



# Personal Insolvency

NZCFI Conference  
September 2019

debtfix  
.co.nz





SHAUN ADAMS

## My Background

1985 | Official Receiver's Office UK

1988 | PKF

1992 | UK Qualified Insolvency Practitioner

1998 | Cooper Parry

2006 | BDO NZ | 2009 | KPMG

Founding Board Member | RITANZ

RITNZ Accredited Insolvency Practitioner

## Current Roles

2016 | Arcadian Consulting

2018 | Co-founder and director | Debtfix



*"Debt is like any other trap -  
easy to get into, but bloody  
hard get out of"*

*Josh Billings, American Humourist  
(slightly embellished by Shaun)*





# Topics for today

- Customer focussed landscape
- Financial capability sector
- Debt solutions
- Personal debt - statistics and insolvency trends
- About Debtfix
- Q & A

# Customer Focussed Landscape





## Banking Review Delivering Good Customer Outcomes Findings

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“while some banks are already incorporating a strong customer focus into their product design, sales processes and how they treat vulnerable customers, significant progress is required in these areas by all banks”

### Vulnerable Customer

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Someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care

-

Circumstances may include low levels of literacy and numeracy, an inability to use the internet, illness or disability (including mental illness and dementia) and age



# CCCFA Amendments

## Irresponsible debt collection

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### **Increased disclosure requirement at commencement of debt collection process**

#### **Benefits**

Stronger incentives to provide accurate information to debtors - makes self assessment easier

#### **Costs**

Increased compliance costs for debt collectors not already disclosing key information

#### **Risks & Limitations**

Small risk some debt collectors will use fraudulent documents

### **Non-regulatory changes to the Responsible Lending Code**

#### **Benefits**

Makes clear that lenders have responsible lending obligations during debt collection, which could increase compliance

#### **Costs**

Compliance costs for currently irresponsible lenders

#### **Risks & Limitations**

Responsible Lending Code not legally binding



# Financial capability sector





Now we're talking.

Conversations about money can be difficult.  
But these are some of the most important to have.

> [moneyweek.org.nz](https://moneyweek.org.nz)

9 - 15 SEPT MONEY WEEK 2019

Live sorted

The image shows a group of five people in a meeting. A man in a blue shirt is standing and speaking to a group of four people seated around a table. A large red speech bubble above the man contains the text "Now we're talking." Below the photo, there is a black banner with white and orange text. At the bottom left, there is a date box for "9 - 15 SEPT" and the text "MONEY WEEK 2019". At the bottom right is the "Live sorted" logo.



Live  
sorted





# Building financial capability – structure

## Commission for Financial Capability

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Building Wealthy Lives  
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CFFC leads the government  
response to help people get  
ahead financially  
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Definition of financial capability  
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“New Zealanders are better at  
managing debt, accumulating  
savings, owning homes, and able  
to weather emergencies”  
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-----  
Driven by the public good  
-----

-----  
Acting in the interests of New  
Zealanders seeking budgeting  
and financial capability advice.  
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-----  
Support to the budgeting and  
financial capability sector  
-----

-----  
Enable the best services possible  
to New Zealanders by making  
sector stronger and fostering  
productive relationships  
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199 Budgeting  
organisations  
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-----  
300 Locations  
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-----  
2,000 Financial Mentors  
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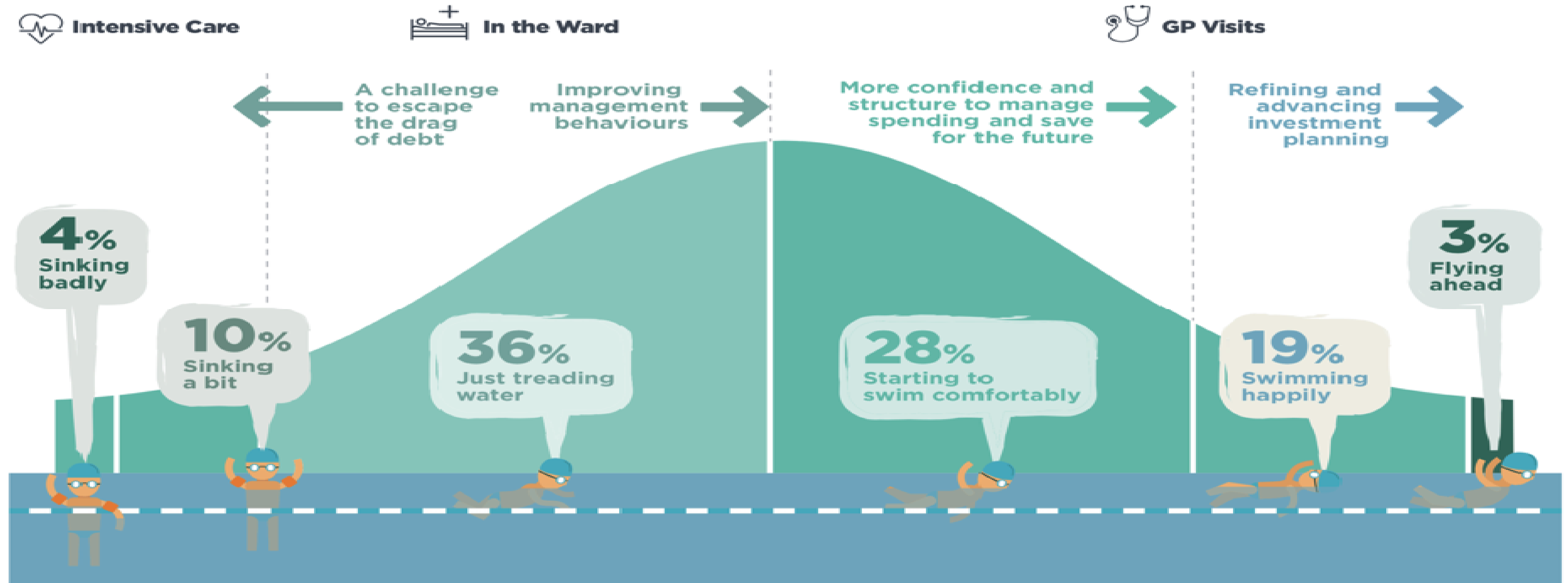
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70,000 Clients  
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# SEGMENTATION - TODAY\*\*

## New Zealanders' financial capability



\* These data are the cumulative average of the 2017 and 2018 barometer surveys, total respondents (n) = 17,069. The group responding "starting to swim comfortably" was previously classified in the 'In the Ward' segment, and is now classified in the 'GP visits' segment.

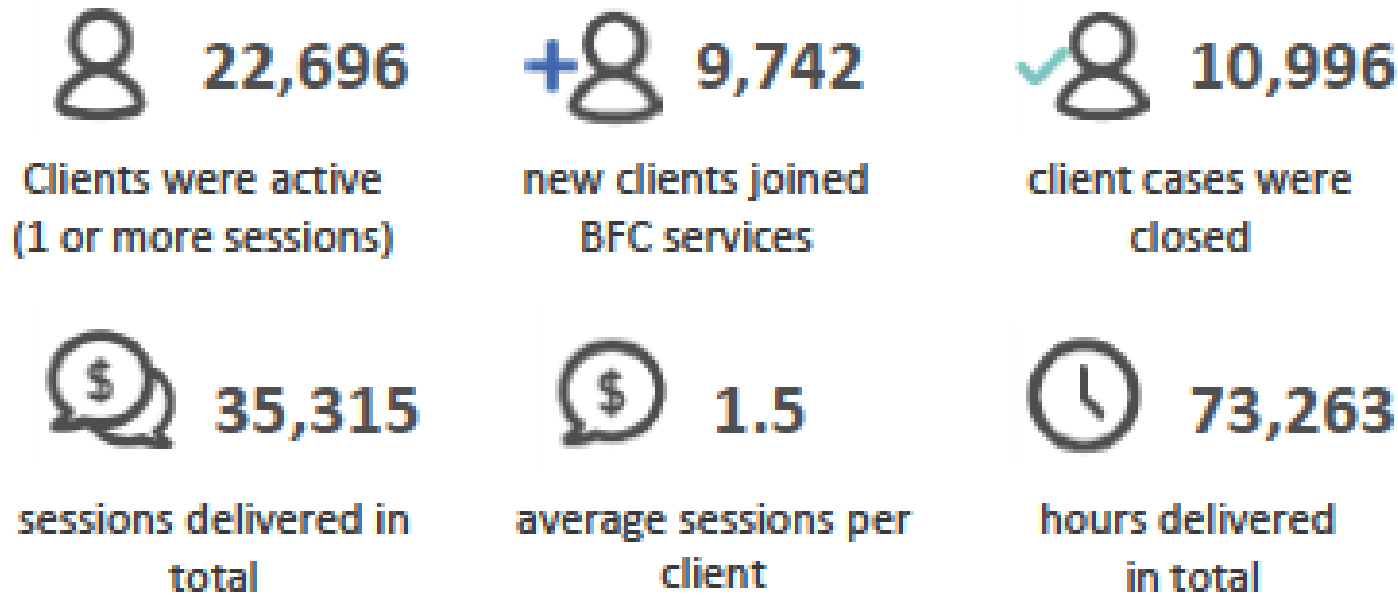
\*\* Based on a sample of 10,112 in the period Jul 2017 - Jun 2018.



# Building financial capability stats - 1 Jan 2019 to 30 Jun 2019

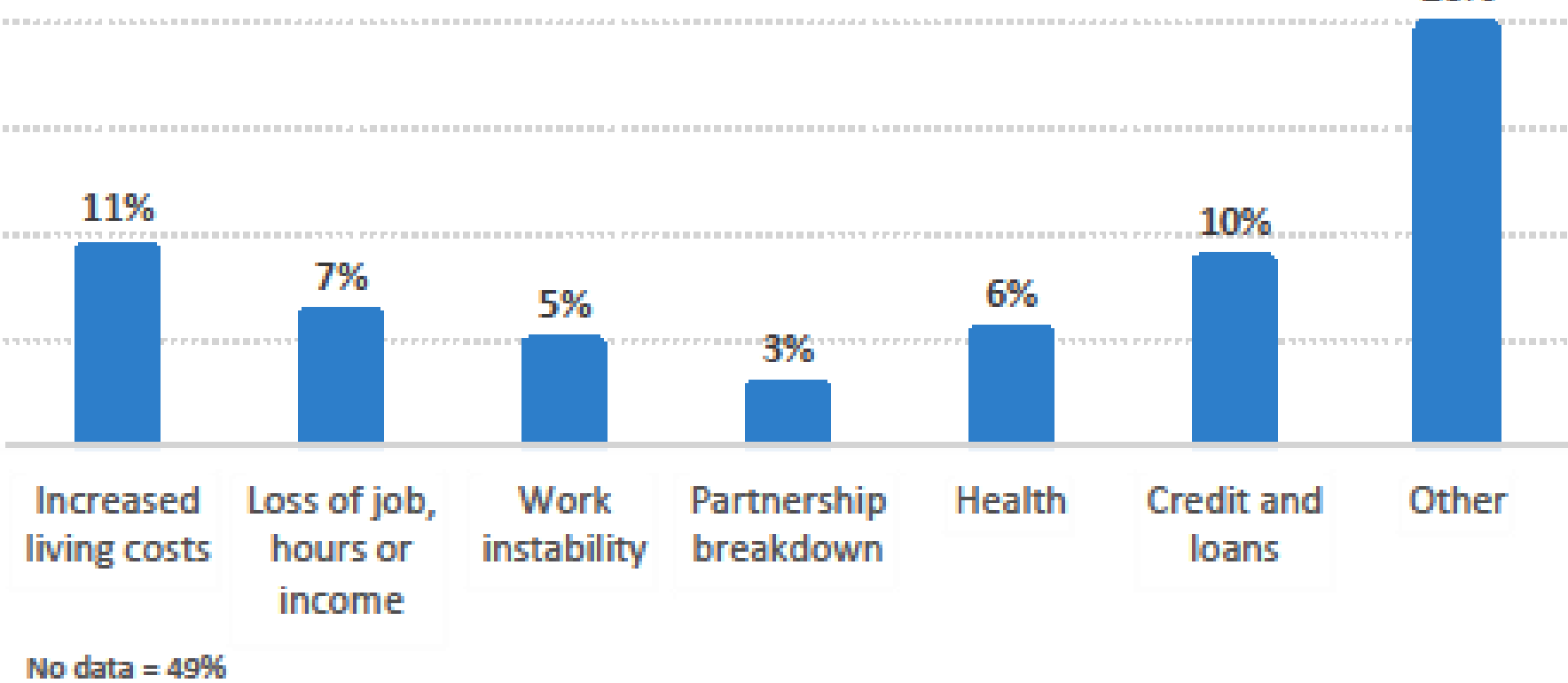
## 1. Client volumes and service snapshot

6mth



## 3. Reasons for client engagement

9,742 + 6mth

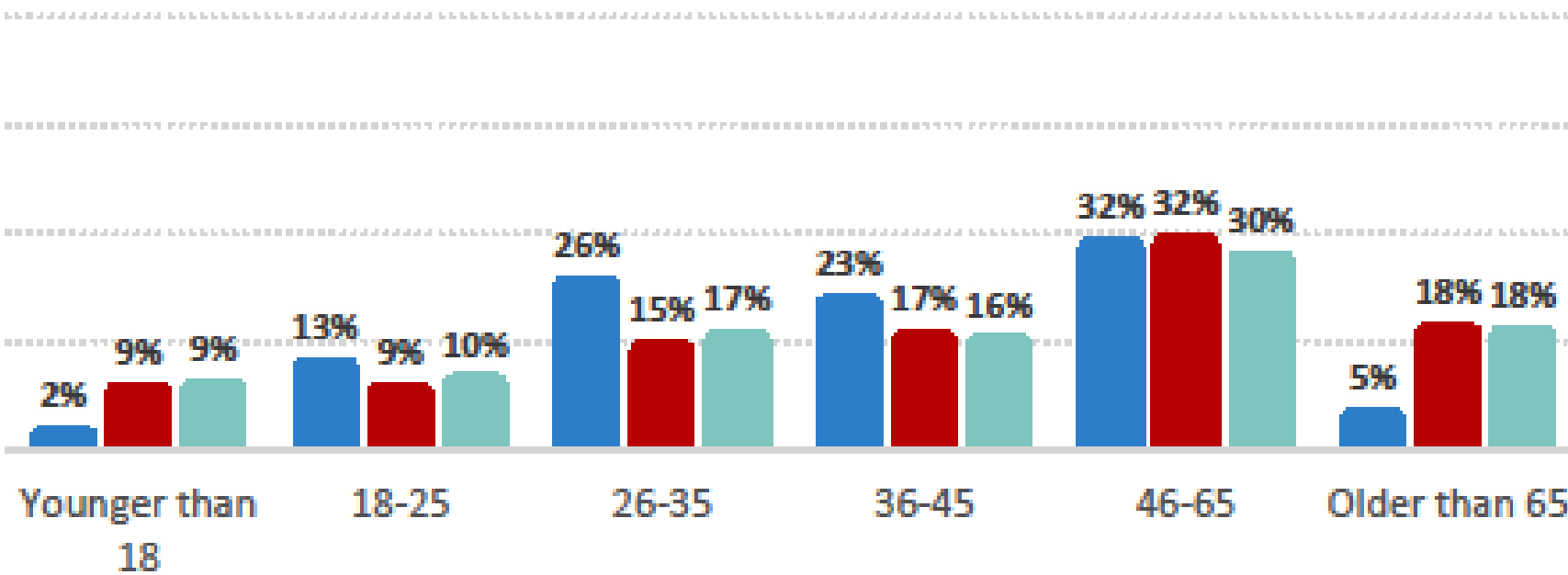


## Client demographics

■ BFC ■ All Territorial Authorities (TLA) ■ Economically deprived population (NZDep score 3-5)

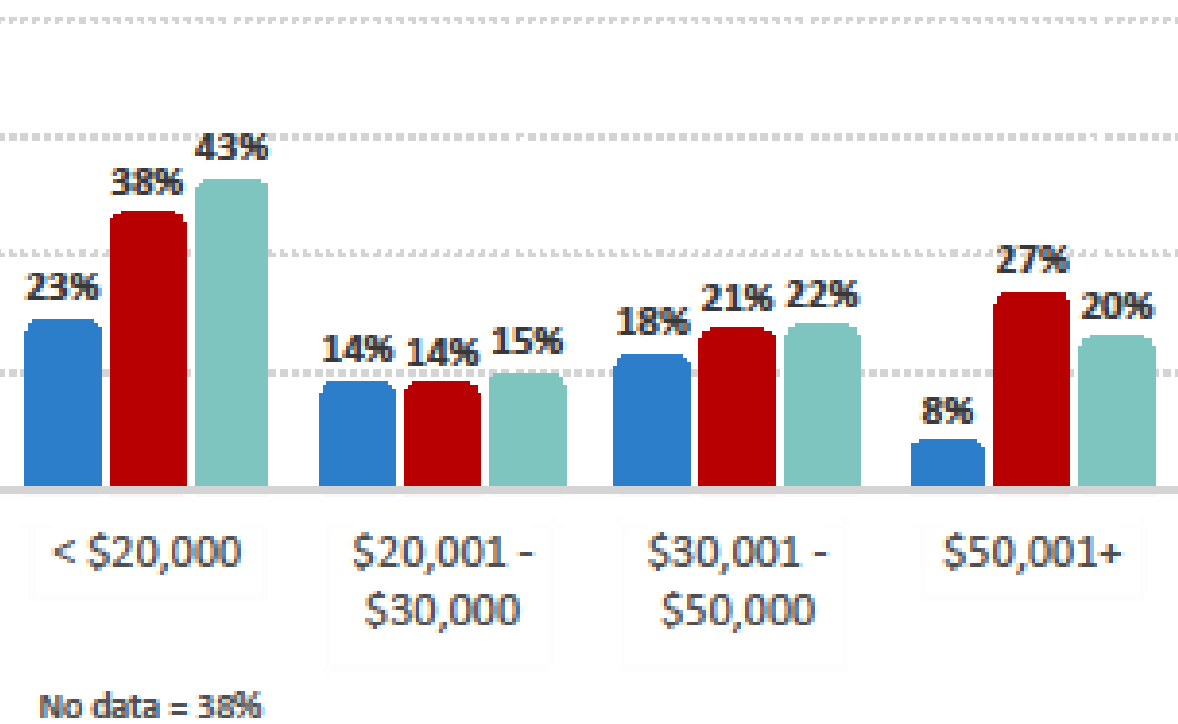
## 5. Age ranges

22,696 6mth



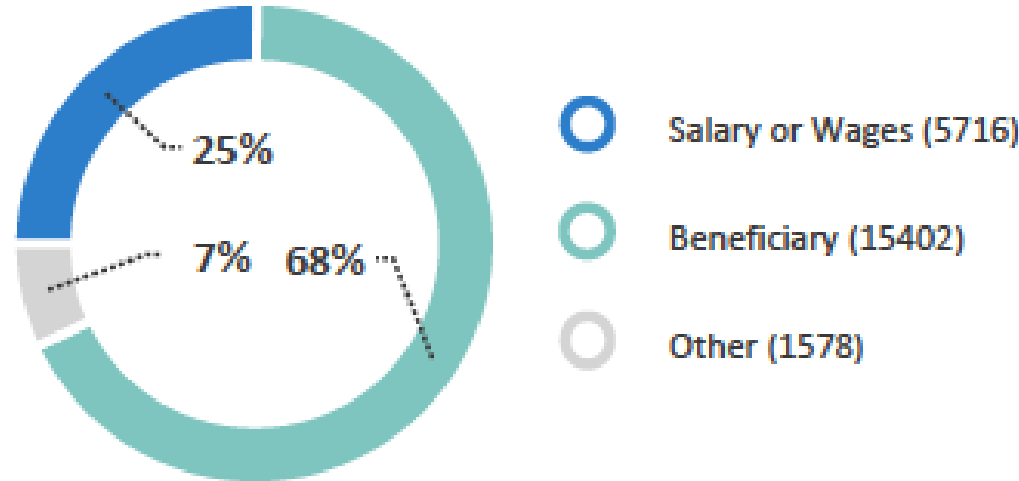
## 6. Estimated net income

22,696 6mth



## 8. Main source of income

22,696 6mth

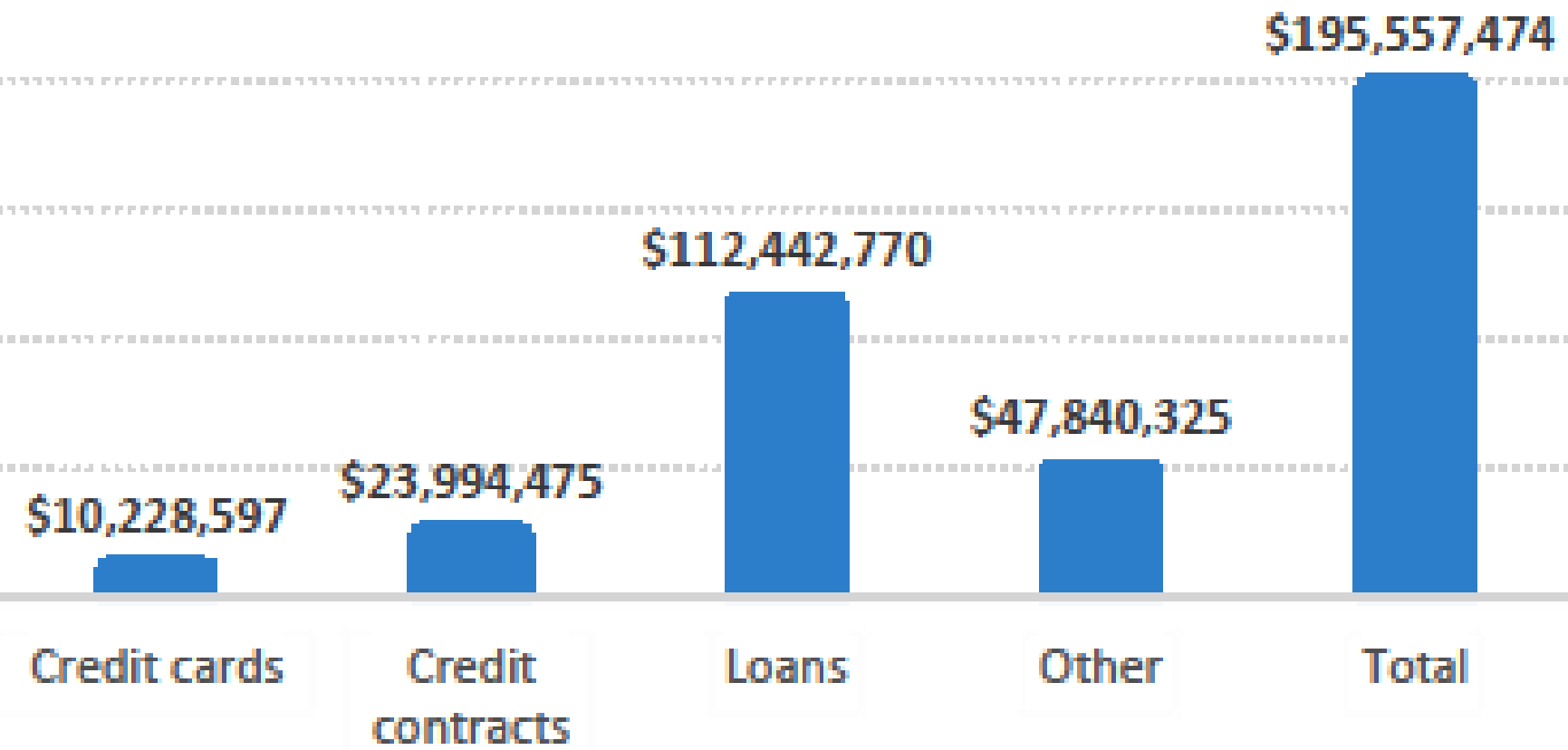




# Building financial capability stats - 1 Jan 2019 to 30 Jun 2019

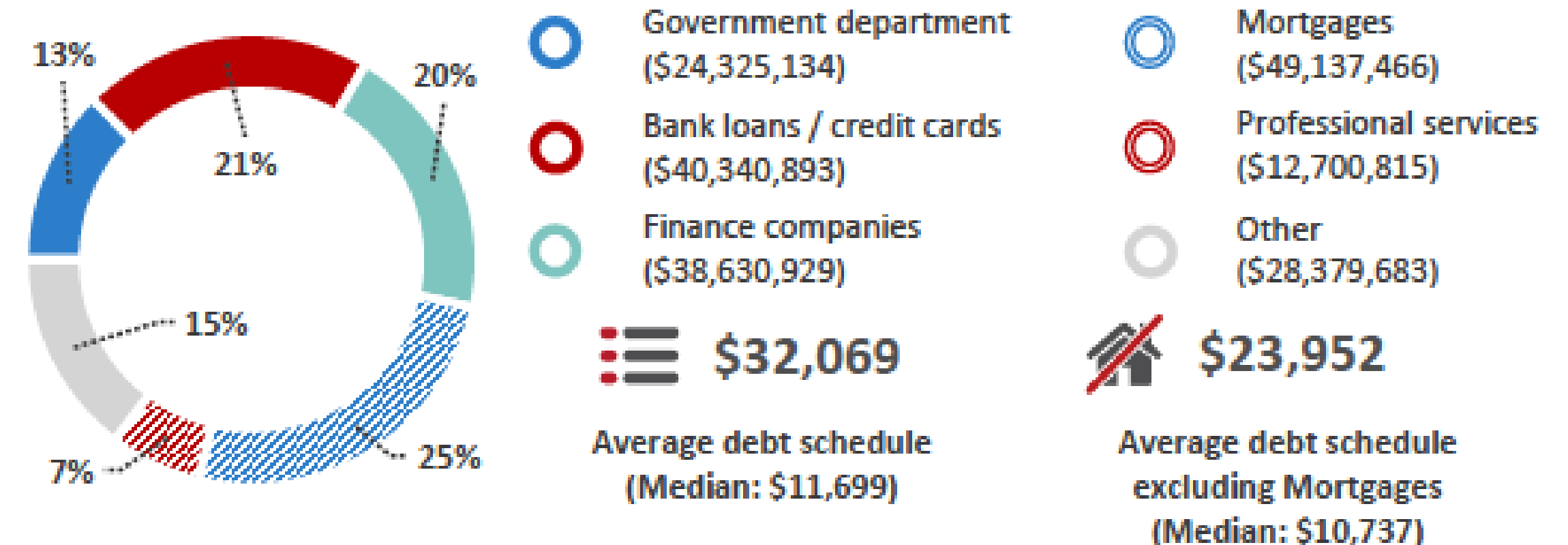
## 10. Presenting debt and arrears

6,098 6mth



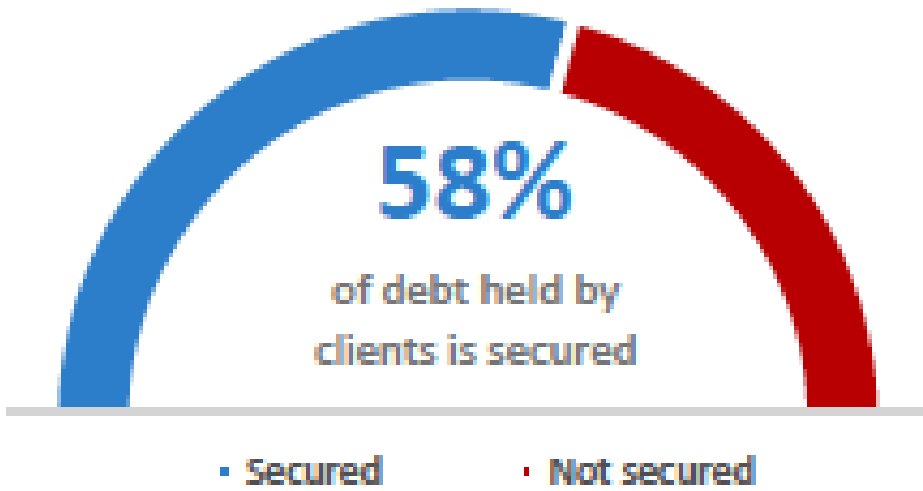
## 11. Debt schedule mix

6,098 6mth



## 12. Debt security

6,098 6mth



## 25. Debt and arrears retired

6mth

Debt retired	<b>\$21,976,013</b>
Arrears retired	<b>+ \$3,398,644</b>
<b>Total retired</b>	<b>\$25,374,657</b>



# Debt solutions

Debtfix®

debtfix.co.nz

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# Informal Solutions



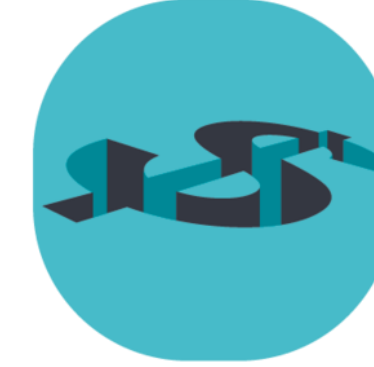
Simply Budget



Hardship Application



Informal Agreement with Creditors



Debt Consolidation Loan



Debt Management Plan

# Formal Solutions



No Asset Procedure



Debt Repayment Order (SIO)



Creditors Proposal



Bankruptcy





# No Asset Procedure

## Eligibility

Must owe between \$1,000 and \$47,000 in total:

- includes secured debts
- Excludes student loans, court fines and reparations

Can't enter a NAP with realisable assets (things that can be sold to help repay debt)

Official Assignee will not endorse if:

- Doesn't believe eligible
- Has hidden or transferred assets
- Bankruptcy would provide a greater result to creditors
- Already been bankrupt or in a NAP before

## How does it work ?

Online application by debtor

- Official Assignee reviews application
- If approved, then NAP automatically in place
- NAP advertised in NZ Gazette
- Listed on public register
- Discharge after 1 year
- Unsecured creditors write off the money owed to them
- Secured debts need to be paid

## Restrictions

- Unable to take out new debt over \$1,000 without disclosing status
- Commit any gambling offence under IA 2006
- Borrow money within 6 months of entering NAP, knowing unable to repay





# Summary Instalment Order (SIO)

## Eligibility

Must owe less than \$47,000 in unsecured debt:

- Excludes secured debts
- Excludes student loans, court fines and reparations

## How does it work ?

Online application by debtor, including nomination of Supervisor

- Repayment rate agreed by Official Assignee / Supervisor / Debtor
- Official Assignee reviews application, notifies creditors and awaits expiry of objection period (
- If approved by OA then commences after expiry of objection period
- Generally a three-year (156 payment) period
- SIO listed on public register
- Discharge after 3 years generally
- Unsecured creditors write off the balance of money owed to them
- Secured debts need to be paid





# Summary Instalment Order (SIO)

## SIO Supervisor

- Ensures compliance with the terms of the SIO and any other orders made by the Official Assignee
- Liaise with employer for debtor contributions to be collected at source
- Sending notices to creditors and asking them to submit their claim
- Provides information about the SIO to the OA
- Ensuring that all creditors' claims are validated, and payments to creditors are correct.

## Restrictions

- Cooperate fully with the Official Assignee and Supervisor
- Make the agreed repayments, and comply with the terms of the order
- Unable to take out new debt over \$1,000 without disclosing status



# Creditors Proposal (Part V Insolvency Act)

## Eligibility

No debt limitations, but mostly applicable for those that:

- Are ineligible for an SIO
- Have surplus income (before contractual debt repayments), owns assets or has a third party willing to contribute to a fund to partially repay creditors
- Includes all liabilities other than debts incurred by way of fraud

## Benefits

- Private arrangement between debtor and creditors
- Avoids negative stigma from other formal procedures
- Not advertised or placed on a register
- Loss of job or profession less likely
- Negligible restrictions compared to bankruptcy
- Helps to instil budgeting discipline
- Dissenting creditors can be bound by majority voting





# Creditors Proposal (Part V Insolvency Act)

## How does it work ?

Works with a Provisional Trustee to:

- Prepare a proposal to creditors
- Proposal then lodged at Court
- Provisional Trustee convenes a creditors meeting
- If approved by 75% in value and 50% by number (voting at meeting) then binding on all creditors
- If approved at creditors meeting, Trustee reports to Court
- Court generally endorses proposal
- Creditors notified, monies paid to Trustee (generally over 3 years), and creditors receive regular dividend
- Balance of unsecured claims written off at expiry of proposal

## Provisional Trustee & Trustee

- When new Insolvency Practitioner Regulations come into force, only regulated insolvency practitioners will be able to take appointment as Provisional Trustee or Trustee

## Restrictions

- Comply with the terms of the proposal
- No advertising and generally not picked up by credit reference agencies



# Bankruptcy

## Eligibility

Owes more than \$1,000 but generally primary option for those not eligible for a NAP or SIO

- Includes student loans, but excludes secured debts, court fines and reparations, child support or maintenance
- Overseas debts still recoverable in other jurisdiction, if debtor returns there

## Restrictions & Effects

- Must cooperate fully with the OA, or discharge can be suspended and/or face prosecution
- All assets vest in OA and OA will require income contributions
- Potential loss of job or profession
- Partnership business automatically dissolved on bankruptcy
- OA consent required for travel, operating a business or acting as a director or manager of a company

## How does it work ?

Online application by debtor

- Official Assignee reviews application

OR

- A creditor successfully applies for bankruptcy

OA administers estate:

- Advertises in NZ Gazette and on public register
- Determines how much the bankrupt should pay from wages
- Realises any assets of the bankrupt
- Undertakes a review of any prior transactions
- Can prosecute bankrupt for various offences
- Distributes funds (if any to creditors), after approval of creditor claims
- Balance of unsecured claims written off after bankruptcy

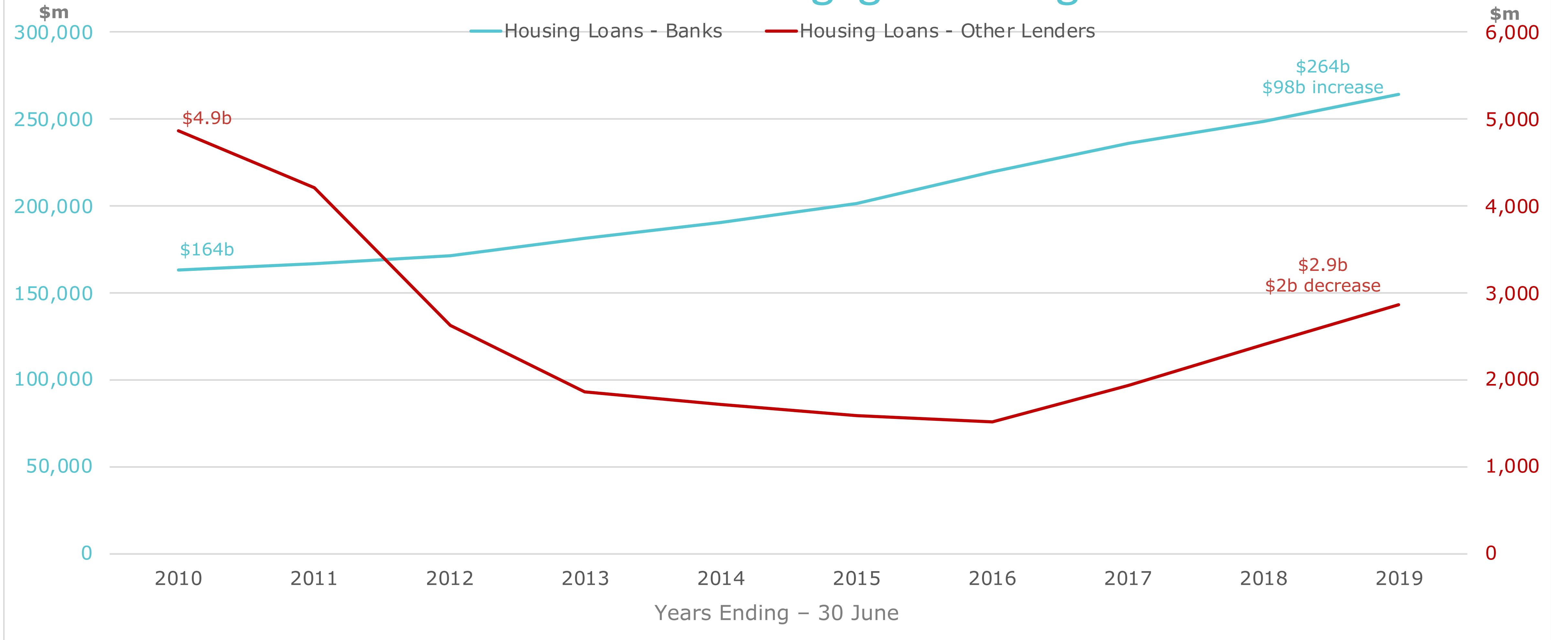




# Statistics & Insolvency Trends

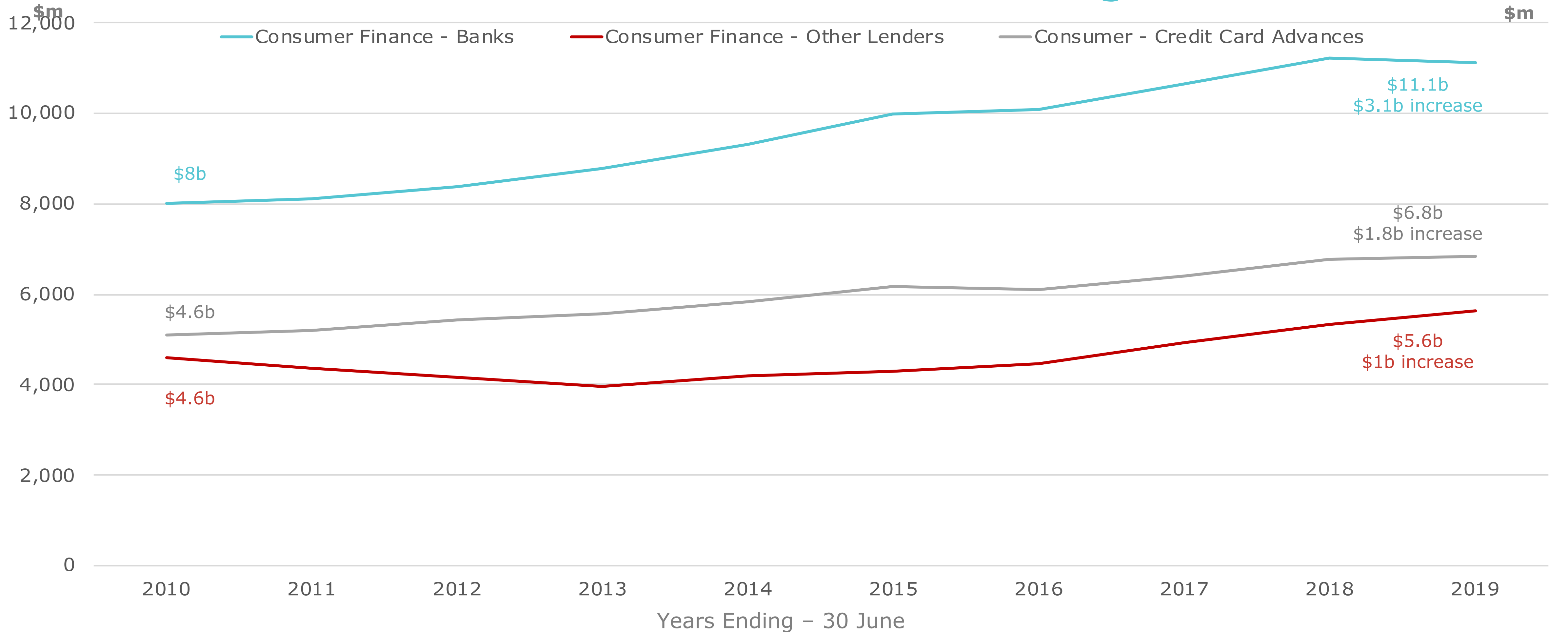


# Household Mortgage Lending



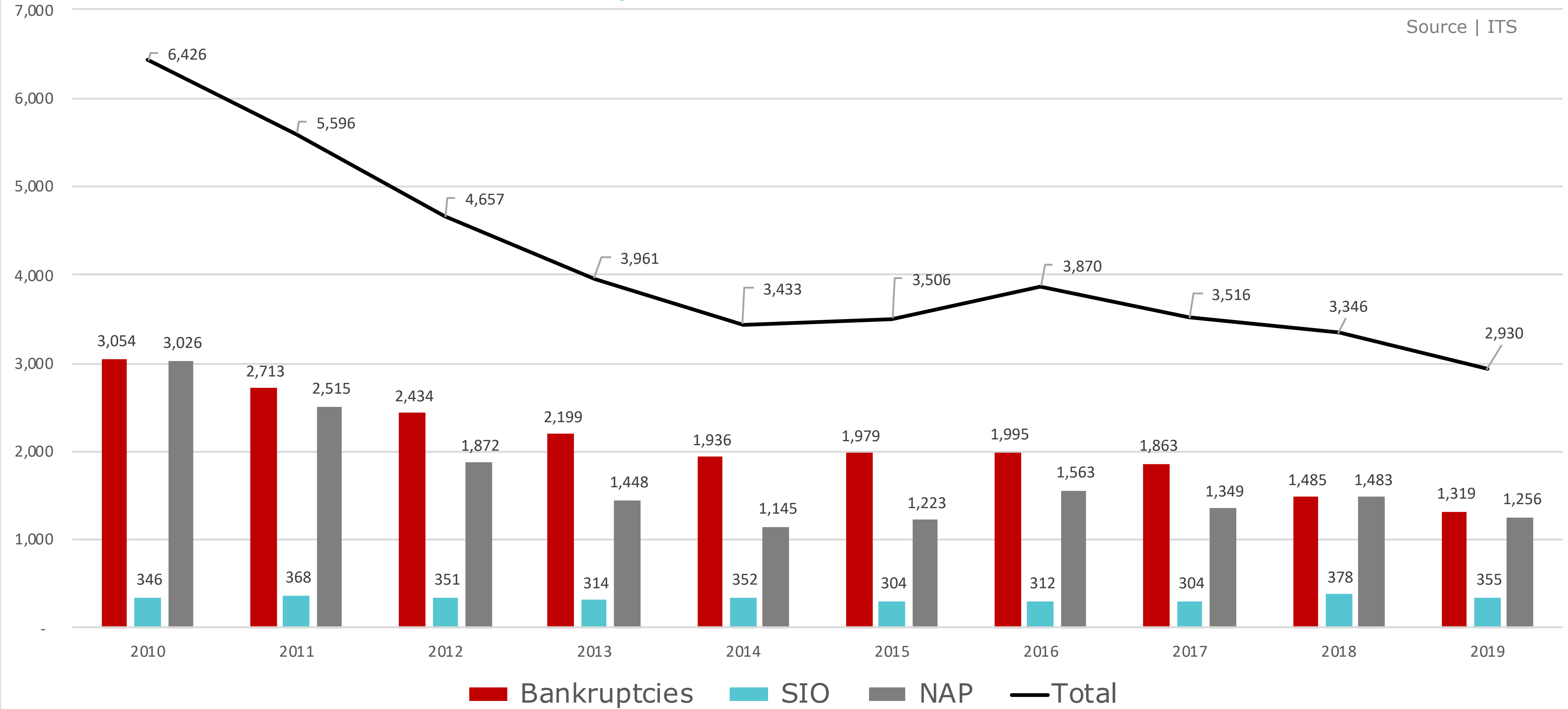


# Consumer Finance Lending



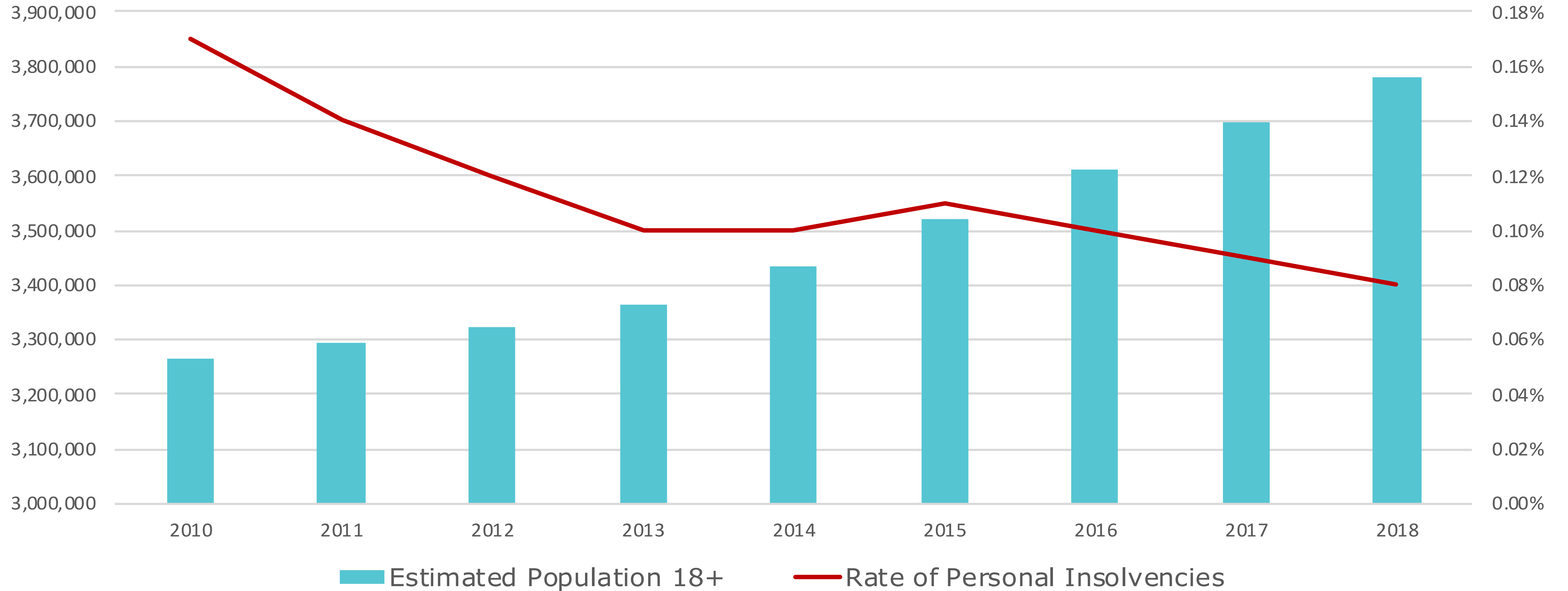
# Insolvency Statistics Last Ten Years

Source | ITS





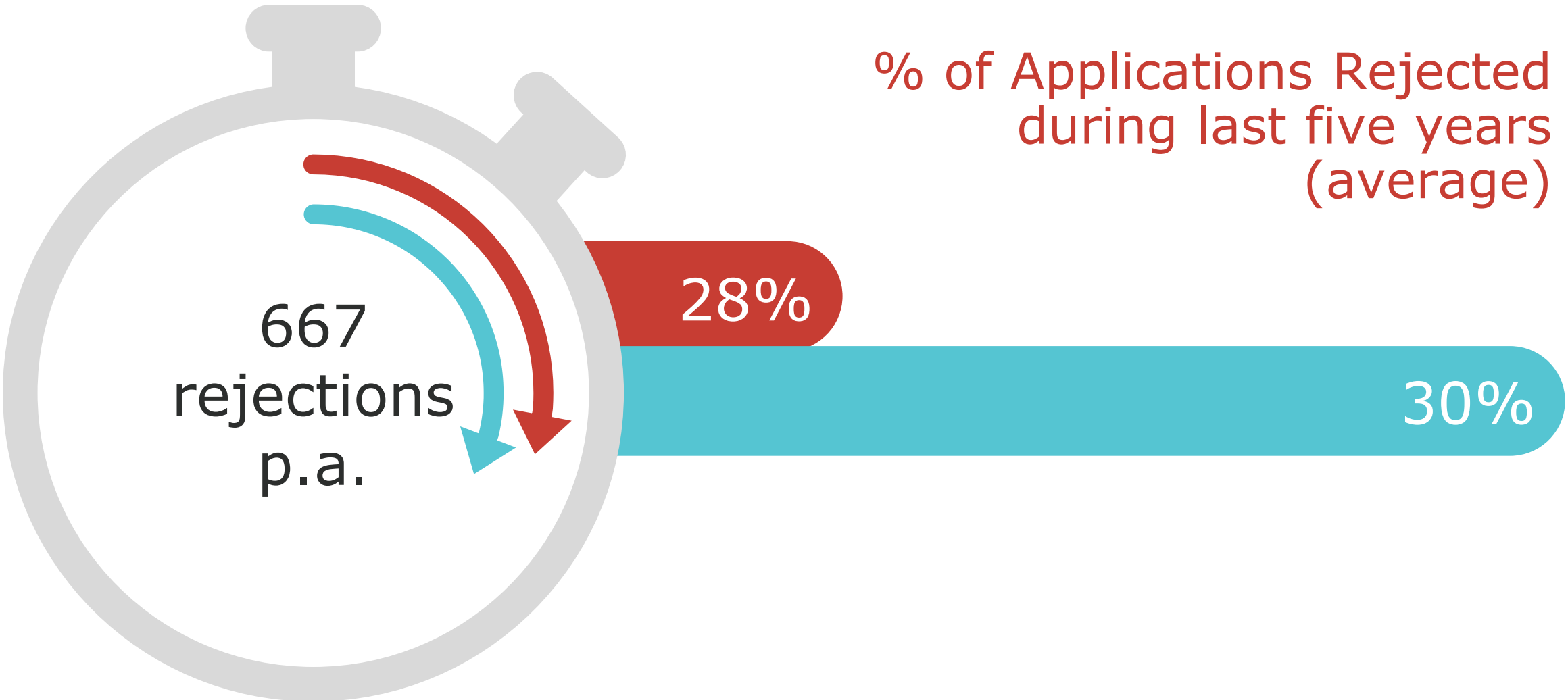
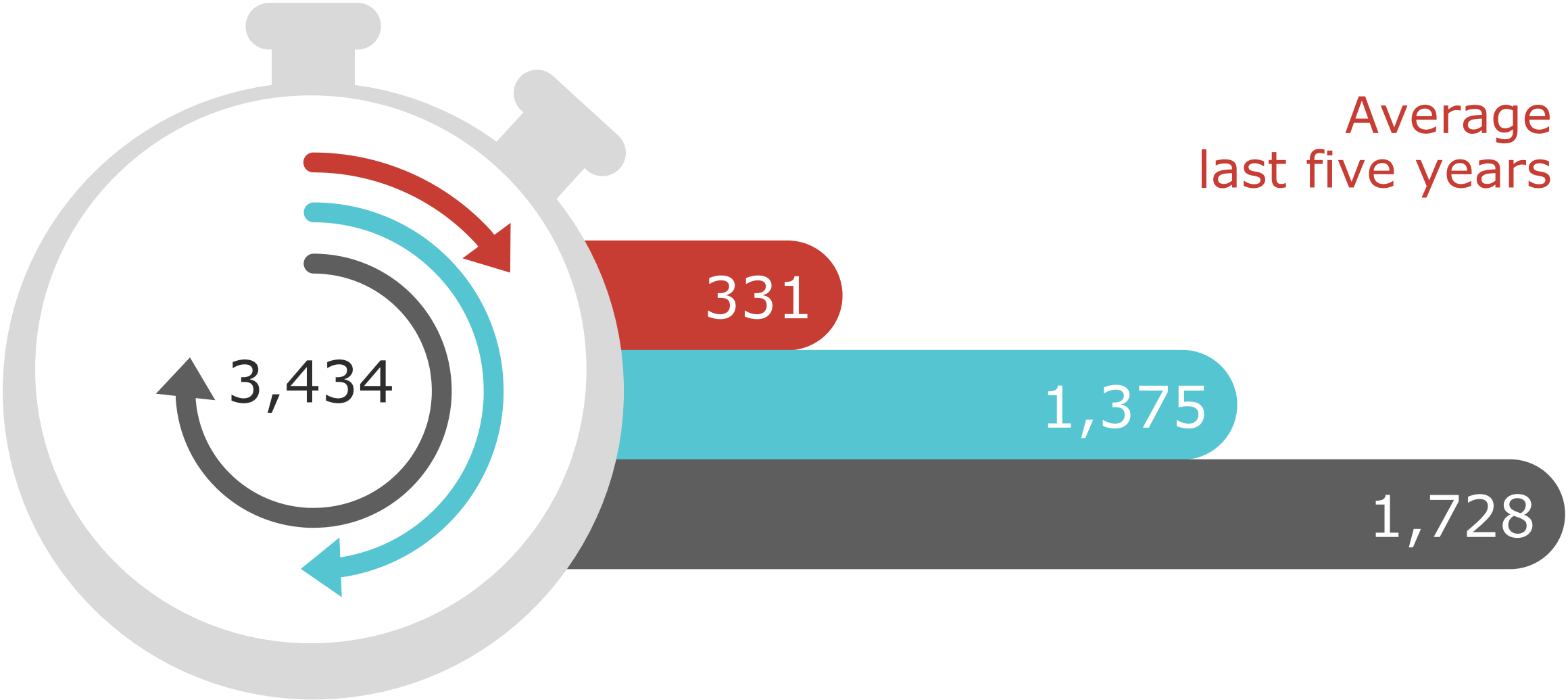
# Annual Rate of Personal Insolvency



# Personal Insolvency Statistics

Source | ITS

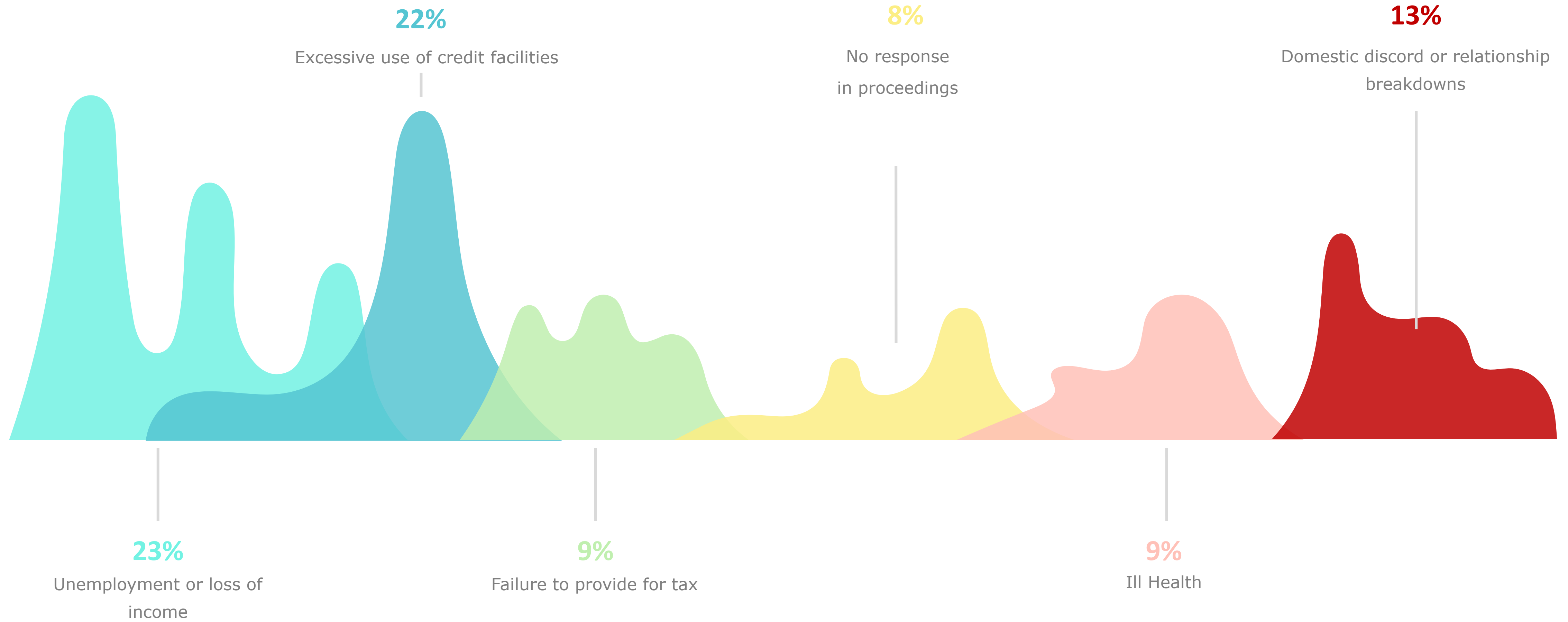
- Summary Instalment Orders
- No Asset Procedures
- Bankruptcies





# Primary causes of insolvency

Insolvency & Trustee Service – June 2019







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CHRISTINE LIGGINS

## Background

2004 | NZ | Trained as budget adviser

2008 | Established | Simply Budget

Dealing with complex cases and insolvency  
procedures

SIO Supervisor

Trustee Creditors Proposals

Tutor | Educational seminars

Author financial literacy programs

Works with

FinCap | Commission of Financial Capability

Te Wananga o Aotearoa | Ministry of Social

Development



Free Debt Advice

Virtual Debt Adviser  
to  
Financial Capability Sector

Debt Solutions

Tutoring & Educational Services

## Mission

Helping to reduce problem debt for New Zealanders  
\$1 at a time

## Vision

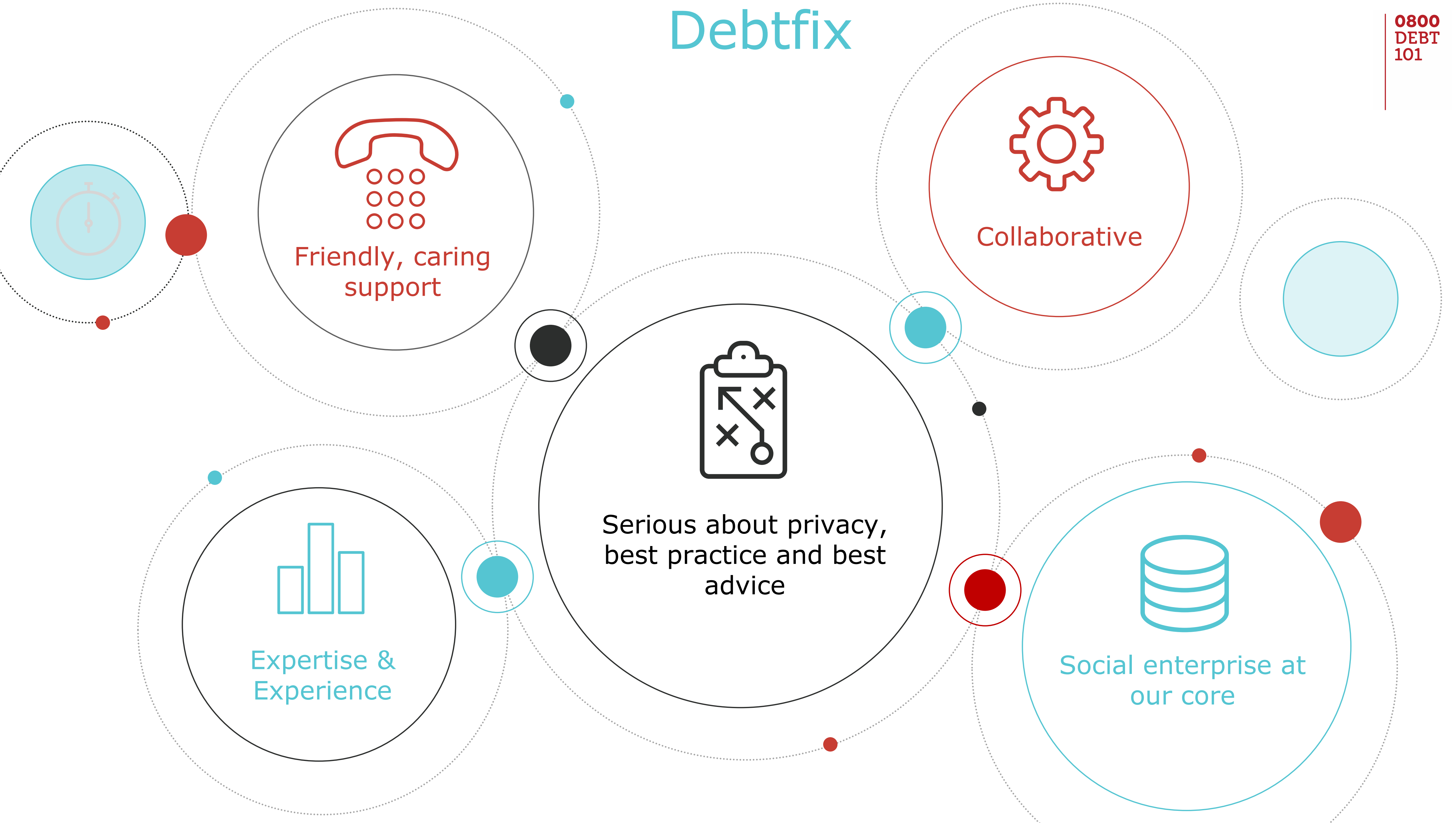
We believe everyone should have the freedom to manage and control their personal finances, so they can live a happier life, free from the stress and worry of sinking deeper in debt.





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Q & A

