INTRODUCTION
This document provides the response of Callcredit Group (“Callcredit”) to the Scottish Parliament’s Economy, Energy and Tourism Committee’s “Call for evidence on the Bankruptcy and Debt Advice (Scotland) Bill Stage 1”, issued June 2013.

As a UK consumer credit reference agency, Callcredit facilitates the sharing of data on how people manage their repayment commitments. Relevant official information, such as insolvency records and monetary court judgments, are also reflected appropriately. Consumers have statutory access to the data that Callcredit compiles.

Callcredit welcomes the opportunity to provide our views on the Bill. Recent years have seen an emphasis on the need to ensure that lending to consumers, and any collection of arrears, are always responsible and affordable. Information sharing about personal bankruptcy and debt relief is central to achieving these aims. This is the theme which underpins our response.

Our views are expressed here for the first time, as we did not respond to the initial consultation. We do not take a general view on the Bill. Various aspects fall outside our area of expertise, and we limit our response accordingly.

COMMON FINANCIAL TOOL
We welcome the proposed introduction of a Common Financial Tool and the consistency this should bring to the treatment of debtors. To ensure this consistency, we urge that a Tool should be adopted which is identical across all parts of the UK, and operates clearly and transparently.

DEBTOR CONTRIBUTION ORDER
It is proposed that a standardised 48 month Contribution Order will be applied, rather than the Trustee needing to apply for an income payment order. As discharge from bankruptcy may be granted after 12 months, the Order may be expected to usually extend well beyond discharge.

This is likely to prove a substantial financial commitment on the part of the former bankrupt, and one which will affect their ability to afford new payments during the term of the Order. To ensure responsible lending, the existence and amount of such a contribution should be made available through the data feed provided to the Credit Reference Agencies (“CRA Feed”). This would allow it to be taken into account when calculating affordability alongside other scheduled commitments.

MINIMUM ASSETS PROCESS (“MAP”)
It will be important to differentiate on the Register of Insolvencies (“RoI”) and the CRA Feed when bankruptcy has been entered through the MAP, due to the significant differences in how this kind of bankruptcy is subsequently treated.
Post Bankruptcy Restriction
We question the value of permitting discharge from a MAP bankruptcy after 6 months, then to be followed by a 6 month period under Post Bankruptcy Restriction. While recognising the reduced administration required by MAP may support early discharge, we believe that the introduction of Post Bankruptcy Restriction adds unnecessary complication for all parties, and lacks genuine benefit to the bankrupt.

It is proposed to limit the amount of credit which can be obtained by the debtor to a maximum of £2,000. By definition, debtors who have accessed bankruptcy through MAP will have little or no earned income and will most commonly be dependent on welfare benefits. It is unlikely that within 6 months of bankruptcy these debtors could have sufficient disposable income to service credit debt of any but the smallest amount. Should they begin to earn sufficient disposable income so soon after bankruptcy is granted, surely some should be contributed towards the bankruptcy.

The Enterprise and Regulatory Reform Act 2013 recently repealed provisions for early discharge from bankruptcy in England and Wales. These had been introduced by the Enterprise Act 2002 with the intention of encouraging early rehabilitation. On review the expected benefits were not obtained, and the provisions were subsequently repealed.

We urge that the case for early discharge must be fully explored, to establish the likelihood of being able to borrow and any other expected debtor benefits. These should be set against the costs which will be incurred by the creation and administration of Post Bankruptcy Restrictions, before this policy is pursued. Following this analysis, a policy of standard 12 month discharge may prove more appropriate.

If Post Bankruptcy Restrictions are introduced, these should be highlighted by incorporating in the RoI and CRA Feed to ensure lenders are made aware in cases where they apply.

Moratorium on Diligence
The intention is stated that where a consumer successfully applies to be made the subject of a moratorium on diligence, a record of this will be made available. We agree with this approach. It is vital that as much notice as possible must be given of the detail of changes to the RoI and the CRA Feed, to allow information to be provided accurately to lenders and collections agencies, who can then suppress the consumer from their scheduled activity.

Discharge following bankruptcy
We agree with the proposal that automatic discharge should be replaced by the need to apply to obtain discharge. The indefinite deferral of discharge is also appropriate. It will again be important to ensure that any changes to the RoI are fully reflected in the CRA Feed.

Records and form of Register of Insolvencies
We welcome removing the power to prescribe the form of the RoI from the Act of Sederunt (Sheriff Court Rules) 2008 to regulations made by the Scottish Ministers, as this is likely to make changes more visible and transparent. It is important that
changes to the RoI are also actioned in respect of the CRA Feed where appropriate, with sufficient notice to allow us to amend internal processes.

**Debt Arrangement Scheme**

The volumes of debt payment plans made through the Debt Arrangement Scheme have seen sharp increases in recent years, as the Scheme has been modernised and made more accessible to debtors who need it. This growth demonstrates the success of the Scheme, as it offers a viable alternative to other forms of debt resolution.

It is not currently possible to access the Scheme Register in an automated fashion, and Credit Reference Agencies are therefore unable to reflect payment programmes under the Scheme on debtor credit files. This raises the possibility that such individuals could be subject to inappropriate marketing and offers of credit, or contacted for collections by creditors or their agents who are unaware of the existence of a payment plan. In addition, their commitment to the plan may not be reflected in affordability calculations.

We ask the Committee to recognise the increasing importance of this information being available as volumes grow, by recommending that records from the Scheme Register should be incorporated into the existing CRA Feed, to uphold responsible lending and collections activity.