

LARGE NON-BANK LENDER ASSOCIATION

DEBT INTERVENTION

Presentation to DTI Portfolio
Committee

31 January 2018

LNBLA

- Representing bigger non-bank credit providers such as Sanlam Personal Loans, Bayport, Old Mutual Finance, Real People, Homechoice, RCS
- Our members provide unsecured loans, developmental credit and facilities
- We serve clients in the target market
- Book R32 Billion

Issues

- Criteria for debt intervention
- Effect of the Bill
- Constitutional issues
- Process
- Balance
- Credit life
- Complexity of determination of reckless lending
- Communication & Information
- Criminalization of credit providers and directors

Criteria

- Not clear
- Not required to be overindebted
- Credit provider needs not have been reckless

Effect

- On credit providers: systemic risk
- Impairments
- Sustainability
- Loans have already been funded and funders need to be repaid
- On consumers: A segment is now stigmatized
- Access to funding will now be an issue for this segment

Constitutional issues

- Arbitrary deprivation of property
- Ongoing future declarations
- Access to courts excluded

Process

- Credit providers excluded
- Subjective tests
- Lack of timelines for information and responses

Balance

- Balance of interests sought in the NCA now out of balance
- Compliant credit providers are nevertheless affected
- Assets will effectively become sterilized

Credit Life

- Credit life just been capped
- Now new regime of compulsory credit life for a significant segment
- Premiums cannot be capped lower for a more risky segment
- Compulsory nature not justified

Complexity of determining reckless lending

- Not easy
- Credit bureaux info is not real time
- Credit bureaux information needs to be *interpreted* - Lack of detailed rules
- Credit providers have own models
- Credit provider will not have the information the credit provider competitor had when granting the previous loan

Capacity issues

- Not something a young lawyer can do who has never seen a credit report or a loan in his/her life
- Need to specify qualifications and expertise for determining reckless lending
- Concerns about the capacity of NCR and Tribunal reasonable to take this on

Information and communication

- POPIA
- Credit information by e-mail
- Lesson from debt counselling
- Systems are required to support such initiatives

Criminalization of credit providers and directors

- Reckless lending not easy to determine
- Directors' duties and responsibilities are already included in the Companies Act
- Cannot be retrospective

Submissions

- Debt intervention qualification criteria to be amended and be strictly limited to over indebted consumers with strict criteria to prove the debt intervention case
- Process to allow for participation by credit providers
- Debt never to be extinguished and a maximum intervention of 12 months to reduce the potential for systemic risk
- No subjective tests
- No offences for directors

Submissions

- No compulsory prescribed credit life with unrealistic caps for specific segments of the market
- No sterilisation of assets where credit providers were not reckless and acted in compliance with the NCA
- A detailed process, including timelines for information and responses to be received by the relevant parties
- Measures to ensure the NCR and NCT have the necessary capacity and expertise to make decisions affecting credit providers

Conclusions

- Not the way to build responsible borrowing and a mature credit market
- Opportunity lost to have strengthened and supported debt counselling