



Debt Review Task Team Agreements

CIRCULAR 02 OF 2015 –DEBT REVIEW TASK TEAM AGREEMENTS OF 2010 GUIDELINES

In October 2013, the National Credit Regulator (“the NCR”) through the Credit Industry Forum (CIF) initiated a review process of the Task Team Agreements of 2010(TTA) to align them with the current debt review processes.

TTA are voluntary non statutory measures put in place aimed at addressing operational and process weaknesses that come with implementation of debt review provisions of the National Credit Act (“the NCA”).Further to this, they promote a uniform and consistent approach in dealing with debt review matters amongst all debt review stakeholders.

Following an intensive review process with industry stakeholders, the NCR is pleased to announce that TTA has been signed off and are issued as guidelines to be applied by all industry participants effective immediately.

Please take note that amendments to the NCA, its regulations or case law supersede provisions made in these guidelines and will when necessary be amended.

COMPLIANCE WITH THE TASK TEAM AGREEMENTS OF 2010 GUIDELINES

Credit Providers, Credit Bureaus, Payment Distribution Agents and Debt Counsellors are requested to comply by applying these TTA on debt review matters. Non-compliance with these guidelines should be reported to the NCR.

CONTENTS OF THE GUIDELINES

The guideline contains the following information:

1. Covering report

- The report provides background to the establishment of the Task Team and the approach adopted to arrive at the guidelines.

2. Annexure A: Proposed debt review process enhancements and conduct provisions

- This document details the debt review process from Form 17.1 stage for credit providers and debt counsellors. The conduct provisions relate to how debt review participants should conduct the debt review practice (E.g. For DCs not to encourage payment holidays, etc)

3. Annexure B: Proposed debt review assessment guidelines

- The document provides guidelines on how to assess the consumer's financial status on application and factors to consider to declare the consumer over-indebted.

4. Annexure C: Proposed Minimum Debt Counselling System Requirements and Principles of Debt Restructuring

- The document defines and sets out the standards and parameters for debt counsellor restructuring system.

5. Annexure D: Industry Agreed Consensual Debt Restructuring Rules to be deployed under the Section 48(1) Industry code of conduct to combat over-indebtedness

- The document outlines the developed set of rules and concessions in the debt review process.

6. Annexure E: Standard documentation

- These are standard documents to be used for facilitation of the process.

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GUIDELINE

001/2015

DEBT REVIEW TASK TEAM AGREEMENTS
OF 2010 GUIDELINES

JANUARY 2015

Debt Review Task Team Agreements of 2010 guidelines

ATTACHMENTS

1. Covering report
2. Annexure A: Proposed debt review process enhancements and conduct provisions
3. Annexure B: Proposed debt review assessment guidelines
4. Annexure C: Proposed minimum debt counseling system requirements and principles of Debt Restructuring
5. Annexure D: Industry agreed consensual debt restructuring rules to be deployed under the Section 48(1) Industry code of conduct to combat over-indebtedness
6. Annexure E: Standard documentation

COVERING REPORT

Contents

1.	Introduction	3
2.	Approach adopted	4
3.	Key conclusions	4
4.	Conclusion	8

1 Introduction

1.1 The National Credit Regulator (NCR) set up a Task Team in October 2010 to identify the blockages in the debt review process under the National Credit Act and reduce the backlog of unresolved cases under debt review.

1.2 The Task Team's Terms of Reference were to:-

- a) Identify the primary causes for the current backlogs and delays in finalising debt restructuring, as envisaged by the relevant sections of the National Credit Act;
- b) Propose common standards and procedures which would facilitate the processing and finalisation of applications for debt counselling;
- c) Establish mechanisms through which credit providers, debt counsellors and payment distribution agents can engage on operational and procedural problems in relation to the implementation of debt restructuring proposals;
- d) Establish mechanisms through which disputes in relation to specific cases can be resolved;
- e) Provide regular information through circulars or similar mechanisms to credit providers and debt counsellors on any standard procedures or documentation; and
- f) Assist and advise the NCR with the objective of implementing an effective debt counselling process, as intended by the National Credit Act.

1.2 The Credit Industry Forum (CIF) was established in 2013 and in early 2014 CIF reviewed the entire Task Team Agreement.

All members of CIF were requested to provide written submissions for the Task Team Review and 180 submissions were received. Each submission was reviewed by CIF and where required consultations were conducted.

All members of CIF approved the revised Task Team Agreement and CIF submitted the approved Task Team agreement to the NCR to issue as Guidelines.

1.4 The aim of the Task Team Agreement remains to address operational and process issues not covered in the NCA. Any Task Team Agreement issue covered by subsequent NCA Amendments will be superseded by the NCA Amendment.

2. Approach adopted

The Task Team adopted the following approach:

2.1 A thorough technical analysis was made of the process as defined in the Act at present, as well as the manner in which it is applied in practice, in order to identify the possible causes of the backlog.

2.2 Once this analysis was completed, the Task Team developed proposed

interventions aimed at resolving the backlog as well as improving the success rate in resolving new applications entering the process.

2.3 Once these proposals were formulated, the Task Team embarked on an extensive consultation process with the key stakeholders in the debt review process including:

- a) Debt Counsellors;
- b) All the various sectors of the credit industry;
- c) The National Debt Mediation Association (NDMA); and
- d) Payment distribution agents accredited by the NCR to collect from and distribute money on behalf of consumers under debt review, to their creditors.

2.4 The various stakeholders made representations during the the interactive consultation meetings and some of them availed themselves of the invitation to make written submissions in response to the draft Task Team proposals.

2.5 A set of proposed enhancements of the restructuring rules (Annexure E) was provided to the credit providers, with the recommendation that they consider implementing them after consultation with the other roleplayers.

2.6 While the Task Team was able to refer to empirical studies such as that conducted by the University of Pretoria and the review of debt counsellor software systems conducted by Gobodo Inc., it has relied chiefly upon the anecdotal information and views provided by the stakeholders during consultations. Not being a commission, it did not receive testimony on oath.

3. Key conclusions

The Task Team has, through its consultations with all the different stakeholders, identified a number of serious problems and obstacles. Various areas in which the operational policies and practices of the different stakeholders are contributing to the backlogs were also identified. The key conclusions reached by the Task Team are listed below. For the sake of brevity, only the main areas of concern are described here. The comprehensive proposed interventions that follow later in the report provide a more detailed insight into the problem areas identified.

3.1 *Main obstacles identified*

The Task Team concluded that the backlogs in the debt review process at present are being caused by a complex set of factors related to:

- a) Severe capacity constraints in the judicial system.
- b) Process weaknesses;
- c) Inadequate operational compliance by credit providers and debt counsellors as well as lack of co-operation between them;
- d) Possible abuse of the process by consumers.

These areas of concern are expanded upon below.

3.1.1 *Judicial system capacity constraints*

3.1.1.1 Although the volume of cases processed by the Magistrates Courts has increased significantly since the NCR obtained High Court Declaratory Orders in August 2009, the severe capacity constraints in the system have resulted in less than 10% of the monthly case volume being dealt with by the courts at present. Some rolls have a backlog of cases awaiting a hearing of up to two years.

3.1.1.2 Even though the NCR has implemented initiatives to improve the situation such as hosting workshops with the magistrates, it is not realistic to expect that in the foreseeable future the courts will be able to deal with all the debt review cases that enter the system.

3.1.1.3 It is not to the advantage of either credit providers or overindebted consumers for a large number of debt review cases to drag on for years. Such a state of affairs poses a systemic risk to the financial system and is contrary to the intention of the National Credit Act of speedily getting overindebted consumers back on their feet and into the economy.

3.1.1.4 The problem of court incapacity is compounded by the fact that a low number of cases is being finalized on a consensual basis between credit providers and debt counsellors. There are indications that this is due to the absence of widely accepted and applied debt re-arrangement rules and a lack of confidence by debt counsellors in the National Debt Mediation Association that was created to assist consumers in arriving at settlements with credit providers.

3.1.2 *Process weaknesses*

Weaknesses in the debt review process that contribute to cases not being resolved consensually were identified. These are:

3.1.2.1 The lack of standardisation of format and content of key documentation in the process:

- a) The certificate of balance (COB) credit providers are legally obliged to issue to debt counsellors;
- b) The full disclosure of the outcome of the over-indebtedness assessment conducted by the debt counsellor in making a finding in the matter;
- c) The debt re-arrangement proposal formulated by the debt counsellor to resolve the situation of the consumer as well as the payment plan to be provided to the payment distribution agent to implement the proposal if consented to or enforced by a court of law;

3.1.2.2 Problems related to the receipt and distribution of payments by consumers:

- a) The payment distribution agents who are involved in the distribution of payments by consumers to creditors once the consumer's repayments have been restructured are not provided for in the NCA.
- b) Payments intended to reduce the indebtedness of consumers are often rejected or end up in the credit providers' suspense accounts and are not allocated because the incorrect account numbers have been provided or used;
- c) Debit orders set up to draw payments from consumers' accounts to reduce their indebtedness fail because pre-existing debit orders and salary deductions are not cancelled;
- d) There is no provision in the Act or in practice for interim payment arrangements between the consumer and credit providers pending resolution of a case. Payment interruptions are treated as defaults by credit providers and cases are terminated after 60 business days.
- e) There is no effective collection mechanism to ensure that consumers continue to make monthly payments to meet their obligations in terms of restructured payment plans.

3.1.3 Inadequate operational compliance

3.1.3.1 By debt counsellors in many instances:

- (a) Failing to:
 - (i) Adequately comply with the requirements of the Act;
 - (ii) Provide adequately motivated, realistic and detailed debt restructuring proposals to credit providers or failing to do so timeously or at all;
 - (iii) Assist consumers on an ongoing basis to ensure they continue to meet their financial obligations under arrangements proposed or accepted.
- (b) Promoting the debt review process for the wrong reasons/ encouraging inappropriate consumer behaviour and/or inadequately informing consumers of the risks, costs and obligations flowing from a debt review application;
- (c) Accepting applications from consumers who do not have the financial means or reasonably prospects of obtaining the financial means to resolve their cases

3.1.3.2 By credit providers in many instances:

- (a) Failing to:
 - (i) Adequately comply with the requirements of the Act;
 - (ii) Provide debt counsellors with a COB within 5 business days from receipt of a Form 17.1 notice, as they are legally obliged to do;
 - (iii) Cancel debit orders when requested to do so by consumers under debt review;
 - (iv) Consider and respond decisively to debt re-arrangement proposals within a reasonable period after receipt;

- (v) Implement policies to ensure that their different divisions adopt a uniform approach to debt counselling;
- (b) Not having adequate administrative capacity to deal correctly with debt re-arrangement proposals;
- (c) Making unrealistic demands through their different product houses;
- (d) Terminating the debt review process and proceeding to court without attempting to reach a settlement with the consumer through the debt counsellor;
- (e) Permitting the attorneys who act on their behalf to oppose court applications brought by Debt Counsellors on non-substantive technical grounds.

3.1.4 Lack of co-operation between credit providers and debt counsellors

The Task Team identified that there is a high level of mutual distrust between the parties that is contributing to the lack of co-operation between them operationally. Apart from this, the absence of a properly defined framework is contributing to the problem. The following gaps were identified in this regard:

3.1.4.1 The absence of:

- (a) Appropriate, complementary and enforceable codes of conduct for credit providers (in terms of section 48 (1) of the Act), debt counsellors (not required under the Act but possible under the registration process) and payment distribution agents (not required under the Act but possible in terms of the accreditation agreements);
- (b) Appropriate institutional arrangements capable of:
 - (i) The negotiation of collaborative arrangements between the stakeholder groups under the codes
 - (ii) The execution of any collaborative obligations of stakeholder groups under the code;
 - (ii) The monitoring of and reporting on any compliance by the stakeholders under the code with the code;
 - (iii) The receipt and resolution of complaints against individual stakeholders under the code, where possible;
 - (iv) The resolution of unresolved disputes.
- (c) Mutually agreed conduct rules for the three key stakeholders in the process (credit providers, debt counsellors, and payment distribution agents) given: the considerable interdependency of the three stakeholder groups in making the process work;
- (d) Comprehensive eligibility and affordability assessment and reckless lending guidelines for debt counsellors;
- (e) Any functional requirement standards for debt counsellor systems in order to ensure that these systems enable the debt counsellors to:
 - (i) Comply with the assessment guidelines;
 - (ii) Produce eligibility and affordability assessment outcomes and debt re-arrangement proposals that are standardised in format and content;
 - (iii) Apply agreed standards and debt re-arrangement rules consistently and with the necessary systems integrity.

3.1.5 Possible abuse of the process by consumers

3.1.5.1 There are indications that a growing number of consumers are abusing the debt counselling process and using debt counselling as an excuse for not meeting their payment obligations. It is not the intention of the Act to protect such individuals, as this behaviour is creating significant risk to mortgage banks in particular and is promoting a culture of non-payment, even amongst high income consumers.

3.1.5.2 This problem is being compounded by some debt counsellors encouraging consumers to abuse the system and some credit providers failing to take legal action when it would be appropriate for them to do so.

4. Conclusion

4.1 The Task Team recommendations are largely directed at voluntary, non statutory measures being put in place. The Task Team Agreement is issued by the NCR as guideline for implementation by all Credit Industry stakeholders.

4.2 Compliance to the Task Team Agreement will be monitored. Non-Compliance should be reported to CIF for intervention.

4.3 Should the CIF intervention not realise the required co-operation the matter will be referred to the NCR.

Annexure A: Proposed Debt Review Process Enhancements and Conduct Provisions.

Annexure B: Proposed Debt Review Assessment Guidelines

Annexure C: Proposed Minimum Debt Counselling System Requirements and Principles of Debt Restructuring

Annexure D: Industry Agreed Consensual Debt Restructuring Rules to be deployed under the Section 48 (1) industry Code of Conduct to combat over-indebtedness.

Annexure E: Standard documentation

ANNEXURE A

PROPOSED DEBT REVIEW PROCESS ENHANCEMENTS
AND CONDUCT PROVISIONS

Contents

1. Introduction 3

2. Enhanced debt review process rules 3

3. Conduct provisions 8

4. Compliance, Reporting and Enforcement 10

1 Introduction

The task team on debt counselling proposes a set of enhanced debt review process rules with a view to addressing the main blockages in the debt review process and reducing the backlog of cases under debt review.

The enhanced process rules, which will require voluntary co-operation and give-and-take from all the parties involved, will ultimately be to the benefit of consumers, debt counselors and credit providers. The aim of the enhanced process rules is also to fast track those cases where there is potential to facilitate the repayment of debt to such an extent that the consumer can resume normal payments in terms of the original agreement.

These process rules are intended to be voluntarily adopted by the credit industry as process rules under an approved Section 48 code to combat over-indebtedness as well as by debt counselors and PDA's under an envisaged Debt Counsellor and PDA code of conduct. Nothing contained in these enhanced rules shall be construed as diminishing the legal rights of any party.

The affordability assessment referred to in the Task Team Agreement relates to the affordability assessment conducted by the debt counsellor (as explained in annexure c). This affordability assessment should not be confused with the credit provider affordability assessment.

2. Enhanced debt review process rules

2.1 *Form 17.1 Stage*

The Debt Counsellor is required to issue Form 17.1 within 5 business days after accepting the application for debt review from a consumer.

2.2 *Credit provider information stage*

2.2.1 Within 5 business days of receiving Form 17.1, the Credit Provider is required to provide a Certificate of Balance (COB) in the standardized format and include on or attached to the COB consent to receive notice of delivery of notices and legal documentation by fax or email.

2.3 Affordability assessment, declaration of over-indebtedness (Form 17.2) and debt re-arrangement proposal.

Debt Counsellor

2.3.1 The DC should conduct an assessment in accordance with the Affordability Assessment Guidelines to determine if the consumer is over-indebted and to determine the amount available to repay debt.

- 2.3.2 If no COB is received within 5 business days, the DC may accept the information provided by the consumer as being correct to determine if the consumer is over-indebted, in terms of Regulation 24(4).
- 2.3.3 If a COB is received within 5 business days, the DC should use the information provided in the COB to determine if the consumer is over-indebted.
- 2.3.4 If the consumer is found by the DC not to be over-indebted or not to be legally eligible to be under debt review, the DC should reject the application and send a Form 17.2 to the Credit Providers and Credit Bureaus.
- 2.3.5 If the consumer is found by the DC to be over-indebted and legally eligible to be under debt review, the DC should, within 10 business days of receiving the COB from all credit providers, notify both the Credit Provider/s and the Credit Bureaus of that fact per Form 17.2 and provide the Credit Provider/s with a debt re-arrangement proposal that includes:
- a) A summary of the affordability assessment conducted containing the before and after counseling situation with regard to monthly financial obligations and affordability of the consumer in standardized format; and
 - b) A debt re-arrangement proposal in accordance with the minimum requirements of the Debt Restructuring Guidelines and consisting of a standardized summary of the proposal (for all credit agreements).
- 2.3.6 The debt re-arrangement proposal should include confirmation of the following:
- a) The income and expenditure of the consumer as established by the Affordability Assessment Guidelines
 - b) Confirmation if an asset/liability restructuring is possible to improve the indebtedness situation;
 - c) The amount available on a monthly basis for debt review repayments;
 - d) The identity of the appointed PDA through which payments will be received;
 - e) The commencement date of the proposed payments to the PDA which should not commence later than 60 business days from date of application for debt review;
 - f) Copies of all debit order and stop payment cancellation instructions given by the consumer.
 - g) An initial repayment plan for immediate implementation on the PDA's system.
- 2.3.7 The DC should follow up on all unpaid advices received from the PDA and, where required, take steps to maintain the continuous payment as proposed in the debt re-arrangement proposal submitted to the Credit Providers.
- 2.3.8 The DC should, as part of the Affordability Assessment, verify that premiums in respect of credit-linked insurance that formed part of monthly repayment obligations under the credit agreement are maintained and included in the PDA's payment plan.

- 2.3.9 The premiums for such insurance as well as other insurance policies forming part of the consumer's contractual obligations under the credit agreements such as asset insurance (homes and vehicles) as well as life and household content policies should be dealt with as essential expenses in the consumer's budget.
- 2.3.10 On receipt of all the Credit Provider responses within the prescribed 10 business day period, the DC should:
- a) Record acceptance and non acceptance of proposals.
 - b) Generate a final repayment plan as follows:
 - I. Credit Providers who have consented to the repayment plan to benefit from the effects of cascading as well as annual payment escalations agreed with the consumer.
 - II. Credit Providers who have not consented to the repayment plan will receive the amount allocated to them in the repayment plan as well as annual payment escalations agreed with the consumer, subject to the other requirements of the NCA.
 - c) A summary repayment plan to including the effects of (b) to be submitted to Credit Providers as an indication of expected repayments. This will include the effect of cascading and annual increases agreed by the consumer and would simultaneously be submitted to the PDA to replace the interim payment plan with the final payment plan to be implemented under the consent agreement. .
 - d) A proposed payment plan to be submitted to Magistrate Court to include the following:
 - I. Indication of accepted proposals with a request of confirmation through a consent order.
 - II. Indication of non-accepted proposals.
 - III. Repayment plan for non consenting Credit Providers based on the amount allocated to the non consenting Credit Provider and any other NCA requirement.
 - IV. Repayment plan based on repayments excluding the effect of cascading and escalation.
 - V. A clause to indicate that released affordability will be applied to Credit Agreements where Credit Providers have accepted the proposals with voluntary rate and term concessions.
 - VI. A clause to indicate that annual increase in repayments agreed by the consumer will be applied to all Credit Agreements.
 - VII. A clause to indicate that all relevant provisions of the NCA including s 103(5) are to be applied in determining the settlement date and total repayable amount due by the consumer of each credit agreement.
 - e) Should the Court approved repayment plan differ from the previously loaded PDA plan (with reference to non consenting Credit providers) the Debt Counsellor should load a post Court repayment plan on the PDA.

Credit Provider

- 2.3.10 Upon receipt of the debt re-arrangement proposal that meets the requirements of the Act and debit order and stop payment cancellation instructions, the Credit Provider should:
- a) Cancel all debit orders and salary deductions in respect of the debt repayments subject to the debt review (as required by law); and
 - b) Refrain from applying set-off against credit balances or salary and other credits to the consumer's bank account.
- 2.3.11 Within 10 business days of receiving the Form 17.2 accompanied by the Affordability Assessment summary and a debt re-arrangement proposal, the Credit Provider should, in writing (Which could include an agreement to reflect the terms and conditions):
- a) Accept the debt re-arrangement proposal if it meets the minimum requirements of the Debt Restructuring Guidelines and implement the restructured terms of the agreement in accordance with the debt re-arrangement proposal on their systems, or
 - b) Reject the debt re-arrangement proposal, give notice of the intention to legally oppose it and provide written reasons for having rejected it.

2.4 Termination of Debt Review

2.4.1 Credit Providers should not terminate debt reviews where:

- a) The 17.2 notice has been received; and
- b) An Affordability Assessment summary and debt re-arrangement proposal meeting the minimum debt restructuring guidelines has been submitted to Credit Providers as set out above; and
- c) The consumer is maintaining repayments, including mandatory payments, that are in line with the debt re-arrangement proposal submitted to Credit Providers and that meet the minimum requirements of the Debt Restructuring Guidelines; and
- d) The consumer does not breach any other material provisions of the credit agreement

2.4.2 Credit Providers should take reasonable steps to verify whether payment in accordance with the debt re-arrangement proposal have been made before terminating debt review and instituting collection action. This includes obtaining written verification with the PDA and Debt Counsellor that payments have been made.

2.4.3 Credit Providers should terminate debt reviews and institute collection action where:

- (a) The consumer is in default and no 17.2 notice and debt re-arrangement proposal is received from the DC within 60 business days after the date on which the consumer applied for the debt review; or
- (b) The consumer is in default, no repayments that are in line with the debt re-arrangement proposal submitted to Credit Providers and meet the minimum requirements of the Debt Restructuring Guidelines are received and reasonable steps have been taken to verify from the relevant PDA and Debt Counsellor that no or insufficient payments have been made by the consumer; and/or;
- (c) The consumer is in default of the credit agreement in a respect other than payment default, such as a default on maintaining the payment of credit-linked insurance premiums.

2.5 *Legal Contestation*

Debt Counsellor

- 2.5.1 Upon receipt of the Credit Providers replies to the debt re-arrangement proposal, the DC should:
 - a) Set the matter down in a Magistrate Court and obtain a court date before the expiry of the statutory 60 business days after the date on which the consumer applied for the debt review.
 - b) Notify the respective credit providers of the outcome of the debt re-arrangement proposal and the court date within 10 business days of having obtained it.
- 2.5.2 If consent has been obtained from all of the Credit Providers involved, the DC should apply for a Consent Order.
- 2.5.3 If consent has not been obtained, the DC should set the matter down as an opposed matter and the unconditional consents of those Credit Providers, if any, who have accepted the debt re-arrangement proposal should be included in the proposal to the Magistrate.
- 2.5.4 The DC should notify all the Credit Providers involved of the Court date within 10 business days of it having been allocated.
- 2.5.5 The DC should limit the number of matters contested through the Courts by:
 - a) Adhering to the task team assessment and debt re-arrangement guidelines in order to procure consent wherever possible; and
 - b) Complying with the Magistrates Court rules and procedures in bring matters to Court.

Credit Provider

2.5.6 The Credit Provider should:

- a) Limit the number of matters contested through the Courts by opposing only on material grounds (such as prejudicial non-compliance with the law or debt re-arrangement proposals that are unreasonable or unduly prejudicial to the Credit Providers);
- b) Ensure the mandates issued to their attorneys reflect this guideline.

3. Conduct provisions

3.1 The task team has through its consultations:

3.1.1 With the parties, identified a number of areas in which the policies or behavior of certain of the parties need to be changed in order for the debt counseling process to operate more effectively.

3.2 With a view to improving:

3.2.1 Upon the effectiveness and credibility of the debt counseling process, the task team recommends that the following change be brought about:

3.3 Suggested conduct of debt counselors

We suggest that Debt Counsellors who do not already do so should conduct themselves in the following fashion and that these provisions be incorporated into a debt counselor code of conduct:

- 3.3.1 Debt Counsellors should not encourage debt stressed consumers to enter the debt review process with promises of payment holidays or other similar inducements;
- 3.3.2 Debt Counsellors should provide potentially debt stressed consumers with an information brochure that spells out the eligibility requirements, benefits and consequences of debt counseling and other alternatives available to them before taking them on as clients;
- 3.3.3 Debt Counsellors should not take on as clients, persons who have no money available for repayment or no reasonable prospect of finding money to commence the repayment of debt.
- 3.3.4 Debt Counsellors should take care in assuring that the full and correct particulars of consumers are obtained and relayed to credit providers
- 3.3.5 Debt Counsellors should ensure that they perform all the steps required of them (including the requirements under the enhanced debt review process rules) within

the legislated or agreed time frames and that they procure debit order mandates for payments to be collected by PDA's wherever possible.

- 3.3.6 Debt Counsellors should ensure that they continue to assist the consumer under debt review to ensure finalization in Court and to ensure that monthly payments are met as per the Court Order. Debt Counsellors should ensure that the correct Credit Provider account details into which payments must be made are ascertained and provided to the PDAs.

3.4 *Suggested conduct by Credit Providers*

We suggest that credit providers who do not already do so should conduct themselves in the following fashion and that these provisions be incorporated into the section 48 code of conduct to combat over-indebtedness to the extent not already covered:

- 3.4.1 Credit Providers should improve the administrative co-operation with debt counsellors in order to speed up the finalization of proposals, by issuing specific policies and procedures in this regard.
- 3.4.2 Credit Providers should implement formal policies on compliance with debt review provisions in the Act as well as any process and/or debt restructuring rules adopted under a section 48 code to combat over-indebtedness.
- 3.4.3 Credit Providers should implement effective policies and procedures on the cancellation of existing debt orders and stop orders on the duly authorized instruction of the consumer.
- 3.4.4 Credit Providers should proceed to termination and legal enforcement action when legally justified and in line with the provisions of the Act as well as any process and/or debt restructuring rules adopted under a section 48 code to combat over-indebtedness.
- 3.4.5 Credit Providers should formalize the mandates of external law firms which deal with debt counseling applications on behalf of the credit provider in order to ensure that matters are to be opposed only on material procedural and/or substantive grounds.
- 3.4.6 Credit Providers must have a central unit/point of contact with an appropriate mandate to manage the engagement with a particular client who has applied for debt review via the appointed Debt Counselor.
- 3.4.8 Credit Providers must establish formal policies on the trade-off of competing claims between different products in line with national debt re-arrangement guidelines issued by the NCR (in terms of the Act) as well as any industry agreed debt re-arrangement rules under a section 48 code.

3.5 *Suggested conduct by payment distribution agents*

We suggest that PDA's who do not already do so should conduct themselves in the following fashion and that these provisions be incorporated into a code of conduct for PDA's:

- 3.5.1 PDAs should ensure that they verify the validity of account details to which payments are to be made.
- 3.5.2 PDAs should ensure that they capture all information provided by debt counsellors correctly.
- 3.5.3 PDAs should ensure that all the parties are informed of the details of payments made.
- 3.5.4 PDAs should submit monthly statements to consumers reflecting collections and distribution details.
- 3.5.5 PDAs should ensure that payments are made expeditiously.

4. **Compliance, Reporting and Enforcement**

The task team has up to now relied upon anecdotal information, unsupported by statistical information or sufficient details regarding specific transgressions, regarding the undesirable practices of the role-players involved. It accepts that part of the solution to the current problems lies in ensuring that such practices are identified and curbed.

All the role-player groups identified in Paragraph 3 above are requested to ensure that they are not guilty of the conduct referred to in that Paragraph 3 or to take corrective measures immediately if they are and to commit their full support to the proposed codes of conduct.

ANNEXURE B

PROPOSED DEBT REVIEW ASSESSMENT GUIDELINES

1 CONTENTS

1.	INTRODUCTION	3
2.	INITIAL CONSIDERATIONS	5
2.2.	MARITAL STATUS	6
2.3	TO ENSURE THAT NOT ALL DEBT IS BEING PASSED TO ONE OF THE PARTIES WHILST THE COUPLE CONTINUES TO LIVE WELL OFF A SUBSTANTIAL SURPLUS FROM THE OTHER PARTNER. INCLUDE ALL INCOME	7
2.4	TEMPORARY LOSS OF INCOME	7
3.	ASSETS	8
3.2	SHORT TERM INSURANCE ON ASSETS FINANCED	10
3.3	JOINT BONDS	11
3.4	RECKLESS LENDING	12
4.	DETERMINATION NETT INCOME	13
5.	MINIMUM AMOUNT OF NETT INCOME AVAILABLE FOR DEBT REPAYMENTS	15
6.	REVIEW OF SPENDING PATTERNS	17
7.	IDENTIFYING VARIOUS EXPENSES AS ESSENTIAL, NON-ESSENTIAL AND LUXURIOUS, AND HOW TO DEAL WITH EACH OF THESE CATEGORIES	18
7.1	ESSENTIAL EXPENSES	18
7.2	NON ESSENTIAL EXPENSES	20
7.3	LUXURIOUS ITEMS	21
8.	KNOWING WHEN EXPENSES NEED TO BE REVISED	21
9.	BROAD GUIDELINE FOR SPENDING PATTERNS	23
10.	ANNUAL REVIEW	23
11.	RECOGNITION AND DEALING WITH ADDICTIVE BEHAVIOURS	24
12.	CONCLUSION	24
13.	ANNEXURE B1 – AFFORDABILITY ASSESSMENT PROCESS STEPS	25
14.	ANNEXURE B2 – AFFORDABILITY ASSESSMENT CHECK LIST	25
14.1	AFFORDABILITY ASSESSMENT	25
14.2	INTERVIEW WITH CONSUMER	26
14.3	VERIFY CONSUMER DETAILS	26
14.5	VERIFY INCOME	26
14.6	CHECK FOR RECKLESS LENDING	26
14.7	REVIEW ASSET STATEMENT	26
14.8	REVISE BUDGET	27
14.9	VERIFY SHORT TERM INSURANCE REQUIRED BY DEBT AGREEMENTS	27
14.10	AFFORDABILITY AMOUNT	27
15.	ANNEXURE B3 – RECKLESS LENDING CHECK LIST	28
16.	POSSIBLE RECKLESS LENDING INDICATOR STEPS	29

1 Introduction

1.1 *The purpose of the Affordability Assessment of the consumer is important for the following reasons:*

- a) In terms of Section 86(6)(a) of the NCA the Debt Counsellor should determine if the consumer appears to be over-indebted.
- b) Determine if the consumer seeks a declaration of reckless lending or whether any of the consumer's credit agreements appear to be reckless.

When this assessment is completed, the Debt Counsellor should refer to Section 79 of the NCA to determine whether the consumer is over-indebted,¹ based on the information available when the determination is made.

It is important to highlight that the Debt Counsellor, in terms of Section 79(2), should apply the criteria set out in Section 79(1) as they exist at that point in time.

1.2 *When the determination in terms of Section 79 is made, the Debt Counsellors should take into account Section 79(3) which provides that the value of:*

- a) Any credit facility is the settlement value at the time under the credit agreement; and
- b) Any credit guarantee is:
 - The settlement value of the credit agreement that it guarantees, if the guarantor has been called upon to honour that guarantee; or
 - The settlement value of the credit agreement that it guarantees, discounted by a prescribed factor.

In addition to Section 79 of the NCA the Debt Counsellor should consider the guidelines set out in Regulation 24(7) of the NCA²

¹ A consumer is over-indebted if the consumer is or will be unable to satisfy in a timely manner all the obligations under all the credit agreements based on the consumer's current means, prospects and obligations as well as probable propensity to satisfy on time all his or her obligations based on the payment history of that consumer.

² Regulation 24(7):

- a) A consumer is over-indebted if his/her total monthly debt repayments exceed the balance deriving by deducting his/her living expenses from his/her income;
- b) Nett income is calculated by deducting from the gross income, statutory deductions and other deductions that are made as a condition of employment;
- c) Minimum living expenses, adjusted by the Debt Counsellor with reference

to the guidelines issued by the National Credit Regulator.

1.3 *This assessment of the consumer's financial position is an important step in the Debt Counselling process for two reasons:*

- a) It determines if the consumer is over-indebted as specified in the NCA;
- b) It determines the amount available to repay the debt. This amount holds the key to the success of the Debt Counselling process as:
 - It will determine how long the consumer will remain under Debt Counselling;
 - It will determine the basis for the proposed repayment plan.

1.4 *It is therefore essential that the affordability assessment complies with guidelines set out in this document, which is based on the following broad principles:*

- a) The financial assessment should take into account all the information available at that point in time;
- b) When the assessment is done the maximum amount possible should be made available for debt repayment after provision has been made for an emergency amount;
- c) The financial assessment should be reasonable and a sustainable and a living budget should be constructed for the duration of the Debt Counselling term.
- d) Debt Counsellors should obtain a Credit Bureau report for the consumer to ensure that all the consumers' debt obligations are included on application.
- e) The Debt Counsellor should check for reckless lending.

It is obvious that Credit Providers have an interest in the affordability assessment because this has a direct impact on the proposed repayment plan.

It is in the interest of the consumer if the Debt Counsellor explores the possibility of submitting a repayment proposal to Credit Providers in terms of Section 86(7)(a) and in terms of Section 86(7)(c) before submitting a proposal to Court. Where this process is followed, it is more likely that payment proposals will be accepted before the matter is referred to Court. This will not only reduce opposition in court, but it will also speed up the Debt Counselling process and avoid unnecessary legal costs for the consumer and the Credit Provider.

1.5 *Before a repayment proposal can be completed, an Affordability Assessment should be conducted by the Debt Counsellor. In this process it is recommended that Debt Counsellors consider the guidelines in this document. When this process is followed the following can be achieved:*

- a) Ensure a realistic and sustainable budget for the consumer and his or her family. This is only possible if all the financial needs of the consumer have been catered for in his budget. It is also important to take into account that this budget has to be implemented by the consumer for the duration of the debt review.
- b) An amount is determined for repayment of the debt.

In cases where the consumer applies for Debt Counselling and where the consumer has no income or no income is available for debt repayments or there is no prospect of finding income within a 3 month period to commence repayment of debt, formal Debt Counselling should not be considered as a viable option for the consumer and it is recommended that the Debt Counsellor refuse to accept the application for Debt Counselling.

Debt Counsellors are reminded that they have a statutory obligation in terms of the NCA to conduct a detailed financial assessment of the consumer's income and expenditure and are experts in this field. The outcome of the financial assessment is also included in the submission to the Court and if required Debt Counsellors can be requested to substantiate this in Court.

With this in mind the following affordability assessment guideline has been drawn up and accepted by all Debt Counsellor Associations. The Affordability Assessment Process Steps are highlighted in Annexure B1.

2. Initial Considerations

2.1. Eligibility to apply for debt counselling

A consumer as defined in the NCA may apply for Debt Counselling in terms of Section 86 of the NCA.

When an application from a consumer is received the Debt Counsellor should consider the following;

Section 3(g) of the NCA states the following:

“providing for a consistent and harmonized system of debt restructuring, enforcement and judgement, which places priority on the eventual satisfaction of all responsible consumers obligations under credit agreements”

Over indebtedness relates to existing inability to satisfy obligations and future inability. This means that Debt Counsellors should assess the ability to repay the debt from future income.

Where consumers have no income or no prospect of receiving income to repay their debt, Debt Counsellors should refrain from accepting such an application.

This assessment is made by Debt Counsellors in terms of Section 79(1) as the information exists at that point in time.

Some consumers might apply for Debt Counselling because of retrenchment or temporarily reduction in income and those consumers should not be excluded. In such cases the Debt Counsellor might recommend postponement of payments

during a specified period to a Magistrate Court as set out in Section 86 and 87 of the NCA. The important principal to be considered is the ability of the consumer to resume payments in the near future. In the retrenchment example the consumer should find alternative employment in a reasonable period.

In practical terms the following issues should be considered at the point of application:

- If the consumer has no income or no prospect of income in the future the applications cannot be accepted;
- The marital status of the consumer should be verified as set out below before the application is accepted;
- Where the Debt Counsellor is aware of previous legal action stipulated in Section 86(2) of the NCA only that particular debt cannot be included in the application. This means that the balance of the debt should be included in the application;
- The Debt Counsellor must assess the situation and submit his or her recommendation to a Magistrate Court who must conduct a hearing as per Section 87 of the NCA. The matter should be referred to a Magistrate Court before the expiry of the 60 days in order to protect the client.
- Any credit life insurance which makes provision for retrenchment cover should be considered as well and could well be a remedy to reduce debt at a future point in time. In most cases it will be difficult to determine if full retrenchment cover is available at point of application. Debt Counsellors are encouraged to check for relevant cover and to verify this with Credit Providers to determine the impact if possible in the debt situation of the consumer.
- It is also recommended that the Debt Counsellor check for the availability of assets that can be used to redeem debt as described in more detail below at application stage.

2.2. *Marital Status*

- a) If consumer is married in COP, the spouse's income must be included and a joint application made. When the husband and wife who are married COP decline to do a joint application they cannot apply for Debt Counselling.
- b) Where a consumer is married in COP but separated or in the process of a divorce a single application cannot be accepted.
- c) If the consumers are married ANC or are living together it is recommended that the Debt Counsellor consider a joint view of income. The reason for this is that:
 - Both parties enjoy the benefits of joint income. This should be reflected in the budget of the consumer.
 - The acquired finance (e.g. bond over a fixed property) may be approved on a joint income.

2.3 *To ensure that not all debt is being passed to one of the parties whilst the couple continues to live well off a substantial surplus from the other partner. Include all income*

When a consumer applies for Debt Counselling all the consumer's income has to be included. This is defined in Section 78(3) as follows:

"In this part, 'financial means, prospects and obligations', with respect to a consumer or prospective consumer, includes:

- a) income, or any right to receive income, regardless of the source, frequency or regularity of that income, other than income that the consumer or prospective consumer receives, has a right to receive, or holds in trust for another person;
- b) the financial means, prospects and obligation of any other adult person within the consumer's immediate family or household, to the extent that the consumer, or prospective consumer, and that other person customarily:-
 - share their respective financial means; and
 - mutually bear their respective financial obligations; and
- c) if the consumer has or had a commercial purpose for applying for or entering into a particular credit agreement, the reasonably estimated future revenue flow from that business purpose."

It is recommended that Debt Counsellors obtain a full picture of the total income of the household. To achieve this it is important to understand who is part of the household and what their income is. This will assist the Debt Counsellor to determine the proportional responsibility of household expenses.

The abovementioned can be achieved by including the appropriate contributions to household income or by reducing the applicant's contribution to household expenses in proportion to household income.

Full disclosure of household income is recommended in the debt review process.

2.4 *Temporary Loss of Income*

In some cases a consumer could not necessarily be over-indebted but could be experiencing or is likely to experience difficulty in satisfying all the monthly obligations under credit agreements in a timely manner.

This is often the case when one of the following events occurs:

- a) Reduction in monthly income as a result of a reduction in commission or the employer introducing slow time or simply a loss of regular over time.

- b) Retrenchment with prospect of finding a new job.
- c) Financial crisis that demands a large capital outlay that is not planned for.

When one of the abovementioned happens the consumer could approach a Debt Counsellor for assistance in terms of Section 86(7)(b) of the NCA. When approached a Debt Counsellor should conduct a full financial assessment of the financial position of the consumer. If the finding is in line with section 86(7)(b), that the consumer is not over-indebted but experiencing or likely to experience difficulty to meet all his or her obligations under his or her credit agreements, the Debt Counsellor should use this assessment as a base to construct repayment proposals to Credit Providers for voluntarily consideration. If accepted by all Credit Providers a consent order can be obtained and if not the matter will be referred to a Magistrate Court for a decision.

Debt Counsellors should consider a set date for the proposed review of the consumer's financial position and include this in the proposal to Court. The motivation for this is that the consumer should be encouraged to find employment within a reasonable period which should not exceed 3 to 4 months. If no employment can be found, a general guideline is that the consumer's debt review application cannot be supported going forward.

If the consumer has been able to find employment, a new Affordability Assessment should be done by the Debt Counsellor.

3. Assets

The consumer should be encouraged to complete a list of assets on application for Debt Counselling (Form 16).

The following information is important in this regard:

- 3.1 The Debt Counsellor is not a specialist in the valuation of assets and should not attempt to perform this function. The reason for this is that most Debt Counsellors are neither registered value appraisers nor are they registered for FAIS. For this reason care should be exercised by Debt Counsellors in requesting consumers to value any assets or instructing consumers to stop or amend any assurance or medical aid related spending. Debt Counsellors should also refrain from placing a value on assets other than the value provided by the consumer in any Court Application. Where appropriate Credit Providers could include asset value in COB's to assist Debt Counsellors in this regard.
- 3.2 Subject to the abovementioned, Debt Counsellors are encouraged to ask the consumer to identify assets that can possibly be sold to reduce debt. The assets that could fall in this category include luxury items, assets used for pleasure and all readily available cash or reserves. To illustrate the process the following are examples:

- 3.1.1 If the consumer has a cash investment such as a money market account or term investment, Debt Counsellors should encourage the consumer to use the proceeds of this investment to reduce debt. This is in line with Section 78(3) of the NCA.
- 3.1.2 If the consumer has quoted shares, Debt Counsellors should encourage the consumer to sell the shares and to use this to reduce debt. This is in line with Section 78(3) of the NCA.
- 3.1.3 In some cases consumers have rights to share options with their employer. Where this is the case the Debt Counsellors should establish when these option(s) mature and the proceeds should be used to reduce debt at that point in time. In most cases it might be difficult to determine after tax benefit up front.
- 3.1.4 In some cases consumers have luxury assets such as ski boats, quads, and other “toys”. These assets could be sold and the proceeds used to reduce debt. Where those assets are financed, the proceeds should be used to repay the debt and should there be a shortfall, this should be included in the debt review and repaid in line with the other debt.
- 3.1.5 Should the proceeds be less than the settlement amount of the debt, this shortfall should be included in the debt review as unsecured debt. Any excess should be used to reduce other debt.
- 3.1.6 In the case of a second home, investment properties or holiday homes, the Debt Counsellor should consider exploring the possibility with the consumer of selling the assets to reduce debt. Where second properties are not sold it is recommended that the Debt Counsellor provide reasons to Credit Providers and the Magistrate Court.
- 3.1.7 Vehicles not used by the consumer or his or her dependants (i.e. student) could be sold and the proceeds used to reduce debt.
- 3.1.8 In the case where the consumer has a luxury home or vehicle, Debt Counsellors should investigate the possibility to sell these assets and to downgrade. This is not always possible for the following reasons:
- a) If a house is sold the proposed rental could be more than the proposed repayment of the house.
 - b) If a house is sold well below the outstanding balance, the consumer still has to repay this shortfall. This might place the consumer in a worse position.
 - c) Consumers under debt review are not accepted by rental agents due to their listing on the Credit Bureau and the fact that they are under debt review.
 - d) If a vehicle is sold the consumer will not be able to access credit to purchase a smaller vehicle unless a Credit Provider is willing to provide a Consolidation Loan to finance a vehicle.
 - e) If a vehicle is sold well below the outstanding balance, the consumer still has to repay this shortfall. This might place the consumer in a worse position.

- f) Credit Providers are of the view that new loans to finance for example a more affordable house or replacement of a vehicle (to scale down or in case of a loss through theft or accident) fall outside the definition of Consolidation Loans in terms of Section 88(1) and could be classified as reckless lending and accordingly are unwilling to provide such loans

It is recommended that the Debt Counsellors confirm to Credit Providers in the repayment proposals that he or she has explored the possibility of selling assets to reduce debt and where if not, why this has not happened.

It is also recommended that the Debt Counsellor include a confirmation in the affidavit submitted to Court that he or she has assessed the list of assets provided by the consumer and that unencumbered assets that could be sold have been, alternatively an explanation why they have not.

3.2 *Short Term insurance on assets financed*

Where an asset has been financed by the Credit Provider, it is often a requirement that a comprehensive short term insurance³ is maintained. In practice many consumers have cancelled their short term insurance long before they have applied for Debt Counselling notwithstanding the contractual obligation to maintain a short term insurance policy to protect the assets financed.

The absence of such a policy not only increased the risk for the Credit Provider, but it increases the risk for the consumer who has applied for Debt Counselling. Should the consumer be involved in an accident or if the vehicle is stolen and not covered it places the over-indebted consumer in a worse financial position.

It is therefore in the interest of the consumer that insurance of assets be examined during the Affordability Assessment. If Debt Counsellors ensure that insurance is in place this could improve the probability that the debt review will be successful and this will ensure that the consumer complies with the terms of the agreement with Credit Providers.

Debt Counsellors should verify the need for insurance on debt included in Debt Counselling. This is normally a contractual obligation. The premium for insurance should be included in the proposed budget of the consumer and confirmation of insurance should be forwarded to the relevant Credit Provider. In addition, it is recommended that the amount required for such insurance should be collected by the appointed Payment Distribution Agency and paid over to the Credit Providers or Service Providers.

Debt Counsellors are required to monitor monthly payments of these amounts. Any increases of the amount required for this insurance should be catered for and should be included in the annual review conducted by the Debt Counsellor.

3.3 *Joint Bonds*

Where the consumer who applies for Debt Counselling has a joint bond with another consumer the following is important:

- a) If the bond is in the name of a couple married in COP the entire bond and joint income is automatically included in the debt review.
- b) The bond has been taken out jointly by two consumers who are married ANC or not married it is often the case that both consumers are jointly and severely liable for the bond

In many cases only one party to the joint bond applies for Debt Counselling and where the bond repayments falls in arrears, the Credit Provider could elect to enforce the agreement against the party who has not applied for Debt Counselling, despite the fact that the agreement is subject to Debt Counselling. Until there is case law on this issue or an agreement can be reached with Credit Providers on this issue, the following guidelines can be of assistance:

- a) Debt Counsellors should inform the consumer of the legal position that both parties are jointly and severely liable for the bond and that Credit Providers may elect to enforce payment against the party not under debt review.
- b) Consideration should be given to selling this property. Any profit should be divided proportionally and the portion due to the person applying for Debt Counselling should be used to reduce debt. In the case of a shortfall this should also be divided proportionally and the portion due by the consumer applying for Debt Counselling should be included in the debt review to be repaid in line with other debt.
- c) Consideration should be given to explore the possibility of buying out the joint bond portion by the person not under debt review.
- d) Consideration be given to substitution of debtor. The party not under debt review could "purchase" the other portion of the asset.
- e) Where the house is included in the debt review, the Debt Counsellor could determine the percentage (or proportional share) payable by each party based on income declared when the application for the bond was processed, but the Debt Counsellor should inform the consumer that this process cannot guarantee that Credit Providers will not deem it fit to enforce the agreement against the person who does not apply for Debt Counselling.

³ Short term insurance is normally a contractual obligation in the agreement entered into by the consumer and the Credit Provider to insure the asset against damage, theft or loss

- i. The consumer who is not applying for debt review should pay his or her contribution to the monthly payment directly to the Credit Provider or arrange for a debit order.
- ii. Insurance and maintenance cost should be shared on the same basis as set out above.

- iii. The value of the home loan included in the debt review should be proportionally to the commitment for monthly payment. For instance, if the consumer is liable for 50% of the monthly payment, that amount as per the COB should be included in the debt review.
- iv. Rates and taxes should be catered for on a proportional basis in the budgets of the consumers.
- v. Where the property which is subject to the joint bond is rented out, the full rental should be paid to the Credit Provider. Any shortfall should be divided proportionally as set out above. Any surplus should be divided proportionally, after deduction of maintenance cost, and should be income for the consumer who applies for Debt Counselling.

3.4 *Reckless Lending*

The Amendments of the NCA extend the power of the NCT to consider and pronounce reckless agreements. This amendment may result in an amendment of the reckless lending process in this annexure. A review will be conducted as soon as detailed process information is available.

Debt Counsellors are obliged and encouraged, as part of the financial assessment, to identify reckless lending by Credit Providers and if such finding is made issue a proposal to the Magistrate Court to make an order, as per Section 86(7)(c)(i) of the NCA, that one or more of the consumer's credit agreements be declared reckless.

The criteria to determine whether a credit agreement is reckless or not is set out in Section 80 of the NCA.

Section 80(2) provides that:

“When a determination is to be made whether a credit agreement is reckless or not, the person making that determination must apply the criteria set out in subsection (1) as they existed at the time that the agreement was made, and without regard for the ability of the consumer to-

- a) Meet the obligations under the credit agreements; or Understand or appreciate the risks, costs and obligations under the proposed credit agreement, at the time that the determination is being made”

This means that the time that the credit agreement was entered into is crucial and not when the determination is actually made.

Debt Counsellors are encouraged to take the Affordability Assessment Regulations into account when implemented and use the process as set out in Annexure B to identify possible reckless lending. This process should be seen as an early indicator process to identify reckless lending.

To make the determination the Debt Counsellor has to reconstruct the circumstances when the debt was entered into between the consumer and the Credit Provider.

To do this a Debt Counsellor will need at least the following:

- a) Copy of the pay slip(s) used in the applications;
- b) Copy of bank statements 3 months prior and 3 months after the credit agreement has been entered into;
- c) Copy of the application form and assessment form; and
- d) Copy of the credit agreement

The consumer should normally be able to supply items a) and b) Items c) and d) should be requested in writing from the Credit Provider who should make this information available within 20 business days.

This information should be used to determine whether a proper assessment was conducted and if the consumer fully and truthfully answered all requests for information made by the Credit Provider as part of the assessment and/or if the consumer failed to understand the risks, costs or obligations under the credit agreement or became over-indebted the moment he or she entered into that specific credit agreement.

Where Credit Providers fail to provide the information on request within 20 business days, the Debt Counsellor should use the available information and refer the matter to a Court for a hearing. The Debt Counsellor is advised to inform the Court of the attempts to obtain detailed information with a recommendation that the Magistrate review the available information to make a finding on the reckless lending recommendation from the Debt Counsellor.

The abovementioned assessment should indicate if reckless lending was present. Should the Debt Counsellor be unable to make a determination because of the Credit Provider being unwilling to provide the required information and where reckless lending is evident, the Debt Counsellor should submit his recommendation to a Magistrate Court.

The identification and determination of reckless lending is important and consequently it is envisaged that this section be extended at a future point in time to include practical examples and case law once available.

4. Determination Nett Income

- 4.1 *On making an effective assessment it is important to ensure that the consumer's NETT income is properly assessed. NETT income is determined by taking the gross income, adjusted for irregular income, less statutory deductions, less mandatory employer deductions. Income not derived from main employment must be added to this:*

4.2 *The consumer(s) should be requested to make the following available when NETT income is determined:*

- a) Pay slips for the last month. In some cases pay slips for longer periods should be requested especially if the consumer is on slow time, received an increase or decrease or other change in circumstances.
- b) Bank statements for 3 to 6 months
- c) Where overtime or commissions is received pay slips for the last 3 to 6 months.
- d) If self employed, bank statements or financial statements or spreadsheet to indicate income for the last 6 months as well as an income and expenditure statement for the business. The latter could be required by a Court to proof income and expenses.

4.3 *Gross pay is the total of all pay plus the total of employer benefits. Weekly wages are to be converted to a monthly income figure for calculation purposes (to submit a monthly income & expenditure statement).*

4.4 *Deductions for irregular income*

- a) Overtime must be deducted unless it is a regular feature on the pay slip, in which case 75% of the average of the previous 3 consecutive months must be calculated, but never exceeding 75% of gross income⁴.
- b) Commission earners can provide an IRP5 or the Debt Counsellor may work on the average earnings over the previous six consecutive months' pay slips or bank statements. Where commission is subject to seasonality, it should be calculated over a 12 month period e.g. life insurance is sold around tax dates, cars are sold around year-end bonus time; fertilizer/seek is sold around agricultural seasons etc.
- c) Any other allowance must be deducted unless it is of a regular nature, in which case the lowest of three months must be used.
- d) Consideration must be taken of the present economic conditions that affect the consumer and his/her employer.

4 Average overtime is calculated by adding the amount for each month together and then dividing it by the number of months added. E.g. 3 months overtime divided by 3 x 75% = average overtime to be added to gross income.

4.5 *Statutory deductions or compulsory deductions are all of those deductions that an employer must make as ordered by a court or legislation.*

These include:

- a) PAYE and SITE,
- b) UIF,
- c) Emolument Attachment Orders,
- d) Garnishee Orders.

Important Note: Salary stop orders where a service provider or employer has an arrangement to deduct a payment from an employee's salary must be excluded from deductions and treated either as debt (in the case of loan payments) or the expense type. This included pension fund backed/secured loans and other payroll deducted loans.

4.6 *Employer deductions are deductions made by an employer for services that the employee must subscribe to as a condition of employment. This include*

- e) Pension,
- f) Group life,
- g) Medical aid.

4.7 *Use the following guidelines in respect of other income:*

- a) Self-employed individuals should provide proof to verify their drawings (by way of bank statements, financial statements, spreadsheet, or IRP5). If there has been deterioration in the business, resulting in reduced drawings by the owner, the reason/s for this downward trend is to be provided.
- b) Properties being rented out seasonally (e.g. holiday flat and not sold to reduce debt) should not be included as fixed monthly income.
- c) Maintenance received should be reflected. If the consumer is a single parent and the other parent is earning a regular income and the consumer is not receiving maintenance, the Debt Counsellor should refer the consumer to the Maintenance Court (normally no legal representation is required) for assistance to obtain monthly maintenance payment. Until a Court Order has been obtained no maintenance should be included in income (unless the parties agree to an interim monthly amount)
- d) Fixed monthly rentals from properties should be included. It is recommended that 65% of gross rental amount as per lease agreement is used to cater for void periods and taxable portion.
- e) Monthly subsidies should be included.
- f) Interest from investments (except where the investment is to be realised to reduce the level of debt) should be included.
- g) Interests in businesses (where regular income is received) should be included.
- h) Any other regular source of monthly income should be included.

5. **Minimum Amount of Nett Income Available for Debt Repayments**

Consumers who apply for debt review are often reluctant to reduce their lifestyle resulting in a small unrealistic amount being available for debt repayment. The level of over indebtedness (after reckless lending has been ruled out) also has an effect on the amount available for debt repayments. Where this is the case the proposed repayments offered are very low and proposed term is unrealistically long.

Important Note: Debt Counsellors should use this guideline to determine the minimum available amount for debt repayment. Consumers should be encouraged by Debt Counsellors to use a higher percentage of after tax income or household income to repay debt.

5.1 *The purpose of setting minimum criteria is the following:*

- a) To prevent unrealistic repayment proposals to Credit Providers based on an unrealistic low amount.
- b) To force consumers to reduce their financial lifestyle to release money to repay debt.
- c) To improve the chances of negotiating an acceptable repayment plan with Credit Providers, based on the Rules for Repayments where Credit Providers have agreed to concessions to assist the over indebted consumer.
- d) The aim of this guideline is to assist Debt Counsellors move away unrealistically low repayments of debt. Debt Counsellors should consult these guidelines after the consumer's budget has been negotiated to ensure that the amount used for debt repayments is above the minimum guidelines. Where repayments are below the guidelines Debt Counsellors should review the consumer's budget again with the aim to adjust the consumer's budget to ensure that repayments are within the guidelines. In many cases consumers should be able to repay amounts in excess of these guidelines.

5.2 *The proposed guidelines in the table below take into account that the spending patterns of consumers are influenced by the level of own income, household income, dependants and essential expenses. The percentages that are tabulated below are indicative only and are based on the After Tax Income or household income specified in range bands. The aim of this guideline is for the Debt Counsellors to use this as a guideline to determine the minimum level of nett income that is available for debt repayments.*

5.3 *Spending Guidelines*

This spending guideline is based on after tax income, before any other deductions, of the applicant(s) subject to Note 1, 2 and 3 below for specific application to the consumer's position at that point in time.

After Tax Income	Percentage of household income to be made available as a minimum for repayment of debt
R 0 – R 2 000	23% to 45%
R 2 001 – R 5 000	32% to 47%
R 5 001 – R 10 000	35% to 49%
R 10 001 – R 20 000	37% to 51%
R 20 001 – R 40 000	40% to 53%
R 40 001 – R 60 000	45% to 55%
R 60 0001 +	45% to 58%

Notes:

- a) **Note 1:** This is a general guideline for the use of Debt Counsellors. It is accepted that there will be individual cases where this guideline will not be applicable due to special circumstances which can be motivated by the Debt Counsellor.
- b) **Note 2:** This guideline sets out the minimum amount to be used. Debt Counsellors should wherever possible increase the amount available based on the financial assessment completed for the consumer, which should include a reduction in financial lifestyle.
- c) **Note 3:** This guideline is applicable to the total household income as defined in section 2.3 of the guideline.
- d) **Note 4:** The abovementioned percentages include a provision for a monthly amount available for debt repayment. Consumers should be encouraged to deposit this money into a savings account for this purpose. Where applicable the Debt Counsellor should reduce the percentage allocated to the emergency fund.

6. Review of Spending Patterns

Once the income of the consumer has been determined it is time to review spending items that can be reduced. The purpose of this process is to ensure that a sustainable budget has been created for the consumer. This means the inclusion of essential expenditure and the reduction or elimination of luxury expenses. This will require the consumer to implement certain sacrifices to ensure that the budget of the consumer is realistic, sustainable and defensible in a Magistrate Court.

It is important to note that the Debt Counsellor is fulfilling a statutory obligation and for this reason care should be taken to ensure that the Debt Counsellor has applied his or her mind to the financial assessment of the consumer's financial position.

Debt Counsellors could be requested by a Court to substantiate the Affordability Assessment and the determination of the amount available for debt repayment. Debt Counsellors should be able to explain and defend their financial assessment.

It is however important to note that the spending patterns of consumers will in most cases be different. The reason for this is that consumers have different needs and requirements. For instance some consumers will spend more on the education of their children but will spend less on food. Others might decide to spend money on their DSTV but decrease spending on a different item.

What is important to Debt Counsellors is to ensure that overall expenditure is reasonable and defensible. Many Credit Providers and Magistrates will have different interpretations of individual items. For instance some might argue that smoking should be stopped while others might consider even reasonable telephone expenditure as unreasonable.

In the final analysis, the proposed budget can only be constructed if all expenditure is assessed and the final outcome is reasonable. To assist Debt Counsellors the following guidelines should be used in the analysis of essential non-essential and luxurious expenditure.

7. Identifying Various Expenses as Essential, Non-Essential and Luxurious, and how to deal with each of these categories

7.1 Essential Expenses

Essential expenses are those expenses that a consumer has little or no control over. They are necessary to conduct daily life. Expenses falling into this category are:

- 7.1.1 Rental, where no bond is in place, should be reasonable considering the consumer's circumstances.
- 7.1.2 Debt Counsellors could ask the following questions:
 - a) Is it possible to obtain cheaper rented accommodation?
 - b) Can affordable accommodation be found closer to work to reduce rental expenses as well as fuel costs? The cost of moving has to be taken into consideration.
- 7.1.3 Groceries (food, toiletries, cleaning materials) - groceries to be in line with size of the family and dietary requirements.
- 7.1.4 Water & Lights (if not part of rental).
- 7.1.5 Rates & Taxes (if consumer is liable).
- 7.1.6 Body corporate levies.
- 7.1.7 Domestic workers depending on circumstances, e.g. child care.
- 7.1.8 Education. This could include day care, crèche, Public/Model C Schools, Private Schools or tertiary education in SA. If Private Schools are used the Debt Counsellor is encouraged to explore the possibility of less expensive schooling. In some cases the consumer might select to reduce expenses in other categories but not schooling. Where this is the case consumer choice should be considered.
- 7.1.9 Consumers may apply for subsidised school fees or exemption of school fees from the school's Governing Body when in need. This is normally done annually before 28 February.
- 7.1.10 Existing tertiary education should be allowed to continue - even if a student obtains part time income to supplement his own studies.
- 7.1.11 Transport (public transport and/or reasonable running expenses of vehicle including fuel & maintenance).

- 7.1.12 Telkom phone or cellular phones or internet access within a reasonable amount.
- 7.1.13 Multiple cellular phones are not essential (indicate if contracts) and consumers should be encouraged to switch to less expensive contracts or pre-paid when contracts expire.
- 7.1.14 Encourage consumer to set limits on cellular phone contracts.
- 7.1.15 Maintenance that should be paid over to dependants as per the Court Order. Obtain a copy of the Court Order to verify the amount. Where an oral amount has been agreed, without a Court Order being obtained, it is good practice to obtain confirmation from the paying party or regular payments must be evident on the applicants bank statements.
- 7.1.16 Utilities but encourage the consumer to reduce usage where usage is high.
- 7.1.17 Clothing and shoes within reason – higher amount for growing children.
- 7.1.18 Chronic medication (obtain proof that not covered by medical aid / see whether generics are available at a reduced cost).
- 7.1.19 Support of relatives with valid reasons.
- 7.1.20 Financial Services - Debt Counsellors may not recommend any reductions in medical aid, insurance or assurance. Where an expense appears exorbitant the Debt Counsellor should refer the consumer to a FAIS approved financial planner. If the Debt Counsellor gives advice in this regard without being appropriately registered with the Financial Services Board, he may face prosecution for contravening FAIS.
- 7.1.21 Medical Aid - the consumer should be appropriately covered in relation to his income and family needs.
- 7.1.22 Life Assurance - should be reasonable. Sometimes an insurance policy can be suspended for a period.
- 7.1.23 Credit Life - money that a consumer pays to an insurance company that will cover certain outstanding debts in the event of the account holder's disability or death. If payment is stopped the cover will lapse. This expense is usually linked to consumer's debt payment. Be sure to separate it from the installment amount when perusing the debt.
- 7.1.24 Insurance - money paid to an insurance company to protect a person against the risk of their property being damaged or destroyed. If payment is stopped the protection will lapse. As a consumer under Debt Counselling will most likely be unable to replace their assets in the event of their loss, adequate insurance should be provided for:

7.1.25 Anything else that can be regarded as essential under the consumer's unique circumstances.

The Debt Counsellor must make sure that all essential expenses are, in the first instance essential and in the second instance reasonable.

7.2 Non essential Expenses

Non essential expense are those expenses paid by consumers that are not absolutely necessary, but that are none the less an important part of daily existence.

These will include:

- 7.2.1 Domestic worker/s (unless this is the substitute for day care / crèche / after care facilities).
- 7.2.2 Garden services.
- 7.2.3 Alcoholic beverages. Reduce but not suspend.
- 7.2.4 Tobacco/cigarettes. Reduce but not suspend.
- 7.2.5 Entertainment. Reduce substantially.
- 7.2.6 DSTV or MNet - consider downscaling at the end of the contract. Remember that most other entertainment has been reduced substantially and the consumer could only be left with DSTV.
- 7.2.7 Recreation / club memberships. Depending on contract - terminate.
- 7.2.8 Children's pocket money. Reduce within reason but not suspend.
- 7.2.9 Tithes / donations. Reduce but not suspend.
- 7.2.10 Cosmetic services / beautician / pampering sessions. Reduce but not suspend.
- 7.2.11 Some allowance must be made for this class of expenditure, as long as the amount allocated is reasonable considering the circumstances of the consumer.

As a minimum requirement this does not mean that Debt Counsellors cannot allow non essential expenses. If used in moderation some of the items could be included in the budget on condition that the total spending on essential and non-essential items is reasonable and defensible.

7.3 *Luxurious Items*

Luxurious items are those items that the consumer does not need and which the average consumer applying for Debt Counselling should not have.

They include:

- 7.3.1 Multiple properties. Where this is the case the consumer should be requested to sell the second property. It could be that a shortfall is generated when the second property is sold and this shortfall should be included in the debt review for repayment in line with other unsecured debt.
- 7.3.2 If a property is being rented out, the rental income less expenses, incurred to maintain the property, should be allocated to the repayment of the bond on that particular property. Unless the rental covers the bond repayment serious consideration should be given to sell this property to reduce overall indebtedness. It could be that a shortfall be generated when the second property is sold and this shortfall should be included in the debt review for repayment in line with the other debt.
- 7.3.3 Boat, Jet Ski, sun bed and other “toy” items. Debt Counsellors should consider recommending the sale of these assets to reduce debt.
- 7.3.4 Luxury vehicles used as the only means of transport by consumer. Debt Counsellors could consider advising the client to sell the vehicle if this is financially viable and finance is available to purchase a less expensive vehicle.
- 7.3.5 Luxury vehicles not used by the consumer on a daily basis. Debt Counsellors should explore the possibility, depending on circumstances and minimum requirements of the household; advising the client to sell these vehicles at a profit or break even position.
- 7.3.6 Holiday clubs. In most cases it is difficult to sell but consideration should be given to sell or at least suspend the ongoing expenditure on holiday clubs.
- 7.3.7 Gambling.

8. **Knowing when Expenses need to be Revised**

Establish the expenses that the consumer has, taking into account their unique circumstances, living arrangements, dependants and income group. Include all essential expenses and apply careful consideration to non-essential and luxurious items.

The Debt Counsellor should assist the consumer in re-working the income & expenditure and reach mutual agreement on where expenses can be reduced / controlled.

- 8.1 Establish whether there is any equity in assets and see whether any assets can be sold to reduce / repay some of the debt.
- 8.2 Any available cash resources, bonuses or thirteenth cheques should also be applied in reduction of debts.
- 8.3 Consider to downsize from an expensive luxurious vehicle. Credit Providers can be approached with a request to “consolidated down”. Downsizing can only be implemented if Credit Providers are agreeable to provide a consolidation loan to finance a smaller vehicle. Most Credit Providers will not at present consider such loans as consolidation loans or loans to downsize due to the fact that based on their interpretation this lending could be seen as reckless. If downsizing is an option the consumer will be liable for the shortfall on the vehicle handed back on a voluntary basis.
- 8.4 If a fixed property (house) is to be sold to ease financial burden, the existing bond should form part of the initial repayment proposal, together with details of the offer to purchase and approved buyer confirmation as and when this is available. When the transaction is complete, a revised proposal is required. Consumers are to be encouraged to take the best offer because the cost of interest while the consumer waits for a better offer is most often more than the extra money realised from the better offer. If there is a shortfall on the home loan after the property has been sold, then this shortfall must be included in the proposal as unsecured debt. In such instances bond holders may waive the early termination fee.
- 8.5 Consider whether the consumer is able to find part time income or some other means to supplement income, if expenses cannot be reduced.
- 8.6 Ensure that all expenditure is realistic in terms of size of household, number of dependants and income bracket.
- 8.7 If revised living expenses exceed income then the consumer cannot be helped by the Debt Counsellor. Expenditure must be further revised or the Debt Counsellor may reject the application.
- 8.8 If the consumer’s revised living expenses are greater than his income and his assets are less than his liabilities, he is insolvent and could consider applying for sequestration, providing that the assets owned could assure advantage to concurrent creditors. Refer the consumer for professional advice to any attorney.

The overall aim of the financial assessment is to assist the consumer to scale down and in so doing ensure that the amount available for debt repayments is maximized without being unrealistic. When such a budget is drawn up, Debt Counsellors should take into account that in most cases this is a long term budget. For this reason the budget should include an amount to be saved in a contingency account. This amount, which should not exceed 10 percent of the amount available, should ideally be saved in a separate account and can even be included in the amount paid over by

the PDA. It is recommended that the 10 percent guideline be implemented for low income earners and that this percentage is reduced for high income earners. Debt Counsellors are encouraged to convince consumers to save the amount on a monthly basis for unforeseen or seasonal expenditure. For example annual school fees, vehicle maintenance, house maintenance or emergency situations.

9. Broad Guideline for Spending Patterns

To assist Debt Counsellors the following broad guidelines can be used to measure spending patterns of consumers. It must be pointed out that these guidelines are general guidelines which could be used to identify excessive spending in certain categories and to motivate a reduction in lifestyle to the consumer.

- a) Where the combined spending on household items exceeds 35 percent of after tax income there could be room for reduction. Household expenditure includes domestic, garden service, groceries, telephone, Internet, entertainment, education, rates and taxes, electricity, water, tithes, pocket money and cosmetics.
- b) Where the combined spending on financial services exceeds 25 percent of after tax income there could be room for review. Financial service includes insurance, assurance, pension, medical aid and other savings. Consumers who apply for debt review very often spend less than the guideline of 25 percent on financial services. Debt Counsellors cannot advise consumers to reduce assurance, pension and medical spending. Where spending appears to be high the consumer should be referred to a Registered Financial Planner or FAIS registered Broker.
- c) Where a property is rented, it is difficult to provide a guideline mainly because many factors such as lifestyle requirements and area influence the amount required for rental payment. However, the following general rule could assist Debt Counsellors. Where rental payment exceeds 23 percent of after tax income, there should be room for review. The percentage required for rent is not part of household expenses set out above.

10. Annual Review

Debt Counsellors should review the Affordability Assessment on an annual basis. When this assessment is completed the following should be reviewed:

- a) Annual salary review.
- b) Change in circumstances.
- c) Increases in insurance premium. If included in repayment plan consider submitting updated plan to PDA.
- d) Payment history.
- e) Payment plan for the next 12 months. Discuss possible increase in repayments.
- f) Budget for the next 12 months as well as budget counselling. Plan for pressure cash flow points. For instance annual education fees, maintenance of vehicle and house

- and any other special event that requires financial resources.
- g) Review Credit Provider issues.

11. Recognising and Dealing with Addictive Behaviours

Addictive behaviours are habits that a consumer has where they indulge in expenditures that they cannot afford but nonetheless cannot stop for one reason or another. Addiction falls into two types, physical and psychological. Very often a person may have both types pertaining to a specific addiction. Furthermore, when there is one addiction there is often another.

Debt Counsellors should always be on the lookout for addictive behaviours and when identified refer the consumer for professional assistance.

Gambling may be one such addiction. It is important to understand gambling. Gamblers can be classified in 3 broad groups:

- a) Recreational gamblers gamble on social occasions with friends or colleagues. They have pre-determined acceptable losses and by and large their gambling activities cause little harm and their behaviour is associated with minimal guilt. They simply require information and education on gambling behaviour in order to make sensible decisions.
- b) Problem gamblers spend too much time and money gambling. Their behaviour causes harm both to themselves and others and is associated with much guilt. Normally problem gamblers draw money on a regular basis at casinos or use their credit card for online gambling. These individuals require treatment to change this lifestyle.
- c) Compulsive and pathological gamblers have a psychiatric disorder diagnosable by strict clinical criteria. It is regarded as a disorder of impulse control and has a very poor prognosis. Such gamblers have an inability to control their gambling, with consequent significant damage to themselves and others. They are often very difficult to treat. They constitute less than 1% of gamblers.

Should a consumer be involved in gambling they should be encouraged to contact the NRGF counselling line at 0800 006 008 where they can obtain free and confidential assistance.

Debt Counsellors should build up a list of local support groups for other addictions such as alcohol and drugs, as well as marriage counselling and depression related illnesses.

12. Conclusion

Consumers are over-indebted if too much credit has been extended/taken or there is a change in personal circumstances beyond their control (e.g. unemployment,

retrenchment, divorce, serious illness resulting in unusually high medical expenses, and death of spouse etc), resulting in the consumer being unable to fulfill his debt obligations in a timely manner.

The purpose of the abovementioned minimum criteria is to ensure that the consumer's financial assessment is fair on all parties involved. For the consumer the budget should reduce lifestyle within reason. For Credit Providers the budget should be drawn up to ensure that the maximum possible amount has been made available.

If this process is followed both the consumer and Credit Provider should accept the outcome.

13. Annexure b1 – Affordability Assessment Process Steps

1. Affordability Assessment
2. Interview with Consumer
3. Verify Consumer Details
4. Verify Debt
5. Verify Income
6. Check for Reckless Lending
7. Review Asset Statement
8. Revise Budget
9. Verify Short Term Insurance
10. Affordability Amount

14. Annexure b2 – Affordability Assessment Check List

14.1 Affordability Assessment

- a) The following information is required prior to the interview
 - i. Application form - Form 16
 - ii. Pay Slip(s) and bank statements
 - iii. Marriage certificate
 - iv. Debt Statements
 - v. Credit Report
 - vi. Correspondence from Credit Providers including Section 129 Notices
 - vii. Any previous legal action
 - viii. Copies of credit agreements and application forms if available

14.2 *Interview with Consumer*

- b) Verify the details on the application form
- c) Explain the entire Debt Counselling process
- d) Explain cost of Debt Counselling
- e) Explain legal cost
- f) Request full declaration from consumer

14.3 *Verify Consumer Details*

- a) Work address
- b) Home address
- c) ID number
- d) Bank details
- e) Marital status
- f) Number of dependants

14.4 *Verify Debt*

- a) Check Credit Report
- b) Ensure all debt is added
- c) Verify if Credit Agreement and if not move to budget
- d) Debt Amount
- e) Contractual payment
- f) Term
- g) Insurance included or not
- h) Commencement date
- i) Arrears amount
- j) Section 129 Notice or previous legal action
- k) Verify if payment is via debit order

14.5 *Verify Income*

- a) Check pay slip(s) and bank statements
- b) Verify amount(s)
- c) Any other income (interest, rent, 2nd job, etc)
- d) Statutory deductions
- e) Identify debt related deductions
- f) Tax return up to date. If not will influence future budget

14.6 *Check for Reckless Lending*

- a) Follow reckless lending test guidelines

14.7 *Review Asset Statement*

- a) Check if any assets can be sold to reduce debt

14.8 *Revise Budget*

- a) Domestic Workers, Garden Service or Gardener
- b) Household Groceries
- c) Water & Electricity
- d) Telecommunications
- e) Security
- f) Entertainment
- g) Transport
- h) Schools
- i) Pharmacy and Doctors
- j) Church
- k) Bank Charges
- l) Clothing
- m) Short Term Insurance
- n) Life Assurance
- o) Medical Aid
- p) Once Off Payments required
- q) Any other expenses

14.9 *Verify Short Term Insurance Required by Debt Agreements*

- a) If no insurance is in place ensure that this is arranged

14.10 *Affordability Amount*

- a) Provide Consumer with monthly budget and monthly emergency amount included in the budget
- b) Discuss repayment plan
- c) Provide Debit Order cancellation and Stop Payment instructions
- d) Confirm acceptance of budget and fees
- e) Confirm Short Term Insurance in place where required
- f) Confirm to proceed
- g) Explain PDA and complete mandates
- h) Output required
 - i. Monthly Budget for 12 months provided to client
 - ii. Receipt for debt review application provided to client
 - iii. Fee structure details discussed with client
 - iv. Debit Order cancellation and Stop Payment instructions signed by client and copy made for own records
 - v. Repayment schedule and amount details provided to client
 - vi. Motivation for debt review documented for future use
 - vii. NCR Debt Help Loaded

ANNEXURE B

No	List all Debts in date order from first in to last in ⁵	After Tax Income at time of Debt taken up ⁶	Monthly Debt Repayment Amount ⁷	Interest Rate Charged ⁸	Initiation Fee	Debt repayment as percentage of After tax income ¹⁰
						Possible reckless Debt Indicator ¹¹

5 All debts since inception should be listed. This information could be obtained from the client and Credit Bureau. Credit agreements entered into prior to 1 June 2007 cannot be reckless as defined in the NCA.

6 The after tax income of the consumer at application or debt taken up should be included. If married in COP then combined after tax income should be included. Remember to get salary slips (to the extent possible) and bank statements covering the relevant periods to obtain the correct income when the application was approved.

7 The monthly amount due for payment of the debt should be included.

8 Include the rate charged by the Credit Provider. Remember rates and fees prior to 1 June 2007 are not subject to NCA limitation.

9 Insert type of debt: A: Mortgage, B: Credit Facility, C: Unsecured Credit Facility, D: Short Term Debt, E: Other Debt or F: Incidental Debt.

10 Calculate monthly debt repayment of all the debt, including previous debt repayments, as a percentage of income after tax. When this percentage exceeds the possible reckless debt indicator, that debt and the debts approved after that point in time, could possibly be reckless unless income has changed dramatically when subsequent applications were made.

11 The possible reckless lending indication does not prove or indicate that a particular loan is reckless. It is an indication for the Debt Counsellor to commence with an investigation of possible reckless lending on the loan indicated.

16. Possible Reckless Lending Indicator Steps

- 16.1 Check that the rates applicable to the debt are in line with the maximum prescribed Interest Rates and Initiation Fees as per Regulation 42 of the NCA. In determining interest and fees, note that agreements entered into before 1 June 2007 are not subject to NCA limitations and reckless lending provisions. If interest and/or fees are not in line with the guidelines, request a written explanation from the Credit Provider within 20 business days. If no reply is received or if the reply is not satisfactory, report the non compliance to the NCR for investigation and possible action. Referring this matter for investigation should not delay a recommendation of reckless lending to a Court for a ruling.
- 16.2 Note that contracts entered into before June 2007 are not subject to the reckless lending rules except where the existing contract was altered after June 2007 e.g. in the case of a mortgage bond an additional loan amount was granted.
- 16.3 The possible reckless debt indicator needs to be completed for each debt. The previous monthly debt repayments need to be taken into account when the calculation is completed. The calculation should result in a consequential increase in percentage income after tax used every month to service debt repayments.
- 16.4 Where the monthly debt repayments exceed the maximums, as per the table in 5 below, that debt and all the debt approved after that date should be investigated for possible reckless lending.
- 16.5 Reckless Lending Indicator

After Tax Income	Percentage of After Tax Income required to pay Monthly Debt Payments
R 0 – R 2 000	TBC %
R 2 001 – R 5 000	TBC %
R 5 001 – R 10 000	TBC %
R 10 001 – R 20 000	TBC %
R 20 001 – R 40 000	TBC %
R 40 001 – R 60 000	TBC %
R 60 000+	TBC %

- 16.6 When the Reckless Debt Indicator is exceeded, follow the following steps:
- a) Write to the Credit Provider and request the following information be made available within 20 business days:
 - i. Copy of the application form or audio.
 - ii. Copy of the financial assessment.
 - iii. Copy of the credit agreement.
 - b) If the information is supplied review the application in detail. The aim of this assessment is to determine, if and when the application was approved, one of the following occurred:
 - i. The Credit Provider failed to conduct an assessment as required in section 81(2);
 - ii. The parties entered into the agreement despite the fact that the information indicated that:
 - The consumer did not understand the risks, cost or obligation, or
 - The consumer became over indebted as result of the approval of that debt. This means that it was impossible for the consumer, based on their financial position, to be able to repay the monthly installments.
 - c) Should the conclusion be that the lending could be reckless, the Debt Counsellor should inform the Credit Provider of this fact. If no satisfactory outcome can be achieved, refer the matter to the Magistrate Court.
 - d) If no information is received the Debt Counsellor should advise the Credit Provider that the lending could be reckless and make a recommendation that the debt be written off. If no reply is received before the scheduled Court date, include a recommendation of reckless lending to the Court and let the Court make a decision based on the information provided to the Court by all parties.

ANNEXURE C

PROPOSED MINIMUM DEBT COUNSELLING
SYSTEM REQUIREMENTS AND PRINCIPLES OF DEBT
RESTRUCTURING

CONTENTS

1.	Introduction	3
2.	Minimum requirements for debt restructuring software packages	3
3.	Parameters for debt restructuring rule solutions	6
4.	Proposed Debt Counselor system governance oversight arrangements	7

1. Introduction

The purpose of this annexure is to define the standards that debt counsellors system providers must comply with.

The manner in and integrity with which eligibility, affordability and reckless lending assessments are supported, debt restructuring proposals are formulated and payments are allocated to different credit providers, debt counsellors, PDA's and lawyers constitutes a critical factor in the success of the debt review process.

Given the complexity of these tasks systems support is essential and the success in meeting this requirement is therefore determined by the different debt counselor systems solutions and debt restricting application software, which debt counsellors utilise.

There are around 5 different software packages available and more than 90% of the registered debt counsellors use one of these (2 of the applications dominate the market). These software packages were developed and supported by either payment distribution agents or debt counseling firms based upon their experience in debt mediation or debt administration.

The NCR task team recognizes the need for a framework of parameters, which could be used to evaluate debt counselor system solutions and the rules applied in debt restructuring software packages. This should facilitate increased reliability, trust and consistency in conducting debt reviews and the development of debt restructuring proposals. The task team therefore proposes that the NCR publishes guidelines which should:

- Define the minimum parameters that all debt counselor system solutions must comply with;
- Require a formal audit of each debt counselor software package; and
- Require that the findings from these audits should be published and be available to both debt counsellors and credit providers. This audit should evaluate both the rules, which are applied in performing the debt restructuring, as well as whether the internal controls are appropriate to ensure consistency and integrity.

2. Minimum requirements for debt restructuring software packages

A framework for assessing debt restructuring software packages are set out below. These framework parameters are not designed to prescribe or endorse any particular debt restructuring software application or any particular approach to debt restricting, but rather to establish principles with which all such models should comply and establish a basis for NCR system audits, accreditation and consequentially agreed change control procedures.

These change control procedures must include the necessary checklists and specific test results set to confirm that the correct level of testing has been undertaken, in order to ensure that software packages are stable before being deployed into the wider market. Audits will confirm that the software packages are functioning as per the agreed criteria for debt restructuring.

The task team proposes the following parameters for the assessment of the debt restructuring software packages:-

- 2.1 The debt restructuring system must generate a summary of the affordability assessment (including comments on the restricting of assets and liabilities where relevant) which was conducted by the debt counselor in the determination of the amount which is available for distribution to credit providers. The summary of the affordability assessment must be in the format as per the guidelines. It must include a summary of the consumer's income and expenditure at the time of applying for debt counseling as well as a summary of the income and expenditure after any reductions agreed between the debt counselor and consumer.
- 2.2 The system must generate a debt re-arrangement proposal in the format and with the content contained in the NCR guidelines, including:
 - 2.2.1 A summarized debt re-arrangement proposal, which must include:
 - a) For each agreement, the position prior to debt restructuring, including the⁴ date of each agreement, the original amount of credit advanced; the original term; the current outstanding balance; the remaining term; monthly repayment obligation; annual interest and fees as per the C.O.B;
 - b) The repayment terms of the proposed restructuring of each agreement, including repayment amount (and any future escalations) and term; and
 - c) For each agreement, the effective interest including any fees which the credit provider will earn over the remaining term of each agreement, given the proposed repayments over the remaining term of the agreement.
 - 2.2.2 A full amortization schedule for each debt included in the proposal.
- 2.3 *The system must also produce a PDA payment collection and distribution plan through which the debt re-arrangement plan will be implemented.*
- 2.4 *The system audit should evaluate both the rules, which are applied in performing the debt restructuring, as well as whether the internal controls are appropriate to ensure consistency and integrity.*
- 2.5 *The system must produce a detailed description of the rules which are applied in developing the debt restructuring proposal and in allocating the amount available for distribution to the different debts as part of each proposal generated for submission to the credit providers/courts. This description must as a minimum include:*

-
- 2.5.1 The basis of allocating the amount available for distribution to each credit agreement or category or credit agreements, including any method of prioritization or 'ranking' of different types of credit agreement ;
- 2.5.2 The basis on which the repayment obligations and repayment term are calculated for credit facilities (and any agreement for which a repayment and repayment term is not defined in the agreement).
- 2.5.3 The basis on which credit agreements are selected for payment interruptions (deferral of payments per the Act) and how the duration and extent of these interruptions are calculated.
- 2.5.4 The basis for extending the repayment period for different categories of credit agreement, the method for calculation of such term extension as well as limits imposed (if any).
- 2.5.5 The extent to which interest rate are reduced on any particular type of credit agreement as well as the methodology which is applied to:
- a) Select credit agreements for the application of this rule;
 - b) Calculate and apply any interest rate reduction in the debt re-arrangement proposal; and
 - c) Any limits which may be applied
- 2.5.6 The basis for the allocation of the surplus cash, which becomes available when an agreement is paid off, to the remaining creditors.
- 2.5.7 Whether payment escalations are included (based on expected future increases in the consumer's income), the basis for the calculation of any such payment escalations and the manner in which this is treated in the debt repayment plan.
- 2.5.8 The debt restructuring system must include a module which would support the debt counselor in the identification and management of reckless loans. This should include the functionality to produce a chronological listing of agreements, calculation of the cumulative repayments when each new agreement was entered into and comparison of the cumulative repayments to the adjusted salary at the stage when each agreement was entered into.
- 2.5.9 The debt restructuring system must apply the 'in duplum rule' in section 103(5) of the NCA where applicable in generating the payment plan proposed.
- 2.5.10 The debt restructuring software must include sufficient internal controls to ensure that:

- a) Different users of the system are not able to change or manipulate the system rules in any way;
- b) The software will produce consistent results from case to case in terms of the financial calculations; and
- c) To the extent that the debt counselor may have the ability to change any variable while performing the debt restructuring, the debt restructuring proposal which the system produces must highlight any such changes.

2.5.11 Every system must be subject to an annual audit (or review) by an independent appropriately qualified external firm, in order to confirm the continued compliance of the system with the guidelines and parameters.

3. Parameters for debt restructuring rule solutions

Rules applied in the restructuring of consumer debt obligations are a critical success factor in the debt review process. Such rules, in order to succeed in the process have to:

- Resolve the over-indebtedness situation within the parameters of the Act and any voluntary concessions agreed to by the credit providers;
- Treat all credit providers and categories of credit agreements fairly and consistently in accordance with the Act;
- Be applied in a manner that would guarantee the integrity of application and calculations in order to gain the trust and acceptance of credit providers; and
- Generate proposals that are:
 - Standardized to enable efficient and consistent processing; and
 - Contain standardized data/information that allows efficient and consistent consideration of and responses to debt re-arrangement proposals by credit providers.

3.1 *The task team accordingly proposes that all debt restructuring rule solutions applied by debt counsellors to restructure the debt obligations of consumers under debt review must in future be tested to comply with the following minimum requirements:*

3.1.1 The debt restructuring rules must drive an outcome that results in the consumer rehabilitating his/her over-indebtedness situation within the shortest possible period given the particular circumstances and available debt re-arrangement measures;

3.1.2 All credit providers must receive consistent treatment per credit agreement category under the rules in terms of the proposed restructuring of each agreement, in that:

- a) The amount allocated to each credit agreement must be applied consistently to all credit agreements per credit agreement category and in accordance with the rules as defined in the proposal. I.e., the system should not allow any agreement

- in a particular category to receive preferential treatment above other agreements in that category (except if this is as a result of a classification of recklessness);
- b) Any extension in the payment period must be applied proportionately to contractual repayment term for that category of credit agreement (with deemed contractual repayment obligations for facility debts that are consistently applied as a basis for extension) and the same term extension limits should apply to all agreements in each category;
 - c) Any payment interruption should equally and proportionately apply to all credit agreements in that category;
 - d) Interest rate and fee reductions (if consented to by the credit providers) are to be applied consistently to all credit agreements in each relevant category of credit agreements (i.e. finance charge sacrifices must be fairly applied to all credit agreements in a category in these cases);
 - e) The cash which is released when any agreement is settled should be allocated towards the repayment of all residual debt obligations on a fair and consistent basis in order to accelerate rehabilitation of the consumer's situation; and
 - f) The rules for re-arrangement should allow for reasonable (and fully disclosed) annual escalation of consumer repayments in order to accelerate the rehabilitation of the consumer's over-indebtedness situation.

4. Proposed Debt Counselor system governance oversight arrangements

- 4.1 CIF should establish a "Sub-Committee" which should include both debt counselor and credit provider representatives, which should be responsible for the review of any new debt restructuring software packages and for the periodic review and monitoring of any existing systems. This committee should also be responsible to evaluate any complaints by debt counsellors or credit providers in respect of any of the systems or system providers.

ANNEXURE D

INDUSTRY AGREED CONSENSUAL DEBT
RESTRUCTURING RULES TO BE DEPLOYED UNDER THE
SECTION 48 (1) INDUSTRY CODE OF CONDUCT TO
COMBAT OVER-INDEBTEDNESS

Summarised debt restructuring rules under the envisaged Section 48(1) Industry Code to Combat Over-Indebtedness accepted by the credit industry

1. Introduction

Debt counsellors in law at present can propose to the courts and the courts can impose the extension of repayment terms and deferment of repayments on certain debts to release affordability to settle other debts in order to enable the consumer to rehabilitate from a debt distressed situation.

The task team, given the realities in the market in the wake of the economic recession came to the conclusion that at present there is a need in the market for voluntary credit provider concessions in deserving cases that go beyond these adjustments allowed for in the Act and developed a set of proposed debt restructuring rules presented to industry.

The credit industry, recognises that the market situation in South Africa at the moment necessitates the voluntary introduction of significant concessions on credit agreements affected in legitimate cases to enable the consumer to rehabilitate (if they honour the agreement reached).

Industry accordingly responsively engaged and developed a set of rules now broadly supported by the industry and the debt counsellors. These rules are aimed to:

- Comply with the rules principles set out in Annexure D of the task team report.
- Provide substantial relief aimed at resolving as many as possible cases of severe over-indebtedness within a reasonable time frame (the rules aim at rehabilitating the consumer's situation within 60 months); and
- Carry the maximum level of credit provider consent if applied appropriately, in order to avoid the time delays, costs and other implications of contested court applications.

The concessions are made on a voluntary basis and will therefore be subject to constant review and adjustment depending on the market response.

These rules will constitute an option available to debt review applicants through their debt counsellors.

2. Eligibility conditions

The concessions will be introduced conditionally in the market by the industry.

The conditions to be applied include:

- a. The consumer must be legally eligible for debt review under the NCA.
- b. The affordability assessment of the debt counsellor must indicate:
 - i. The existence of a truly over-indebted situation having taken the household situation fully into account; and
 - ii. Commitment from the consumer to make essential adjustments to non-essential monthly expenditure and where applicable the restructuring of assets and liabilities where non-essential (luxury) assets are present, especially fixed assets and vehicles.
- c. The portfolio proposed to be restructured shall accordingly in terms of secured loans only be permitted to include:
 - i. The primary mortgage on the family residence. By implication the consumer will have to agree to dispose of or surrender (in terms of s 127 of the NCA) the non-essential property to settle the debt.
 - ii. Vehicle and asset finance related to a vehicle(s) that are essential in the generation of income in the household or other justifiable essential needs. By implication the consumer will have to dispose of or surrender (in terms of s 127 of the NCA) the non essential movable asset(s) to settle the debt(s).
 - iii. Any residual debt obligations will be accommodated under a revised restructuring proposal in terms of the concessions available in terms of the rules, under the debt review process.
- d. The concessions would be made on condition that the consumer performs in accordance with the restructured obligations failing which the enforcement of the debts would be done on the basis of the underlying credit agreement.
- e. The finance charge concessions (fees and interest) granted under these arrangements shall be fixed for the rehabilitation term (determined by the repayment term extension limits) and in respect of credit agreements surviving the rehabilitation term, revert to the underlying contractual charges.
- f. Termination of the debt review during the rehabilitation period by the customer will cancel the concessions and require the customer to revert to servicing the residual debts on contractual terms.

3. Conceptual rules framework

- a. Key features are:
 - i. Fair and consistent treatment of all credit providers and credit agreements per category.
 - ii. Simultaneous finance charge (fees and interest) reductions and term extensions up to certain defined limits in order to significantly reduce monthly payment obligations for consumers (affordability gains) to overcome the debt distress situation.
 - iii. Application of defined term extension limits with the aim to enable debt counsellors to offer debt distressed consumers a rehabilitation date. This by implication requires more finance charges sacrifices by credit providers in order to achieve the desired affordability relief.
 - iv. Apportionment of released affordability (through the settlement of debts and/ or escalation of payments by the consumer during the rehabilitation period) to the residual debt portfolio to advance the rehabilitation date for the consumer (rather than enhance the finance charge yields of credit providers in the restructuring process).
 - v. Rehabilitation point defined as point where residual debts can be serviced at contractual rates at which stage a debt counsellor should be enabled to issue a clearance certificate per regulation 27 under the Act (which will require amendment to allow this).
- b. Finance charge reductions and term extensions are to be applied simultaneously to:
 - i. Prevent punitive term extension charges;
 - ii. Limit in duplum complications on high yielding debts; and
 - iii. Maximize the affordability gain (solve rate) for cases.
- c. Cascading of released affordability due to settlements/ payment escalations to be applied:
 - i. Proportionately to repayment on each residual agreement; and
 - ii. To reduce rehabilitation term (due to pre-payment against agreed payment plan)
- d. Term extensions and finance charge reductions (fees and interest) to be applied;
 - i. Incrementally (in steps)
 - ii. Proportionately to all agreements (within the defined concession limits).

4. Finance charge reduction concessions

The concessions agreed to by the industry are:

- a. The upfront waiver of any transactional or other non-finance charge related fees related to debt facilities as well as waiver of interest penalties etc. on pre-NCA agreements.
- b. The reduction of the monthly service fees (as per the NCA) as part of the finance charges on the agreement to zero.
- c. In respect of secured loans (mortgages and vehicle and asset finance transactions) a reduction in the contractual interest rate to the rate at which the case solves subject to a floor limit of the prevailing repo rate plus 2%, to be fixed for the rehabilitation term, where after the rate and fees will revert to contractual (if the debt is not settled).
- d. In respect of all unsecured debts a reduction in the interest rate to the rate at which the case solves subject to a floor limit of 0%, to be fixed for the rehabilitation term.

5. Repayment term extension limits

The proposed term limits (established with a view to offer the consumer a reasonable rehabilitation horizon) are outlined in the table below:

Team	
Mortgages	
Extension limit	Up to 240 months from date of restructure subject to maximum repayment term of 360 months from inception of the loan
VAF	
Extension limit	Up to 1.5 times contractual term from inception subject to 84 months limit (private vehicles)
	Up to 1.25 times contractual from inception subject to 84 months limit (commercial vehicles)
Credit facilities, other & incidental credit agreements without defined term (balance R3601 plus)	
Deemed contractual term	24 months from date of restructure
Extension limit	60 months from date of restructure
Credit facilities, other & incidental credit agreements without defined term (balance R1501 to R3600)	
Deemed contractual term	12 months from date of restructure
Extension limit	36 months from date of restructure
Credit facilities, other & incidental credit agreements without defined term (balance up to R1500)	
Deemed contractual term	12 months from date of restructure
Extension limit	18 months from date of restructure
Unsecured and short term credit transactions, other and incidental credit agreements with defined term (balance R3601 plus)	
Extension limit	60 months from date of restructure
Unsecured and short term credit transactions, other and incidental credit agreements with defined term (balance R1501 to R3600 plus)	
Extension limit	36 months from date of restructure
Unsecured and short term credit transactions, other and incidental credit agreements with defined term (balance up to R1500)	
Extension limit	18 months from date of restructure

6. Deployment

The rules (and any other rules of this nature) require sophisticated system support to implement effectively. The summarized rules are in the process of being converted by the banking industry in conjunction with the system providers of debt counsellors into detailed specifications for the development of the necessary systems application. Deployment in the market will accordingly take some time.

ANNEXURE E

STANDARD DOCUMENTATION

Credit Provider Name & Logo
NCR CP Registration Number



CERTIFICATE OF BALANCE

Customer Details	Debt Counsellor Detail
Customer Name : <FIRSTNAME, SURNAME>	Name : <DC N/
ID Number: <IDENTITY NUMBER>	NCR Number: <NCR DC NUMBER>
Juristic person registration number : <COMPANY/ TRUST REGISTR NO / CC NO>	<TEL AREA CODE> - <TEL NUMBER>
	Fax No: <TEL AREA CODE> - <FAX NUMBER>
	Email: <EMAIL ADDRESS>

Part A Existing Account Details - Mortgage Home Loan / Vehicle and Asset Finance / Other/ Credit linked Insurance

Account Number	9999999999999990
Account Description (as per Credit Provider)	XX
Linked Insurance policy description	XX
NCA Account Type Code (Refer to Table 1)	BB
Debt Restructuring Account Type code (Refer to Table 2)	SM
Goods Description (only for Vehicle and Asset Finance)	XX
Inception date of loan/facility / policy	YYYY/MM/DD
Expiry Date of loan/ facility	YYYY/MM/DD
Original Repayment term	999
Date of Default	YYYY/MM/DD
Outstanding Balance (as at date of default)	R 999,999,999.99
Credit Limit (for Credit Card / Current Account)	R 999,999,999.99
Outstanding Balance (at date of COB, Incl. Balloon Payment & Arrears BUT Excl. Future Interest.)	R 999,999,999.99
Gross Monthly Instalment (Incl. Capital, Interest, Fees & Insurance)	R 999,999,999.99
Monthly Service Fees (excluding insurance)	R 999,999,999.99
Annual Service Fees (excluding insurance)	R 999,999,999.99
Date of Annual Service Fees	YYYY/MM/DD
Insurance and / or Assurance Premiums (Only)	R 999,999,999.99
Interest Rate	NN.NN%
Method of Payment (Debt Order /EFT/Cash)	Cash
Included / Excluded from Debt Review	Included/ Excluded
Reason Code if Excl.	Juristic / legal

Part B Payment Instructions

Bank Name	XX
Bank Account Number	9999999999999990
Bank branch code	99999999
Account Name	XX
Reference Number (payment identification)	9999999999999990

CONSENT TO SERVICE OF DOCUMENTS - CERTIFICATE OF BALANCE

This serves to confirm that we will accept service of legal documents or court applications via e-mail or facsimile at the following address or number :

Credit Provider Details

Credit Provider Name :

For attention : <Credit Provider Name>

Tel no: <CONTACT DEPARTMENT NAME>

<TEL AREA CODE> - <TEL NUMBER>

E-mail address : <EMAIL ADDRESS>

Fax number : <FAX AREA CODE> <FAX NUMBER>

ASSESSMENT SUMMARY (INCOME AND EXPENDITURE)

Reference Number : <REF #>
Date Printed: <<YY/MM/DD>>

Debt Counsellor	Consumer
Name : <DC NAME>	Name : <FIRSTNAME, SURNAME>
NCR Number: <NCR DC NUMBER>	ID Number: <IDENTITY NUMBER>
	Juristic person registration number : <COMPANY/ TRUST REGISTR NO / CC NO>

Income

	Applicant		Partner		Total	
	Original	Revised	Original	Revised	Original	Revised
Gross Pay:						
PAY SLIP DEDUCTIONS						
Pension Fund:						
Medical Aid:						
Loans:						
Union subscription:						
Insurance:						
UJF:						
Group Life:						
RA'S / Endowment:						
Garnishees / Admin Order:						
Funeral Policy:						
Other:						
Tax (SITE and PAYE):						
Net Pay:						
Other Income:						
Total Income:						

Expenditure

	Original	Revised		Paid	Not yet paid
Domestic:			Once off fees		
Educational Fees:			Debt counsellor fees:		
Entertainment:			Legal fees:		
Family Expenses:			Total:		
Groceries:					
Home Ownership Costs / Rent:			Payment escalation agreed		
Petrol/Travel:			Date	%	
Security:			YYYY/MM/DD		
Telephone:					
Water & Electricity:					
Other:					
Total household:					

SUMMARY	R	% of gross
Gross Income		
Statutory Deductions		
Employer Deductions		
Net Income		
Other Income		
Total Disposable Income		
Household Expenditure		
Financial Services		
Available Amount		
Contingency		
Gross Collectable		
DC Aftercare Costs		
PDA Fees		
Gross Debt Affordability		
Credit agreement linked insurances		
Net debt affordability for distribution		

Financial Services

	Original	Revised
Assurance:		
Credit Insurance:		
Credit Life Insurance:		
Medical Expenses:		
Pension & Risk Benefits:		
Other Financial Services:		
Total Financial Services:		

List of Unencumbered assets

Asset category	Asset description / Asset address	Status	Nominal Value
Fixed Property	Street Address Line 1, Line 2, Line 3, Postal Code	Up for Sale	R999999999,99
Movable asset	Goods description, make, model	Sold	R99999,99
Investment	Fixed-Term investment	Notice Given	
Savings	Fixed Deposit Savings account	Notice Given	
		Total Value	R9999999999,99

Client commits to selling unencumbered assets

Debt Restructuring Proposal

Reference Number : <Debt Review Case REF NO>
 Date of acceptance of application : <YYYY/MM/DD>

Debt Counsellor Details Name : <DC NAME> NCR Number: <NCR DC NUMBER> Postal Address: <DC ADDRESS LINE 1> <DC ADDRESS LINE 2> <DC ADDRESS LINE 3> <DC POSTAL CODE>		Consumer Details Name : <FIRSTNAME, SURNAME> ID Number: <IDENTITY NUMBER> Juristic person registration number : <COMPANY/ TRUST REGISTER NO / CC NO>	
Tel no: <TEL AREA CODE> - <TEL NUMBER> Fax No: <TEL AREA CODE> - <FAX NUMBER> Email Addr: <EMAIL ADDRESS>		PDA Details PDA Name: <PDA NAME> PDA code: <PDA NUMBER>	
Debt Summary Total debt: <<Total Debt>> Total Monthly commitment: <<Total of instalments>> Affordability after DC & PDA fees: <<Affordability>> Over indebtedness %: <<affordability / Total of instalments>>		MOTIVATION from Debt Counsellor <<BRIEF MOTIVATION>>	

Rule set used: <<SHORT DESCRIPTION OF THE RULE SET>>
 Estimated date of distribution to Credit Providers is <<DATE-FIRST-DISTRIB-PDA-PLAN>>
 Expected delay in credit provider distributions due to fee recoveries is <<MONTHS>> months

Method of Payment
 1st Collection Instalment Date <<Cash / EFT/ Stop Order>>
 <<YYYY/MM/DD>>

It is confirmed that in relation to all credit agreements that all short-term insurance is in place

Present Contractual Obligations										Rearrangement obligations								
Credit Provider	Account Number	Debt Restructuring Account type code	Balance as at date of COB	Source of balance	Date of Balance	Contractual Interest Rate (p.a.)	Monthly service fees as per NCA	Annual service fees per NCA	Due date of Annual service fees	Repayment amount (original contractual or deemed contractual term)	Original Contractual or deemed contractual repayment term	Remaining repayment term (in months)	Expired Term (in months)	Proposed fixed annual interest rate	Proposed extended term (months from date of restructuring)	Proposed opening balance (due to deferred payments for fee recoveries)	Proposed Monthly Service Fees (Excl trans- actional fees)	Proposed payment obligation (excl fees)
Bank A	222222222222220	SM			YYYY/MM/DD				YYYY/MM/DD									
Bank A	222222222222222	UF			YYYY/MM/DD				YYYY/MM/DD									
Bank B	222222222222221	SPV			YYYY/MM/DD				YYYY/MM/DD									
Bank C	222222222222223	UT			YYYY/MM/DD				YYYY/MM/DD									
Bank D	222222222222224	UT			YYYY/MM/DD				YYYY/MM/DD									
Retailer A	222222222222226	UF			YYYY/MM/DD				YYYY/MM/DD									
Insurance Co	333333333333333	CU			YYYY/MM/DD				YYYY/MM/DD									
Insurance Co	444444444444444	CI			YYYY/MM/DD				YYYY/MM/DD									
Total			R 0.00							R 0.00						R 0.00		R 0.00

Debt Counsellor Declaration and Signature:

Signature
 <<Debt Counsellor>>

This Debt re-arrangement plan is an agreement between the Consumer and his/her Credit Providers Only. <DEBT COUNSELLOR> is not a party to this agreement, and is not liable for any payment default or any of this repayment proposal, or the rules of Debt Mediation, by the Consumer. <DEBT COUNSELLOR> will not directly handle any party's money, nor will <DEBT COUNSELLOR> make any payment on behalf of the Consumer. The Consumer will appoint a PDA to make payments as set out in this Debt Restructuring agreement, subject to any reasonable and necessary additional instructions from <DEBT COUNSELLOR> <DEBT COUNSELLOR> accepts no liability for any distribution irregularities by the PDA, or any default payments by the consumer. Account information reflected is as per the Certificate of Balance, provided by the Credit Provider or, if no Certificate of Balance was provided, as per the information provided by the Consumer (in accordance with NCA 34 of 2005 regulation 24 (2)). <DEBT COUNSELLOR> accepts no liability for the consequences of any inaccurate information provided by either the consumer or the credit provider. By issuing the Debt Restructuring Proposal, the Debt Counsellor warrants that he/she has obtained the required mandate to act as the consumer's agent in all matters pertaining to Debt Review, and further warrants that he/she has obtained the consumer's express consent to the terms of the Arrangement Proposal.

<INITIAL / FINAL> PDA Payment Plan Summary

Reference Number : <Debt Review Case REF NO>
Date printed : <YYYY/MM/DD>

PDA Details		Consumer details	
PDA Name:	<PDA NAME>	Name :	<FIRSTNAME SURNAME>
PDA code:	<PDA NUMBER>	ID Number:	<IDENTITY NUMBER>
Tel no:	<TEL AREA CODE> - <TEL NUMBER>	Juristic person registration number :	<COMPANY/ TRUST REGISTR NO / CC NO>
Fax No:	<TEL AREA CODE> - <FAX NUMBER>	Tel no:	<TEL AREA CODE> - <TEL NUMBER>
Email Addr:	<EMAIL ADDRESS>	Legal documents or Debt Review documents can be served to the consumer via facsimile or email at the following number or address:	
Debt Counsellor details		For attention :	<CONSUMER FIRSTNAME, CONSUMER SURNAME>
Name :	<DC NAME>	Fax No:	<TEL AREA CODE> - <FAX NUMBER>
NCR Number:	<NCR DC NUMBER>	Email Addr:	<EMAIL ADDRESS>
Postal Address:		Debt Summary	
<DC ADDRESS LINE 1>		Total debt:	<<Total Debt>>
<DC ADDRESS LINE 2>		Total Monthly commitment:	<<Total of instalments>>
<DC ADDRESS LINE 3>		Affordability after DC & PDA fees:	<<Affordability>>
<DC POSTAL CODE>		Over indebtedness %:	<<Affordability / Total of instalments>>
<TEL AREA CODE> - <TEL NUMBER>			
<TEL AREA CODE> - <FAX NUMBER>			
<EMAIL ADDRESS>			

PDA Payment Plan Summary (generated using rule set <<RULE SET SHORT DESCRIPTION>>)								
Creditor Name	Debt Restructuring Account Type Code	Creditor Type (DC Fees, Legal Fees, CP)	Creditor Payment Frequency (Upfront / monthly)	Creditor Account Number	Amount to be distributed to Creditor (R)	Period /s (number of months)	From Date	To Date
DC AAA	N/A	DC Fees	Upfront	<9999999999999999>			YYYY/mm/dd	YYYY/mm/dd
Attorney AAA	N/A	Legal Fees	Upfront	<9999999999999999>			YYYY/mm/dd	YYYY/mm/dd
DC AAA	N/A	DC Fees	Monthly	<9999999999999999>			YYYY/mm/dd	YYYY/mm/dd
Retailer A	UF	CP	Monthly	22222222222226			YYYY/mm/dd	YYYY/mm/dd
Retailer A	UF	CP	Monthly	22222222222226			YYYY/mm/dd	YYYY/mm/dd
Bank D	UT	CP	Monthly	22222222222224			YYYY/mm/dd	YYYY/mm/dd
Bank D	UT	CP	Monthly	22222222222226			YYYY/mm/dd	YYYY/mm/dd
Bank C	UT	CP	Monthly	22222222222223			YYYY/mm/dd	YYYY/mm/dd
Bank C	UT	CP	Monthly	22222222222223			YYYY/mm/dd	YYYY/mm/dd
Bank A	UF	CP	Monthly	22222222222222			YYYY/mm/dd	YYYY/mm/dd
Bank A	UF	CP	Monthly	22222222222222			YYYY/mm/dd	YYYY/mm/dd
Bank A	UF	CP	Monthly	22222222222222			YYYY/mm/dd	YYYY/mm/dd
Bank B	SPV	CP	Monthly	22222222222221			YYYY/mm/dd	YYYY/mm/dd
Bank B	SM	CP	Monthly	22222222222221			YYYY/mm/dd	YYYY/mm/dd
Bank A	SM	CP	Monthly	22222222222220			YYYY/mm/dd	YYYY/mm/dd
Bank A	SM	CP	Monthly	22222222222220			YYYY/mm/dd	YYYY/mm/dd
Insurance Co	CLI	CP	Monthly	22222222222220			YYYY/mm/dd	YYYY/mm/dd
Insurance Co	CI	CP	Monthly	22222222222220			YYYY/mm/dd	YYYY/mm/dd

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GLOSSARY OF TERMS - COB

Field name	Definition
Reference number	This is the reference number of the COB created by the CP, it is a unique reference number.
Date	This is the date when the CP generated the COB
Credit Provider Name	This is the full name of the Credit Provider who is completing the COB
Credit Provider Logo	This is the logo of the Credit Provider who is completing the COB
NCR CP Registration Number	This is the registration number of the Credit provider
Juristic person registration number	This is the company registration number or the trust registration number or cc number
Customer Details	
Customer Name	This is the full name of the Customer
ID Number	This is the identity number of the customer
Debt Counsellor Details	
Name	This is the full name of the Debt Counsellor
NCR Number	This is the registration number of the DC at the NCR
Telephone number	This is the telephone number of the DC, preceded by the area code of the telephone number
Fax number	This is the fax number of the DC, preceded by the area code of the telephone number
Email	This is the email address of the DC
Part A Existing Account Details - Mortgage Home Loan / Vehicle and Asset Finance / Other/ Credit linked Insurance	
Account Number	This is the account number for the credit agreement at the Credit Provider
Account Description (as per Credit Provider)	This is the account description, as per the credit provider's product description held on their systems, e.g. Revolving Mortgage Account
Linked Insurance policy description	This is the description of the linked policy for the credit agreement, in the case of a mortgage and vehicle & asset finance linked assurance is normally held.
NCA Account Type Code (Refer to Table 1)	This is the Account Type code as specified per the NCA. Please refer to Table 1 below for a full description
Debt Restructuring Account Type code (Refer to Table 2)	This is the Account Type code as specified per the Debt Restructuring Rules engine, Please refer to Table 2 below for a full description
Goods Description (only for Vehicle and Asset Finance)	This is the goods description of the asset - for vehicle asset and finance only - it specifies the make, model and description of the asset.
Inception date of loan/facility / policy	This is the date that the loan was granted (in the case of a loan or in the case of a facility the date on which the facility was granted, or the case of a policy the date the policy was taken up. Insofar as the "inception date" relates to a fixed term loan agreement (e.g. Home Loans, VAF, other fixed term agreements) "inception date" means the first contractual payment date. In the context of revolving and other credit facilities without defined terms the inception date will be the same and the date upon which the assessment is done and the facility obtained its deemed contractual terms, in terms of the rules.
Expiry Date of loan/ facility	This is the expected date that the loan will end, or in the case of a facility the date that the facility will expire, or in the case of a policy the date that the policy will terminate/end. Insofar as the "expiry date" relates to a fixed term loan agreement (e.g. Home Loans, VAF, other fixed term agreements) "Expiry date" means the date upon which the last payment must be made. Again the expiry date for revolving facilities will be in line with the deemed expiry date.
Original Repayment term	This is the repayment term of the credit agreement, as per the original agreement. The "original term" should mean the term as per the original agreement excluding any extensions.
Date of Default	THIS WILL NOT BE POPULATED BY THE BANKS
Outstanding Balance (as at time of default)	This is the outstanding balance for the credit agreement at time of default. THIS FIELD WILL NOT BE POPULATED BY THE BANKS
Credit Limit (for Credit Card / Current Account)	This is the prevailing credit limit on the facility, in the case of a current account / credit card
Outstanding Balance (Incl. Balloon Payment & arrears BUT Excl. Future Interest.)	This is the outstanding balance for the credit agreement at time of setting up the COB. It includes all arrears amount, as well as the capital, but excludes future interest. In the case of Vehicle & Asset Finance, the balloon payment must also be included. This includes interest accrued but not yet levied (like a settlement amount.)
Gross Monthly Instalment (Incl. Capital, Interest, Fees & Insurance)	This is the gross monthly instalment due on the credit agreement, it includes the capital, interest, fees and insurance amounts.
Monthly Service Fees (Excl. Insurance)	This is the monthly service fees that are payable, it excludes insurance
Annual Service Fees (Excl. Insurance)	This is in the case of annual service fees that may be applicable to a specific credit agreement. It excludes insurance amounts.
Date of Annual Service fee	This is the date on which the annual service fee is paid
Insurance and / or Assurance Premiums (Only) ²⁵	This is the monthly instalment for the insurance and/or assurance premiums
Interest Rate	This is the interest rate that is applicable to the credit agreement
Method of Payment (Debt Order /EFT/Cash)	This is the method of payment used by the customer to pay the monthly instalment on this credit agreement. It can be via a debit order/ Electronic Funds transfer (EFT) or in cash
Included / Excluded from Debt Review	This is to specify whether or not the credit agreement is include or excluded from debt review
Reason Code if Excl.	In the case of a credit agreement being excluded from Debt Review - it must either specify Juristic / legal as a reason
Part B Payment Instructions	
Bank Name	This is the name of the bank, in the case of the CP being a bank, specify the CP name, else if the CP is not a bank, then the name of the bank must be specified here.
Bank Account number	This is the account number to be used to make the payment
Bank branch code	This is the branch number where the account is held

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Account name	This is the full name of the account that will be used to make the payment into.
Reference number (payment identification)	This is the reference number that must be used when making the debt restructuring repayment. This is the reference number that will be used to track the payment in the case of a suspense account.
Credit provider details	
Credit Provider Name	This is the name of the Credit provider
For Attention	This is the department name that deals with the debt restructuring portfolio
Tel No	This is the telephone number of the Credit provider, preceded by the area code
Email address	This is the email address for the debt restructuring department at the Credit provider
Fax number	This is the fax number of the Credit provider, preceded by the area code

Table 1 - NCA Account Type & Description		
NCR Account Type Description	NCR Account Type Code	
Micro lender	ML	
Bank - Credit Card	BC	
Bank Bond (Mortgage /Home loan)	BB	
Bank- Overdraft	BO	
Bank-Vehicle	BV	
Bank- Loan	BL	
Retailer- Furniture	RF	
Retailer-Clothing	RC	
Retailer-Other	RO	
Legal Firm/ Collections	L	
Other	O	

Table 2 - Debt Restructuring Account Type Code & Description		
Type of Debt	Account Code	Comments (Included in this category)
Secured - Mortgage	SM	Mortgages (including access bonds)
Secured – pvt vehicle	SPV	Private vehicles
Secured – commercial vehicle	SCV	Commercial vehicles, taxis
Unsecured – Term loan	UT	Short term loan, personal loan, incidental credit agreement with a <u>defined term</u>
Unsecured - Facility	UF	Facility, overdraft, credit card, incidental credit agreement with no <u>defined term</u>

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**GLOSSARY OF TERMS - DEBT
RESTRUCTURING PROPOSAL****This document is only produced for Stage 1
process of the DR Proposal.**

Field name	Definition
Reference number	This is the reference number of the Debt review case, it is a unique number that is created by the rule set .
Date of acceptance of application	This is the date when the DC accepted the Debt review application
Debt Counsellor Details	
Name	This is the full name of the Debt Counsellor
NCR Number	This is the registration number of the DC at the NCR
Postal Address	This is the full postal address of the Debt Counsellor, including Address Line 1, Address Line 2, Address Line 3, Address Line 4 (if required) and the postal code
Telephone number	This is the telephone number of the DC, preceded by the area code of the telephone number
Fax number	This is the fax number of the DC, preceded by the area code of the telephone number
Email Addr	This is the email address of the DC
Consumer Details	
Name	This is the full name of the Consumer
ID Number	This is the identity number of the consumer
Juristic person registration number	This is the company registration number or the trust registration number
PDA details	
PDA Name	This is the name of the PDA
PDA Number	This is the registered number of the PDA at the NCR, if PDA not registered then only populate PDA name and leave PDA number blank.
Debt Summary	
Total Debt	This is the amount of total debt for all the credit agreement for the consumer
Total Monthly Commitment	This is the total amount of the instalment for all the credit agreements
Affordability after DC & PDA fees	This is the affordability amount that has been calculated as a basis for the debt restructuring proposal, i.e. this will be used as input into the debt restructuring rules set. This is the amount after DC & PDA fees
Over indebtedness %	This is the over indebtedness percentage hat is calculated when assessing the affordability.
Rule set used	This is a short description of the rule set that has been used to calculate this debt restructuring proposal
Estimated date of distribution to credit provider is	This is the date that has been calculated by the DR rule set on when the first date will be for the distribution to the CP's. This is after all the necessary upfront fees have been paid.
Estimated delay in Credit provider distributions due to fee recovered is	The number of months for the delay in the distribution of funds to the CO, after all the upfront fees have been paid
Method of Payment	This is the method of payment used by the customer to pay the monthly instalment on this credit agreement. It can be via a debit order/ Electronic Funds transfer (EFT) or in cash
1st Collection Instalment Date	This is the date when the first payment will be made by the consumer in terms of repaying their debt according to the terms of the DR arrangement.
It is confirmed that in relation to all credit agreements that all short-term insurance is in place.	This is a tick-box that must be completed to confirm that all short-term insurance is in place on credit agreements reflected on the proposal
Present Contractual Obligations	
Credit Provider	This is the full name of the Credit Provider for the specific credit agreement

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Account Number	agreement. (Note - this number is to be suppressed when sending the DR proposal to another CP, i.e. if the credit agreement belongs to CP A, the only CP A's account number may appear on the DR proposal - this is to mitigate potential fraud.
Debt Restructuring Account type code	Please refer to Table 1 below, for a complete description
Balance as at date of COB	This is the outstanding balance as at date of COB, i.e. as provided by the CP on the COB form
Source of balance	This is either the COB, provided that it was supplied by the CP within the expected number of days, or by the consumer
Date of Balance	This is the date that the balance was provided, i.e. the date of the COB
Contractual Interest Rate (p.a.)	This is the present contractual interest rate (per annum) for this credit agreement
Monthly service fees as per NCA	This is the amount of the monthly service fees as specified / allowed as per the NCA. This should be defined to specifically exclude transactional or non NCA fees.
Annual service fees per NCA	This is the amount from the annual service fees applicable to this credit agreement. This should be defined to specifically exclude transactional or non NCA fees.
Due date of Annual service fees	This is the due date (YYYY/MM/DD) for the payment of the annual fees
Repayment amount (original contractual or deemed contractual)	This is the monthly repayment amount for the credit agreement. It can either be the original contractual amount or the deemed contractual amount
Original Contractual or deemed contractual repayment term	This is the repayment term of the credit agreement , either the original repayment term specified in months or the deemed contractual repayment term specified in months
Remaining repayment term (in months)	This is the number of remaining months for the repayment of the credit agreement
Expired Term (In months)	This is the number of months that have already expired for this credit agreement.
Re-arrangement obligations	
Proposed annual fixed interest rate	This is the new annual fixed interest rate as calculated by the rules engine
Proposed extended term (months from date of restructuring)	This is the new term applicable to the debt restructuring, it is the number of months, from the date of restructuring to the end of the restructuring period.
Proposed opening balance (due deferred payments for fee recoveries)	This is the agreed opening balance, due to deferred payments, after taking all the fees recoveries into account.
Proposed Monthly Service fees (Excl transactional fees)	This is the amount of the new monthly service fees that are applicable, excluding transactional fees
Proposed payment obligation (excl fees)	This is the new monthly instalment for the credit agreement as calculate by the DR rule set.
Signature	This is the electronic signature or the hand signature of the debt Counsellor responsible for drawing up the DR proposal

Table 1 - Debt Restructuring Acc Type Code & Description		
Account Code	Type of Debt	Comments (Included in this category)
SM	Secured - Mortgage	Mortgages (including access bonds)
SPV	Secured – pvt vehicle	Private vehicles
SCV	Secured – commercial vehicle	Commercial vehicles, taxis
UT	Unsecured – Term loan	Short term loan, personal loan, incidental credit agreement with a defined term
UF	Unsecured - Facility	Facility, overdraft, credit card, incidental credit agreement with no defined term.

Glossary of Terms - Debt Counselling Standard Output Forms

Initial / Final	Initial PDA Payment Plan Summary is produced at stage 1 of the proposal. It excludes cascading and escalation. Final PDA Payment Plan Summary includes cascading and escalation for those consenting CP's. For non-consenting CP's will only include cascading.
Field name	Definition
Reference number	This is the reference number of the Debt Review case, it is a unique reference number.
Date	This is the date when the PDA payment plan summary was printed
PDA Details	
PDA Name	This is the name of the PDA
PDA Code	This is the registered number of the PDA at the NCR
Debt Counsellor	
Name	This is the full name of the Debt Counsellor
NCR Number	This is the registration number of the DC at the NCR
Postal Address	This is the full postal address of the Debt Counsellor, including Address Line 1, Address Line 2, Address Line 3, Address Line 4 (if required) and the postal code
Telephone number	This is the telephone number of the DC, preceded by the area code of the telephone number
Fax number	This is the telephone number of the DC, preceded by the area code of the telephone number
Email	This is the email address of the DC
Consumer Details	
Name	This is the full name of the Consumer
ID Number	This is the identity number of the consumer
Telephone number	This is the telephone number of the consumer, preceded by the area code of the telephone number
Fax number	This is the fax number of the consumer, preceded by the area code of the telephone number
Email Addr	This is the email address of the consumer
Residential Address	This is the full residential address of the Consumer, including Address Line 1, Address Line 2, Address Line 3, Address Line 4 (if required) and the postal code
Postal Address	This is the full postal address of the Consumer, including Address Line 1, Address Line 2, Address Line 3, Address Line 4 (if required) and the postal code
Juristic person registration number	This is the company registration number or the trust registration number or cc no.
Debt Summary	
Total Debt	This is the amount of total debt for all the credit agreements for the consumer
Total Monthly Commitment	This is the total amount of the instalment for all the credit agreements
Affordability after DC & PDA fees	This is the affordability amount that has been calculated as a basis for the debt restructuring proposal, i.e. this will be used as input into the debt restructuring rules set. This is the amount after DC & PDA fees
Over indebtedness %	This is the over indebtedness percentage that is calculated when assessing the affordability.
PDA Payment Plan Summary (generated using rule set)	
Creditor Name	Short description of the rule set used to calculate the DR proposal This is the full name of the Credit Provider who will receive the payment
Debt Restructuring Account Type Code	This is the Account Type code as specified per the Debt Restructuring Rules engine, Please refer to Table 2 below for a full description
Creditor Type (DC Fees, Legal Fees, CP)	This indicates the type of creditor either DC fees / Legal fees or Credit provider
Creditor Payment Frequency (Upfront / monthly)	This indicates when the payment will take place - either upfront as part of initial upfront fees or monthly as part of the ongoing DR payment
Creditor Account Number	This is the number of the account into which the PDA payment must be made
Amount to be distributed to Creditor (R)	This is the amount that is to be distributed to the creditor
Period /s (number of months)	This is the period or the number of months for which the payment will be made for the specific amount to be distributed
From Date	This is the start date of the payment distribution (indicated by last day of the particular month).
To Date	This is the end date of the payment distribution, the difference between the FROM date and the TO date is the period, i.e. number of number, as calculated by the DR rule set (indicated by the last day of the particular month).

Glossary of Terms - Debt Counselling Standard Output Forms

GLOSSARY OF TERMS - Assessment Summary

Field name	Definition
Debt Counsellor	
DC Name	This is the full name of the Debt Counsellor
NCR DC Number	This is the registration number of the DC at the NCR
Consumer	
Name	This is the First name, followed by the surname of the Customer
ID Number	This is the identity number of the customer
Juristic person registration number	This is the company registration number or the trust registration number or cc no.
Reference Number : <REF #>	This is the reference number of the Debt Review case, it is a unique reference number.
Date Printed	This is the date that the Assessment Summary was printed
INCOME	
Applicant : Gross Pay ** Please note that an entry must also be made for the Gross Pay of the partner of the person doing the application, as well as the total amount, which is the sum of the Applicant and the partner's amount	
Original	This is the monthly original gross salary / income amount for the person doing the debt review application
Revised	This is the monthly revised gross salary / income amount, for the person doing the debt review application, after the assessment summary has been completed
PAY SLIP DEDUCTIONS	
Applicant : ** Please note that an entry must be made for the original amount, as well as the revised amount (this is after the assessment has been completed).	
Partner : ** Please note that an entry must be made for the original amount, as well as the revised amount (this is after the assessment has been completed).	
Total : ** Please note that this is the sum of the Applicant & their partner's amount for the specific amount field.	
Note *** For each one of these categories (Applicant, Partner and Total their must be an original value, as well as a revised value that will contain revised amount following the assessment summary	
Applicant : (see Note ***)	
Pension Fund:	This is the monthly amount paid for the pension fund contribution
Medical Aid:	This is the monthly amount paid for the medical contribution
Loans:	This is the monthly amount paid for other loans
Union subscription:	This is the monthly amount paid for union subscriptions
Insurance:	This is the monthly amount paid for insurance
UIF:	This is the monthly amount paid for UIF
Group Life:	This is the monthly amount paid for Group life
RA'S / Endowment:	This is the monthly amount paid for Retirement Annuities / Endowment policies
Garnishees / Admin Order:	This is the monthly amount paid for garnishee orders / administration orders
Funeral Policy:	This is the monthly amount paid for a funeral policy
Other:	This is the monthly amount paid for any other type of expenses not listed
Tax (SITE and PAYE):	This is the monthly amount paid for SITE tax and PAYE tax
Net Pay:	This is the net pay amount after all the deductions have been taken into account.
Other Income:	This is the monthly amount paid for any other type of income
Total Income:	This is the total monthly income
EXPENDITURE	
Note *** For each one of these categories their must be an original value, as well as a revised value that will contain revised amount following the assessment summary	
Domestic:	This is the monthly amount expended on domestic expenses
Educational Fees:	This is the monthly amount expended on educational fees
Entertainment:	This is the monthly amount expended on entertainment expenses
Family Expenses:	This is the monthly amount expended on family expenses
Groceries:	This is the monthly amount expended on groceries expenses
Home Ownership Costs / Rent:	This is the monthly amount expended on home ownership costs and /or rentals
Petrol/Travel:	This is the monthly amount expended on petrol expenses / travel costs
Security:	This is the monthly amount expended on security expenses
Telephone:	This is the monthly amount expended on telephone expenses, including cell phones
Water & Electricity:	This is the monthly amount expended on water & electricity expenses
Other:	This is the monthly amount expended on any other type of expenses
Total household:	This is the sum of all the household expenses
Financial Services	

Glossary of Terms - Debt Counselling Standard Output Forms

Note *** For each one of these categories their must be an original value, as well as a revised value that will contain revised amount following the assessment summary	
Assurance:	This is the monthly amount paid in terms of assurance policies
Credit Insurance:	This is the monthly amount paid in terms of Credit insurance in terms of s106 in the NCA
Credit linked Insurance:	This is the monthly amount paid in terms of credit linked insurance (in terms of s106 of the Act) e.g. mortgage and vehicle insurance
Medical Expenses:	This is the monthly amount paid in terms of medical expenses
Pension & Risk Benefits:	This is the monthly amount paid in terms of pension and risk benefits
Other Financial Services:	This is the monthly amount paid in terms of any other types of financial services
Total Financial Services:	This is the total of all the financial services costs

Once off fees:	
Note *** For each one of these categories their must be a PAID fees amount, for those fees that have already been paid as well as an amount for the fees that have not yet been paid	
Debt counsellor fees	This is the once-off fee amount that must be paid to the debt Counsellor
Legal fees:	This is the once-off fee amount that must be paid for Legal fees
Total:	This is the sum of the Debt Counsellor fees and the legal fees

Payment escalation agreed date	This is the dates that the consumer agrees for the escalation of the payment, based on an increased affordability amount
Payment escalation agreed %	This is the percentage that the consumer agrees for the escalation of the payment

SUMMARY R	
Note *** For each one of these categories the rand value must be expressed as a percentage of the gross income	
Gross Income	This is the gross monthly income amount
Statutory Deductions	This is the sum of the statutory deductions
Employer Deductions	This is the sum of the employer deductions
Net Income	This is the monthly gross income, less the statutory and employer deductions
Other Income	This is the any other monthly income
Total Disposable Income	This is the sum of the net income, plus the there income
Household Expenditure	This is the total of the monthly household income
Financial Services	This is the total of the monthly financial services
Available Amount	This is the total monthly disposable income, less the monthly household expenditure, less the financial services
Contingency	This is a monthly contingency amount
Gross Collectable	This is the available monthly amount, less the monthly contingency amount
DC Aftercare Costs	This is the monthly amount for the DC ongoing costs
PDA Fees	This is the monthly amount for the PDA ongoing costs
Gross Debt Affordability	This is the Gross Collectable, less the DC Aftercare costs, less the PDA fees. The PDA fees are netted off the affordability, as it remains the responsibility of the customer to pay the PDA fees.
Credit agreement linked insurances	This is the monthly amount paid for credit-linked agreements
Net debt affordability for distribution to settle Debts	This is the Gross debt Affordability, less the amount for credit linked insurances

List of unencumbered assets	
Asset category	This can either be a fixed property or a movable assets, or other type of asset that can be sold to yield more affordability
Asset description / Asset address	This is a description of the asset, in the case of a fixed property, this will contain the physical address of the property. In the case of a movable asset, this must contain the full goods description of the asset, as well as a make and model
Status	The status is the "sell" status of the asset and may have a value of "Up for sale" or "Sold"
Nominal Value	This is a nominal rand value that is supplier by the consumer
Total Value	This is the total value of all the assets listed in the unencumbered asset table

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Letter of acceptance of arrangement proposal – one per credit agreement

Address of Credit Provider
Address Line 1
Address Line 2
Address Line 3
Address Line 4

To: *Customer <insert details>*
CC: Debt counsellor (*Acting as the agent of the customer*)

By fax/email/ *: <insert details>
**delete that which is not applicable*

Date: <insert date>
Our reference: <insert Ref>

Dear <insert customer name>

Acceptance of rearrangement proposal for debt of <insert customer name>, (ID: <insert customer ID number>) for <Account Number> <Account Description as per Credit Provider>

We refer to your application for debt review in terms of section 86 of the National Credit Act (Act 34 of 2005) and to your debt rearrangement proposal we got from <insert debt counsellor name and registration number>

We confirm our acceptance of the terms of the rearrangement proposal for this credit agreement as follows:

<insert product category as per proposal>: <insert product account number>

- Outstanding balance as at date of this letter: <Rxxx>
- Instalment: R<as per proposal> a month to be increased yearly on the anniversary date of the acceptance by <as per proposal> %;
- Interest rate: <as per proposal> % a year worked out daily and compounded monthly, which will be fixed for as long as you remain in debt review or until the date of full payment of this account, whichever is the earlier;

This arrangement is confirmed, under the following conditions:

- (a) This arrangement does not novate (replace) or change the above credit agreement. The terms and conditions of the above credit agreement still applies;
- (b) You must pay the full outstanding balances shown above, in terms of this arrangement or any later change/s to it;
- (c) This arrangement creates a rearrangement in terms of section 88(3) of the National Credit Act (Act 34 of 2005). If you default on your obligations in terms of this arrangement, < Credit provider> may end the debt review process for this credit agreement and enforce its rights under the terms and conditions in the credit agreement;
- (d) You are responsible for payment of all Payment Distribution Agent (PDA) and debt counsellor fees;
- (e) As and when your ability to service your debts improves as a result of having paid some of your debts while under debt review such extra affordability must be evenly allocated to the remaining accounts to speed up the payment of the debts; and
- (f) If the debt review process is ended by you or the debt counsellor on your behalf, by a court, or by us, this arrangement will come to an end immediately and you will need to return to making payments in keeping

DRAFT

with your underlying credit agreement. If you do not, <Credit Provider> may enforce its rights in line with the terms and conditions of this credit agreement.

If you have any questions, please contact us on:

Telephone number: <include Credit Provider contact details>
Fax number: <include CP fax>
Email: <include e-mail address>

Yours sincerely,

Debt Review, Manager
<Insert name of manager>

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Letter of decline of proposal – one per credit agreement

<Credit Provider Name>
 <Debt Review Contact Department >
 <Street Address Line 1>
 <Street Address Line 2>
 <Street Address Line 3>
 <Postal Code>

To:**Debt Counsellor Name:** <insert debt counsellor name and company>**Per Fax/e-mail** <insert details>**delete that which is not applicable***Date:** <YYYY/MM/DD>**Our Ref:** <insert DR Number>

Dear <insert addressee>

Re: **Debt Rearrangement Proposal**
Customer Name: <insert customer name>
ID Number: <insert customer ID number>
Account : <Account Number> <Account Description as per Credit Provider>
 <insert product category as per proposal>

We refer to the above matter as well as the debt re-arrangement proposal for this credit agreement.

Your debt re-arrangement proposal has not been accepted for this credit agreement due to the following reason/s

- a) **Credit agreement is not eligible for inclusion in the debt review process** (legal action is in process).
- b) **Over indebtedness finding is not accepted** as a true reflection of the consumer's situation and will be contested.
- c) **Affordability assessment is not accepted as reasonable** given the consumer's income, obligations and balance sheet situation and will be contested.(Luxury expenses/ assets retained and/ or excessive expenses provided for and/ or income understated and/ or household situation not fully taken into account)
- d) **Proposal does not solve the case** (all debts being repaid in full on the re-arranged terms within a reasonable time).
- e) **Proposal does not treat all categories of credit providers and credit agreements equally and fairly.**(Affordability allocation and/ or restructuring rules model do not comply with the NCR TT recommended debt restructuring principles)
- f) **Proposal requires unacceptable/ unenforceable concessions** (outside Section 3 of the NCA and what agreed consent rules allow)
- g) **Assessment summary, restructuring proposal and/ or payment plan summary deviates from the validation version on the central DCRS** (where the relevant rules are approved and deployed on the DCRS)
- h) **Proposal is based on incorrect data** (in conflict with what was provided on the COB)
- i) **Proposal does not provide for servicing of mandatory insurance obligations linked to the agreement.**
- j) **Initial and annuity DC and PDA fees are not provided for in proposal**
- k) **Other** (free format for any messages not catered for as per a) to j)

Please note that the payment terms may be extended as a result of escalating balances between the date of provision of the certificate of balance (COB) and finalisation of the matter.

If you have any queries, please contact us on:

Tel no: <Tel Area code> <Telephone number>

Fax No: <Fax Area code> < Fax number

Email Addr: <Email Address>...

Yours faithfully

Manager, <Debt review department name>