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Outline for Teleconference Briefing on Current Issues in Consumer Spending,  
Debt and Bankruptcy

- The Western District of Tennessee historically has had a high number of consumer bankruptcy filings, with more than 70% being chapter 13 bankruptcies. In the 12 months ending December 31, 2002, out of 27,927 new bankruptcy cases, 71% (19,521) were under chapter 13 and 29% (8,284) were under chapter 7. In that year, 121 chapter 11 cases were filed.
- In this District, calendar year 2002 saw a 6.64% increase in total bankruptcy filings over calendar year 2001.
- Although there is no “typical” debtor, since all are individuals who have unique circumstances that contribute to their bankruptcy filings, some general observations of characteristics for debtors in this district may be made:
  - The age of debtors appears to be increasing, with more middle to senior age debtors filing.
  - Most consumer debtors are underemployed, if not unemployed. The former term includes debtors at minimum or near-minimum wage jobs and persons who have temporary employment.
  - Along with this employment depression goes a lack of job benefits such as health and other insurance, as well as vacation or retirement.
  - Many debtors or their dependents have health problems or lack substantial health benefits. A frequent cause of bankruptcy filing is a health related problem that led to job loss, either temporary or long-term. Although some debtors have workers’ compensation benefits when they file, those benefits are typically too little to support the debtor and dependents.
  - A large number of debtors rely solely on social security or other exclusively governmental benefit. This means, of course, that their income is limited, often well below required living expenses. It is no surprise that the house and car payments, and perhaps tax obligations, become delinquent.
  - Most consumer debtors are not sophisticated financially and often lack debt management skills or resources. Hand in hand with financial depression goes vulnerability of these debtors to abusive lending, such as pay day loans, loans based upon worthless checks or car title loans, all carrying extremely high interest and penalty charges. Before filing bankruptcy or seeking legitimate credit counseling, many debtors are subject to abusive loans that make their condition more hopeless.
  - The lack of debt management skills also contributes to waiting too long to seek good credit counseling. Waiting until your home is being foreclosed is too late to do anything but file bankruptcy, and waiting that long to file bankruptcy often makes bankruptcy relief ineffective.
  - Many consumer debtors are overly optimistic about their ability to overcome financial difficulty by hard work alone. Most of these debtors are extremely hard working, often having two or more jobs. If they are unemployed, typically every adult family member is seeking work. But hard work alone is not financial currency.

More effective financial education and management skills are needed, as a general rule.

- Many debtors, if not the majority, come into bankruptcy, especially chapter 13, delinquent in home mortgages and vehicle payments. Often these delinquencies are for several months. To keep the home, a debtor must cure the mortgage arrearage within a reasonable time, but if the delinquency is for 6 or more months, which is common, the amount needed to cure the arrearage, plus ongoing mortgage and other secured debt payments, may exceed any reasonable expectation. My observation is that debtors' attorneys often are not candid with the debtors about the lack of feasibility of many proposed repayment plans.
- Chapter 13 does work for many debtors, permitting them to retain their homes and essential personal property, but chapter 13 is not a magic act. It is economic reality—one can only pay to the trustee for creditors what one makes each month, after paying necessary living expenses such as food and utilities. Any legislative effort to push more people into chapter 13 will encounter the same reality. Filing chapter 13 only works if you have the income to fund a realistic plan of repayment.