MINISTRY OF FINANCE
REPUBLIC OF SOUTH AFRICA

THE BANKING ASSOCIATION SOUTH AFRICA

Joint statement by the Minister of Finance and the chairperson of the Banking Association of South Africa

ENSURING RESPONSIBLE MARKET CONDUCT FOR BANK LENDING

Representatives of major retail banks, the Banking Association of South Africa (BASA) and the National Treasury have reached an agreement to improve responsible lending and prevent households from being caught in a debt spiral. The agreement calls for several measures to be taken, including a review of loan affordability assessments, appropriate relief measures for distressed borrowers, reviewing the use of debit orders and limiting the use of garnishee orders.

The agreement is a consequence of a meeting that took place between the above-mentioned parties on 19 October 2012, which built on commitments that were made during a previous consultation between the Finance Minister and major retail bank chief executives and chairperson on 27 August 2012.

The meetings identified several concerns about lending practices by certain unscrupulous operators:

- Excessive lending to households even when such loans are not affordable.
- Illegal collection practices such as keeping ID documents, bank cards and PINs.
- Selling inappropriate credit products to maximise margins (example: using expensive unsecured lending for house renovations instead of cheaper mortgage loans).
- Extending unaffordable loans to pensioners and other social grant recipients.
- Abuse of consumer credit and asset insurance, including excessive fees and charges.
- Abuse of debt and garnishee orders, and of direct payroll deductions.

Signatory banks emphasized they do not indulge in these practices.

An additional concern relates to household indebtedness. The Reserve Bank's September 2012 *Quarterly Bulletin* shows the ratio of household debt to disposable income remains high at 76.3 per cent in the second quarter of 2012. Of more concern is that, the percentage of retail borrowers in good standing, meaning those that have no accounts in more than 1 or 2 months in arrears, is at its lowest since records began in June 2007. It fell to 53 per cent according to the June 2012 *Credit*

Bureau Monitor from 63.6 per cent in June 2007. The number of accounts in good standing is 74.5% (June 2007: 79.2%).

South Africa's sustainable system of credit extension is supported by effective legislation such as the National Credit Act, strong regulation and monitoring, and sound bank risk management systems. These features will be complemented by the forthcoming shift to a "twin peaks" system of market conduct and prudential regulation of the financial system.

JOINT AGREEMENT BETWEEN BASA AND THE MINISTER OF FINANCE

The Minister of Finance and the major retail banks and BASA noted at their August meeting the trends in lending mentioned above and discussed the increase in unsecured lending. It was agreed that while there are currently no systemic risks related to unsecured (or secured) lending, certain market conduct behaviour may result in households, particularly poorer ones, getting caught in a debt spiral.

BASA and the National Treasury:

- Note the importance of credit to the economy, particularly to grow small businesses, enable the purchase of houses and other assets, help students to study at higher-education institutions and so on.
- Agree with the September 2012 Financial Stability Review of the Reserve Bank that there are no financial stability risks at present, but accept the need to take steps to ensure that current lending trends do not increase future prudential risks.
- Recognise that although the efficient regulation of the banking sector limits the incidence of poor credit practices, some credit practices are undesirable and reckless, and agree on the need to deal with poor market conduct practices that contributes to over-indebtedness of borrowers.
- Support the National Credit Regulator (NCR) in enforcing the law and stamping out poor market conduct practices, and encourage it to improve preventative measures, including introducing stronger fit-and-proper criteria for all lenders.
- Agree that all financial service providers must be appropriately licensed or regulated, and that steps should be taken to improve supervision of credit bureaus and obligate all credit providers to update credit information at least once a week.
- Agree that perverse incentives favouring reckless lenders should be stopped.
- Agree that the payment system set minimum norms and standards for lenders to utilise the payment system.

The 19 October meeting agreed to the following:

- To prevent future indebtedness and address current over-indebtedness where practical, BASA and its member banks will review their approach to the assessment of affordability, and ensure the selling of appropriate credit products to their customers.
- BASA, the National Credit Regulator and the National Treasury will formulate a standard to measure affordability, which could then be incorporated into regulations as minimum standards.
- Each relevant BASA member bank will develop approaches to provide appropriate relief to qualifying distressed borrowers by reducing their instalment burden, without additional cost to the borrower.
- BASA members agree to load payment data onto the various credit bureau systems as soon as is practically possible, preferably overnight in bulk.
- BASA members agree to minimum norms and standards for consumer credit insurance practices linked to lending, and will work with the National Treasury and the Financial Services Board (Registrar of Insurance) to develop a framework that takes into account the interests of customers, appropriateness and the full impact of all charges on affordability.
- BASA members commit not to use garnishee orders against credit defaulters, as they believe the use of such orders for credit is inappropriate.
- BASA and the National Treasury will promote and support enforcement initiatives against credit providers that issue pre-signed garnishee orders. The National Treasury will also engage with the Department of Justice about the abuse of garnishee orders and suggest that their use be restricted to maintenance orders.
- BASA members agree to minimum norms and standards for debit orders to be accepted by banks, and will work with the National Treasury and the National Payment System Department (NPSD) of the Reserve Bank to develop a framework for regulating debit orders.
- BASA and the National Treasury will engage the NPSD and the Payments Association of South Africa to develop minimum norms and standards for debit orders, and put in place mechanisms to ensure that debit order users meet such minimum norms and standards.
- BASA and the National Treasury will engage the Reserve Bank to effect neutral authenticated and non-authenticated early debit order (AEDO and NAEDO) payment streams.
- BASA members will improve client education on secured and unsecured credit, and create and manage a consumer education fund focused on the household lending environment.

The National Treasury, BASA and the NCR will discuss how the current system of debt counselling can be improved to remove perverse incentives and eliminate abuses. In this respect, consideration should be given to a system of voluntary counselling and taking steps to reduce abuses in debt consolidation. It was also noted that amnesty measures for credit records will have perverse outcomes, because they do not lift the debt burdens of those who are affected. Consideration should instead be given to more effective measures (some of which are outlined above).

The National Treasury and BASA will coordinate a process to complete the identified work over the next two months.

The above commitments and agreements relate only to the member banks of BASA. Other credit providers, such as non-bank micro-lenders and retailers, are encouraged to conform to the good practices committed to by the banks.

The National Treasury is, therefore, encouraged by the work being undertaken by the Department of Trade and Industry and the NCR to review the National Credit Act with respect to debt counselling, and to issue guidelines for credit providers to enable them to conduct proper affordability assessments.

The National Treasury will continue to work with the NCR to promote the common objective of ensuring that all credit providers treat customers fairly.

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Signatory banks
ABSA
Standard
FirstRand
Nedbank
African Bank
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RELEVANT DATA

The National Credit Regulator's Consumer Credit Market Report[1] shows the total outstanding gross consumer credit has grown to R1.36 trillion in June 2012 from R1.12 trillion in June 2008. Most household credit is for mortgages (59.8 per cent). Unsecured credit, excluding credit cards and overdrafts, accounts for 9.6 per cent of the total at R131.3 billion in June 2012 from R45.2 billion in June 2008.

[1] The National Credit Regulator figures cover lending by all credit providers to households. The Bank Supervision Department BA returns relate to banks only and include credit to firms and other non-household credit extension. As a result, these figures are higher.

The National Credit Regulator estimates that retail banks account for 91 per cent of unsecured credit, with the balance of credit extended by other credit providers and retailers (e.g. furniture stores).