridging finance required upfront.

Financing for rental housing: NURCHA provides finance and guarantees for the construction and upgrading of rental stock for the affordable housing market sector. These facilities are provided subject to the specific requirements of the negotiated package. National Savings Scheme: Mandated by government, NURCHA launched the National Savings Scheme in 2001. As a result of the amendment to the Government's housing policy in April 2003, the Scheme was substantially revised. In support of the amended policy, NURCHA now works with provincial and local authorities to assist beneficiaries to save towards any contributions they are required to make to their subsidised housing.

3.3.4 The Mortgage Indemnity Fund
The Mortgage Indemnity Fund [MIF] was a government owned company that was formed for a three year period as a result of the signing of the Record of Understanding, between the Department of Housing and the Association of Mortgage Lenders. The Record of Understanding aimed at facilitating a resumption of lending activities by banks in areas that had experienced a withdrawal of housing investment, due to a breakdown in the due process of law and the non-payment for mortgage loans. The MIF commenced operations in June 1995 and ceased to operate in May 1998. Mandated to undertake a short term mechanism, to encourage mortgage lenders to resume lending at scale, in both the primary and secondary affordable housing market, in areas of the country where mortgage lending was disrupted due to past circumstances.

The key areas of focus were to:

Indemnify accredited financial institutions against loss, where they are not able to repossess properties due to a breakdown in due process of law.

Become an interface between Government, the private sector and communities so as to establish a sound working relationship between such stakeholders. Assist financial institutions to normalise their historical non-performing loans and properties in possession. Develop a rational basis for assessing lending risk in areas of the country where lending

Through the MIF indemnity was provided to financial institutions for the three year period as was agreed in the Record of Understanding. As a result of the provision of this indemnity there has been a significant increase in lending in formally red lined areas. Fifteen financial institutions were indemnified and indemnity cover was provided in 543 areas nation-wide. This resulted in 140 000 loans being granted with a value of R10 billion. Of these loans 73 000 with a value of R4,1 billion occurred in the lower segment of the housing market. MIF as a short term intervention laid the foundation for future lending and normality in the low income housing market. The process succeeded in unblocking vast amounts of new finance in marginalised areas and in obtaining clarity on key problems facing the housing sector.

A view from a former senior official Thloriso Thelejane suggests that the company did well under the circumstances but was quick to say that for any housing institution to be able to achieve greater results it must operate on a long term mandate.

3.3.5 Servcon Housing Solutions

Servcon was established as a 50-50 joint venture between the Department of Housing (representing government) and the Council of South African Banks (COSAB) in 1994. Servcon was mandated to provide exclusive management services in respect of the designated portfolio, comprising 33 306 properties in possession (PIPs), and non-performing loans (NPLs) with a value of R1,277 billion, for a period of eight years from 1 April 1998 to 31 March 2006. Servcon's mission is to normalise the lending process by managing NPLs and PIPs in areas where the normal legal process has broken down, in terms of the normalisation programme agreed to by the Department and COSAB. Servcon has four programmes, namely:
the repurchase/rescheduling programme that assists those who can afford an existing property by providing a mechanism to reassess the property and arrive at a reasonable buy-back or new-debt amount the subsidised rental programme that gives the occupant time to adjust to paying again after a period of non-payment rightsizing, which is designed for the owner/ex-owner who cannot afford a property or the rental option, by offering assistance to procure and finance, in whole or in part, an alternative affordable house special assistance, which is provided to the aged and disabled, such as providing relocation assistance in situ, i.e. without having to relocate. Servcon disposed of 19,783 properties during 2003/04. It receives funding from the Department on a quarterly basis to cover 50% of its operating costs and 50% of interest on the value of the undischarged guarantee to the banks. In 2004/05, Servcon received a grant of R37 166 000.

3.3.6 Thubelisha Homes

Thubelisha Homes is a Section 21 company established in 1998 by the Department of Housing and Servcon. It commenced operations in 1999. Thubelisha Homes' mandate is to procure or develop housing stock appropriate for rightsizing purposes.

To achieve this, Thubelisha Homes has to: determine the number, nature and location of the required housing stock; secure funding to finance operations; procure or develop and finance relevant housing stock; evaluate the clients for capital subsidies; sell houses to approved clients under cost-effective and appropriate terms communicate its role effectively to key stakeholders on an ongoing basis and obtain their support for the programmes. Rightsizing is a process initiated by the Record of Understanding signed by certain banks and the Government, whereby occupants of bank (PIPs)

These clients are permitted to occupy their existing homes temporarily while paying a predetermined and affordable rental to Servcon. Relocation assistance equivalent to the capital subsidy is available to Thubelisha via the provincial Housing departments, to procure new homes for clients. Thubelisha was initially capitalised with a R50-million grant from government to assist with bridging finance and working capital. A division of the FirstRand Group, which provides a treasury function for Thubelisha, manages this fund. In addition to ensuring the effective implementation of the rightsizing programme, Thubelisha's other core strategic objectives are to:

increase the utilisation of female contractors on their projects integrate the aged and clients with disabilities from the municipal waiting lists into their projects facilitate the delivery of houses through a managed PHP program implement an accredited emerging-contractor development programme integrate waiting-list clients into rightsizing projects.

Thubelisha operates in six of the nine provinces. During 2003/04, some 11,713 stands were secured, with 5,405 houses handed over to clients. Between 1999 and March 2004, some 12,064 stands were secured, 9,777 subsidy applications completed, and 7,341 subsidies approved.
3.3.7 Social Housing Foundation

The SHF was established as a Section 21 company by the Department of Housing in 1997. It is mandated by the Department to develop and build capacity for social housing institutions (SHIs) and to develop a policy framework for the sector.

The strategic objectives of the organisation, based on its mandate, mission and vision, are to:

- provide social-housing-sector strategic information; mobilise resources for the social housing sector; facilitate the capacitation of sectoral participants; promote the social housing sector
- facilitate sectoral stakeholder alignment; achieve SHF business-service excellence.

The SHF and the social housing sector have shown significant growth and development in recent years. By November 2003, there were 64 SHIs in South Africa and 33 500 housing units had been provided. The most significant agreement relating to social housing is that between the European Commission (EC) and the South African Government. The EC has pledged 20 million Euros (about R200 million) for social housing over the next five years. The EC programme has been strengthened, with a considerable amount of work conducted around building the internal staff capacity, systems, procedures and manuals of the SHF. Three SHIs were successful in applying for grant funding for capacity-building and development, and plans for a number of additional institutions are in the pipeline. In 2004/05, the Government awarded the SHF a grant of R15 347 000.

3.3.8 People's Housing Process

The National Housing Policy: Supporting the PHP was adopted by the Minister of Housing in 1998. The Policy focuses on poor families in both urban and rural areas, using capital subsidies to allow people to build their own homes. It also assists people in obtaining access to technical, financial, logistical and administrative support to build their own homes, on either an individual or a collective basis.

3.3.9 Peoples' Housing Partnership Trust

The broad mandate of the PHPT is aligned with the National Housing Policy: Supporting the PHP, which stipulates and defines the PHPT mandate as capacitating and engaging with national, provincial and local governments and civil society to meaningfully participate and support the PHP. To create adequate capacity for the PHP, the Department established the PHPT in June 1997 to implement the Capacitation Programme to Support the PHP. The main objective of the Programme is to develop
capacity at all levels of government, and in non-governmental organisations, community-based organisations and communities to support the PHP.

The PHPT has five programmes: Communication; Training; Research and Development; Technical Advisory Services; Corporate Services. The PHPT is funded by the United Nations (UN) Development Programme, the UN Centre for Human Settlement and the US Agency for International Development. Government assists the PHP by way of subsidies, facilitation grants and housing-support funding.

3.3.10 Rural Housing Loan Fund

The RHLF's main business, as a wholesale lending institution, is to raise money and lend it, to enable retail institutions to provide loans to low-income earners to finance housing in rural areas. In 2003/04, the RHLF funded more than 54 000 home improvements, mostly built by home owners or small local builders. It committed over R272 million to 22 retail lenders and disbursed over R252 million to lenders. The Rural Housing Strategy to support rural housing, dealing with a comprehensive range of housing-related issues, such as tenure, livelihood strategies and broader socio-economic issues, was expected to be developed in 2004 and implemented in April 2005.

By August 2004, a farm-worker and farm-dweller policy was being developed to respond to the housing needs of rural communities. This included policy recommendations that will consider the economic, social and institutional sustainability of farm-worker settlements; the required institutional framework; the roles and responsibilities of implementing agencies; technical norms and standards; tenure security; suitable subsidy mechanisms; and legislative amendments.

3.3.11 The Urban renewal

The Special Integrated Presidential Project for Urban Renewal was identified as one of the first Presidential Lead projects. The aim of the Project was to kick-start development in major urban areas, focusing on violence-torn communities and those in crisis. It was developed to ensure an integrated approach to the provision of infrastructure, housing, community and recreation facilities, and job opportunities. It aimed to transform previously disadvantaged communities and create sustainable and habitable living environments.

In addition, the Project has been viewed as an ideal opportunity to promote the business-planning concept and to give provincial governments the opportunity to improve co-ordination.

3.3.12 Urban Upgrading and Development Programme

The UUDP is a joint bilateral undertaking between South Africa and Germany, which was established in 1994 between the national Department of Housing and German Technical Co-operation. The Department is playing a key facilitation and co-ordination role in the implementation of the Programme in the Free State and Eastern Cape.
Assistance to the two provinces and housing institutions has involved: support to the Masilonyana Municipality in the Free State in bridging the bufferzone by promoting the integration of the Masilo township with the former town through territorial marketing; support for the implementation of the PHP projects in Mount Fletcher, Elliotdale and Tarkastad in the Eastern Cape; support for the national review of the PHP by the PHPT; the piloting of a municipal housing-sector plan as part of the Integrated Development Plan of the local municipality of Mohokare in the Free State.

By March 2004, the UUDP assisted roughly 2 500 household beneficiaries of housing subsidies, through integrated planning, self-help and management of construction processes to gain a foothold in the urban economy by owning a transferable asset to fast-track the delivery of roughly 18 000 housing units within the framework of the Housing Support Programme without losing sight of quality to conceptualise and scale-up a national programme for educating thousands of prospective or existing house owners about citizens' rights and responsibilities as housing beneficiaries to empower 550 household beneficiaries of housing subsidies to grow the value of their national assets by investing more than R3 million in the upgrading and improvement of their houses to empower thousands of community members to gain a better understanding of housing policy so as to better articulate demand, make an informed choice and be part of decision-making on appropriate delivery many of its staff and community members improving their understanding of urban service-delivery markets and filling up some of the delivery gaps with rare skills.

3.3 13 Settlement policy and urban development

In June 1996, South Africa made a commitment at the Habitat II Conference in Istanbul, Turkey, to implement the Habitat Agenda. The Agenda is the guiding international policy for human settlements. The Department of Housing is charged with the responsibility of co-ordinating the implementation of the Agenda. To do this, national policies that support the principles and the vision of the Agenda should be in place. The Urban Development Framework is essentially the key policy document that will guide the implementation of the Habitat Agenda in South Africa. Besides the Framework, the Department has taken the opportunity offered by the Global Urban Observatory, and initiated the Urban Indicators Programme and a Local Best Practice Strategy.

3.1.3.4 Summing up

Have Government Strategies and Institutions Fulfilled their Mandates?

Firstly, it has to be said that the national government cannot on its own supply all the country’s housing needs. The government has recognized the need to attract housing investments from sources outside the state. As a result various interventions to help meet the housing finance demand have been initiated through the formation of Public-Private Partnerships (PPP) between government and financial institutions which follows a

39 All the data and information cited from a number of sources: the national department of housing website reports on government programmes; annual reports of individual institutions, i.e. NHFC, RHLF, NURCHA, etc; the parliamentary portfolio committee reports; the parliamentary monitoring group website and policy documents on housing accessed from the ANC website.
Memorandum of Understanding (MoU) signed in April 2005 within which banks and other financial stakeholders have agreed to make different funding options available to low and moderate income households.

An R42bn has been set aside over the next five to boost delivery over the next five years in the low income housing finance market. Lack of finance is one of the major problems that hampers the housing delivery in South Africa and the government has identified that as a cornerstone in a sustainable housing finance process. Government institutions have not yet provided the significant impetus that was expected of them when they set up.

The concomitant effect on risks and conservative lending has impacted negatively on the future and development of these institutions. Another constraint is that some of these institutions especially Social Housing Institutions (SHIs) rely heavily on debt funding with little grant funding and organisational equity. Inadequate capitalization and reliance on expensive debt contribute largely on their inability to achieve their targets that they have been set for. Another factor is that most of these institutions have not operated long enough and have restrictive mandates which make them ineffective to manage growth at scale delivery.

With the set up of these institutions with separate mandates it was envisaged that whilst delivering on their mandates these institutions would align themselves on their activities to deliver housing finance through retail lending and wholesale lending. Although their vision and strategies are very clear with no duplication identified, there are areas of linkage and complementary, however the lack of coordination, synergy and the quest for development efforts cannot be easily pronounced. Similarly, other national projects planned and implemented without the involvement of the other party or not interested to co-operate even though certain strategic decisions by one institution could have some direct bearing to the business thrust of the other institution.

To deal with this dysfunctional the government in addition to encourage coordination and greater synergy in all government spheres and institutions is presently reviewing all the state development finance institutions’ mandates to establish legislative and administrative measures that unbundled the delivery of finance mechanisms. The government is also looking to bolster its institutions through re-capitalisation and encouraging them to raise funding directly from the capital markets. The strategic intent is to enable them to grow by expanding their limited mandates which are rigid, narrowly defined and onerous to deliver on. It is becoming increasingly clear that housing finance institutions should not be restricted to housing lending only, diversification should also be the way to go as institutions like NHFC are lending conservatively so that they cannot struggle to sustain themselves as they do not enjoy a recurring flow of funding from the government.

3.3.1.5 The Rental Housing Strategy

The government through the National Housing Department has due to political pressure embarked on a pilot programme as part of the Job Summit to implement its rental strategy. The NHFC has been appointed as its implementation agency. The project is
expected to deliver a minimum of 50000 units and a maximum 150000 units, 75% of which is rental and 25% ownership. Each project expected to deliver min of 5000 units. First three projects in KZN, Mpumalanga & Gauteng. In Mpumalanga, 1 131 units completed for phase one. In Gauteng 1 400 units completed already.

The vibrancy in the rental housing can be attributed by government’s hands on approach which entails injecting large volumes of its own capital and also assuming some of the credit risk and also to the effectiveness of Public-Private-Partnership (PPP) strategy. This particular approach has not only created appetite but has brought a significant landscape particularly in the inner cities where concentration of rental stock units has created an unanticipated demand especially amongst professionals due standard and quality of the end product. The Johannesburg Housing Company (JHC) and The Trust for Urban Housing Finance (TUHF), a development finance organisations that provides short and medium term loans to the purchase and refurbishment of residential rental property in South Africa's inner city areas have both made headways in terms of regeneration of inner cities. By far are the country’s largest PPP in the rental market and bulk of the funding comes from NHFC and the Banks. Through its project known as Brickfields the JHC completed its first phase of R98,7 million cosmopolitan housing project. Second phase has already begun and is expected to deliver 350 to 400 dwellings, at a total cost of R100 million with NHFC and ABSA contributing R25 million each.

3.4 The Informal Rental Market

An informal rental market also exists. This market is small and caters for the poor. Savings and informal income are the resources used to pay rents for accommodation provided by households and landlords. The dwellings in this segment are semi-formal backyard structures and inner city apartments. Typical in big cities of South Africa particularly in Johannesburg and Pretoria is the uncontrollable growing trend of slumlords who hijack buildings especially whose owners have abandoned them due to arrears in municipal services and electricity. This group of slumlords target desperate homelessness people and offer them accommodation relatively cheap and pocket the money. Because the due process of law favours them this creates distortions and instability in the inner city, let alone unhygienic conditions within which they live. It can take up to twelve months to have them evicted by the city council through the order of the high court. In a desperate bid to curb the scourge which does not only affect rental but also land owners and homeowners, the government is now amending the The Prevention of Illegal Eviction and Unlawful Occupation of Land Act, 1998 (Act 19 of 1998), whose implication prevents outright eviction of defaulting tenants and land invaders as opposed to a propelling lengthy court case to enforce evictions.

3.5 The Non-Government Sector and Multilateral Agencies Funding

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40 National Housing Finance Corporation Job Summit Programme Progress Report
41 NHFC Housing Market Bulletin, vol.2 Issues 8
The non-government organization (NGO) sector lacks the capacity and resources to deliver housing on scale. However, the Peoples Housing Process (PHP)\(^2\) is designed to assist beneficiaries to develop skills as part of the self-help process. In South Africa the amount of capital injection that comes from donor agencies is difficult to quantify because funding is not centrally controlled. It becomes difficult to determine the volume of funding that gets channeled into the housing sector because the current practice from donors is to invest directly into projects and intermediate through national housing finance agencies like NHFC, SHF, NURCHA, and RHLF.

The United States Agency for International Development (USAID), the Canadian International Development Agency (CIDA), the German Technical Assistance Corporation (GTZ) and the European Union (EU) are the forerunners contributing to housing finance in South Africa\(^3\). Their funding facilitated through bi-national and bilateral arrangements and agreements is channeled through individual institutions who in turn disburse the money under the terms and basis of the agreement. It has to be stated that bulk of the funds are debt funding. Only few institutions were fortunate to have access to an initial injection of donor finding that could be used for capitalization and project funding without relying on expensive debt. This form of funding allows organic growth and increase operational surplus and manageable levels of debt that has been additionally leveraged. However many institutions are not so privileged, as the type of funding they get mostly in trenches cannot be expected to yield any significant delivery of housing finance as it is in the form of grants, and soft loans particularly to aid institutions on their capacity building mechanisms. Therefore performance in this sector of the market is very limited and often directed towards technical assistance as opposed to housing finance delivery.

\(^{2}\) The Peoples Housing Process is an initiative sponsored by the National Department of Housing to capacity building and limited funding assistance to grassroots housing production. There are also Non Government Organizations that are actively involved in facilitating this process.

\(^{3}\) M. Pillay 2003 report on housing finance
Chapter Four: Commercial Banking Approach to Low Income Housing

4.1 The Banks Lending Strategy

The four major banks in South Africa (Absa, Standard Banks, Nedbank and First National Banks) are of the opinion that banks in general have over-lent in the low and moderate income households. However the banks are unable to articulate this market with confidence that can be backed up by hard core reliable data.

The four major banking groups together hold over 85% of all mortgage loans\(^1\). This accounts for R167.1 billion\(^{44}\). No breakdown is possible between the residential and commercial mortgages, as banks are either reluctant to share information or they do not have the capacity to generate such information.

The loans in default (33 300) are constantly mentioned publicly to justify the banking industries’ limited exposure to a market that is both politically and economically unstable which is considered to be high risk. Further, their failure to penetrate deep outreach has

\(^1\) Please see annexure on how the mortgage process works in South Africa
\(^{44}\) Report by M. Pillay on the strategy of banks
been built on an argument around commercial sustainability and capabilities that are consistent with first world banking and transacting requirements.

However the industry has since been overwhelmed by the introduction of the Financial Services Charter (FSC) which comprises a heavy component on Low Income Housing. It is a 10 year voluntarily initiative to the value of R42 billion aimed to provide low income housing finance to low-income households with stable income in excess of R 1 500 per month and less than R 7 500 per month. The initiative came into effect on 01 January 2004. Outside the big four commercial banks, few small banks are targeting actively the affordable housing market. They provide housing finance either through specific loans (Cash Bank), micro loans (African Bank) or both (Saambou, Unibank)\(^45\). These banks have showed innovation by extending housing products to their micro finance clients targeting smaller employers forging alliances with big banks\(^46\). Saambou, Unibank and Cashbank provide mortgage loans. Although their product might look similar to the big banks, their terms and conditions are more accessible. Mortgage bonds as small as R40 000 are provided although the typical mortgage would be between R60 000 and R150 000. Most of these banks’ primary business is micro-finance.

It has to be noted that the banking sector has had a turbulent period during 2001 and 2002, faulted by a profit warning from ABSA early in 2002 over its exposure to the risky small loan sector through its subsidiary, Unifer. This was followed by Saambou’s fallout, when the asset quality and management problems became apparent. The bank was allowed to fall after a run on its deposit, resulting in a systematic risk within the banking sector.

The loss of confidence spilled out to the sixth largest bank, BoE, which experienced a significant run on its deposits. As a result of this, some small banks handed over their licenses voluntary. These were hefty blows that small banks had to deal with. The debacle created undesirable effects on low and moderate-income households as they had their products extended mainly to the mass market.

### 4.2 Typical lending products and instruments in the low-income market

Solid progress was made during 1998 in resolving problems relating to the provision of finance for low-cost housing. Government departments and agencies and the banking industry have co-operated in developing methods of financing that utilise the capacity of the banks to mobilise funds yet do not impose untenable administrative burdens on the banks or require them to accept risks that are contrary to prudent banking practice.

#### 4.2.1 Small mortgage bonds

\(^45\) The period 2001 and 2002 is characterized by the demise Saambou and Unibank as a result number of small banks were liquidated and others voluntary offered to have their trading licences withdrawn by the central banks,

\(^46\) M. Pillay report on strategy of smaller banks
Apart from direct Government subsidies to the very poor, privately owned self-standing dwellings financed by mortgage loans were initially considered to be the only solution to the massive housing backlog amongst low-income communities. The most favourable government subsidies, limited to a maximum of R15 000, were available to applicants with incomes of less than R1 500 per month before the adjustment. They, and other low-income home-buyers, looked to mortgage finance from the banks to fund the balance of the purchase price of their homes.

However, providing mortgage finance for these homes was problematic for several reasons. By far the greatest difficulty was the problem of affordability. With a 45m² self-standing house on a serviced site costing a minimum of R55 000, fewer than 10% of unhoused families could afford the 10% deposit (R5 500) or meet the monthly payments on a loan of R49 500. At 20% per annum, a monthly income of at least R4 000 was needed to qualify for such a loan, yet anyone earning an income of that amount was disqualified from receiving a housing subsidy. Therefore the housing strategy did not function as expected.

For the banks originating and administering low-value mortgage loans is very costly relative to the actual loan amounts, and therefore, the interest earned on them is insufficient to cover the costs. The originating cost, which includes the expense of evaluating, explaining and processing a loan, does not necessarily have anything to do with the amount of the loan and is quite frequently inversely proportional to it.

4.2.2 Non-performing loans

South African banks have been faced with the seemingly intractable problem of the failure of many township residents to pay their rates, service charges and mortgage bonds. The result is that South Africa's financial institutions had 63 100 township property loans in default. Of these, approximately 33 100 are in the Servcon 'ring-fenced' portfolio which is 50% guaranteed by the government. The other 30 000 are in the hands of the banks themselves \(^{47}\).

4.2.3 Micro housing loans

Because of the limitations on mortgage lending for low-income housing, a market developed for micro housing loans during the last few years. These loans are made in conjunction with employers who perform three critical functions: they carry most of the burden and cost of originating the loans, make salary roll deductions and pay the monthly instalments straight over to lenders, and arrange pledges of employees' pension or provident fund benefits to the banks as security for the loans. As a result, the originating costs are very low and losses are minimal. One disadvantage is that few of the potential borrowers have pension or other benefits valued in excess of R15 000 and the average loan under the programme is therefore R10 000. Another is that as interest rates and instalments are variable, borrowers, particularly found that larger-than-expected

\(^{47}\) For further details please see Servcon and MIF on chapter three above
deductions (which many could not afford) were taken off their salaries because of interest-rate increases. Nevertheless, the banks have more than R3 billion of these loans on their books. Some of the micro-lenders have also been very active in this market and have probably also lent more than R3 billion. Altogether, micro housing loans will give access to housing finance to another 20% of the previously unhoused.

4.2.4 Gateway Home Loans

Recognising the limitations of micro-loans in providing housing finance, the National Housing Finance Corporation Limited (NHFC) and the banks jointly designed the Gateway programme. Under this programme the banks and other intermediaries were to originate loans in conjunction with employers (in much the same way as they do for micro-loans) and then sell the loans to Gateway, a subsidiary of the NHFC. Gateway: Uses the financial capacity of the NHFC to stabilise the interest rate for the borrower; Accepts 50% security instead of the 100% backing required by the banks; Raises the necessary funds by issuing bonds in the market.

The Gateway programme was to overcome the problems that were initially encountered by the banks in granting small mortgage loans for low-income housing. The programme is expected to give another 10% of the currently unhoused population access to housing loans of between R20 000 and R35 000 which they would not have been able to obtain without this assistance.

4.2.5 Home loan Securitisation

S.A. Home Loans recently announced that it was introducing a home-loan securitisation operation. In 1988 the then United Building Society securitised R250 million of mortgage loans, so this type of business operation is not new to South Africa.

Securitisation involves granting and registering bonds, collecting them into a 'pool' and issuing notes that represent an interest in the pool. The notes are then traded on the open market at either a discount or a premium depending on whether the return on the pool is less or greater than the rate of interest that can be earned on alternative investments. If securitisation is to be effective:

There must be a reasonable and efficient distribution network to originate the loans;

The loans must be of high enough quality that potential investors can concentrate their attention on the return and the tradability and not have to worry about the quality of the underlying mortgage bonds; and there must be a well-developed and active market in the notes.

S.A. Home Loans have announced their criteria, notably that the minimum loan is R100 000 and that the borrower must put up at least 30% of the purchase price. As securitisation is only really feasible in the high-value markets it is possible that competition for this business could become very intense. This competition could force the banks, as occurred in other areas of banking, to recover the full costs of doing

business in each segment of the home loan market and eliminate cross-subsidisation from high-value to low-value customers. Securitisation may therefore reduce interest rates in the high-value home loan markets and increase rates in the low-value markets.

4.2.6 The Mortgage Bank System

A major feature of the mortgage bank system is the use of long term (25 to 30 years), fixed rate mortgages. Lea (1995) describes the mortgage system as an alternative to the depository institution model. In this system mortgage banks originate and service portfolios of mortgage loans which are funded by securities they issue. The securities are obligations of the mortgage banks that are normally purchased by institutional investors. The mortgage bank, unlike the depository system, has a combination of retail functions as well as wholesale function. The wholesale role emanates from the need of such a system to raise funding directly from the capital markets. Germany and Scandinavia have Mortgage banking systems. Similar institution to the Mortgage banks have been established in the early 70’s in South Africa that were called Mutual Banks. Mutual Banks relied on retail deposits for its revenue and because of its narrow base, was not able to compete with the growth of the commercialized banks. Mutual banks also were not able to distribute reserves and profits to shareholders due to legal establishment requirements. This led to investors concentrating on pure profitable and commercial ventures.

4.2.7 Secondary Mortgage Market

Currently, the most popular approach to financing of housing in large volumes is the secondary mortgage market system. A secondary mortgage market involves the sale of mortgage loans (or loan portfolios) or mortgage backed securities (MBS) backed by specific pools (Boleat, 1985:77). According to Van Order (2001) this structure entails the transfer of risks and ownership of the mortgage loans to a third party. These loans must be sold to specialized institutions called conduits or special purpose vehicles (SPVs), which are separately capitalized. These institutions are able to raise funds through issuance of securities backed by the loans. The investor in a guaranteed security does not have to worry about default risk (but still exposed to interest rate risk). The system was originally developed in the USA as a method to sell mortgage loans in order to reduce the interest rate risk associated with fixed rate mortgage lending (Guttentag, 1998:21-23).

In 1999 under the National Housing Finance Corporation a company called Gateway Home Loans was established to develop the secondary housing finance market in South Africa. Due to the slow pace of sales, purchases and development of the new stock in the primary housing market resulted in a small number of qualifying loans that could be bought by Gateway and packaged into securities and sold to investors. A weakness perhaps is that this initiative was ahead of its time. Two possible reasons that could explain the failure of Gateway Home Loans after only two and half years of its pilot operation, firstly, banks were not able to originate conforming loans in volumes that

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49 M. Lea 1995 Housing Finance Systems
50 Discussed in details in chapter two
could be securitized, and secondly, the primary market sales, re-sales and the ineffectiveness in the legal system in dealing with defaulters contributed to low re-financing and turnover of the housing stock in the primary market. The system is successful in the US because the economy and the housing market are efficient and works well without subsidies and other distortions like statutory interest rate controls (Hendler and Pillay, 2002:16).

**Summing up**

It must be noted that establishing precisely and accurately the current market share size and the bank’s investment in low income housing is extremely complex and proved to be a futile exercise. There is no readily available information and data from the banks and the banking group. This makes it difficult to quantify the bank’s actual involvement and contribution in this market.

The 2005/06 ABSA annual report which by the way is the better than any financial report of the four banks with regard to mortgage financing report- though itself falls short in terms of aggregating the home loan portfolio volumes. According to the ABSA annual report the mortgage advances increased significantly during the year under review, primarily because of lower interest rates.

The lower interest rates enabled customers to reduce the capital portion of their loans through additional monthly payments, which had a negative impact on income from the advances book. Final grants and bond registrations increased significantly during the year and 558 843 applications were processed by the Group’s six processing centres. This represents an 81% increase on the value of applications in the financial year\textsuperscript{E}.

The banks mortgage market share for 2004/5 financial year is as follows\textsuperscript{*}: Absa is leading the pack with 31.5%, Standard Bank is hont on the heels of Absa with 25.*% and surprisingly Nedbank (23.5%) whose previous strategy was to catch up with the big three has surpassed First National Bank who is on 16.%. All other small banks have had it tight since the days of Unifer and Saambou and cumulatively have a market share of 4.9% of the mortgage market.

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\textsuperscript{E} ABSA annual report 2005/6

\textsuperscript{*} Standard Bank annual report 2004/5 financial year, see also graphic illustrations on the list of figures
Approximately one fifth of South Africa’s households live in previously designated Black Townships (2,28 million households in 2002). Of these approximately one third owns accommodation, one third rents formal houses and one third lives in informal housing. A review of the October Household Survey and the Labour Force Survey of 2002 indicates that approximately 2,28 million households were living in these areas in 2002. This is an 89% increase from 1995 when 1,2 million were living in these areas. These households comprise 21% of all households in South Africa. There has been an increase in the number of households living in Black Townships since 1995 when 15% of all South Black households were living in these areas. This reflects significant urbanisation from rural into urban areas where the first point of entry is often via Black Townships, as well as population growth and the splitting of households.

In 2002, 33% of Black households owned their property, 34% were renting formal accommodation, 16% were renting informal accommodation (backyard shacks) and 17% were living in informal settlements. In 1995, 35% of households owned their property, 37% rented formal accommodation, 15% were renting informal accommodation and 13% were living in informal settlements. This indicates that in relative terms the housing circumstances of households living in Black Townships worsened because a higher proportion were living in informal settlements and a lower proportion in formal ownership and rental. This is reflective of the huge increase in the number of households into these areas and the fact that the supply of new stock in these areas was not sufficient to meet demand.

5.1 Defining Sub-Markets in SA Townships

The residential property market in Black Townships can be categorized into six sub-markets that display different characteristics:

<table>
<thead>
<tr>
<th>Sub-Market</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Old township stock</td>
<td>Old township stock- a formal housing unit including free standing houses row and semi-detached houses and flats. The most common form of house provided was a four roomed house. The stock is generally old and in poor condition provided by old government between 1948 and 1960. The new government undertook a programme to transfer this stock into private ownership</td>
</tr>
<tr>
<td>RDP housing stock</td>
<td>RDP stock- comprises housing stock built as part of the national housing subsidy programme since 1994. The consists either a formal free standing housing unit on an ownership basis, a flat, cluster or free standing house provided for rental or a site with funding for development of a dwelling</td>
</tr>
<tr>
<td>Informal Settlements</td>
<td>Informal settlements- comprise informal dwellings erected by the occupants using non-conventional building materials. Structures are erected on the land without permission of the owner. No title is available due to the informality of the settlements</td>
</tr>
</tbody>
</table>

51 Census data by Statistics South Africa
52 TRPM report by Shisaka 2004
53 TRPM report y Shisaka
Private housing stock - middle income

private sector.-tThe type of housing comprises a formal free standing housing unit developed by a private sector developer who sells the unit to the buyer.

Site and Service Stock

Site and service stock- is provided as part of a project whereby households are provided with a site and services and are required to develop the top structure incrementally on their own. The projects were provided by government.

Source: TRPM 2004

5.1.1 Poorly Performing Secondary Markets

Townships in Black areas have a distinct history, which has had a direct impact on the nature of residential property markets that exist in these areas. During the apartheid era Black Townships operated as a closed market. In addition, during this period they received poor social infrastructure and services. This has directly influenced the way in which housing is delivered and property is valued and traded in these areas. Since 1994 the residential property market in Black Townships has operated as an open market.

Townships in Black areas emerged in the early 1900’s as towns in South Africa developed. The national study on Township property market conducted by Shisaka Development Management Services in 2004 revealed that one fifth of South African households live in former township areas, in housing with an estimated asset value of R63.8 billion. Due to the dysfunctional nature of the secondary property market these households are not able to realize this neither value nor trade in the property market. This phenomenon has been identified by analysts as a significant factor that impedes the growth and development of the secondary market in South Africa.

5.1.2 Transactions in the Secondary Property Market

The extent of the residential property secondary market in Black Townships, both overall and in terms of all of the four sub-markets, is extremely limited with very few formal transactions occurring. There is evidence of transactions occurring informally. The ‘housing ladder’ whereby a household sells one property in order to purchase a better quality property, is not occurring and there appears to be very limited movement of households between the submarkets.

In terms of the Household Survey by Shisaka 2004, of the 2,004 households interviewed only 12% have transacted in the secondary market in the past 5 years. This is further substantiated in respect of the Cadastral Review where an analysis of Deeds Registry data for 12 of the 18 survey sites was undertaken. This analysis indicates that in the past 5 years approximately 7.5% of all proclaimed properties have had secondary transactions in that five year period. Of the 7.5%, most (65%) occurred in respect of the Privately developed sub-market, 12% in respect of the Old Township Stock sub-market, 13% the RDP sub-market and 10% the Site and Service sub-market. In respect of these

54 Shisaka report on TRPM 2004
registrations it is evident that the volume of registrations is extremely low both overall (7.5%) and for each of the sub-markets (Private Sector 12.5%, RDP 6.4%, Old Township 3.7% and Site & Service 3.4%).

5.1.3 Wealth Creation and Realisable Value

The use of residential property in Black Townships to create wealth and or income for the occupant households is extremely limited. Households are generally unable to leverage capital using their property as collateral and are generally not making use of such a property to generate income, either through rental or the use of the property for business purposes. In addition the current poor performance of the secondary market inhibits the ability of owners of residential properties to sell such properties at appreciated values.

On the basis of the above it is evident that Hernando de Soto’s argument in ‘The Mystery of Capital’, that housing assets are ‘dead capital’ because low income households cannot transform such property into capital, is true for the whole township residential market in South Africa and particularly true in respect of the Informal, Incremental and Old Township Stock sub-markets. Given the constraints, the table below provides an overview of the way in which transactions are occurring in each of the sub-markets

<table>
<thead>
<tr>
<th>Sub–market</th>
<th>Property transaction process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informal (24%)</td>
<td>This process of buying and selling a property and transferring ownership is completely informal and not enforceable in terms of the law. The transfer of a dwelling from a seller to a buyer occurs through direct negotiation between the parties. Anecdotal evidence indicates some attempt to formalize. In some cases the transaction is documented using Government Councillors and Officials or Community Leaders as witnesses. In some cases prospective owners are required to obtain the permission of the surrounding community structure prior to purchasing.</td>
</tr>
<tr>
<td>Incremental (RDP – 7.9%, Site and Service 2.7%)</td>
<td>Properties in this sub-market in respect of the secondary market are transferred predominantly through purchase (56%), although inheritance (26%) also occurs. The ability to undertake a transaction using formal processes (deeds registry) in this sub-market currently is extremely limited both because of delays in primary transfer and as a result of the restriction Section 10A of the Housing Act, 1997 which prohibits the sale of these properties for a period of 8 years but later changed to 5 years it is likely that property purchases in this sub-market are occurring through informal process whereby the buyer and seller enter into a verbal or written agreement but do not formally register the transaction.</td>
</tr>
</tbody>
</table>
Old Township stock
(4.2%)
Properties in this sub-market in respect of the secondary market are transferred predominantly through inheritance (50%) and purchase (31%). Some stock is obtained free through Government (19%). The ability to undertake a transaction using formal processes (deeds registry) in this sub-market appears to be difficult for the reasons detailed above.

Privately developed
(12.4%)
All households have land title in this sub-market and the transfer of property from a seller to a buyer occurs in respect of the formal transfer process as set out in the Deeds Registry Act.

Source: TRPM 2004

5.1.4 Savings and Key Blockages to Housing Finance

In general, savings are not linked to a specific housing product, but the majority of the market envisaged deploying their savings towards a deposit on a house. This illustrates widespread intent to access housing finance, rather than buying a house for cash. Despite the admirable savings effort, cost estimates suggest a significant shortfall between savings and required deposit.

Despite the construction of more than 1.8 million housing units since 1994, shortage of housing stock remains a key obstacle to housing purchase. According to the 2003 NHFC national borrower survey over 90% of prospective buyers in the market (total market 1.5 million urban low and moderate income households) have actively looked for a house to buy, but only a quarter have been able to identify a suitable property. Low income, access to credit and lack of affordable housing stock emerged as the single biggest blockage from the study.

5.1.5 Effectiveness and Affordability

Informal lenders price for risk and the consequence of this is a higher risk premium for loans with no or little collateral. In economies where the legal system and procedures for transferring assets or collateral to the lender are weak also contributes to risk based pricing. Markets function well when administrative law and procedures work well, and a clear well defined mechanism for punishing deviations from the norm can be applied. In the South African situation the laws governing property and credit are well defined and implemented by the government through the justice system. With this in place two problems plagued and to a certain extent continues to plague the housing finance market; first, is the claim from banks that they are unable to enforce property rights in certain residential areas; and second, is the defiant manner in which some citizens break the laws by ignoring loan obligations and even eviction orders.

This has led to credit rationing since 1996. According to Hawkins (2003) both the bank and non-banking lenders in South Africa have seen an opportunity to transact in the low-income housing market where the demand for credit far exceeds the supply but are reluctant to do so. Credit rationing can be addressed if the risk of default can be eliminated through effective implementation of property laws, guarantees, insurance policies and social contracts that force the honouring of debt obligations. To minimize
bad debts the central issue is to determine the borrower’s affordability or ability to
timeously pay loan obligations.

Traditionally affordability is determined by assessing the households ability to pay by
subtracting all debt obligations from regular source of income and determining
disposable income available for servicing a housing loan. Pillay (2005) is of the opinion
that in developing economies, behavioural together with attitudinal and more flexible
collateral requirements can be assessed to determine the credit risk and profile of
borrowers.

A model for credit assessment points out to the formula of three components that play a
role in the calculation of credit risks. These include, (i) ability to pay (affordability,
income to determine disposable income; (ii) collateral (property, pension, insurance,
savings, subsidies etc); and (iii) Behaviour and Attitude towards Credit (savings record,
municipal service payment record, housing aspirations, compliance with law and order,
attitude towards housing credit). The most popular approach in South Africa in analyzing
affordability is the ratio approach which considers the percentage of income that is
expanded on housing. As a rule of thumb one week’s salary equals one month’s rent or
mortgage payment, which led to the popular belief that not more than 25 percent of
household income should be allocated towards rent or mortgage payment\(^{55}\)

5.1.6 Liquidity of Financial Markets

Developing economies whose economic policies are not sound or based on market
principles are affected by inflation in an adverse way. In South Africa these policies had
served to have a strong influence on the macro economic indicators\(^{56}\) and in specific
headline inflation was brought down from 14.7 (1980-1989) to 7.2% (1995-1999)\(^{57}\).
Currently it is in the region of 4% with strict inflation target of between 3-6%. In the case
of South Africa, although the Central Bank maintained strict inflation targeting,
exogenous factors such as natural disasters, (droughts, earthquakes), political instability
in neighboring states, placed the currency under pressure that had a negative impact on
international trade.

For developing economies interest rate and credit policies need to be well managed and
sound to promote investment. The theory here is that the more savings either on the side
of government from the proceeds of privatisation or from the point of individuals in
private bank accounts, the greater the ability of the finance system to invest in
infrastructure that could provide the impetus for growth and the expansion of the low
income housing market.

The Register of Co-operatives which in the early 1980s made banks to compete on the
basis of price and interest rate was abolished and later replaced by the Banks Act in 1996
which began to regulate and regularize the local banking system (Pillay:2002:77).

\(^{55}\) Pillay 2002, Garnett 2000
\(^{56}\) As referenced in the first chapter on economic indicators and issues of interest rate fluctuations
\(^{57}\) South African Reserve Bank Report on Monetary policy
The outlook provides the necessary investor confidence and improves South Africa’s sovereign rating.

5.1.7 Financial Infrastructure

Renaud (1999) points out that in markets that are regulated by laws and regulations that relate to Governance and Corporate behaviour, practices and procedures, investors and financiers are more willing to participate and their risk appetite is reflected on the pricing of their products and financial instruments. The Central Bank plays a vital role in many countries to regulate, supervise and monitor banking institutions. This ensures that banks act in responsible manner and that deposits made by the public are safe. In South Africa both global competition and internal regulatory control have impelled a sizeable rollback of retail banking services and branches (Baumann, 2001:16).

Efficient payment systems are also important components within the housing finance system. Timely payment of principal and interest and the transfer of payment to third parties via an efficient payment systems is a pre-requisite for the more sophisticated housing finance systems. This factor gives the investor the confidence that he will receive his return on investment on time without having to spend additional resources on special recovery methods (Hendler and Pillay, 2002:8).

5.1.8 Access to Credit

Lack of access to credit hampers the delivery of affordable housing. Housing finance from financial institutions is not widely available for primary or secondary transactions in Black townships, with the exception of the privately developed sub-market.

Even where lending is taking place, indicators are that foreclosures are proportionately high. This reflects the high levels of economic vulnerability of the households in townships. In addition experience indicates that, in the event of foreclosure, realizable value is low, resulting in higher losses on default. The process of foreclosure and sale and execution is also more uncertain and often takes more time. This increases lender reticence to lending in such areas. Accordingly there is a need to introduce some risk sharing mechanism that can limit.

5.2.9 Loan Instruments and Risk Pricing

In the housing finance system in South Africa the pricing of loans specifically for housing are largely determined by two factors: the cost of funding; and, the risk of lending in the different market segments. South Africa still experience problems with evictions and foreclosing of mortgage loans and as a result the cost or interest rates to individuals in the low and moderate income categories are higher. Risk based pricing in this market can vary from 4% to 13% up on prime rate for secured loans and up to 43% on unsecured loans. The interest rate, the term and the collateral arrangements for smaller loans promote incremental housing as opposed to ownership or free standing

58 A. Pillay report on housing finance, 2003
units. Further, the cost of blending the subsidy with credit is perceived by lenders to be too high. Until recently, less than 10% of the national subsidy allocation was linked to credit.59

5.2.10 Poor Access to Housing Finance and the Cost of Capital

In South Africa, given our past experience with credit risks in mortgage lending, it was likely that banks will use other methods or alter credit criteria to ration credit. In cases where subsidies are freely available from government and a loan component is required to complete the funding package creates a pricing or risk problem to the lender. In this situation it should be assessed whether the loan portion was accessed at any given price or interest rate. The main consequence of poor access to housing finance is the negative impact on housing affordability. With the worsening of the income distribution has come the shortage housing for people with very low incomes contributing to the rise of homelessness. Here both the cost of the end product as well as the cost of accessing finance is considerably higher.

This is so very true in the case of South Africa where risk pricing drives up the cost, a developer or an aspirant homeowner has to pay from private sources funding. Therefore, affordability plays a significant role which is at heart of household efforts to improve their housing situation.60 As an indirect consequence, the high cost of finance delays the homeownership process.61 The time taken to enter the real estate market as an owner is longer. Developers are an important component to the housing delivery process and if their access to finance is constrained, then long building periods can be experienced. This will increase the backlog situation, as delivery is unable to keep up with demand.62

5.2.11 Credit Risk

Before 2005 when government introduced a new subsidy arrangement, one of the key features in this market was the near absence of deposits for housing purchases. The US experience in the field of default management suggest that in properties where there is a component of equity in the mortgage loan structure, the home owner is more likely and willing to cooperate in downscaling in the unemployment or rectifying the default through loan resale. In SA low income groups have little understanding of housing investment or realizing the value of a house as an asset. As a result the majority of potential buyers are reluctant to enter the market. Credit risks are still plagued by the culture of non-payment rather than a sense of obligation and responsibility to service debt.

59 Report from the DoH website
60 Adebayo and Adebayo, 2001:1
61 Please refer above on how the mortgage transfer process works
62 Hendler, 1993:3
Summing up

In South Africa the upper end of the mortgage market products has experienced exceptionally growth and returns. Two factors are mentioned as the main reasons for this housing boom: historically low interest rates, resulting from low inflation, and the strong performance of property because of underperforming asset classes such as equities. As a result, new home buyers took out bigger loans, while existing home owners increased their mortgage loans to turn capital appreciation into cash for consumption purposes. But this has not translated to a trickle down effect on the lower end of the market. Even though many analysts believe that interest rates are the lowest levels since early 1990s, comparatively speaking to other developing economies interest rates are still exceptionally high. It is difficult to develop any economy whose cost of capital is so expensive to the majority of its citizens. Without access to basic transactional financial and banking services, individuals are not only cut off from financial services vis-à-vis, loan financing, savings, they are also excluded from participating in the general activity of the economy.
Chapter Six: The Regulatory Infrastructure and Micro-Finance for Housing

6.1 Regulatory Mechanism

The regulatory infrastructure that currently influences housing finance in South Africa is South African Reserve Bank (SARB), Micro Finance Regulatory Council (MFRC) and National Home Builders Registration Council (NHBRC). The main objective of regulation should be to achieve a high degree of efficiency, systemic stability and safety and soundness of financial institutions and consumer protection in the economy.

6.1.2 The Housing Micro Lending Industry

Micro-lending is one of South Africa’s fastest growing industries in the financial services sector. The industry is characterized by two disparate groups, namely those that are registered and those that operate in an unregulated environment. The distinct difference between the two groups is that the registered group is monitored, whilst the other is not. The size of the unregulated market is relatively unknown.

The latter is also notorious for violating the rules and regulations of the industry by charging exorbitant interest rates to borrowers and for retaining borrowers’ ATM cards and pin codes as collateral. The regulated industry, on the other hand, has to abide by prescribed rules to benefit from the exemptions to the Usury Act. Interest rates for the products range from 26% per annum to 5% per week. However, studies have shown that the effective interest costs are substantially higher, as additional charges such as credit life, administration, and retrenchment insurance are mostly added to the price of those loans. Effective interest rates higher than 100% per annum are not uncommon.

6.1.3 Developments in the Microfinance Housing Market

Microfinance can potentially offer a way to help the low and moderate-income households to meet their shelter requirements. The features of microfinance such as small incremental loans, short repayment periods, market rates and innovative forms of collateral such as peer group lending and alternative forms of titles of land present challenges to the provision of housing finance for low and moderate-income households.

In South Africa the housing microfinance industry is still experiencing a difficult recovery due to the demise of Unifer and Saambou banks during 2001 and 2002. The two banks were key to mainstreaming microfinance of housing. They extended micro-loans, credit and savings to low income households that were otherwise cut off from the main stream financial services.
At a national level, the sources of capital to housing lenders are limited and those lenders are in the most part reliant on the primary sources of funding. Most institutions are not able to leverage their balance sheet because of their poor capital adequacy ratio. The level of equity in the business is low and does not help in securing secondary funds. The South African Reserve Banks’ September 2004 stability review report puts the total credit market in South Africa at more than R400 billion. Micro loans constitute between 4.5-5% of this. Of the R18-20 billion worth of micro loans, some 11% is disbursed for housing purposes.

6.1.4 The Market Size of the Regulated Industry

As at 31 August 2004, 1777 microlenders were registered with the Micro Finance Regulatory Council (MFRC). The number of registered lenders which has increased from 1300 in May 2003 can be largely attributed to the successful prosecution of a number of unregistered lenders. The registered microlenders comprise 9 banks, 6 public companies, 275 companies, 1371 close corporations, 69 trusts, 21 section 21 companies and 26 co-operatives. Although close corporations constitute the bulk of microlenders they only have 2.9% market share. The nine banks have 47.8% market share. A number of major small and medium enterprises and banks are entering the microfinance housing market. This has not only resulted in the growth in the size and shape of the sector but it seems also to promote a culture of product experimentation.

63 NHFC Housing Microfinance Review, March 2005
64 NHFC Housing Microfinance Review, Vol. 2 Issue 7
65 Companies operate on an non-profit basis
7. Concluding Remarks

The housing finance mechanisms and reforms in South Africa through since 1994 (Record of Understanding) to 2005 FSC’s (Memorandum of Understanding) reflect a better understanding and willingness to deal with the management of risks from both the public and private sectors. Building capacity for financial intermediation in the housing sector is a responsibility of all, if we want to expand deep outreach and access. Borrower education is the responsibility of all players in the market to optimally manage risks. The type and level of borrower education must reflect the current risks evident in the market. It is important to educate and empower consumers, potential borrowers, existing borrowers about their roles, responsibilities and corresponding obligations to make homeowners and aspirant home buyers recognize their realizable value of their assets.

The majority of lending that did occur was in terms of an average loan size of R80 000 and above. The MIF intervention did little to facilitate lending for the poorer segment of the housing market. Increasingly and partly as a result of the MIF intervention, there is a recognition that mortgage loans are not an appropriate lending mechanism for this segment of the market. However more appropriate mechanisms have not been identified. While this was not a direct objective of MIF or under its direct control, it is a significant weakness in the system that must be addressed. Banks and developers must be encouraged to identify more appropriate mechanisms in this regard. From the mainstream banks, only ABSA has last month (October 2005) introduced a new home loan product that virtually will make it possible for everyone with a joint income of between R1500 and R7500 to access an affordable 100% mortgage bond. The product called “MyHome” includes a five year fixed rate option and the qualifying criterion is based primarily on proof of income.

This means that borrowers do not have to be formally employed. This is squarely in line with the requirements of the Financial Services Charter (FSC) that calls financial institutions to make it possible for all South Africans who are able to repay debt to own a home. According to Luxien Ariyan⁶⁷, banks have not been innovative. In fact he is of the opinion that banks did not honour their bilateral agreements with government from the Record of Understanding to the Memorandum of Understanding. “FSC lacks legislation teeths, if the banks fail to meet their targets nothing the government can do”, said Ariyan.

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⁶⁷ Dr Luxien Ariyan was part of the drafting team of the Community Reinvestment Bill and also part of government team of negotiators on the Financial Services Charter
It is unquestionable that a more of these appropriate housing products that are delivered so as to create viable working residential areas, with access to social services and economic opportunities must be developed. In addition lending mechanisms that are appropriate and accessible by the lower segments of the housing market must also be developed. The private and public sector must be encouraged and should work together to develop and explore options in this regard.

Furthermore, the normalisation process of the historical non performing loans and properties in possession must continue and be supported. Servcon and Thubelisha must be actively supported by both Government and the Banks in this regard. The overwhelming cause of the original default was economic. The main cause was loss of job through retrenchment/redundancy but other social issues impact. A significant number of other economic causes such as loss of one partners' income (death, illness, divorce, abandonment). The majority of Servcon's clients still face economic hardship. Evictions are implemented where people have refused to join the programme (sign an agreement and start paying) or where they have defaulted on an agreement.

The eviction process takes a long time to be implemented. Of concern is the ongoing widespread disrespect for the due process of law and in many cases the active defiance thereof, preventing the Sheriff from carrying out his duties and/or moving back into properties from which they have been evicted. It became extremely difficult to get the police and or prosecutors to investigate criminal charges against people who have illegally reoccupied properties. Improved co-operation between the various role players (attorney, sheriff, police and security guards) has resulted in the success rate increasing to ± 78%.

One of the problems inhibiting the flow of finance into development is the absence of a vibrant secondary market, an environment that encourages individuals as well as institutions to invest is needed. The main problem to date has been that neither government through its institutions nor the private sector banks, investors or developers have been able to deliver housing either through the primary or secondary property market processes at the right price, size and volume to the low and moderate-income earner. Initiatives of both the private and public sectors have been unable to normalize the construction and finance of low and moderate-income housing under the current market conditions. Only to a certain extent have government agencies made some strides. Their impact is nonetheless expected to accelerate as government as the shareholder is currently looking at expanding mandates of these entities to ensure adequacy and improved access to low income housing finance.

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68 A. Pillay report 2003
8. Lessons and Recommendations for Developing Markets

Given the country’s relatively smooth transition to democracy, South Africa is in the privileged position of having new policy that reflects many of the tenets contemporary development thinking. Although clear policy directions have been set, some South African policy instruments still impede the delivery of housing finance. But it is evident that many policy instruments, particularly housing and land policy have shown significant adjustments in its mechanisms of implementation in the past ten years. This process by the government of reviewing and refining policies in response to an assessment of its impact and an ongoing monitoring evaluation is paramount.

South Africa is leading by example in developing markets through its housing finance delivery mechanism in the form of capital subsidy scheme for the poor, and by encouraging and compelling financial institutions to serve the low-and moderate-income market through appropriate policies and strategies. The 2000 CSIR national study on Unblocking Finance for Affordable Housing in South Africa revealed that large commercial banks are unwilling to grant mortgage loans less than R100,000. The primary reasons cited according to the report were: the banks have to maximize shareholder and invest and engage in high profit activities; and that the cost of administration of a smaller loan is higher for smaller value loans.

To cater for this, the government introduced two key interventions: The Home Loan and Mortgage Disclosure Act and the Community Reinvestment Bill. The Act requires that banks disclose their reasons for not advancing a home loan or a mortgage to low income earners. It aims at promoting fair lending practices which requires disclosure by financial institutions of information regarding the provision of home loans. The Bill on the other end compels all financial institutions to engage in the provision of mortgage finance to make housing finance available to the lower end of the market. Realising the implications of the CR Bill the banking sector reacted with alarm by offering a 10 year voluntarily initiative to the value of R42 billion aimed to provide low income housing finance to low-income households with stable income in excess of R 1 500 per month and less than
R 7 500 per month. The initiative came into effect on 01 January 2004. The government responded by shelving the Bill from promulgation though one is of the opinion that promulgation was not preclusive. The comfort is that the Bill remains an important document that can be resuscitated at any point should financial institutions fail to fulfill their commitments and obligations.

The State housing subsidy programme was designed with the aim of providing subsidised houses which would appreciate in value and become tangible assets for poor households. While the building of more than 1,8 million houses through the subsidy mechanism has stimulated the primary housing market, the subsidy has had the unintended consequence of distorting demand in the secondary housing market. This is was due to the fact that many households are reluctant to take on debt where a “free” house may be a possibility and therefore such households postpone their entry into the market, with the thought that a fully subsidized house may still come their way.

As a result, the government introduced strategic interventions. Every beneficiary of state housing is now required to contribute either in monetary terms (R2479.00) or through sweat equity. The principle aims to create responsible consumers as opposed to mere beneficiaries.

The government also initially introduced an 8-year resale restriction to prevent beneficiaries who sell their houses for significantly less than their cost; this has undermined the perceived value of the house. Realizing that it was a limitation on a subsidy beneficiary’s ability to trade their residential property, either by virtue of a need to relocate or upgrade their accommodation the resale restriction was revised to 5 years. To this effect perhaps in the long run a need would emerge to review this 5-year resale restriction to create an environment that supports the development of both the primary and secondary markets.

The gap between income and shelter cost is very wide. If the cost of constructing new houses is not within reach of low-income earners, then revitalizing the existing stock can be an alternative mechanism to improve housing finance. To address this, the Breaking New Ground Housing Strategy was introduced and it collapses the subsidy system and creates a three tier category of income groups for better targeting. In the categorization, the hard core poor (income levels 0 - R1,500) receive the full housing subsidy of R28,000. The poor (income levels R1, 500 - R3, 500) also receive the full subsidy. A new subsidy band is created for affordable housing targeting the middle income level (those earning R3, 500 to R7,000 pm), for whom government pays a deposit.

On product innovation, virtually there have been no emergence of innovations by the mainstream banks in the affordable housing market. Alternative lenders have nonetheless been innovational by offering a range of products suitable for low and moderate income
earnings vis-à-vis rent, rent to buy, small mortgages, installment sale and housing microloans. The supply is however not matching the ever increasing demand. It has to be said that wholesale financiers owned and capitalized by government have variably made some impact. Their effectiveness though had been derailed by the reliance on primary sources of funding and their inability to leverage funding from secondary sources. Another factor is that these institutions have not operated long enough to adequately demonstrate their understanding of the affordable housing market.

Mortgage is still nevertheless a relevant instrument for affordable housing. However, high mortgage cost does not only curtail demand for houses but also makes homeownership unaffordable. Until recently (2003), prime lending rates were as high as 17%, the current prime is 10.5%. High interest rate also makes consumers wary of accumulating debt and the real disposable income also comes under pressure. This illustrates the importance of stability of the macro-economic system. Economic instability results in uncertainty and raises interest rates. Under those conditions the financial and economic system particularly the housing finance system becomes less able to mobilize adequate resources. High inflation affect the prices of building materials coupled with low disposable incomes finding the critical mass of low income earners unable to borrow or build from their own resources.

Lastly, government’s ability to intervene through public-private partnerships initiatives and introduction of appropriate policy instruments has to be acknowledged but the difficulty encountered is the implementation of these important pieces of instruments. Governments should be responsible for creating an enabling environment of housing finance mechanisms. In cases where legislation, policy or strategy are impeding scale delivery of housing finance the government should interfere through remedial strategies.
List of references
List of Figures
Interest Rates from December 1985 to November 2005
Banks Mortgage Market Share in % Terms 2004/05

- Other: 4.9%
- Nedbank: 23.5%
- Standard Bank: 25.8%
- First National Bank: 16%
- ABSA: 31.5%
Interest Rate Fluctuations From December 1985 to November 2005
### List of Tables

Table 1: Prime Lending Rates from 1948-2004

<table>
<thead>
<tr>
<th>DATE</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1948-12-31</td>
<td>4.50</td>
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<tr>
<td>1949-10-17</td>
<td>5.00</td>
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<td>1952-04-01</td>
<td>5.50</td>
</tr>
<tr>
<td>1955-10-01</td>
<td>6.00</td>
</tr>
<tr>
<td>1958-06-01</td>
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*Source: South African Reserve Banks*
Annex 1

PROJECT UNFAH

Field Trips
(September 2000)
Morgan Pillay and Vuyisani Moss

MAIN CAPTION PICTURE 1: RDP HOUSE IN FREEDOM PARK
LOCATION

The above structure is located in Freedom Park, South-of Johannesburg in Gauteng Province. This unit is located opposite a densely populated informal settlement/squatter camp type development. This is an incomplete structure of the government’s popular low cost housing scheme. This is also referred to a core-housing structure. However this area is not conveniently located to public transport and it is far from business areas and shopping centers.

SIZE

This is a typical 36m² structure, with two rooms, a kitchen and a possible flushed toilet.

SUBSIDY

The structure is wholly subsidized as these are exclusively low-cost housing scheme. Therefore the entire scheme is 100% linked to government subsidy. In this case the
owner received a full R16 000 housing subsidy. The services are provided by the municipality at no additional cost.

**BOND OR CREDIT**

The subsidy was supplemented by credit that has been accessed by the beneficiary.

**INFRASTRUCTURE SERVICE**

These units have electricity, piped internal water supply and full water borne sewerage system. The roads are tarred and storm-water drainage has been installed. There is an absence of amenities and recreational facilities.

**ENVIRONMENT**

The environment around does have esthetic limitations because it still has remnants of squalor conditions in its immediate vicinity. The surroundings are predominantly informal settlements. Economic environment is non-existent as there are businesses around not even street traders/hawkers. Socially, there is an atmosphere that people have been distanced from their relatives, friends.

**PURCHASE PRICE OF PROPERTY**

Owners of this house would be expected to pay a certain amount as additional amount to complete the building. Therefore the estimated total cost of the structure may be R25 000.00 or above. It will be supplemented by a joint loan/payment by owners of +- R9000 + R16.000 subsidy).

Caption Picture 2: RDP House in Freedom Park
LOCATION

The above structure is located in Freedom Park, South-West of Johannesburg, in Gauteng Province. The unit is located opposite a densely populated informal/squatter camp type of development. This is a complete structure of the government’s popular low cost housing scheme. This is mainly for a single family. The area however is not conveniently located to public transport and it is far from business areas and shopping centers.

SIZE

The size of this structure is 30m², one room, lounge connected with the kitchen and a flushed toilet.

SUBSIDY
The structure is wholly subsidized as these are exclusively low-cost housing scheme. Therefore the entire scheme is 100% linked to government subsidy. In this case, the owner received a full R16 000.00 housing subsidy. The services are provided by the municipality.

**BOND OR CREDIT**

The subsidy was supplementary by the credit that has been accessed by the beneficiary.

**INFRASTRUCTURE SERVICE**

These units have electricity, piped internal water supply and a full water born sewerage system. The roads are tarred and storm water drainage has installed. There is an absence of amenities and recreational facilities.

**ENVIRONMENT**

The environment around does have esthetic limitations because it still has remnants of squalor conditions in its immediate vicinity. The surroundings are predominantly informal settlements. Economic environment is non-existent as there are no businesses around not even street traders/hawkers. Socially, there is an atmosphere that people have been distanced from their relatives, friends etc.

**PURCHASE PRICE OF PROPERTY**

The owner of this house has paid R6000.00 as additional funding to complete the building. Therefore the total cost of the structure is R22 000. (R6000 loan + R16 000 subsidy.)
LOCATION

The above shown structure is located in the Protea Glen area, in the West of Johannesburg in Gauteng Province. The unit is located in a purely middle class area. This is a typical of new development structures which in most cases are extensions to old township settlements. This area is conveniently located because it is nearer to public transport, business areas, schools and shopping centers.

SIZE

The size of the structure is 40m², with two bedrooms, a kitchen, lounge and bathroom and flushed toilet facility. It should also be noted that- this is a tile roofing kind of structure.

SUBSIDY

These are the partially subsidized kind of structures and are mainly for middle-income earners. The structure above may be estimated at a relative price of R60-70 000.00 including the land value and building costs.
**BOND OR CREDIT**
The subsidy or any form of allowance supplements to credit that has been accessed by the beneficiary to purchase a house.

**INFRASTRUCTURE SERVICE**
These units are constructed to areas that may be nearby townships and also ideally for physical infrastructure purposes, i.e. they are nearer to highways, taxi ranks, bus stops, shopping malls etc. This actually illustrates that these units are conveniently located as there may be 30-40km from the Johannesburg City Centre. This is characterised by presence of amenities and recreational facilities.

**ENVIRONMENT**
The environment within which these units are constructed may be well conducive. The atmosphere is pretty much quiet, characterized by calm and tranquil. The atmosphere is calm and tranquil. Economic environment may be somewhat existing though different from the one normal seen in the townships. Street traders and hawkers may be rarely found. The social atmosphere though may not be that impressive as people in these kind of settlements hardly know each other let alone communication.

**PURCHASE PRICE OF PROPERTY**
As indicated above the average purchase price of such units ranges from R50 000.00 to R120 000.00 varies according to areas and sizes. The owner of the above structure has an allowance of R660.00 which aid him for loan repayment and monthly bond installment methods.

Annex 2
The Mortgage Registration Process in South Africa

Parties involved in the sale or purchase of a property
- Seller
- Estate agent
- Buyer
- Transferring Attorney (appointed by the seller to transfer the property to the buyer’s name).
- Bond Attorney (appointed by the bank receiving the bond).
- Cancellation Attorney (appointed by the bank canceling seller’s bond).
- The same attorney could be dealing with more than one or all of the above transactions.

Step 1
Purchasing a property
- The buyer and the seller sign the Offer to Purchase.
- The buyer applies for a bond with the bank

Step 2
Bond approval
- The bank approves the bond and advises the Bond Attorney to register the bond.

Step 3
Property transfer
- The seller advises the Transferring Attorney to transfer the property.
- The title deed and cancellation figures are requested from the bank which currently has a bond over the property.
- A statement of rates and taxes is requested from the local authority.

Step 4
Bond Attorney contacts Transferring Attorney
- The Bond Attorney advises the Transferring Attorney of the amount available for guarantees and requests the draft deed of transfer and guarantee requirements.

Step 5
Cancellation Attorney
- The Cancellation Attorney is requested to cancel the seller’s bond on receipt of a guarantee for the amount owing.

Step 6
Transferring Attorney
· The Transferring Attorney receives the title deed and cancellation figures and sends a copy of the deed of transfer and the guarantee requirements to the Bond Attorney.
· The Transferring Attorney asks the buyer and seller to sign the transfer documents.
· The buyer pays the transfer costs and the Transferring Attorney then pays the rates and taxes and transfer duty.

Step 7
Bond Attorney
· The Bond Attorney prepares the bond documentation together with the relevant account.
· The buyer signs the documents and pays the costs.
· The Bond Attorney prepares and issues the necessary guarantees, forwards them to the Transferring Attorney and prepares the Bond Documents for lodging at the Deeds Office.

Step 8
Transferring Attorney
· Once the Transferring Attorney has received the guarantees, they are forwarded to the Cancellation Attorney.

Step 9
Cancellation Attorney
· The Cancellation Attorney obtains a consent for cancellation from the bank which holds the seller’s bond.

Step 10
Documents prepared for the Deeds Office
· After all the documentation has been signed and the costs paid, the transfer, new bond and cancellation bond documents are prepared by the respective attorneys for lodging with the Deeds Office.

Step 11
Deeds Office
· All the documents are lodged simultaneously in the Deeds Office by arrangement with all the attorneys concerned.
* The Deeds Office takes approximately two to three weeks to check the documents before they are ready for registration by all the attorneys on the same day.

Step 12
Bank pays loan
· On the day of registration, the bank pays out the loan in accordance with the guarantees issued.
· Allow at least three months for the registration and transfer of the bond.

Factors that delay the registration of a bond
· Failure by the seller and/or buyer to provide personal information.
· Failure by the seller to provide details of the bank holding the existing bond.
· The existing bondholder delaying/not providing cancellation figures and title deeds to the Transferring Attorney.
· Delay in receiving rates figures (local authority) and/or clearance certificate (Transferring Attorney).
· Failure by the buyer to pay a deposit (if required).
· Delay in the provision of guarantees.
· Failure by the buyer to pay transfer and/or bond costs on time.
· Delay the seller in signing transfer documents.
· Delay by the buyer in obtaining government capital subsidy approval/employee income subsidy documents for new bondholders and failure to comply with other bank requirements.
· Delay by the buyer in signing transfer and/or bond documents.
· When the Bond Attorney, Transferring Attorney and Cancellation Attorney are three separate firms.

Annex 3
REPUBLIC OF SOUTH AFRICA

COMMUNITY REINVESTMENT (HOUSING) BILL, 2003

(MINISTER OF HOUSING)

[B 2003]
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BILL

To provide for the meeting of specific minimum targets and standards by housing finance institutions in providing home loans to low and medium income level borrowers and to provide for matters connected therewith

PREAMBLE

WHEREAS in terms of section 26(1) and 26(2) of the Constitution:

(a) Everyone has the right to have access to adequate housing; and

(b) The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right;

AND WHEREAS in section 4 of the Schedule to Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000) the following are listed as unfair practices:

“(b) “Red-lining” on the grounds of race and social status; and

(c) Unfair discrimination in the provision of housing bonds, loans or financial assistance on the basis of race, gender or other prohibited grounds;”

AND WHEREAS section 5 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) provides for a person to be furnished with written reasons for any action which adversely affects his or her rights;

AND WHEREAS the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) ensures that the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights;
AND WHEREAS sections 2(1) and 3(1) of the Home Loan and Mortgage Disclosure Act, 2000 provide that all financial institutions that provide home loans must disclose information regarding the number of applications received, approved, declined, disbursed and closed;

AND WHEREAS there is now also a need to ensure that all housing finance institutions that provide home loans should adequately meet the aspirations of low and medium income level borrowers;

AND WHEREAS it is not the intention of this Act to promote, in any way, unsafe and unsound business practices among housing finance institutions in providing home loans;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:

1. Definitions

(1) In this Act, unless the context indicates otherwise:

“Act” includes regulations promulgated under this Act;

“borrower” means any person that has already applied, is in the process of applying, or is planning to apply for a home loan, whether or not the application is successful;

“business strategy” means a document that provides information (including the delineation of quarterly indicators and milestones) on how a housing finance institution intends to improve its performance under this Act;

“Department” means the Department of Housing;

“disparate impact” means the adverse effect on a borrower of any practice or policy that cannot be justified on the basis of safe and sound business practice;

“home” means any residential structure, or part thereof;

“home loan” means any advance to a borrower for constructing, purchasing, extending, renovating or in any other way improving a home or to refinance a loan taken for these purposes;
“housing finance institution” means any registered institution that originates or holds home loans;

“low income level” means a range of borrowers’ monthly incomes as prescribed;

“medium income level” means a range of borrowers’ monthly incomes as prescribed;

“Minister” means the Minister of Housing;

“niche market retail lender” means any housing finance institution which has as a primary business the provision of home loans to low and medium income level borrowers;

“Office” means the Office of Disclosure established in terms of the Home Loan and Mortgage Disclosure Act, 2000 (Act No. 63 of 2000);

“prescribed” means set by regulation by the Minister, by notice in the Gazette;

“project loan” means any loan or advance to a developer or such other entity for a housing project primarily for low and medium income level borrowers;

“public-private partnership” means a venture established jointly by government and any number of housing finance institutions to promote investment in housing for low and medium income level borrowers;

“redlining” means turning down home loan applications mainly because of the geographic location of the homes for which finance is required;

“standard” means the performance, conduct and level of compliance as prescribed for housing finance institutions in making home loans;

“target” means that proportion of a housing finance institution’s home loan book as prescribed for disbursement either directly or indirectly to low and medium income level borrowers; and
“wholesale lender” means any registered institution whose primary business is providing funding to niche market retail lenders.

2. **Scope and Application**

(1) The provisions of this Act apply to all housing finance institutions.

3. **Principles**

(1) In meeting the needs of low and medium income level borrowers, housing finance institutions must:

   (a) Invite and encourage home loan applications from low and medium income borrowers through positive marketing and advertising.

   (b) Deal with borrowers in a transparent and equitable manner during all stages of the home loan application process.

   (c) Encourage savings and provide meaningful incentives to those who save.

   (d) Establish fair, equitable and transparent criteria to be applied in the processing of home loan applications.

   (e) Innovate and generate appropriate housing products for low and medium income borrowers.

   (f) Not lend without due regard to repayment ability.

   (g) Not approve any home loan application where the principal amount is greater than the amount needed for housing purposes.

(2) All housing finance institutions, and related government institutions, must establish consumer education programmes.

(3) Government, through the Minister of Housing and other relevant Ministers, must:
(a) Prioritise the establishment and maintenance of an environment that is conducive to housing finance institutions meeting their prescribed targets.

(b) Introduce measures that aid and expedite the resolution of housing management problems.

4. Performance and Ratings

(1) In pursuing the prescribed targets contemplated in (4)(a) below, housing finance institutions may opt for one or any combination of:

(a) Providing home loans;

(b) Providing project loans;

(c) Providing funding to niche market retail lenders;

(d) Providing funding to wholesale lenders;

(e) Providing funding to social housing institutions;

(f) Providing funding to public-private partnerships;

(g) Purchasing wholesale lenders’ securities and debt issues; and

(h) Any other option which is acceptable to the Office of Disclosure.

(2) Housing finance institutions may only opt for (c) to (h) above if the recipient of the funding is approved by the Office of Disclosure.

(3) The criteria for the approval referred to in (2) above is to be prescribed by regulation.

(4) The Minister must, by regulations, on recommendation by the Office of Disclosure, prescribe:

(a) Targets and standards applicable to housing finance institutions after consulting with them;

(b) An evaluation instrument that includes the following criteria:

   (i) Number and Rand value amount disbursed in respect of home loans including:
1. All income and particularly low and medium income;  
2. All geographical areas and particularly previously disadvantaged areas

(ii) Number and Rand value amount in respect of project loans;  
(iii) Number and Rand value amount in respect of funding to niche market retail lenders;  
(iv) Number and Rand value amount in respect of funding to wholesale lenders;  
(v) Number and Rand value amount in respect of funding to social housing institutions;  
(vi) Number and Rand value amount in respect of funding to public-private partnerships;  
(vii) Number and Rand value amount of wholesale lenders’ securities and debt issues purchased;  
(viii) Innovation in respect of home loans for the low and medium income level markets;  
(ix) Performance in respect of other aspects of providing housing finance to low and medium income level borrowers; and

(c) A rating model that measures a housing finance institution’s performance in meeting the targets and standards as prescribed. The model must incorporate five categories:

(i) Outstanding  
(ii) Very satisfactory  
(iii) Satisfactory  
(iv) Unsatisfactory  
(v) Substantial non-compliance.

5. **Obligations of housing finance institutions**

(1) In serving the housing finance needs of low and medium income level borrowers, housing finance institutions must:

(a) Meet or exceed the targets and standards as prescribed;
(b) Not employ any practice or policy that leads to any form of redlining;

(c) Apply clear criteria when investigating the creditworthiness of borrowers.

(d) Communicate transparently and expeditiously during all stages (including the outcome) of the home loan application process;

(e) Furnish reasons in writing for rejected applications.

(2) In line with the Promotion of Access to Information Act, 2000, a housing finance institution must not:

(a) Withhold from a borrower information or services regarding the home loan process, including credit availability and application procedures;

(b) Withhold from a borrower the reasons for declining an application for a home loan;

(c) Withhold on request from the Office of Disclosure the underwriting methods and criteria used in assessing such borrower’s application.


(1) The Office must, in addition to its functions under the Home Loan and Mortgage Disclosure Act:

(a) Outline the reporting requirements of housing finance institutions as prescribed;

(b) Collate data as contemplated in section 4(4)(b) above and any other data as may be prescribed;

(c) Verify and authenticate such data where possible and necessary;

(d) Examine and evaluate such data as prescribed;

(e) Monitor the progress of housing finance institutions in meeting their obligations in terms of section 5 of this Act and intervene where necessary to ensure compliance as prescribed;

(f) Propose punitive measures as prescribed;
Propose incentives and rewards as prescribed;

Report to the Minister and to the public; and

Request and review a business strategy of any housing finance institution that has not met, or appears unlikely to meet the prescribed targets.

7. Reporting Requirements

(1) Every housing finance institution must, on an annual basis, submit a report to the Office as prescribed.

(2) Such a report must be furnished to the Office within 60 days from the end of the reporting period.

8. Written Assessment

(1) After examining a housing finance institution’s report as set out in section 7(1) the Office must prepare a written assessment of the housing finance institution’s performance in respect of meeting the targets and standards, as prescribed.

9. Report to Minister

(1) The Office must include in its annual report to the Minister, a section outlining the actions it has taken to carry out its responsibilities in terms of this Act.

10. Regulations
(1) The Minister must, after consulting with the Ministers of Finance, Justice and Trade and Industry, make regulations regarding:

(a) Income bands for low and medium income levels as contemplated in the definitions of “low income level” and “medium income level”;

(b) Criteria for the approval of recipients of housing funding by the Office of Disclosure as contemplated in section 4(3);

(c) Targets and standards as contemplated in section 4(4)(a);

(d) An evaluation instrument as contemplated in section 4(4)(b);

(e) A rating model that measures a housing finance institution’s performance as contemplated in section 4(4)(c);

(f) Reporting requirements and data as contemplated in section 6(1)(a) and (b);

(g) Punitive measures and incentives as contemplated in section 6(1)(f) and (g);

(h) Minimum Rand value of a housing finance institution’s home loan book as contemplated in section 11(1)(b)(i);

(i) Minimum duration of a housing finance institution’s existence as contemplated in section 11(1)(b)(ii);

(j) Any matter which is necessary or expedient to prescribe in order to achieve or promote the objectives of the Act.

11. Exemptions

(1) The Minister may exempt a housing finance institution or a category of housing finance institutions, from any or all of the requirements of this Act:

(a) For a period not exceeding a year, if it requires time to adjust its systems or procedures in order to comply with the provisions of this Act; or

(b) For any specified time, if:

(i) Its home loan book does not exceed the minimum Rand volume as prescribed for the purposes of this Act; or
(ii) It has been in existence for a period that does not exceed the minimum duration as prescribed for the purposes of this Act.

12. **Offences and penalties**

(1) A housing finance institution is guilty of an offence each time that it contravenes or fails to comply with any provision in section 4 and section 5 of this Act; and

(2) A housing finance institution found guilty of an offence in terms of section 12(1) is liable for a fine not exceeding R500 000,00.

13. **Short title and commencement**

This Act is called the Community Reinvestment (Housing) Act, and takes effect on a date determined by the President by proclamation in the Gazette.