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CONSULTATION QUESTIONNAIRE (Page One)
Credit Union Debts in Protected Trust Deeds

The deadline for responses is **25 June 2007**

Your details

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For the purpose of analysing responses, it would be helpful if you would also indicate the capacity in which you are completing this questionnaire, please tick as appropriate.

Advice Sector	<input type="checkbox"/>	Legal Body	<input type="checkbox"/>
Business	<input checked="" type="checkbox"/>	Professional Body	<input type="checkbox"/>
Individual	<input type="checkbox"/>	Statutory Body	<input type="checkbox"/>
Insolvency Practitioner	<input type="checkbox"/>	Other (Please Specify)	<input type="checkbox"/>

Questions for Consultation

1a Do you think that cancelling debt in a Protected Trust Deed has a particularly harsh impact on Credit Unions?

Yes

1b If yes, what evidence do you have to support your comments?

Credit unions are small, not for profit organisations and their lending is subject to a statutory interest rate cap. This means that we cannot easily adjust our lending rates to compensate for the ever-increasing number of Protected Trust Deeds. This puts us at a competitive disadvantage in comparison to other lenders.

In addition, credit unions often serve financially excluded people, many of whom represent a greater risk. Although we use a credit reference agency to mitigate risk, many people on low incomes use doorstep and other sub-prime lenders, which do not subscribe to these information sharing services.

The Scottish and UK Governments have invested a significant amount of money into the provision of affordable credit, delivered through credit unions. By introducing the SGEI scheme, the Scottish Executive recognised the necessary role that credit unions play in tackling poverty and financial exclusion and credit unions have responded by being more flexible in our lending practices. The benefits of this will be lost if continued losses from Protected Trust Deeds result in the instability of the credit union sector, opening the door to high cost, unscrupulous lenders, which prey on the most vulnerable.

1c Do you think that Protected Trust Deeds should give special protection to Credit Unions?

Yes

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2a Do you think that cancelling debt in a Protected Trust Deed has a particularly harsh impact on any other creditor?

No

2b If yes, what other creditors are affected?

N/A

2c Do you think that Protected Trust Deeds should give special protection to any other type of creditor and which ones?

No – others are able to adjust their prices or lending rates to recover the cost of losses.

3a Do you think that introducing special protection for credit unions (or another type of creditor) would unduly harm the interests of the rest of the creditors?

No

3b If yes, what evidence do you have to support your comments?

N/A

4a Which of the following options do you think would be the most appropriate?

X Option 2 (Debts not Cancelled) - Debts due to Credit Unions should not be cancelled by Protected Trust Deeds.

4b Why do you think this option is most appropriate?

This option will allow us to recover at least part of the debt as and when the borrower is able to pay it. Credit unions are ethical lenders, whose interest is in pursuing those who won't pay, not those who can't. We are willing to be flexible in rescheduling payments where appropriate and would never put undue pressure on a borrower in genuine difficulty. This option is therefore also in the interests of the borrower who wishes to avoid sequestration but to have a longer period in which to pay off the debt than is afforded by the Protected Trust Deed.

4c Do you have any other comments on these options that we should consider?

Our trade association, ABCUL, has in the past lobbied for the Debt Arrangement Scheme to be a mandatory precursor to both Trust Deeds and Sequestration. We agree that this is an essential measure to protect both creditors and debtors. Many people are being encouraged to go down the route of Protected Trust Deeds through aggressive advertising by insolvency practitioners, without realising the impact this could have on their current and future assets.

As long as Protected Trust Deeds generate by far the greatest level of income for insolvency practitioners, compared with other disposals, debtors can only be sure of receiving best advice if the DAS is the first step.

This would also promote responsible borrowing by consumers, as there would be no apparently easy escape route from excessive debt. Instead they would have access to a not for profit money advisor and be required to pay a reasonable amount until the debt is extinguished.

If DAS were the first step, larger lenders, who often find it easier to petition for an individual's bankruptcy than to incur the inconvenience of pursuing the debt, would not be able to force a debtor down this route, until all other options had been explored. This benefits both the debtor and smaller creditors. We therefore strongly urge the Executive to reconsider its position on this matter.