



Potential impacts of debt relief

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An overview of debt relief policy in South Africa

Since 2015, the Department of Trade and Industry (**the dti**) has considered **preventative measures** in an attempt to **reduce and prevent future household over-indebtedness**.



A Portfolio Committee on Trade and Industry was instituted to investigate the possibility of a **debt relief programme**.



Key findings

- ❑ There was great **support for refining the current Debt Review processes** to make **provision for low income consumers** and the **broad utilisation of the DCRS industry agreed concession rules**.
- ❑ **Voluntary debt relief measures exist** in the credit industry and the Banks in particular.
- ❑ **Consumers are responsible for approaching the credit provider**.
- ❑ The **credit industry** highlighted their **reluctance for a legislated debt relief process outside of the current existing Debt Review process** and the **existing voluntary debt relief measures**.
- ❑ The **credit industry**, in particular the Banks amongst other credit providers, **cautioned against legislated debt relief measures** and the **unintended consequences**.
- ❑ Other stakeholders, in particular Trade Unions and Pro-Consumer bodies, did however **support debt relief for retrenched consumers with no income** and **insufficient or no credit life insurance**.

Department: Trade & Industry. Presentation to portfolio committee on the proposed draft national credit policy review for debt relief and the national credit amendment bill, 2017 developed by the portfolio committee on trade and industry. May 2017

National Treasury. Debt relief policy-Making debt manageable. June 2017

South Africa's scale of debt



There is an increasing trend of debt owed to credit providers and debt supplied to low-income consumers.

It is important to understand the extent of debt in the country in order to realise the impact of a debt relief programme. As such, there has been an increase in the value **of total outstanding gross debtors**, which represents the actual credit usage by consumers and not just the potential risk of credit providers. This **increased** by 11% from **1.52 trillion in Q4 2013** to **1.69 trillion in Q4 2016**. On the **supply side**, **R123.40 billion** worth of **new credit** was granted in Q4 2016. This increased by 4% from R118.66 billion in Q4 2013.

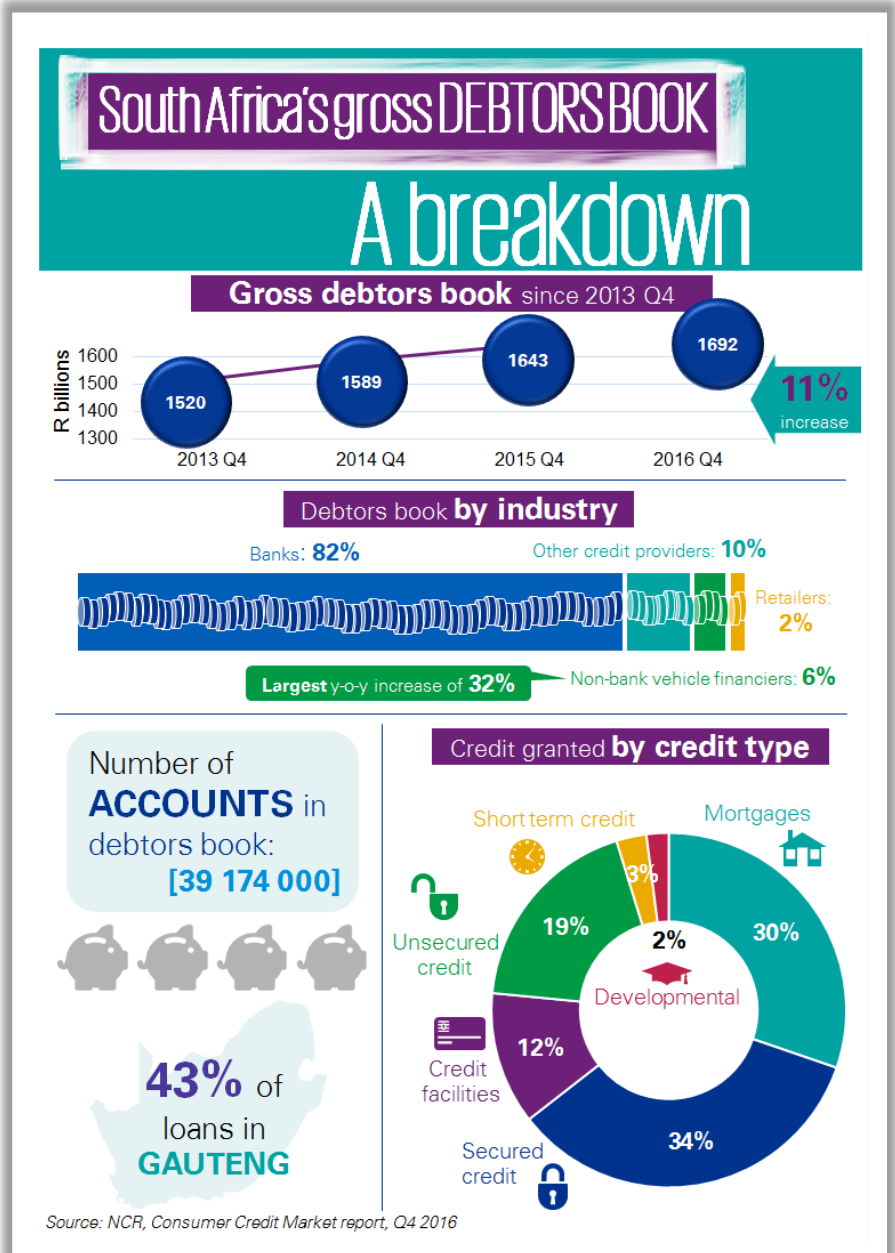
Profile of debt

In Q4 2015, the total number of **credit agreements** entered into decreased from 5.4 million to **4.8 million in Q4 2016** (12%). This could be attributable to the inability of consumers to satisfy their credit agreements timeously and/or are over-indebted.

However, debt in itself is not necessarily a bad tool. Problematic debt is debt that cannot to be paid back, particularly by low income individuals.

As such we look at debt belonging to those who earn less than R3 500. In **Q4 2016**, debt granted to **those earning less than R3 500 per month** amounted to **R2.59bn**.

According to the Momentum financial wellness index, in 2013, **low income households** i.e. those earning less than R3000 per month accounted for **50% of the population** with **58% of them being financially unwell**. Although not exactly in the same income category or year, the approximate Rand value of the debt of the financially unwell amounts to R1.88bn.



South Africa's scale of debt continued



The National Treasury's findings show that **first time borrowers** generally take out **retail clothing accounts** as their initial credit product. In **2010, 53% of borrowers accessed credit** for the first time and those who were still active in **2013** were in **arrears**.

In **2012, 40% of first time borrowers accessed retail clothing accounts** as their initial credit product, while **19% opened a loan from a microlender**. By **2013, 31% of these borrowers were too in arrears**. Generally, those who access retail credit as their first product tend to evolve through the credit space into banks; however, it is not the same with those who accessed microloans first.

Could it be that first time borrowers are not financially literate enough to understand the long-term costs of borrowing?

The **decline in financial wellness** of South African households was a result **of households' purchasing power being eroded and an increasingly expensive debt burden**.

Consumers' financial health is an **important factor in the wellbeing of any economy**, and to achieve this in SA, the **household debt-to-income ratio of 78.4 has to be reduced**. One of the main obstacles to doing this lies in the fact that **consumers with money trouble seldom realise the seriousness of their situation** until they reach a **crisis point**. If this is true, current solutions such as **debt review may be less effective**, requiring a more **creative approach** to the initial problem of **over indebtedness**.

Another hurdle is general ignorance on the **holding cost of debt**, a problem that begins on the day that debt is first acquired. Instead of asking about the cost of credit, **consumers** nearly always **focus on the affordability** of the monthly repayments. Furthermore, consumers who are over-indebted usually ask for a **reduction in the monthly repayment**, while ignoring the **additional holding cost of the debt**. The main **aim of consumers** who find themselves in difficulties is nearly always **to improve their cash flow**, but further down the line, they often **question the added costs incurred by the extended terms**.



Low-income earners are financially strained with a higher debt to income ratio, particularly in microloans and retail account credit.

Department: Trade & Industry. *Presentation to portfolio committee on the proposed draft national credit policy review for debt relief and the national credit amendment bill, 2017 developed by the portfolio committee on trade and industry.* May 2017
National Treasury. *Debt relief policy-Making debt manageable.* June 2017
National Treasury. *Debt relief policy-Making debt manageable.* June 2017

What are the current debt relief mechanisms?



There are a number of debt relief mechanisms currently in place for over-indebted individuals in South Africa. These mechanisms include: Sequestration under the Insolvency Act, Administration under the Magistrates Court Act, Debt Review under the National Credit Act and the Suspension of Credit Agreements. Below we provide an overview of the various debt relief mechanisms and the shortcomings thereof.

Debt relief mechanisms	Shortcomings
<p>Sequestration under the Insolvency Act</p> <p>The Insolvency Act 24 of 1936 (the Insolvency Act) sets out the appropriate processes when an indebted consumer's assets are insufficient to satisfy creditor claims. As per the Insolvency Act, creditors may sequester consumer assets voluntary or compulsory, as enforced by the court. Although debt relief is the primary goal, it provides relief to a customer only under sequestration.</p>	<p>However, sequestration under the Insolvency Act gives advantage of creditors as a prerequisite to sequestration application. This measure of debt relief is only viable when the consumer has sufficient assets. In this case, the saying that South Africans are "too poor to go bankrupt" rings true, as many indebted consumers may not have sufficient assets or income to settle outstanding debt.</p>
<p>Debt administration under the Magistrates Court Act</p> <p>In the event that sequestration is not a viable option for an indebted consumer, the consumer may apply for Administration Order in terms of Section 74 of the Magistrates' Court Act 32 of 1944 (the Magistrates' Court Act). This is a procedure applicable to consumers for whom sequestration is not viable and whose outstanding debt is less than R50 000. Under this debt relief measurement, the consumer's debt is restricted by an extension of the loan terms and a reduction of interest rates.</p>	<p>A shortcoming of this debt relief mechanism is that access is restricted. Although consumers with limited assets can apply for debt counselling, this option is not accessible to the poor due to the high fees. To qualify for debt administration, debt must not exceed R50 000, yet over-indebted consumers may very well have outstanding debt in excess of this. Furthermore, it is a lengthy administration process.</p>
<p>Debt review under the National Credit Act</p> <p>As per Section 3 of the NCA, the main objectives of the NCA is to address and prevent over-indebtedness of consumers, as well as providing mechanisms to resolve over-indebtedness. This debt relief mechanism is suited for consumers who were granted credit legitimately and responsibly, but whose financial circumstances changed. These consumers do not receive a debt discharge, but negotiate alternative payment arrangements. In the case of reckless lending on the part of the credit provider, the debt counsellor reports the matter to the NCR in order to have the agreement voided and repayments refunded.</p>	<p>This debt review process involves various fees, which are not subsidized. In many instances, consumers from low-income groups are not able to afford these fees. To control for this, the NCR subsidized fees for low-income applicants, when this measure was first introduced, however, the NCR later discontinued this subsidy.</p>
<p>Suspension of credit agreements</p> <p>If an agreement is found to be reckless, courts have the authority to set aside all or part of obligations under the credit agreement, as well as suspend the force and effect of the agreement, under Section 83 of the NCA. If the affected consumer is over-indebted at the time of the court proceeding, the court can restructure debt obligations or suspend the credit agreement. In addition, should the credit agreement be unlawful, the court may declare the agreement void from the starting date of the agreement as in terms of Section 98 of the NCA.</p>	<p>A shortcoming associated with this mechanism is that it is only viable when there is evidence of reckless lending by the credit provider.</p>

Sources: The National Credit Act 34 of 2005; The Magistrates' Court Act 32 of 1944; The Insolvency Act 24 of 1936; Eighty20, The Feasibility of a Debt relief Programme in South Africa, 2015)



What could the
debt relief
programme
look like in
South Africa?

Possible approach to debt relief as proposed by the dti

In May 2017, **the dti** proposed changes to the National Credit Act that would allow the minister to prescribe debt relief measures to over-indebted households. In particular, **the dti** proposed the draft National Credit Policy Review for Debt Relief (Policy Review) and the National Credit Amendment Bill 2017 developed by the Committee.

The rationale the propositions are “to give South Africans that are chronically over indebted and have no chance or way to escape that debt, **the opportunity of a fresh start.**” The second reason for a debt relief programme would be to “change the way that South Africans interact with the financial sector, so that this “fresh start” paves the way for new or **changed borrowing behaviour**”.

The dti input comes after the deliberation of the portfolio committee in 2015 on possibility of a debt relief programme. The most recent proposed debt relief programme aims to relieve over-indebted consumers, from problematic debt, which is debt that cannot to be paid back, particularly by low income individuals.



According to the dti, the following guidelines were applied in the development of the proposed debt relief policy:

1. There is a need for tailored solutions for different categories of distressed borrowers depending on their situation
2. If an indebted person can pay, they should pay, unless the loan was granted recklessly.
3. Promote responsible borrowing: change behaviour, promote borrowing for capital growth rather than consumption and within affordable and sustainable limits.
4. Promote responsible lending: want to disincentivise reckless lending, incentivise secured over unsecured lending especially for home
5. There is a need for tailored solutions for different categories of distressed borrowers depending on their situation
6. Extinguishing of debt should only apply to unsecured loans, with focus on no or low income (those groups who cannot afford debt review)
7. To the extent possible and reasonable protect a borrowers assets; selling assets should be a last resort, done fairly and with dignity
8. Requires holistic response, should be a shared responsibility across government, bank and non-bank credit providers, debt collectors and debt counsellors
9. Maintain systemic stability
10. Do comprehensive impact assessment of agreed potions in support of evidence-based policy





Who are the beneficiaries of the proposed debt relief programme?

The dti has identified 3 groups of beneficiaries and various relief options for the proposed debt relief programme

Group 1: Indigent persons earning less than R3500



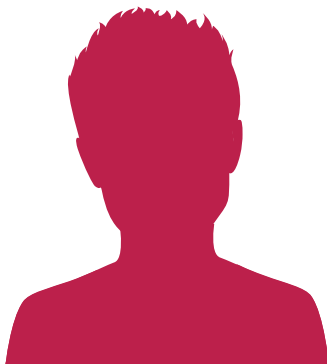
1. Consolidate loans, eliminate all fees, charges and interest, and apply 20% debt servicing: income ratio ceiling over 3 years and extinguish the rest of the pro –rata basis (across lenders/collector)
2. Extinguish aggregate debt up to certain ceiling like R2000 on pro rata basis
3. Extinguish all debt

Group 2: South Africans under severe financial distress earning R3 500 – R5 000



1. Loans that were issued when a borrower already in severe distress(as flagged in bureau) deemed to be reckless and extinguished
2. For distressed borrowers only: for the remaining loans consolidate, eliminate all fees and charges, and apply 30% debt servicing: income ratio ceiling over 5 years and extinguish the rest on pro rata basis
3. Extinguish aggregate debt up to a certain ceiling like R3000 on pro rata basis

Group 3: South Africans under severe financial distress earning R5 000 – R10 000



1. Loans that were issued when a borrower already in severe distress(as flagged in bureau) deemed to be reckless and extinguished
2. The remaining loans should be subject to subsidised debt review and Debt Counselling Rules System

Potential stakeholders involved in the proposed debt relief programme

The introduction of a debt relief programme will necessitate the involvement of different stakeholders. It is important for the authorities to determine targeted groups of indebted consumers and the source of funding. This will help identify the involved stakeholders and the extent of their involvement thereof.

potential STAKEHOLDERS

Who could potentially bear the COSTS?

Who could potentially BENEFIT?

Government



The government will likely need to take responsibility for the **governance** and **implementation** of such a programme

Credit providers



Banks

Retailers

Others

i.e. micro lenders, life insurance providers, pawnbrokers, motor financiers and unregulated lenders

Indebted consumers



Indebted consumers will have to meet **specific criteria** to qualify for **debt relief**



Implementation or oversight will have additional **financial implications**

Other institutions



A debt relief programme may relate to the **directive** of a number of **South African institutions**

SARS

FAIS Ombud

NCR

FSB

National Treasury

SARB



Indigent persons earning less than R3500



South Africans under severe financial distress earning R3 500 – R5 000



South Africans under severe financial distress earning R5 000 – R10 000

*“Targeted at **low-income groups**, not rich reckless spenders”*



Potential stakeholders involved in the proposed debt relief programme continued

Government as a source of funding and administrator

As of yet, no specific sources of funding for the debt relief programme have been mentioned and only suggestions have been made.

Joanmariae Fubbs, member of the National Assembly, suggested that **surplus funds of government entities** be used as a source of funding for the proposed programme. The government may use funds from the **UIF surplus** to absorb costs and settle debts of certain over-indebted consumers.

In many instances, as seen from **international case studies**, the **government bears the costs** of a debt relief programme. However, there are examples where credit providers and other institutions are liable to cover costs. Targeted debt relief in Croatia caused municipal authorities, utility and telecoms providers, tax authorities and banks to clear debt and absorb losses.

The creditors as a source of funding

The involvement of credit providers will depend on whether government will hold credit providers (formal or informal) accountable for outstanding credit, especially in the case of reckless lending. In South Africa, authorities emphasised lenders such as the Lewis group, which followed to poor lending practices. The government may hold credit providers liable, in instances where such stakeholders overcharged and provided misleading information. Another example is African Bank whereby the NCR found reckless lending practices at the bank. Advocate John Myburg led the initial investigation into the collapse of the lender in 2014 and found that the boards of both the bank and its holding company, African Bank Investments Limited (Abil), acted negligently and conducted the business of the bank recklessly.

Indebted consumers to benefit

The cost of credit and the current economic environment contributing to the over-indebtedness of consumers, especially the poor and vulnerable, is a main concern expressed by the Portfolio Committee on Trade and Industry. Retrenched workers, graduates and pensioners are some of the poor and vulnerable consumers that have limited or no assets, burdened by outstanding debt.

National assembly member, Joanmariae Fubbs has also highlighted low-income and retrenched workers that have short-term and unsecured loans as possible beneficiaries of such a programme. In relation to these consumers, the African National Congress (ANC) mentioned that houses and motor vehicles of these consumers are being repossessed, due to the inability to pay.

Ultimately, the type of debt relief programme will determine the consumers that qualify. For the moment, consumers earning below R10 000 will be the priority target indebted consumer-group. **The NCR will need to provide detailed information regarding the mechanisms and criteria of such a programme in order to determine the direct beneficiaries.** A programme with a clear aim, purpose and target may bring effective relief, without adversely affecting government funds, business interests and the economy as a whole.



What are the
potential
impacts of a
debt relief
programme in
South Africa?

What are the potential impacts of a debt relief programme on the South African government?

The potential effect of a debt relief programme on the government depends on whether the government funds the programme, as well as the aim and implementation.

Pressure on government fiscal spending

Debts of consumers do not dissolve; the government could simply absorb these losses. A debt relief programme funded by government could therefore transfer consumer debts to the government. In an economy where the government's expenditure exceeds income, increased spending is not advised. This fiscal space to increase taxes is limited unlike in the United States where tax payers and consumers contributing to the social security fund bear the costs of their student debt relief programme. In the United States, the student debt relief programme may cost taxpayers around \$39 billion. Therefore, South Africa's government could be forced to reprioritise and reallocate funding which may deprive some much needed programmes.

Decrease in UIF surplus

In 2016 it was reported that an enormous accumulated surplus of R99 billion is lying unused in the Unemployment Insurance Fund (UIF). The government then decided to invest some of these funds into job creation. New rules were implemented to extend the criteria for qualifiers of UIF such as children of the deceased, and illness claims. The government could use this surplus to fund the debt relief programme.

Paul Joubert, senior economic researcher at Solidarity Research Institute (SRI), noted that the social security fund should not make accumulated reserves available for purposes it was not intended for. Proposed amendments may give rise to exploitation and misguided uses of funds.

Additional costs to government

Potential costs include those associated with the responsibility of governing, implementing, managing, overseeing and regulating such a programme, to ensure efficiency. This requires additional resources and funds. On the other hand, the government may benefit from the implementation and the increased powers awarded to the NCR as backlogs in Tribunal cases clear up.

Implications for the political economy

This movement will gain populist support with will yield positive outcomes for the current ruling party. The Croatian government introduced a "fresh start" scheme in February 2015, providing debt relief to 60 000 of it's citizens. According to analysts, the Croatian "fresh start" programme occurred on the back of the government losing polls and seeking votes before national elections. India also implemented a debt relief program close to elections. Given the current political climate in South Africa, an introduction of a policy, such as the proposed programme may increase support for the African National Congress (ANC). This may instigate a negative outlook from the international economy on the state of the country's democracy.

Joubert, P., *UIF must not veer from its original mandate – Solidarity*, politicsweb 3 February 2016, 2016.

Mahlali, Z., *UIF pours R35bm into job-creation scheme*, IOL 30 March 2016, 2016

National Credit Regulator. *The Feasibility of a debt relief program in South Africa*, April 2015.

What are the potential impacts of a debt relief programme on creditors?



Higher recoverability rate if government funded

If the government funds the programme, creditors will have a higher recoverability of unsecured debt as repayments will be guaranteed.



More stringent borrowing

Credit providers may refrain from lending to suitable low-income groups if they are forced to absorb costs of unpaid debts themselves, particularly for unsecured debt. This could lead to a rise in the informal market as desperate borrowers attempt to gain access to credit.



Job losses

If creditors fund the programme, debt discharge could reduce revenue of credit providers resulting in job losses. With an already problematic unemployment rate in the country this will have a negative impacts for the economy.



Reallocation of credit offerings

If creditors are mandated to provide relief, they may reallocate credit offerings towards other sectors or areas where indebted consumers are not beneficiaries of credit relief programmes. In the case of India, banks moved their credit away from districts with greater exposures to the debt relief scheme.



Higher interest rates

To recoup losses from the debt relief programme, banks may charge higher interest rates or fees for what will be perceived as high-risk loans.



Overburden on creditors

Creditors may be overburdened which will eventually require government intervention. In 2008, the Indian government introduced the Debt Waiver and Debt Relief Scheme for Small and Marginal Farmers due to the increase in farmer suicides, with over-indebtedness often cited as a reason for the suicide. Initially, banks had to carry the costs of the written off debt, however the government eventually recapitalised to assist the banks to write off the debt.

What are the potential impacts of a debt relief programme on borrowers?



“It is difficult to write off loans without writing off a culture of prudent borrowing and payment”

– The Economist

Higher borrowing costs

Creditors may increase interest rates or fees to transfer the costs incurred from the debt relief programme.

More available funds for spending

When debt is written off, the burden of repaying the loans is eliminated from the consumer enabling them to use their available funds on other expenditure.

Reduced incentive to repay

A debt relief programme could impact the repayment incentives of beneficiaries and promote indebtedness instead of addressing it. A World bank study from India found that the debt relief programme had significant and economically large effects on the behaviour of banks and their borrowers. While farmer debt was reduced, total bank lending continued to grow.

Further limited access to credit

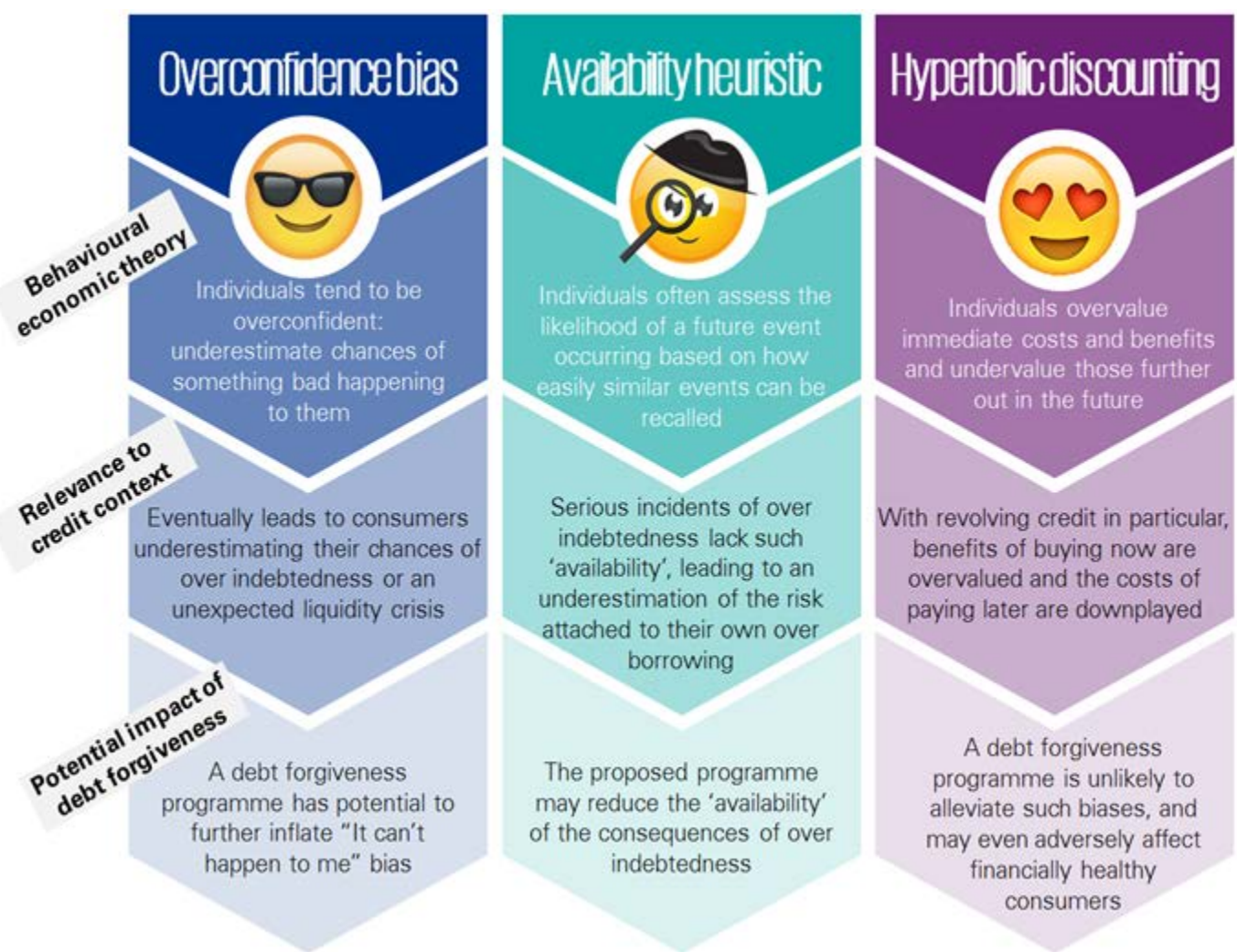
Credit providers might stop lending to worthy low income consumers. This may lead to desperate borrowers turning to the informal market to gain access to credit.

Getting South Africans out of debt by changing consumer behaviour

The abovementioned trends of increased unsecured credit and the debt burden of the poor, suggest that a tailored approach to debt rehabilitation is required for it to be sustainable and effective. In this section, we look at the potential impact of a debt relief programme based on theories of behavioural economics.

Behavioural economics is hard to define, but its basis lies at the intersection between psychology and economics. It allows for better and more precise predictions by taking into account how people react when they do not do so rationally. On the topic of debt, the Credit Card Accountability Responsibility and Disclosure Act (CARD Act), passed into US law in 2009, legislates tighter regulation of credit card suppliers. This was partly based on behavioural evidence showing how consumers failed to grasp the true cost of credit. The legislation bans certain types of fees and mandates companies to provide helpful calculations on bills. Early research indicates that the act may have increased consumer surplus.

The infographic below summarises the relevant behavioural economics theories and the potential impact on the efficacy of a debt relief programme.



Lunn, P. (2014), *Regulatory Policy and Behavioural Economics*, OECD Publishing.
<http://dx.doi.org/10.1787/9789264207851-en>

What are the potential impacts of a debt relief programme on the economy?


Advantages



"Newly enriched debtors will still **raise their level of consumption**, boosting the economy" (Matthew Yglesias). More demand for consumption goods in the economy, could encourage investment which could boost the economy in the long-term



"Debt, especially private debt, is vital to powering growth. Yet when it gets too high it begins to impede growth, a phenomenon I refer to as the "paradox of debt." Debt is necessary for growth, and countries with low levels of private debt to GDP are **well-positioned for strong growth**" - Richard Vague



Richard Vague theorises that "excessive private debt may contribute to one of the great problems of our time: growing **income inequality** and the **hollowing out of the middle class**." A debt relief programme could halt these negative outcomes of private debt.



"Short bursts of runaway growth in private debt have often led to crisis—the United States in 2008 and Japan in 1991 to name just two" (Richard Vague). A debt relief programme could be key to **preventing or lessening the impact of financial crises** in the country.

Disadvantages



"If lenders are compelled by legislation to write off even minimal amounts of debt, it would **shake confidence** in the South African economy to the core." - Magnus Heystek



If creditors are legislated to cover the costs of the debt relief policy, the credit market could experience some **job losses** as a result of reduced revenue



Neil Roets, CEO of Debt Rescue, said "if a debt relief policy were to be implemented, it would bring **short term relief to deeply indebted consumers** but that the **longer term consequence could be extremely negative**." This is due to a lack in evidence of debt relief programmes that have yielded direct positive outcomes in the long run.

Vague, R. *Government debt isn't the problem – Private debt is*. September 2014.
Business Tech. *Here is why Government's debt relief plan is a bad idea*. March 2016



Preparing for a debt relief programme

Questions around the currently proposed programme



How will the debt relief programme be funded? How will buy-in be secured from government and other institutions as a source of funding?



What will be the programme's impact on the economy? What will be the impact of a debt relief programme on the various sectors providing consumer debt and the economy? What measures are in place to ensure that these sectors are sustainable?



What measures will be implemented to ensure that consumers access debt counselling as a part of the debt relief programme? What is the role of retailers and other credit providers in educating consumers? Are there new behavioural economics approaches that can be considered?



Will there be tighter regulations on providing credit going forward? What policy changes will need to be implemented? Is there room to change current credit regulations?



Will this programme lead to a rise in the illegal credit market, especially for those desperate for credit who now face more stringent credit conditions? What mechanisms will be put in place to assist and support desperate borrowers?



Are we fostering a worse credit culture amongst borrowers? Will borrowers take credit recklessly because in a couple of years it will be extinguished? Are we promoting a culture of financial irresponsibility?

How can KPMG help?

Improving business performance, turning risk and compliance into opportunities, developing strategies and enhancing value are at the core of what we do for leading organisations.

While the future of debt relief policy in South Africa is uncertain, KPMG has a range of skills and experience to help stakeholders prepare for a potential implementation of the programme.

Economic impact assessment (EIA): We can conduct an economic analysis of the potential impacts of a debt relief program at a macroeconomic level. The analysis can be used to demonstrate how your economic contribution may be affected by the programme.

Behavioural economics: We can explore innovative approaches to consumer education based on behavioural economics, as well as potential behavioural implications of a debt relief programme.

Regulatory impact assessment (RIA): We can conduct a comprehensive RIA as part of the Presidency’s formal SEIAS process or a more tailored RIA for understanding the different policy options and their risks

Cost benefit analysis (CBA): We provide a means of objectively comparing options. It is a tool commonly used by both government and private sector decision makers to determine whether to proceed with a project or policy.

Strategy: KPMG can help you restructure your criteria for borrowing to curb current borrowing trends which lead to over-indebtedness, particularly for first time borrowers.





Thank you



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