

# DEBT COUNSELLORS ASSOCIATION OF SOUTH AFRICA



## Comments on the National Credit Amendment Bill

# 9.89 Million Consumers have impaired records



## CREDIT MARKET IN SOUTH AFRICA

September 2017

Rejection rate for new applications 49.74%

Total debt R116.4 billion

Bank R86.65 billion (74.4%)

Retailers R4.13 billion (3.55%)

Non-bank vehicle financiers R11.13 billion (9.56%)

Other Credit Providers R14.55 billion (12.49%)



## CREDIT STANDING OF CONSUMERS

September 2017

25.08 million credit active Consumers

Good standing 15.21 m (60.6%)

Impaired records 9.87 m (39.4%)

3+ months in arrears 5.36 m (22.1%)

Impaired Credit Agreements 20.19 million (25.7%)



## DEBT-TO-INCOME RATIO 78%

Debt is very high and South Africans are battling to reduce debt

This is worsening the economic situation in South Africa because less of the population are able to save



## AVERAGE SPENDING OF CONSUMERS

Household items

32%

Risk and Retirement

14%

Debt Repayments

54%

Debt imbalance is not sustainable



# Options for the 9.89m Consumers in Trouble

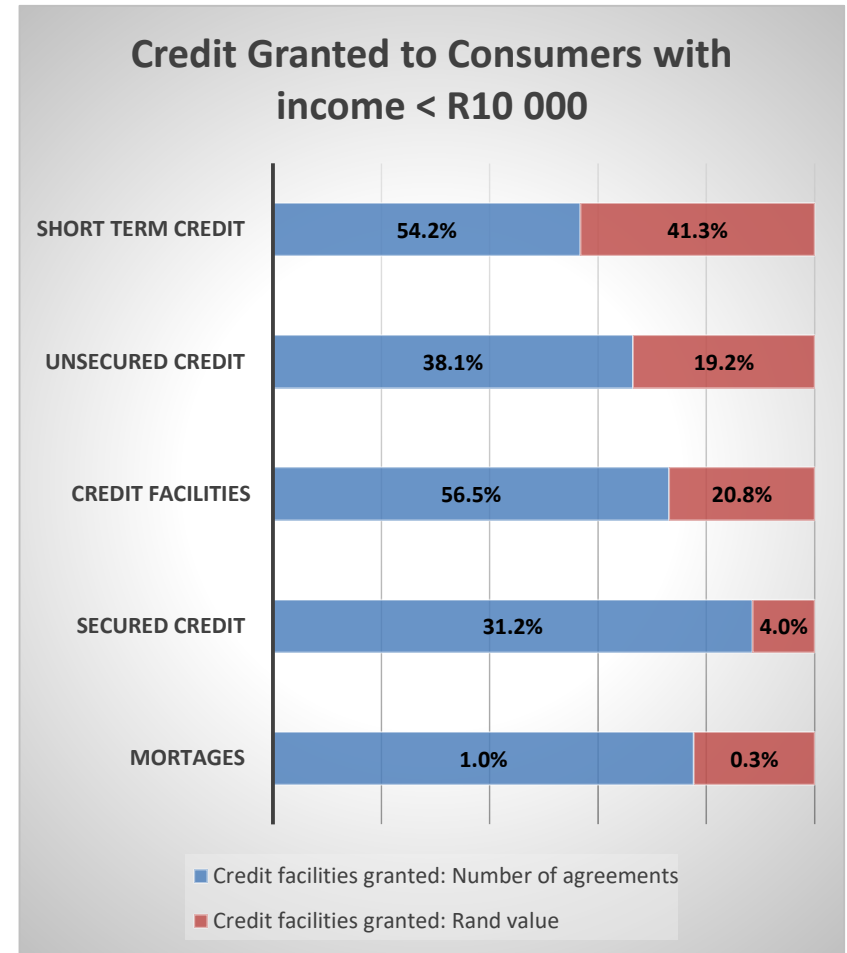
Pay arrears	Legal Action by CP	Administration Debt under R50k	Debt Review	Sequestration
50%	43% Consumers waiting for legal action	2%	4% PDA payment R920 million per month	>1%
In many cases new debt used to pay arrears	Budget Assistance should be offered proactively	Debt Review might be better option	Best solution to achieve debt free status	No poor man sequestration



# 9.89 Million Consumers have impaired records

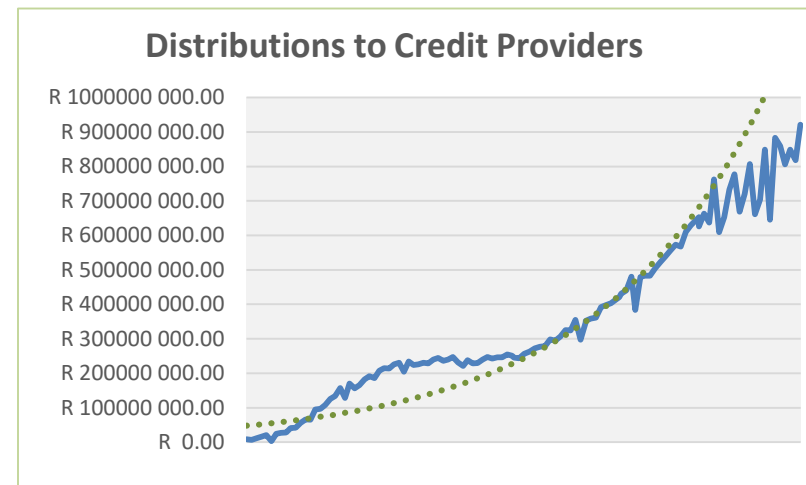
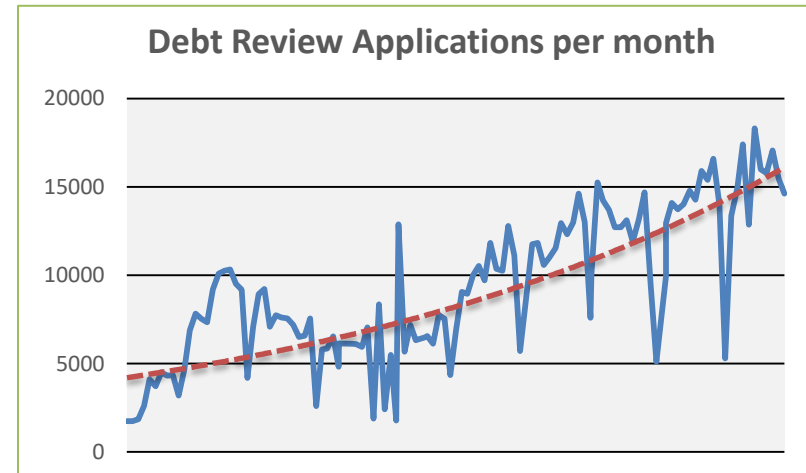
## Consumers with monthly income of less than R10 000:

- Exposure concentrated too Short Term Credit, Unsecured Credit and Credit Facilities
- Current maximum interest rates:
  - Short Term (R8000): **60%** 1<sup>st</sup> Loan
  - Short Term (R8000): **36%** 2<sup>nd</sup> Loan
  - Unsecured: **27.75%**
  - Credit Facilities: **20.75%**
- Cost of debt remains high



# Impact of Debt Review

- Debt Review showing steady growth with average of 16 000 applications per month
- Monthly Debt Review payment exceeds R920 million
- More than 85% of Consumers under Debt Review make monthly payments
- Internationally Debt Review is a recognised leading example



# Debt Intervention Comments

DCASA supports Debt Intervention for low income Consumers but we are of the view that the Debt Intervention Bill is unlikely to provide the intended relief



# Debt Intervention Comments

1. The proposed process is complex, long-winded, over ambitious, undefined and unworkable
2. A new elaborate process, not aligned to the current Debt Review process, is invented and ignores the relief that Debt Counsellors, Magistrates Courts and the current Debt Review system can provide
3. The role of the Regulator to assess the application and structure a repayment recommendation steps outside the role defined for the NCR in the NCA



# Debt Intervention Comments

4. The role and power assigned to a single NCT Member, to decide without firm rules or yardsticks, based on untested information, without hearing evidence or arguments from Credit Providers and/or Consumers is unbalanced and will compromise the rights of Consumers and Credit Providers
5. The Debt Intervention Bill appears to copy Section 74 of the Magistrates Court Act to enable partial sequestration





# Debt Intervention Comments

6. The requirement for Consumers to apply with the NCR is unpractical for the following reasons:

- The applicants are situated all over South Africa and based on our experience to apply by phone and/or fax to the NCR who is situated in one central place will not succeed
- Applicants prefer face to face applications (need assistance with completion of application)
- Applicants will find it difficult to provide six pay slips
- The inclusion of realisable assets is unpractical and difficult to control. Who will value the assets? Based on our experience low income earners do not have realisable assets
- The requirement for annual review is near impossible to implement and extremely expensive. The requirement for an annual review may prevent the intended debt intervention



# Debt Intervention Comments

7. DCASA supports the initiative to report possible Reckless Credit, but the proposed criminalisation of not reporting Reckless Credit is not supported and might result in more Debt Counsellors leaving the industry
  
8. Reckless Credit is well defined in the NCA and to improve Reckless Credit reporting the following is required:
  - Defined process with time frames to conduct Reckless Credit assessment
  - Protection of the Debt Counsellor from Cost Orders
  - Changing current Debt Counsellors fee structure which currently exclude any compensation to conduct and conclude a Reckless Credit investigation (7 hours)
  - Extending protection to Consumers when potential Reckless Credit is identified and referred to the NCR



# Debt Intervention Comments

9. The proposed Debt Intervention power by the Minister in Section 88F may result is debt starvation to Consumers in vulnerable industries, income groups and economic conditions
10. The powers bestowed on the Minister may create legal and risk uncertainties
11. The impact of the NCA can be improved if the following provisions of the NCA are better implemented or revised:
  - **Prescription** (Section 126B). It should be compulsory for Credit Providers to confirm compliance on all Certificates of Balance, Statements or when selling books.
  - **In Duplum** (Section 103(5)). Almost 10 years after the commencement of the NCA, legal uncertainty is still impacting on implementation.
  - The **Minimum Expense Norms** (Regulations 9 & 10), while protecting the very poor, make it more difficult to prove Reckless Credit.



# DCASA Debt Intervention Recommendations

1. Use the current Debt Review process as a base for Debt Intervention applications
2. Use the skills and systems of Debt Counsellors to receive and assess applications and to formulate a recommendation based on the affordability of the Consumer
3. Simplify and define the process, time frames and restructuring rules (maybe an extension of the current DCRS)
  - If zero income, then poor man sequestration with exclusion from debt applications for defined period.
  - If affordability is above zero, payment in line with affordability but interest and fees reduced to zero (capital repayment only)
  - Verification of debt with Credit Bureaus and Credit Providers
  - Payment via PDA's as control measure



# DCASA Debt Intervention Recommendations

4. Payment for Service: DCASA is well aware that the Consumer is not in a position to pay for this service and for this reason it is proposed that the Debt Counsellor and PDA receive a defined percentage of repayment



# Thank you

