

## NCR DEBT COUNSELLING CIRCULAR

### No. 1 OF 2007

The purpose of this circular is to provide an update to debt counsellors on the current state of implementation of debt counselling provisions of the National Credit Act. Challenges faced by both debt counsellors and credit providers in the implementation of debt counselling, lead to a dialogue between these two parties. A selected group of debt counsellors and credit providers met on the 28<sup>th</sup> November 2007 at Muldersdrif, Johannesburg in an attempt to put certain processes in place to overcome the difficulties experienced in obtaining consent to proposals and in bringing matters to court.

The NCR fully support the process but maintains that the two parties, who are operating within the boundaries of the NCA, take full ownership and responsibility of whatever arrangement will be reached during the ongoing dialogue in ironing out the problems.

### WHICH CREDIT PROVIDERS ARE INVOLVED?

The following credit providers currently support this initiative:

- ABSA Bank Limited
- Wesbank,
- The Standard Bank of South Africa Limited, ,
- First National Bank Ltd,
- Debts underwritten by FirstRand Bank Ltd,
- African Bank
- Nedbank Limited
- The Standard Bank of South Africa Limited
- Motor Finance Corporation (“MFC”)

As this endeavour gains momentum, the expectation is to gain wider support from the credit industry.

### ABOUT THE DIALOGUE

An agreement for temporary arrangements (“the **Temporary Arrangement**”) in respect of the implementation of debt review has been reached between the aforementioned credit providers and representatives for debt counsellors.

The objective of the **Temporary Arrangement** is to provide a process whereby applications for debt review currently in the pipeline can be managed.

It should be noted that the **Temporary Arrangement** is ONLY applicable to existing applications already in the pipeline. A workable solution to resolve the problems with applications for debt counselling in future is being negotiated between the parties. You will be kept informed of the developments.

## WHAT DOES THE TEMPORARY ARRANGEMENT ENTAIL?

In terms of the Temporary Arrangement the following strategy will be implemented up to and including **31 January 2008**:

1. No action to terminate debt review in terms of section 86(10) of the National Credit Act 34 of 2005 ("the NCA") will be pursued by the abovementioned credit providers.
2. No applications for debt re-arrangement orders will be brought to court by debt counsellors, except in the event where all the parties have consented to the proposal or in cases where the other credit providers who are not part of this agreement forces the matter to court.
3. Where proposals have been forwarded by debt counsellors to credit providers, the following strategy will be implemented:-
  - 3.1 Consumers must pay the amounts proposed by the debt counsellor to each of the credit providers, irrespective of the fact that the proposals were previously not acceptable to the credit providers. This is an interim arrangement.
  - 3.2 To ensure that payments are made, debt counsellors are expected to contact all their clients by the **20<sup>th</sup> December 2007** and advise them to make payments in accordance with the re-arrangement proposals and to monitor payments going forward;
4. Where no proposals have been submitted by debt counsellors since date of application, the following strategy is to be adopted:
  - 4.1 Credit providers will provide debt counsellors with a list of consumers whose proposals are still outstanding. In some instances debt counsellors sent proposals but they never reached the debt review departments. It is suggested that the list be scrutinised and the proposals be re-submitted where necessary.
  - 4.2 Outstanding proposals are to be submitted to credit providers by no later than the **15 January 2008**, failing which debt review will be terminated in accordance with section 86(10) of the NCA (provided the 60 days have lapsed.)
  - 4.3 Consumers must make payments in line with the proposal submitted by the Debt Counsellor.
5. Where debt review has been terminated on or before **15 November 2007** in accordance with s86(10) of the NCA and where summons was not issued 21 business days following termination, the following strategy is to be adopted:
  - 5.1 The debt counsellor is to inform the credit provider who gave Notice in terms of this section to terminate, in writing, that the consumer does not intend to proceed with debt counselling process (if that is the case); alternatively
  - 5.2 In the event that the consumer wishes to continue with the debt review despite the fact that the credit provider already gave Notice, the debt counsellor is to resubmit a **newly dated** Form 17.1 to recommence the debt counselling process **provided** that the consumer is in a position to make payments in line with the proposals.

6. Where a credit provider who is a party to this, proceeded with the issue of a Summons within the 21 days as stated above, the debt review in respect of that agreement will not be affected by this Temporary Arrangement.

#### LETTERS TO CONSUMERS

Debt counsellors are expected to contact all their clients by the **20<sup>th</sup> December 2007** and advise them to make payments in accordance with the re-arrangement proposals.

It is suggested that the content of the letter should read thus:

*“Reference is made to your application for debt review (debt counselling). Your application is being processed. Whilst we are negotiating with your credit providers to agree on the new instalments that we are proposing, you are advised to continue making monthly payments in line with the proposal submitted to the credit providers. Failure to make payments will result in your application being terminated in terms of Section 86 (10) of the National Credit Act.”*

Should consumers fail to make payments in terms of the re-arrangement proposals, it is suggested that a final warning be sent to each consumer before **20 January 2008**. The content of the letter should read thus:

*“Our letter of 15 December 2007 refers:*

*Kindly make the monthly payments in line with the re-arrangement proposals submitted by ourselves to the credit providers, failing which your application for debt review will be terminated with no further notice to yourself in terms of section 86(10) of the NCA.”*

#### FOR MORE INFORMATION, CONTACT:

Should you have any queries, please do not hesitate to contact Paul Slot (011 799 8022, Susan Macala (012 657 0544) or Tessa Verwoerd (011 636 2287) for further information.

#### Disclaimer

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