The "Market Model" of Debt Counseling and Bankruptcy in the United States

Jason J. Kilborn

Credit counseling in the United States arose as a market-driven adjunct to small-loan lending, and it expanded as a market-driven response to a rise in personal bankruptcy. The "market model" thus quite aptly characterizes both credit counseling and personal bankruptcy in the US. Both represent efforts to keep the wheels of commerce turning in the face of market challenges, with a minimum of intervention, regulation, or funding by public government. Both also demonstrate the limitations and risks of leaving such complex and sensitive matters to private market resolution.

1. The Rise of Small-Loan Lending and Credit Counseling

As the agrarian US society began to industrialize in the late 1800s, workers drawn off the farm and into the city confronted many unfamiliar problems, among which was how to navigate a new and rapidly growing world of opportunities for acquiring the comforts and novelties of modern urban life. Industrial wages supplied urban workers with previously unknown disposable income, which continued to rise as the industrial economy developed, and workers were eager to enjoy the benefits of this rising future income in the present. Ancient legal restrictions on interest charged for loans, however, inhibited the development of a market for small loans to such workers. Usury laws continued to be enforced in the US long after they were abandoned in England, restricting maximum interest rates to six to twelve per cent per year. This interest rate could support profitable lending for the well-established farm-lending market, with large loan disbursements covering an entire year's crop production, but such meager returns could not support profitable small-loan lending for individual consumption (Calder 1999, pp. 112–116).

The market tapped this pent-up demand in two ways, one in response to the other. First, a robust underground market for illegal loans flourished, often with very high interest rates and security in the form of contractual cession of future wages or chattel mortgages in home furniture and other household goods. Given the unpredictable nature of industrial wages in late-19th century US cities, and borrowers' lack of familiarity with budgeting and money management, this early market for illegal small loans led to overindebtedness, seizure of wages and house-

Electronic copy available at: https://ssrn.com/abstract=4752879

hold goods, and heartache for many individual borrowers. The degree of personal-debt distress is difficult to measure even today, but for the late 1800s, it is all the more difficult in light of sparse records and the illicit nature of the loans involved. Various anecdotes of widespread and severe abuses in this underground small-loan industry circulated among social workers and city newspapers, however, to a sufficient degree to lead one authoritative commentator to characterize instances of severe overindebtedness as "probably not 'typical' … but neither were they uncommon" (Calder 1999, p. 119).

Second, and consequently, reform-minded citizens conceived an early solution to both the original problem of working-class people's need for small loans, and the resulting problem of abusive loan sharking. They developed so-called "remedial loan societies", offering (unprofitable) small loans at interest rates within legal limits, with funding from employers, interest groups, and other philanthropic sources (Calder 1999, p. 120). With an unsteady business foundation and insufficient reach to disrupt the vast illegal loan market, these remedial loan societies would not survive past the early 1900s, but they established the foundation for a dual-purpose perspective on small-loan lending: They pioneered the practice of not only extending loans to needy individuals on dignified terms, but also "providing expert financial guidance and advice on how to develop good financial habits" (Calder 1999, p. 129). Indeed, in a notable bit of savvy marketing, remedial loan purveyors often publicized their activities primarily in terms of providing such financial guidance as a major social service.

In tandem with their borrower-counseling services, remedial lenders sought to ensure a more stable foundation for their activities by lobbying legislatures to raise the maximum interest rates to a level that would support viable small-loan lending business (two to three per cent per month, or up to 36 per cent per year, far above then-prevailing usury limits). This campaign eventually attracted the participation of many former high-interest lenders, and it culminated successfully with the Uniform Small Loan Law, adopted by 25 states by 1932 (Calder 1999, pp. 130–134).

This and other legislative reforms supported a regularized small-loan lending industry. Whereas total loan volume in 1916 barely exceeded $ 8 million, that figure ballooned to over $ 250 million by 1929. From a handful of companies lending to mostly industrial workers in 1916, the industry counted more than 3600 "personal finance" companies in 1932, taking the emphasis off of industrial lending and reorienting it onto consumer lending in general (Calder 1999, p. 147).

By the 1930s, members of the new, licit "personal finance" industry "began thinking of themselves as 'counselors to the consumer'" (Calder 1999, p. 147). They thus carried over the counseling-oriented philosophy from the preceding remedial-lending era, including the notion that part of lenders' remit was to advise borrowers on money management, budgeting, and thrift, on how to manage the loans they were receiving – and how to be sure to repay them. Personal finance lenders

Electronic copy available at: https://ssrn.com/abstract=4752879

lamented that the new skills of household money management and credit were not being taught elsewhere,[1] so this responsibility "gravitates fairly and squarely to our shoulders", with the proud anticipation that "within a very brief period of time we will no longer be thought of as 'moneylenders' but as financial physicians to the American family'" (Calder 1999, p. 153).

Alongside this legitimation of small-loan cash lending, growth in merchants' extension of installment-purchase credit allowed consumers to both support and benefit from the rapidly developing consumer goods market of the 1920s. The primary "big-ticket" item of the day was the automobile, but smaller items were available on a credit-plan basis, as well. By the early 1930s, virtually all durable goods retailers offered installment-payment plans, financing the majority of purchases of a range of emerging modern conveniences, including not only cars, but also washing machines, furniture, vacuum cleaners, radios, and phonographs (Calder 1999, pp. 184–201).

2. First Spike in Consumer Debt, Overindebtedness, and Bankruptcy

American society was transformed in many ways in the period following World War II, including a meteoric growth in the production of consumer goods and opportunities for acquiring them on credit. A confident society would reach increasingly for credit to tap rising future wages to finance present enjoyment and compete in a new race of "keeping up with the Joneses". By 1949, a majority of not only cars, but also refrigerators and televisions were purchased on credit (Ryan/Trumbull/Tufano 2011, p. 469). Consumer debt[2] doubled in the 1940s, from $ 5.5 billion in 1940 to over $ 11 billion in 1949, then nearly quadrupled in the 1950s, to just under $ 40 billion by 1959. That figure would continue to increase exponentially over the next few decades, reaching $ 155 billion in 1973 and nearly $ 800 billion by 1989 (Calder 1999, p. 293).

One significant factor driving this mid-century spike in consumer indebtedness was the introduction of ever more effective mechanisms for broader, deeper, and more rapid accumulation of debt, in particular the credit card. The first universal credit card (bank card) was issued in 1951 by Franklin National Bank in New York (Boorstin 2004). Later that decade, Bank of America introduced its Bank-

1 This lament still resonates today, as education reformers constantly call for inclusion of "financial literacy" training in secondary schools, though such calls continue to go largely unanswered.

2 "Consumer debt" here excludes housing-related debt, such as mortgages and home equity loans and lines of credit, which tend to constitute the overwhelming bulk of individual debt. Home-related debt, however, tends to have far lower distress and delinquency rates than "consumer debt".

Electronic copy available at: https://ssrn.com/abstract=4752879

Americard, first in a mass-mailing to tens of thousands of California customers, then franchised to banks around the country under the Visa trademark in 1965. An East Coast bank group soon launched a competitor, becoming Mastercard in 1967, and by the mid-1970s, the practice of purchasing on credit quickly became widespread (Vyse 2008, pp. 98–99; Ryan/Trumbull/Tufano 2011, p. 474). Banks aggressively marketed their new product with ubiquitous television and other media advertising. The three major credit card networks' spending on advertising skyrocketed from $ 75 million in 1985 to $ 870 million by 1998 (Manning 2000, pp. 9, 12).

Consumers responded energetically to this advertising blitz: The share of families holding bank-issued credit cards grew from about 16 per cent in 1970 to over 70 per cent by 2004 (Board of Governors of the Federal Reserve System 2006, p. 3). Consequently, the share of consumer debt represented by credit-card balances vaulted from about 15 per cent in 1980 to over 40 per cent by 1995 (Manning 2000, p. 13). Total outstanding credit card debt volume reached a record high in 2008, at $ 870 billion – more than the entire volume of *total* consumer debt two decades earlier in 1989 (Federal Reserve Bank of New York 2022, p. 3).

While these aggregate figures are impressive, they fail to convey the weight of this debt on household budgets. A more relative measure compares this burgeoning debt load against available (after-tax) income, which has not increased at nearly the same pace as debt. Averages here again conceal heavier burdens borne by some households, especially on the lower end of the income range, but even the averages reveal a consumer population groaning under an increasingly unsustainable burden of overindebtedness. Whereas the total consumer debt load represented only 35 per cent of all after-tax income in 1952, it quickly rose above 60 per cent in the 1960s and then, after the mid-1980s, climbed inexorably over the next decade-and-a-half before surpassing 100 per cent of after-tax income in 2000 and 120 per cent by 2005 (Vyse 2008, p. 9). One way of dealing with a larger debt burden is extending the payment term, although this would eventually require payment of more interest. As debt-to-income ratios surged in the 1980s, the minimum monthly payment on credit card balances was reduced dramatically, allowing consumers to "literally finance a dinner at a restaurant over a period of years" (Ryan/Trumbull/Tufano 2011, p. 485).

Some of these borrowers would inevitably find themselves overextended and in financial distress, and the US (uniquely) had allowed all overindebted individuals to seek liberation from debt in a bankruptcy discharge since 1898. This groundbreaking Bankruptcy Act had developed as a derivation and extension of the longstanding English model, though much softened with a debtor-rescue philosophy in light of the populist, agrarian influence in US politics and the painful experiences of many prominent individuals during several national depressions (panics) in the late-1700s and 1800s (Mann 2002; Skeel 2001, pp. 24–47). This is a key fact in the nature, situation, and status of later debt counseling in the US, as open-access to a fresh start in bankruptcy anchored the future path-dependent evolution

Electronic copy available at: https://ssrn.com/abstract=4752879

of debt counseling, rather than the reverse. Whereas early credit counseling was directed at educating consumers on credit use, bankruptcy had long ago been established as the primordial, normative response to overindebtedness, and a debt-counseling alternative would arise only much later.

Few consumers had taken advantage of this offer of bankruptcy relief in the first half of the twentieth century, but this began to change dramatically by 1950 in tandem with the rise in household debt. Personal bankruptcy filing trends offer a very rough indication of rates of overindebtedness – at least at the most extreme – and they represent one key indicator of a rapidly accelerating consumer overindebtedness crisis in the late-twentieth-century United States. Personal bankruptcy remained fairly uncommon in the 1940s, hovering around 10,000 filings per year, or 11 filings per 100,000 adults 20 years of age or older. In just the three years after 1947, however, these figures more than doubled, reaching over 25,000 filings in 1950, p. 25 for every 100,000 adults. In just five more years, by 1955, personal bankruptcy filings had again doubled, to just over 50,000, and they doubled again after 1960, spiking to 131,000 in 1961, surging for the first time to a triple-digit rate of nearly 120 per 100,000 adults. While the causes of this worrying rise in consumer financial distress were and remain hotly debated,[3] a rapidly rising debt-to-income ratio surely was a major contributor if not the prime culprit (Stanley / Girth 1971, pp. 25, 32, 40).

3. A New Model for Debt Counseling and New Heights of Debt Distress and Bankruptcy

Consumer lenders took notice of the new and disturbing trend of consumer credit defaults and bankruptcies, and they renewed and redirected their personal finance counseling efforts to try to stem the tide of losses. The spectacular growth in consumer lending volume led to a division of labor and outsourcing of the budget- and debt-counseling function to semi-independent counseling agencies – "semi"-independent because of their sponsorship and funding model, which will be described below.

The Retail Credit Institute of America had been formed in 1942 as an installment-sales credit industry trade group, and in 1951, it had reconstituted itself as the National Foundation for Consumer Credit, described as "an important postwar pro-credit lobbying group and trade association" (Hyman 2011). In the early 1960s, the NFCC became more directly involved in credit counseling and debt management, eventually changing its name to the National Foundation

3 Personal bankruptcy filings then as now were doubtless prompted mostly by the primary drivers of personal bankruptcy around the world, including job loss and medical issues.

Electronic copy available at: https://ssrn.com/abstract=4752879

for Credit Counseling. It coordinated and promoted a network of counseling agencies operating under the trademarked name "Consumer Credit Counseling Services", eventually operating over 1000 offices around the country as "CCCS of" various geographic areas (Milstein / Ratner 1981, pp. 980–981, 986–987; Staten 2006, pp. 278, 281; Loonin/Plunkett 2003, p. 6; Hunt 2007, p. 39).

Far from a social-work oriented campaign or government-driven consumer-welfare initiative, the US credit counseling industry[4] has been candidly characterized as "a market-driven alterative to bankruptcy", or more specifically, "a creditor-sponsored effort to advise financially troubled consumers on alternatives to personal bankruptcy" (Staten 2006, pp. 275, 278). This certainly seems to be an accurate characterization of the NFCC's establishment of the CCCS network. To counter the onslaught of consumer bankruptcies in the 1950s and 1960s, these counseling agencies not only continued the personal finance education and budgeting advice of their 1930s personal-finance predecessors, but they also negotiated "debt management plans" (DMPs) between creditors and overindebted consumers. The goal of a DMP was to divert consumers away from bankruptcy and into contractual treatment plans that would allow for full payment of outstanding debt. This was accomplished by negotiating across-the-board concessions with creditors for reduction of accruing interest, waiver of penalties, and extension of repayment periods up to five or six years. Creditors generally do not, however, agree to forgive any portion of unpaid principal in a DMP (Loonin/Plunkett 2003, pp. 21–22).

Creditors supported the counseling agencies not only by agreeing to these concessions, but also by rebating so-called "fair share" payments to the agencies. In the beginning these rebates amounted to 12–15 per cent of the total debt repaid with the agencies' assistance, and this represented the primary funding source for the agencies' operations (rarely supplemented by small fees charged to consumers for negotiation and administering DMPs). Creditors received a substantial return on this investment: NFCC-affiliated counseling agencies generally managed to divert the great majority of consumers away from bankruptcy, either by providing advice that allowed borrowers to manage on their own (about 30 %), or by enrolling borrowers in DMPs (about 35 %), about half of which were successfully completed, but all of which returned more money to creditors than a bankruptcy proceeding would have done (Staten 2006, pp. 279–280; Hunt 2007, pp. 39, 43; Loonin / Plunkett 2003, p. 23).

Nonetheless, the tide of consumer financial distress and bankruptcies continued to rise. By the early 1970s, one prominent survey indicated that nearly half of all employed respondents had reported suffering wage garnishment for debt, and

---

4 This distress-oriented industry is more accurately characterized as "debt counselling", but the two terms ("credit" and "debt" counseling) will be used largely interchangeably here, consistent with US practice.

Electronic copy available at: https://ssrn.com/abstract=4752879

the study author estimated the true rate was likely closer to three-quarters. These struggling debtors faced more that just lost wages, as more than one in five private-sector employees in the study lost their jobs as a result of the garnishment (Caplovitz 1974, pp. 231, 239). Federal restrictions on wage garnishment in 1968 (effective in 1970) alleviated some of the most extreme pressure on overindebted individuals, but many continued to pour into the bankruptcy procedure to seek more holistic and durable relief (Shuchman / Jantscher 1972).

The 1980s saw a renewed spike in personal bankruptcy filings, surpassing 300,000 in 1980 and doubling yet again within a single decade to over 600,000 by 1989. Before another decade had passed, personal bankruptcy filings would double yet again to over 1.35 million in 1997, continuing to rise thereafter (Skeel 2001, p. 188). Rapidly accumulating debt was doubtless a driving force behind these bankruptcies. By the beginning of the 2000s, outstanding consumer debt had again nearly tripled in a little over a decade, vaulting from $ 800 billion in 1989 to over two trillion dollars (two followed by twelve zeros!) by 2003 (Federal Reserve Bank of New York 2022, p. 3). Consumer financial distress grew even faster. The number of credit card holders with delinquent balances (overdue by at least 90 days) quadrupled from just over 500,000 in 1992 to over 2 million by 2003, revealing a huge accumulation of unsustainable consumer overindebtedness (Hunt 2007, p. 46). These deeply distressed credit card balances represented over nine per cent of total credit card debt in 2003, a figure that would rise to over 13 per cent in 2010 (Federal Reserve Bank of New York 2022, p. 12).

Sociological researchers revealed a surprising gendered impact of overindebtedness distress. Women tended to bear most of the responsibility for managing this out-of-control household debt, and they suffered most of the emotional turmoil when that task proved impossible. While financial management labor is ordinarily gender-neutral and equally shared in households where finances are healthy, the responsibility often shifts to women when income is limited and strained by overburdening debt. Three-quarters of interviewed overindebted couples testified that the woman in the household was responsible for budgeting and bill payment, and seven in ten reported that they maintained this struggle for a year or more before ultimately deciding to file for bankruptcy. The strains of battling chronic and severe overindebtedness are well-known contributors to emotional distress, and interviewees reported taking medication for "unmanageable psychological problems", increased blood pressure, and even being rushed to the hospital for emergency treatment. Women were significantly more likely than their male partners to report instances of such emotional turmoil and symptoms like stress, insomnia, and depression. Interviewees commonly recounted how debt distress had negatively affected their marriages, and increased tension and arguments had led more than one-third of couples to consider separation or divorce, and at least one in eight carried through with family breakup explicitly because of financial pressures (Thorne 2012).

Electronic copy available at: https://ssrn.com/abstract=4752879

4. Two-Front Assault on Credit Counseling and Bankruptcy

The spectacular growth of consumer credit and bankruptcy in the 1980s and 1990s vastly expanded demand for debt management and led to two problems related to rising defaults: (1) the market entry of revenue-driven credit counseling centers that did little counseling and education and pushed many more debtors into DMPs, often on abusive terms, and (2) resistance to historical easy access to liquidation-and-discharge bankruptcy relief and a push for requiring multi-year payment plans of debtors with the supposed "means" to return substantial dividends to creditors.

4.1 Credit Counseling Crisis

The massive increase in consumer overindebtedness in the 1980s and 1990s created a substantial market for large-scale, modernized debt counseling. Ironically, huge market growth eventually triggered a retrenchment in traditional creditor support for counseling agencies, along with headline-grabbing instances of abuse of vulnerable debtors. Still, counseling would remain a private, market-based product rather than a government-sponsored welfare service.

The traditional NFCC-affiliated counseling agencies were too few and too inefficient to meet the demands of this new tidal wave of debt distress. This potentially lucrative market opening attracted investment in a new generation of profit-oriented counseling agencies whose business model deviated from tradition in two key ways. First, the traditional approach of face-to-face counseling in a physical office space was effective but inconvenient and inefficient. As the volume of debt distress grew, consumers began complaining of growing backlogs at counseling agencies and wait times of one or two weeks for counseling sessions. Traditional counseling agencies were characterized by some as "stodgy", their offices "remote and often run-down", and their approaches insufficiently modern (Loonin/Plunkett 2003, p. 7). In contrast, the new agencies offered their services remotely, via telephone (and eventually internet), allowing them to expand their market base to a much broader geographical area while expending far less investment on office space and much more on advertising – an all-around win from a return-on-investment perspective. Hundreds of these new agencies entered the market in the late-1990s (Staten 2006, pp. 276, 282–284; Hunt 2007, p. 45).

Second, this new generation of counseling agencies would be funded not on a subsistence basis by fair-share rebate payments from creditors, but on a revenue-generating basis primarily by fees charged to debtor-customers. To further boost earnings and reduce "unnecessary" expense, the new agencies all but abandoned the NFCC-affiliates' traditional financial education programming and general budgetary advice and instead concentrated on subscribing as many debtors

Electronic copy available at: https://ssrn.com/abstract=4752879

as possible to DMPs. Along with shifting the balance of counseling activity toward revenue-producing outcomes, the new agencies imposed substantially higher fees for their DMP activity. While NFCC-affiliated agencies traditionally charged nothing for their services, and the few who did imposed only a modest fee of about $20 to set up a DMP and an ongoing administration fee of about $15 per month of payments processed, the new agencies charged payment processing fees of up to $50 per month along with upfront fees of hundreds of dollars. These DMP-initiation fees were often calculated not on a flat-fee basis to cover costs, but as a percentage of the debt under management, often the entire first month's payment, paid immediately to ensure a quick profit whether the consumer-debtor successfully completed the DMP or not – and agencies were well aware that most consumers would fail to complete their DMPs (Loonin/Plunkett 2003, pp. 8–9, 15–16; Senate Report 2005, pp. 5, 17, 28–30; Staten 2006, pp. 280, 286; Hunt 2007, p. 45).

This clash of counseling models produced very negative effects for the industry. The traditional model had been poisoned, shaking creditors' faith. As the new agencies churned out more and more DMPs, creditors' fair-share rebate payments rose to occupy a greater and greater percentage of their collections budgets, and creditors began to question whether the growing costs justified the shrinking benefits. The new counseling agencies' incentives were concentrated on putting as many debtors in DMPs as possible, regardless of their ability to pay. Creditors began to suspect that many debtors who could have paid in full without concessions were being diverted to DMPs, and on the oppositive end of the spectrum, many DMPs were failing because counseling agencies had not carefully enough evaluated debtors' ability to make the promised payments. The completion rate for DMPs initiated by some of the largest new agencies constituted as little as two per cent (Hunt 2007, pp. 45, 47; Senate Report 2005, pp. 1–2, 35–36).

As creditors' confidence and trust were broken, they became less willing to extend concessions and fund fair-share rebate payments to counseling agencies. Creditors began more carefully scrutinizing counseling agency proposals, imposing restrictions on the types of debtors for whom they accepted DMPs and the types and degrees of concessions they were willing to offer. Worst of all, creditors either terminated or significantly reduced their fair-share payments – now averaging 7–10 per cent, down from the earlier 12–15 per cent – and some delayed these payments until the related DMPs reached performance benchmarks (i. e., certain periods of successful, consistent payment) (Stanley 2001, pp. 4–5; Senate Report 2005, pp. 35–38; Loonin/Plunkett 2003, pp. 10–13; Staten 2006, p. 285–287; Hunt 2007, pp. 47–48).

This had a particularly devastating impact on the traditional NFCC-affiliated counseling agencies, who relied almost entirely on fair-share payments from DMPs to fund their operations. Meanwhile, the other blade of the scissors had been closing, as the traditional counseling agencies responded to pressure to

Electronic copy available at: https://ssrn.com/abstract=4752879

modernize their operations with investments in better technology and remote counseling capabilities, to compete with the new, profit-driven entrants. As their budgets were ravaged by new expenses and fewer resources, many of these traditional agencies consequently went out of operation, merged with other agencies, and/or reduced or began charging fees for non-DMP activities, such as financial education and budgeting advice (Loonin / Plunkett 2003, pp. 11–16, 18–20; Staten 2006, pp. 281, 287–288).

As for the fee-driven new counseling agencies, it was eventually revealed that some had crossed the line from aggressive competition into manipulation, deception, and outright abuse. In setting up DMPs, some agencies had pressured debtors to make a large initial monthly payment immediately, leading the debtors to believe the payments would be distributed to creditors, although the agencies in fact retained that money as large upfront DMP-initiation fees. This often left consumers worse off than before, eventually leading them into bankruptcy. Moreover, some agencies contracted with related entities to process payments and derive profits from DMP administration, hiding this profit motive from consumer debtor-clients (Senate Report 2005, pp. 9–31; Loonin / Plunkett 2003, pp. 8–9; Hunt 2007, p. 45).

Nonetheless, the revelation of these and other abuses led not to government intervention in the counseling industry, but only mildly increased regulation of disclosures relating to fees and relationships with other companies involved in the DMP administration process (Loonin / Plunkett 2003, pp. 36–41). The nature of the market for debt counseling virtually ensures a continuing conflict of interest between counseling agencies and their debtor-customers: "In the absence of large-scale government funding or an outpouring of philanthropic support, neither of which seem likely, the viability of a geographically broad-based credit counseling industry will remain dependent on support from the credit-granting industry" (Staten 2006, p. 296).

Consumers are thus left on their own to find credit counseling that is both competent and as unbiased as possible. State authorities do little more than warn of the dangers in this market and attempt to offer general advice on avoiding the most obvious pitfalls. One state's website, for example, advises consumers to check the list of non-profit counselors and databases of consumer complaints about them, candidly acknowledging that "quality of counseling services may vary considerably from one counselor to the next", and concluding that "credit counseling agencies can be properly viewed as a more friendly collection agency" (Illinois Department of Financial & Professional Regulation 2022). Among the questions consumers are advised to ask is "how much training do counselors at the agency receive". Such training is not uniform and is often much less than one might expect. One online career website surveyed the educational credentials of nearly 1300 credit counselors and found that, while about half had a bachelor's degree, 15 percent had only a high school diploma, and another 23 percent had

Electronic copy available at: https://ssrn.com/abstract=4752879

only a two-year associate's degree. Of those with higher education, most (42 %) majored in business or accounting, not social work or counseling (Zippia 2022). Consumers bear the burden of screening counselors and their agencies for competency, as neither state nor federal government imposes substantive competency standards, and even when private credit counseling accrediting associations require counselors to complete training, such requirements are ambiguous as to the nature of the training required (Staten 2006, p. 276; Loonin / Plunkett 2003, pp. 43–44).

Given their debt-management and collections focus, these agencies counsel on little beyond managing debt, referring clients to proper social service agencies (if such are available) when they encounter more intractable issues such as gambling and drug addition, other psychological problems, and domestic tensions. By their very nature, these agencies are designed to divert debtors from bankruptcy, so even if bankruptcy would be the most sensible and viable solution, "credit counseling agencies are generally loath to discuss bankruptcy with consumer since they do not make any money on these consumers" (Loonin / Plunkett 2003, pp. 18, 25). Services offered by the many non-NFCC-affiliated agencies tend to be even narrower, as revealed by one counselor's response when asked about financial education and budget advising services: "We consolidate credit cards. That's it" (Loonin / Plunkett 2003, p. 19). Nonetheless, there is still a very active market for these services, with NFCC-affiliated agencies alone counseling one million consumer debtors and initiating 600,000 DMPs annually in the early 2000s – with an estimate of up to eight million more overindebted individuals contacting one of the hundreds of non-AFCC-affiliated agencies each year (Loonin / Plunkett 2003, p. 5; Hunt 2007, p. 39).

4.2 Bankruptcy "Abuse" Prevention

The second and more lasting effect of rising consumer debt and bankruptcy was the most significant and thoroughgoing revision of consumer bankruptcy law since the adoption of the Bankruptcy Code in 1978, the so-called "Bankruptcy Abuse Prevention and Consumer Protection Act" of 2005 (BAPCPA). This was a politically skewed response to a contrived problem, and it had no discernable long-term effect on the numbers or types of consumer bankruptcy filings. Within five years after the effective date of the new law, which temporarily depressed case initiations, consumer bankruptcy filings returned to pre-2005 levels before easing over the following years in line with similar reductions in volumes of delinquent consumer credit. Although BAPCPA did not reduce the technical availability of quick consumer bankruptcy discharge relief, it increased the complexity and therefore the price of seeking such relief, which left many consumer debtors ironically too poor to afford bankruptcy (Vyse 2008, p. 14; Lupica 2012; Kilborn 2012, pp 3–13).

Electronic copy available at: https://ssrn.com/abstract=4752879

BAPCPA changed consumer bankruptcy in two major ways: First, harkening back to the very beginnings of the credit counseling movement, lawmakers and their credit granting constituents supposed that consumer debtors were too hastily electing to seek relief from their debts in bankruptcy, without properly considering alternatives, such as more rigorous budgeting or a privately negotiated DMP. The new law thus made engagement with such alternatives a prerequisite to pursuing bankruptcy relief: To qualify for any form of bankruptcy, any individual debtor must have, within 180 days before filing the bankruptcy petition, "received from an approved nonprofit budget and credit counseling agency [...] an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis" (US Bankruptcy Code, 11 USC s. 109(h) (1)).

This largely ceremonial "counseling" today usually consists of a 60-minute internet session, often conducted from a computer in the consumer debtor's prospective bankruptcy lawyer's office. A counseling provider website outlines generalized advice, the debtor inputs financial information that inevitably demonstrates that bankruptcy is the only workable solution to financial trouble spiraling out of control, and the counseling agency website instantly produces an electronic certificate of completion in exchange for a $ 50 fee. This certificate accompanies a bankruptcy filing either that day or in the near future. The quixotic search for alternatives to bankruptcy has been an almost complete failure, as expected by anyone with firsthand knowledge of the consumer bankruptcy process. The US Government Accountability Office reported "the [pre-bankruptcy counseling] requirement may often serve more as an administrative obstacle than as a timely presentation of meaningful options" (U. S. Government Accountability Office 2007).

While the counseling requirement was designed to divert consumer debtors away from bankruptcy, the second of the two major BAPCPA changes to the Bankruptcy Code was aimed at redirecting consumer debtors within the bankruptcy system. From the very beginning of the system in 1898 until today, consumers have sought bankruptcy relief predominantly under what today is styled "chapter 7" of the Bankruptcy Code, in which debtors relinquish their nonexempt *assets* for liquidation (usually very little or nothing of any value, and not including any future income), and after a few months of investigation by an appointed trustee (and distribution of any asset value among creditors), most of the debtor's personal obligations are discharged. This seemingly too-good-to-be-true process has always generated a significant amount of social stigma, and so to help debtors avoid the ignominious fate of being declared financially feckless, Congress incorporated an alternative into the bankruptcy law during the Depression-era 1930s. Under this alternative, now styled "chapter 13", rather than surrendering their nonexempt assets, debtors promise to relinquish three to five years' of their future income beyond that which is necessary to support their

Electronic copy available at: https://ssrn.com/abstract=4752879

reasonable domestic support needs. Originally, creditors had to vote to approve this arrangement, but since the overhaul of the Bankruptcy Code in 1978, the Bankruptcy Court alone assesses the debtor's plan and confirms it so long as it, indeed, seems to dedicate the requisite portion of income to creditors (and meets several other technical requirements).

Since consumer credit began to surge in the 1960s, just as creditors complained about too many debtors choosing bankruptcy rather than a DMP, they also complained about too many debtors choosing the "easy way out" of an almost immediate discharge in chapter 7 rather than doing the "honorable thing" and working off at least a portion of their debts over three to five years in a chapter 13 payment plan. Creditors – especially credit card-issuing banks – launched a multi-decade lobbying campaign to reform the consumer bankruptcy system and require more consumer debtors to use future disposable income to pay off at least some of their debts (Skeel 2001, pp. 137–138, 154, 188).

Legislative reformers specifically and emphatically rejected proposals to make payment plans mandatory for at least some consumer petitioners when the bankruptcy law was overhauled and the Bankruptcy Code adopted in 1978. A preference for favoring party autonomy flowed naturally from the longstanding US perspective that the "primary function of the bankruptcy system is to continue the law-based orderliness of the open credit economy", and the "consumer open credit economy flourishes as nearly as pure a 'market economy' as this nation now allows" (Commission on the Bankruptcy Laws of the United States 1973, pp. 71, 73). Accordingly, legislators decided that market actors should make their own free market-based decisions on the appropriate path to relief, rather than government forcing their hands. While reformers supported and ultimately preserved the payment-plan option, they insisted that it remain available only as "an uncoerced but informed choice of relief that is appropriate to the continuation of [the debtor's] household as an economic unit" (Commission on the Bankruptcy Laws of the United States 1973, pp. 79, 157–159). Proper financial counseling was explicitly highlighted as essential to making such an informed choice, but the choice would remain free (and counseling would come primarily from bankruptcy lawyers, rather than credit counselors). Over the years, a fairly consistent 30 per cent of individual debtors have chosen to pursue the payment-plan path of chapter 13, though only about one-third of these have managed to successfully complete the payments under their three- to five-year plan and thus earn a discharge.

As consumer credit, defaults, and bankruptcies continued to hurtle upward in the 1980s and 1990s, creditors continued to press the idea that chapter 13 should be imposed on debtors who could pay some substantial portion of their debts, rather than allowing "can-pay" debtors to evade their responsibilities by receiving an immediate chapter 7 discharge (Jacoby 2004). More than anything, BAPCPA was the fruition of this campaign to divert consumer debtors away from chapter 7 and

Electronic copy available at: https://ssrn.com/abstract=4752879

into chapter 13. The heart of this strategy came to be called the "means test", as its explicit aim was to prevent debtors with primarily consumer debt[5] from receiving an immediate discharge under chapter 7 if a complex statutory analysis revealed that they had the "means" to use future disposable income to pay a minimum dividend to their creditors over a five-year chapter 13 payment plan.

This "means test" was incorporated into an existing Bankruptcy Code section by vastly expanding a vague prohibition on consumer debtors' seeking chapter 7 relief if such relief would constitute an "abuse". This amorphous notion of "abuse" was elaborated in one of the most complex provisions in the entire Bankruptcy Code. The test evaluates debtors' income and expenses in two steps, and if a debtor "fails" both of these steps, an attempt to escape debts in chapter 7 is now prohibited as a presumptive abuse of the bankruptcy process (the preferred option of a payment-plan bankruptcy remains the only available option).

The first step examines a debtor's income to assess whether the debtor falls into the top half of comparable earners – and thus might have extra income to devote to debt service. Oddly, the test focuses not on the future, but on the past, determining the debtor's average monthly income over the past six months. Debtors are thus presumed to continue to suffer from income disruptions that likely were the very reason for seeking bankruptcy relief, even though most well-advised debtors will seek such relief only after the interruption has abated and income is anticipated to return to normal (or at least stable) levels, at least over the ensuing five years. This backward-looking monthly average is multiplied by twelve to produce a presumptive annual income (the way most US persons think about income, in terms of annual income, rather than monthly) and then compared with the inflation-adjusted median family income of a household of the same size as the debtor's in the debtor's state. Debtors with income at or below the corresponding median are exempted from the means test and allowed to pursue immediate relief under chapter 7. As one would expect of consumers seeking refuge from unserviceable debt, consistently around 90 per cent of all debtors preferring chapter 7 relief pass this median-or-below income test.

For those with above-median income, the second step of the means test establishes the "disposable" portion by subtracting statutorily determined reasonable expenses from this presumed future monthly income. If the result of this subtraction reveals disposable income that over 60 months would produce a threshold dividend for unsecured creditors (the threshold figure, adjusted every three years for inflation, is currently just over $15,000), the law presumes an effort to keep this income and seek an immediate chapter 7 discharge is abusive, as such a debtor can and should relinquish this surplus to creditors to work off at least a substantial portion of unsecured debt in a payment-plan bankruptcy.

---

5 Individual debtors with primarily business-related debts were exempted from this "means test".

Electronic copy available at: https://ssrn.com/abstract=4752879

The Byzantine process of itemizing allowable expense deductions reveals a fierce give-and-take in the legislative process. These expense allowances often have little to do with reality and everything to do with expediency and politics, especially as to the choices of which expenses to allow and which to disallow. The model for the core allowances already betrays the political battle behind the means test, as many of the expense items are subject to standards developed not by family or social service agencies, but by the Internal Revenue Service (the national tax authority) for assessing offers in compromise for payment of delinquent tax-related debts. Application of these standards to the bankruptcy context is often somewhat awkward, to put it mildly.[6]

These IRS standards are divided into National and Local Standards to take into account significant regional variations in major household expenses such as housing and transportation. Whatever the debtor's *actual* anticipated expenses, however, these standardized allowances establish the debtor's deductible household expenses; that is, even if the debtor's actual expenditures tend to be less, the standard allowances are used to set the debtor's expense budget, to be subtracted from income to reveal the "disposable" remainder.

Although costs do vary around the country for such staple items as food, housekeeping supplies, clothing and personal services, personal care products and services, and other miscellaneous general household expenses, a National Standard represents the single, uniform allowance for such expenses for debtors nationwide. While every household is entitled to the full basic allowance, regardless of whether they tend to spend less than the National Standard, for households with larger basic expenditures, a five per cent supplement can be added if the debtor can demonstrate that actual expenditures for these items exceed the standard – this would likely be true of all debtors in places like Hawaii and Alaska, for example, where the basic cost of living is much higher than on the mainland (and for which separate, higher standard allowances were determined until a few years ago, when this approach was discontinued).

The role of health issues in contributing to financial distress is implicitly recognized in a specific presumed expense item for out-of-pocket health care expenses (for such things as insurance co-pays and over-the-counter and prescription drug expenses). This item also recognizes variation in average expenditure by younger versus older debtors, so the standard for debtors under 65 is currently slight under half of the allowance for those 65 and older. Out-of-pocket healthcare expenditures exceeding this allowance are also permitted in full by a separate line item for actual healthcare expenses, and the full cost of health-related insurance is allowed by yet another line item, though the debtor has to demonstrate the actual amount of these additional expenses. The US healthcare system is famous-

6 The specific amounts of the various standardized expense allowances are adjusted three times per year and posted on the U. S. Trustee Program's website, www.justice.gov/ust/means-testing.

Electronic copy available at: https://ssrn.com/abstract=4752879

ly complicated and expensive, so it is no surprise that healthcare expenses figure prominently in and further complicate the bankruptcy means-testing procedure, as well.

The Local Standards vary considerably from locale to locale to take into account wide variations in costs across geographical regions and subregions for rental housing and transportation. Like with the National Standards, debtors are allowed to deduct these Local Standard allowances in full, even if their actual expenses tend to be less, so long as they actually incur the particular *type* of expense. Debtors who own their homes subject to a mortgage (or cars subject to a security agreement) are allowed to include their full secured-debt mortgage (or car) payment, without limitation. But home and car *owners* are also allowed to take the separate standard operating expense allowance, as they incur expense not only to finance the acquisition of their home or car, but also ongoing operating costs, such as maintenance, repairs, insurance, fuel, registrations, licenses, inspections, parking, and tolls. With over 3,000 counties in the United States, updating these allowances every few months for households with various numbers of occupants is a monumental task, and finding the applicable standard allowances is a process in and of itself. Luckily for bankruptcy attorneys, a market solution to this problem developed, as well, as widely available subscription-based software now performs most of the tedious work of updating and identifying the appropriate expense deduction allowances.

In addition to the National and Local Standard budgetary allowances, debtors are also allowed to take full account of a series of "other necessary expenses" and "additional expense deductions", though these other items are accounted for only to the extent debtors actually incur (and can demonstrate if asked) such expenses. Every debtor pays taxes on income, and most make mandatory contributions to the retirement income and medical care systems (Social Security and Medicare), so these individual assessments are of course subtracted from income. Beyond this, though, a number of other potential expenses associated with the porous US social safety net are recognized, such as childcare, premiums for term life insurance, court-ordered payments such as child support, public and private elementary and secondary school costs (only up to about $ 180 per month), required education expenses for a physically or mentally challenged dependent child, and reasonable and necessary care expenses for an elderly, chronically ill, or disabled member of the debtor's household or immediate family (if this supported person is not able to pay these expenses). A very specific (and quite rare), clearly politically motivated extra deduction is also allowed for reasonable and necessary monthly costs associated with maintaining personal and family safety under the Family Violence Prevention and Services Act and related federal laws.

A final allowable expense item reveals the deeply embedded political power of religion and the historical US reliance on private charity (rather than coordinated public funding) to support many social services. Debtors are specifically allowed

Electronic copy available at: https://ssrn.com/abstract=4752879

to continue to contribute up to 15 per cent of their gross income to “a religious or charitable organization”. One can imagine creditors’ shock and horror upon realizing that 15 per cent of the debtor’s gross income (likely a far larger portion of post-tax income that would otherwise be “disposable”) is specifically allowed to be simply given away rather than dedicated to debt repayment!

As a result of this litany of presumed and actual deductions, fewer than ten per cent of debtors fail this second step of the means test by showing a surplus of more than $15,000 of “disposable” income over the next 60 months. This is not especially surprising given the rising expense of living in the United States, especially skyrocketing housing costs. Because 90 per cent of applicants are allowed into chapter 7 based on their below-median income, and 90 per cent of the remainder are allowed into chapter 7 because their “disposable” income falls below the “abuse” threshold, only about one per cent of consumer bankruptcy filers “fail” both steps of the means test and are barred from chapter 7 (and in many such cases, the court finds extenuating circumstances and allows extraordinary access to chapter 7). The remaining 99 per cent (or more) of consumer bankruptcy filers proceed to quick discharge relief just as before BAPCPA was adopted.

Nonetheless, the paperwork burdens imposed on debtors and their lawyers to comply with this means testing are quite weighty (including the new paid subscriptions for software to track the volatile median income figures and expense deductions). System administrators bear an even heavier burden of reviewing these financial disclosures in every case and monitoring compliance with the means test. The substantial costs, inconveniences, and inefficiencies of this misguided hunt for “abuse” have been largely for naught, and the entire enterprise of means testing has been revealed to be a fool’s errand. Unfortunately, Congress has not responded and is not expected to abandon the pointless and unproductive paperwork review burden to weed out what has proven to be fewer than one per cent of possibly “abusive” chapter 7 filings.

5. Postscript: Storm Clouds Gathering

The BAPCPA-revised personal bankruptcy system soon faced a challenge for which it was especially ill-suited. To be fair, the world economy was ill-prepared to meet the challenges of the Great Recession of the late-2000s and its aftermath of overindebtedness and painful deleveraging through home foreclosure. In the early 2000s, overconfident home borrowers had fallen prey to overly aggressive marketing of home mortgage loans and home equity lines of credit, allowing consumers to borrow vast amounts of money based on home value that disappeared when the reality of these borrowers’ inability to pay became obvious a few years later (Vyse 2008, pp. 9, 113–114). So-called “liar loans” were extended to borrowers with insufficient repayment capacity, resold to a worldwide market for invest-

Electronic copy available at: https://ssrn.com/abstract=4752879

ments in debt securities (bonds) backed by "subprime" mortgage loans (and thus paying significantly higher interest as a return on these high-risk investments).

When this bubble burst, a worldwide financial crisis brought down the vast network of connections in this house of cards, and distress and default plagued overindebted US consumers at the center of this crisis. Delinquencies among home mortgage loans spiked from less than one per cent in mid-2006 to a high of nearly nine per cent in early 2010, returning to below one per cent only in 2019. Worse yet, quarterly home foreclosures rose above 300,000 in mid-2007, reaching a high of over 566,000 in mid-2009. At the height of the home foreclosure crisis in 2009 alone, over two million families received the devastating news of initiation of a foreclosure action and faced potential expulsion from their homes (Federal Reserve Bank of New York 2022, pp. 12, 17). In the US, home ownership is the middle-class norm, the primary determinant of the quality of schools (which are funded overwhelming by local property taxes), and the family home represents a connection to a cherished past, including lost loved ones and children who have moved on to start their adult lives. Losing this anchor of family life is among the most traumatic experiences anyone will ever endure, and the effects of this loss are long-lasting (Culhane 2012, pp. 132–133).

While delinquencies and home foreclosures have finally moderated and returned to historically low levels in the wake of the Covid-19 pandemic (and the government stimulus payments distributed to millions of households), consumer debt remains at unprecedented levels. As of the third quarter of 2022, total consumer debt has risen to a record volume of $ 4.5 trillion. In particular, credit card debt has returned to its all-time high of nearly $ 1 trillion ($ 930 billion), and serious delinquencies on such debts remain at a worrying level of just over 7.5 per cent (Federal Reserve Bank of New York 2022, pp. 3, 12). Consumers over the past few decades have increasingly turned to credit cards in particular to maintain their living standards in the face of stagnating wages, and this trend is sure to accelerate now that inflation has begun to erode the purchasing power of wages ever more powerfully (Manning 2000; Leicht 2012). Moreover, income instability has grown in the past few decades, with record percentages and absolute numbers (tens of millions) of middle-class individuals experiencing at some point a loss of 25 per cent or more of their available income from one year to the next, with no means of filling the gap other than turning to credit card borrowing (Hacker 2012).

The US market model of credit counseling and bankruptcy has undergone two parallel crises that make it less ready to respond to the consumer overindebtedness that is sure to come. A credit counseling crisis has resulted in fewer and less generous DMPs, and a perceived bankruptcy crisis has resulted in more onerous and expensive bankruptcy access. The market model now offers relief only for those who can pay for it, which is especially ironic in light of the problem to which this system responds – overindebtedness that has only worsened in light of stagnating wages, a Great Recession followed by the Covid-19 pandemic, and now

Electronic copy available at: https://ssrn.com/abstract=4752879

runaway inflation. Though millions of Americans continue to consult with private credit counselors in the hopes of stabilizing their shaky finances, there is little a counselor can say to many consumers facing unpredictable income, a rising cost of living, and a growing mountain of debt, other than "consult a bankruptcy attorney". Luckily, US law continues a long tradition of availability of the last-resort of bankruptcy relief, at least to those individuals who can afford to pay for competent representation by a lawyer, the private counselor of last resort.

References

Board of Governors of the Federal Reserve System. (2006). Report to the Congress on Practices of the Consumer Credit Industry in Soliciting and Extending Credit and their Effects on Consumer Debt and Insolvency.

Boorstin, D. (2004). Credit History. *The Evolution of Consumer Credit in America. The Ledger*, spring/summer 2004, pp. 3–9.

Calder, L. (1999). Financing the American Dream. A Cultural History of Consumer Credit. Princeton: Princeton University Press.

Caplovitz, D. (1974). Consumers in Trouble. A Study of Debtors in Default. New York: Free Press.

Commission on the Bankruptcy Laws of the United States. (1973). *Report of the Commission on the Bankruptcy Laws of the United States.* House of Representative Doc. No. 93–137, Part I.

Culhane, M. (2012). No Forwarding Address. Losing Homes in Bankruptcy. In K. Porter (ed.), *Broke. How Debt Bankrupts the Middle Class.* Stanford: Stanford University Press, pp. 119–135.

Federal Reserve Bank of New York. (2022). *Quarterly Report on Household Debt and Credit.* Available at www.newyorkfed.org/microeconomics/databank.html (accessed on 25/11/2022).

Hacker, J. (2012). The Middle Class at Risk. In K. Porter (ed.), *Broke. How Debt Bankrupts the Middle Class.* Stanford: Stanford University Press, pp. 218–234.

Hunt, R. (2007). Whither Consumer Credit Counseling. In S. Agarwal, B. Ambrose (eds.), *Household Credit Usage*. New York: Palgrave Macmillan, pp. 37–54.

Hyman, L. (2011). *Debtor Nation: The History of America in Red Ink.* Princeton: Princeton University Press.

Illinois Department of Financial & Professional Regulation. (2022). *Choosing a Debt/Credit Counselor.* Available at https://idfpr.illinois.gov/banks/consumer/tips/debtcounselor.ASP (accessed on 25/11/2022).

Jacoby, M. (2004). Negotiating Bankruptcy Legislation Through the News Media. *Houston Law Review*, vol. 41, no. 4, pp. 1091–1144.

Kilborn, J. J. (2012). Still Chasing Chimeras But Finally Slaying Some Dragons in the Quest for Consumer Bankruptcy Reform. *Loyola Consumer Law Review*, vol. 25, no. 1, pp. 1–29.

Leicht, K. (2012). Borrowing to the Brink. Consumer Debt in America. In K. Porter (ed.), *Broke. How Debt Bankrupts the Middle Class.* Stanford: Stanford University Press, pp. 195–217.

Loonin, D. / Plunkett, T. (2003). Credit Counseling in Crisis. The Impact on Consumers of Funding Cuts, Higher Fees and Aggressive New Market Entrants. Washington, D.C.: Consumer Federation of America & National Consumer Law Center.

Lupica, L. (2012). The Consumer Bankruptcy Fee Study: Final Report. *American Bankruptcy Institute Law Review*, vol. 20, no. 1, pp. 17–177.

Mann, B. (2002). Republic of Debtors. Bankruptcy in the Age of American Independence. Cambridge: Harvard University Press.

Manning, R. (2000). Credit Card Nation. The Consequences of America's Addiction to Credit. New York: Basic Books.

Electronic copy available at: https://ssrn.com/abstract=4752879

Milstein, A. / Ratner, B. (1981). Consumer Credit Counseling Service. A Consumer-Oriented View. *New York University Law Review*, vol. 56, no. 6, pp. 978–998.

Ryan, A. / Trumbull, G. / Tufano, P. (2011). A Brief Postwar History of U. S. Consumer Finance. *Business History Review*, vol. 85, no. 3, pp. 461–498.

Senate Report 109–55. (2005). *Profiteering in a Non-Profit Industry. Abusive Practices in Credit Counseling*. Washington, D.C.: U. S. Government Printing Office.

Shuchman, P. / Jantscher, G. (1972). Effects of the Federal Minimum Exemption from Wage Garnishment on Nonbusiness Bankruptcy Rates. *Commercial Law Journal*, vol. 77, no. 11, pp. 360–363.

Skeel, D. (2001). *Debt's Dominion: A History of Bankruptcy Law in America.* Princeton: Princeton University Press.

Stanley, A. (2001). A Panel Discussion on Dynamics in the Consumer Credit Counseling Service Industry. *Federal Reserve Bank of Philadelphia Payment Cards Center Discussion Paper No. 01–04.* Philadelphia: Federal Reserve Bank of Philadelphia.

Stanley, D. / Girth, M. (1971). *Bankruptcy: Problem, Process, Reform.* Washington, D.C.: Brookings Institution.

Staten, M. (2006). The Evolution of the Credit Counseling Industry in the United States. In G. Bertola / R. Disney / C. Grant (eds.), *The Economics of Consumer Credit*. Cambridge: MIT Press, pp. 275–299.

Thorne, D. (2012). Women's Work, Women's Worry. Debt Management in Financially Distressed Families. In K. Porter (ed.), *Broke. How Debt Bankrupts the Middle Class.* Stanford: Stanford University Press, pp. 136–153.

U. S. Government Accountability Office. (2007). Bankruptcy Reform. Value of Credit Counseling Requirements Is Not Clear. Report no. GAO-07-778T.

Vyse, S. (2008). Going Broke. Why Americans Can't Hold On To Their Money. Oxford: Oxford University Press.

Zippia. (2022). *Credit Counselor Education Requirements.* Available at www.zippia.com/credit-counselor-jobs/education (accessed on 25/11/2022).

Electronic copy available at: https://ssrn.com/abstract=4752879