

MEET OUR PRESENTER

LAW. STRATEGY. COMPLIANCE. GROWTH.

Practical legal insights for stronger governance,
ethical collections and sustainable student funding.

*Mrs Nicolene
Schoeman - Louw*

ATTORNEY | CONVEYANCER | NOTARY PUBLIC | MEDIATOR
MANAGING DIRECTOR

SCHEMAN**LAW**INC
Attorneys, Conveyancers and Notaries Public

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LEGAL INSIGHTS YOU CAN'T AFFORD TO MISS

Nicolene will unpack key legislation shaping
the credit and collections environment:

-  National Credit Act 34 of 2005 (NCA)
-  Consumer Protection Act 68 of 2008
-  Prescription Act 68 of 1969
-  Protection of Personal Information
Act (POPIA) 4 of 2013
-  Debt Collectors Act 114 of 1998



Entrepreneur, attorney and business
strategist who helps businesses
GROW with **COMPLY** and
SUCCEED with purpose.



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LEGAL PERSONALITY
OF THE YEAR (2023)
FEMALE FOUNDER STAR
OF THE YEAR (2023)



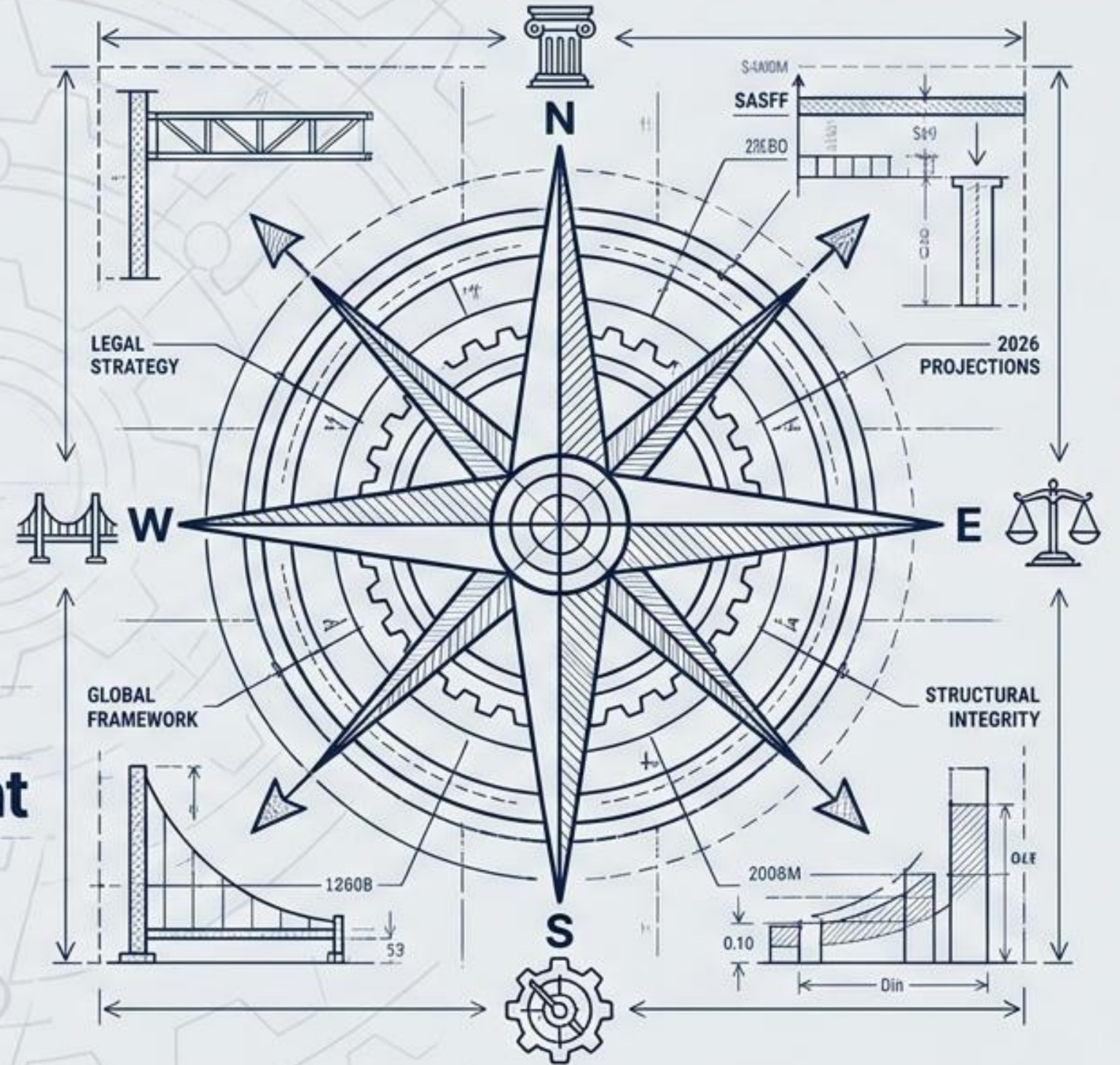
RUNNER UP
PHENOMENAL WOMEN
IN THE WINELANDS
AWARDS (2025)



INTERNATIONALLY
ACCREDITED LEGAL
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Navigating Student Debt in 2026

The SASFF Legal & Strategic Blueprint



Presenter

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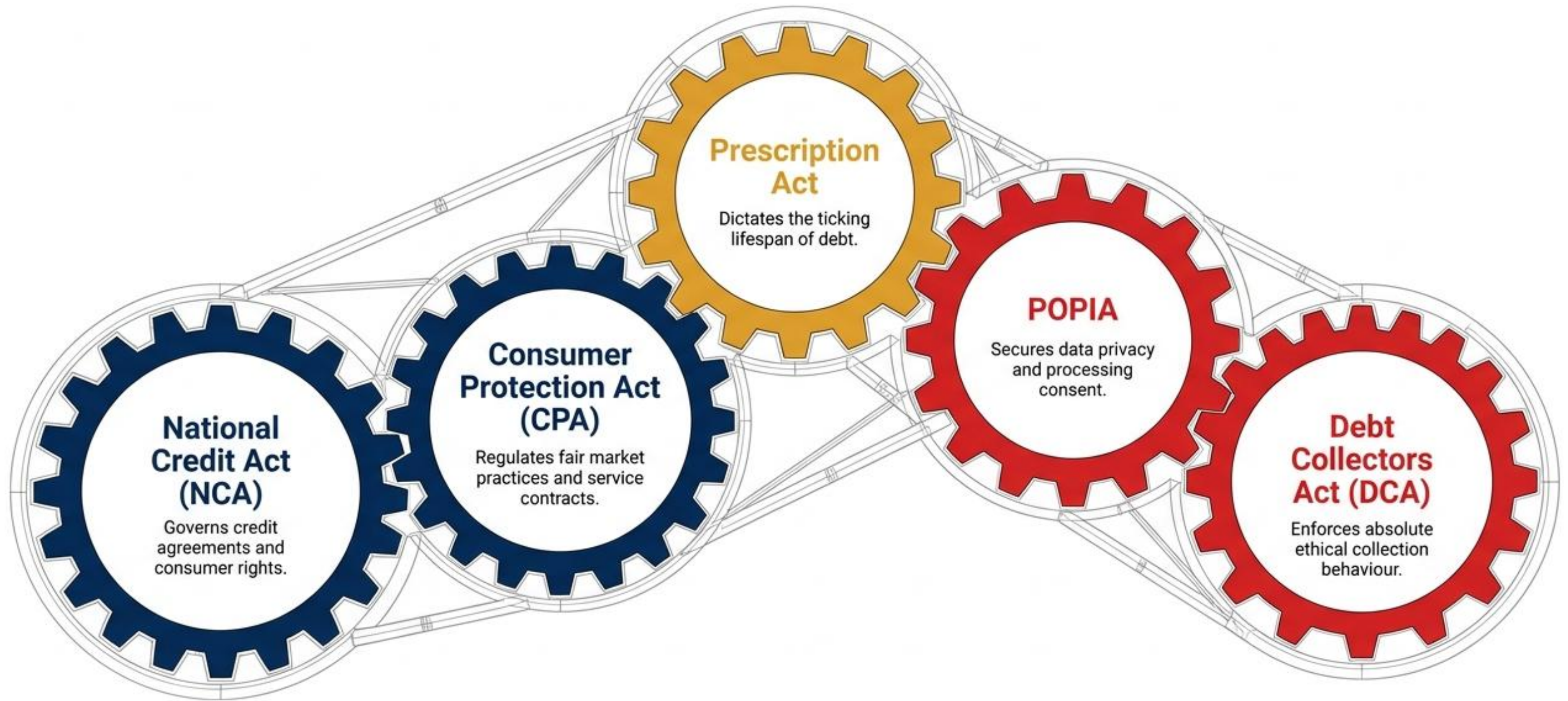
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Managing Director, **SchoemanLaw Inc**

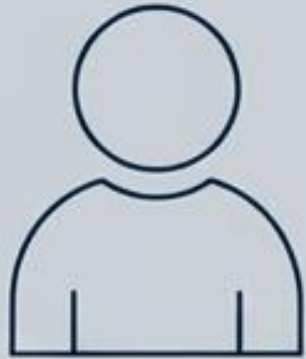
Facilitator at **PocketAdvisor**



The Regulatory Ecosystem



NCA Foundation: Defining the Playing Field



The Consumer

The student or party to whom money is advanced or credit is granted under a credit agreement.



The Credit Agreement Section 8

An agreement where payment is deferred and a charge, fee, or interest is explicitly payable.



The Student Loan

A specific agreement where money is paid to a tertiary institution for education fees, or the institution defers payment of those fees.

NCA Anomalies: Thresholds & Exemptions



The Threshold

R0.00 Registration Limit

Since 2016, the threshold for registering as a credit provider is strictly R0.00. Any institution granting credit must be registered with the National Credit Regulator, regardless of the principal debt size.

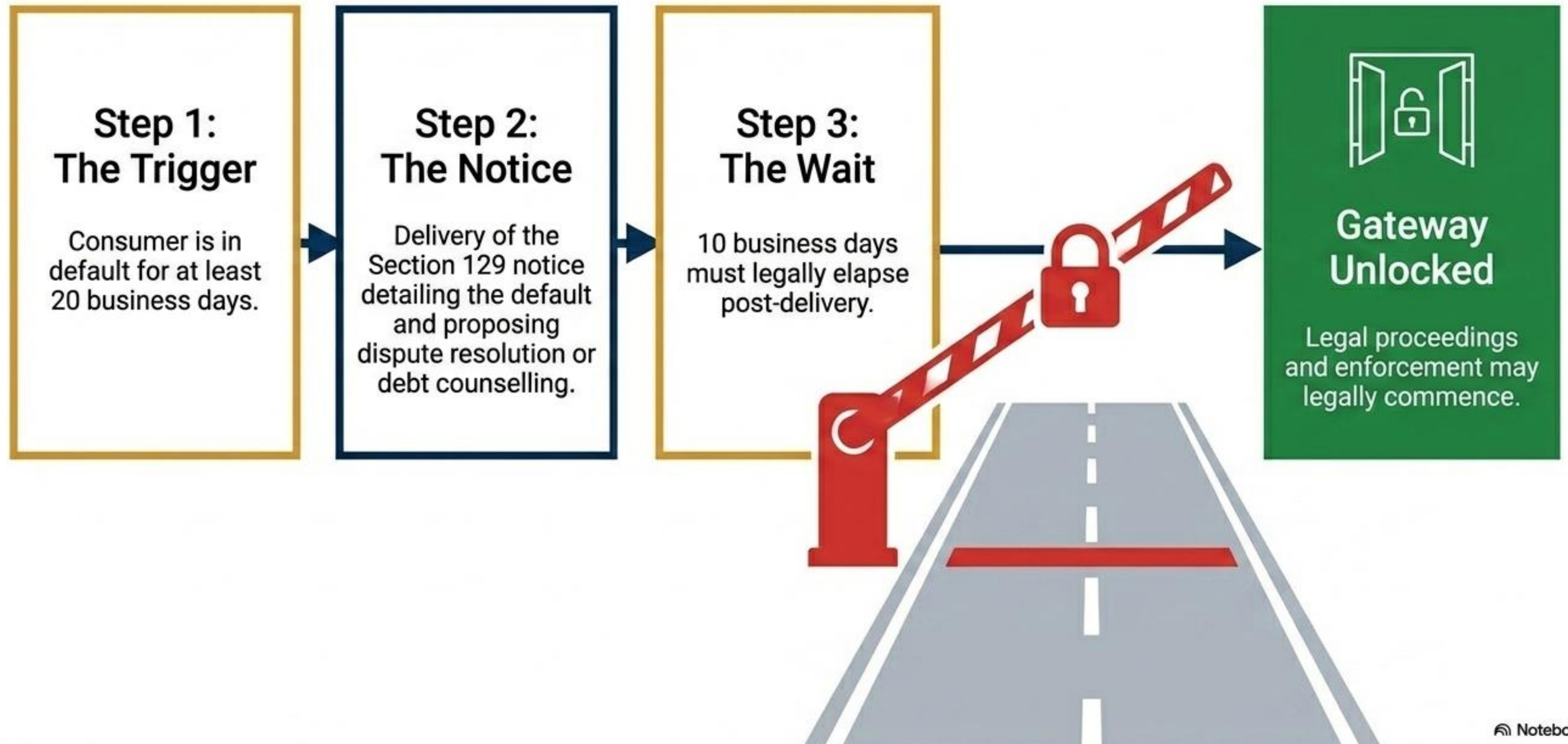


The Exemption

Reckless Credit Provisions

Student loans enjoy specific exemptions from standard reckless credit assessments (Section 78), acknowledging the unique nature of investing in future earning potential rather than current affordability.

The Enforcement Gateway: Section 129(1)(a)



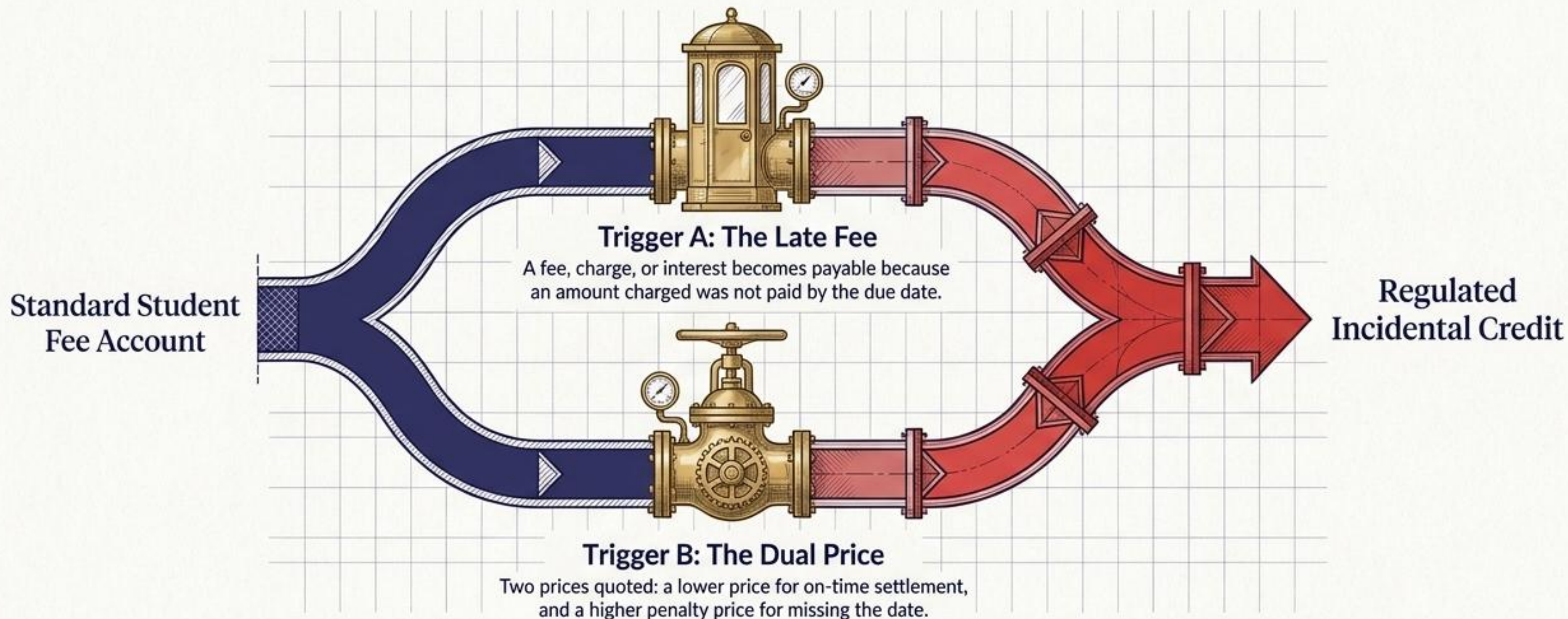
CPA vs NCA: The Shield of 'Best Protection'



Key Application: Section 14 (CPA)

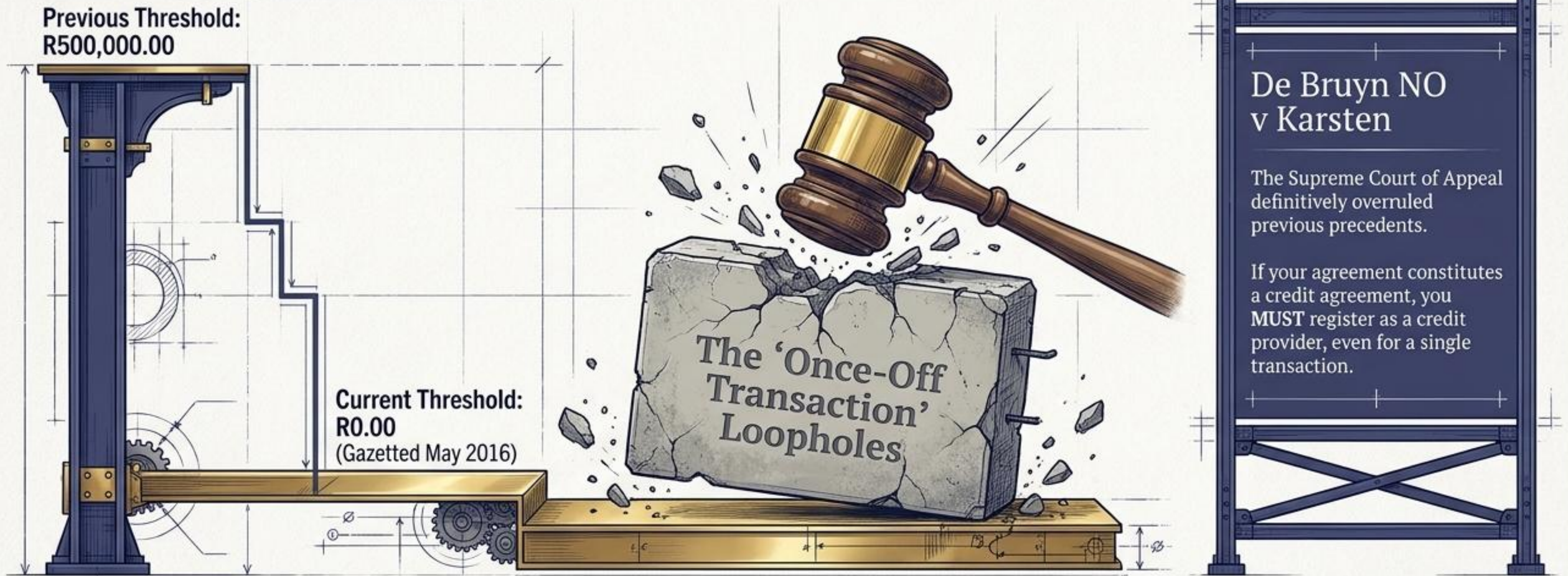
Students possess the **absolute right to early termination** of fixed-term contracts. They can cancel with **20 business days' written notice**, subject only to a reasonable cancellation penalty.

The Trigger Point: When Accounts Become Incidental Credit



Key Insight: Incidental credit agreements are regulated by the NCA regardless of their original form. If you penalise late payment with a fee, you are a credit provider.

The Absolute Baseline: The R0.00 Registration Threshold



CONSEQUENCE: Non-registration is fatal. An unregistered provider may not offer, make available, or enter into a credit agreement.

The Statutory Carve-Out: Defining the Student Loan

What is a Student Loan?

- Money paid directly to a tertiary institution.
- OR the institution itself defers payment of education fees/related costs for the consumer.

Section 78(2) Exemption

Reckless Credit Provisions

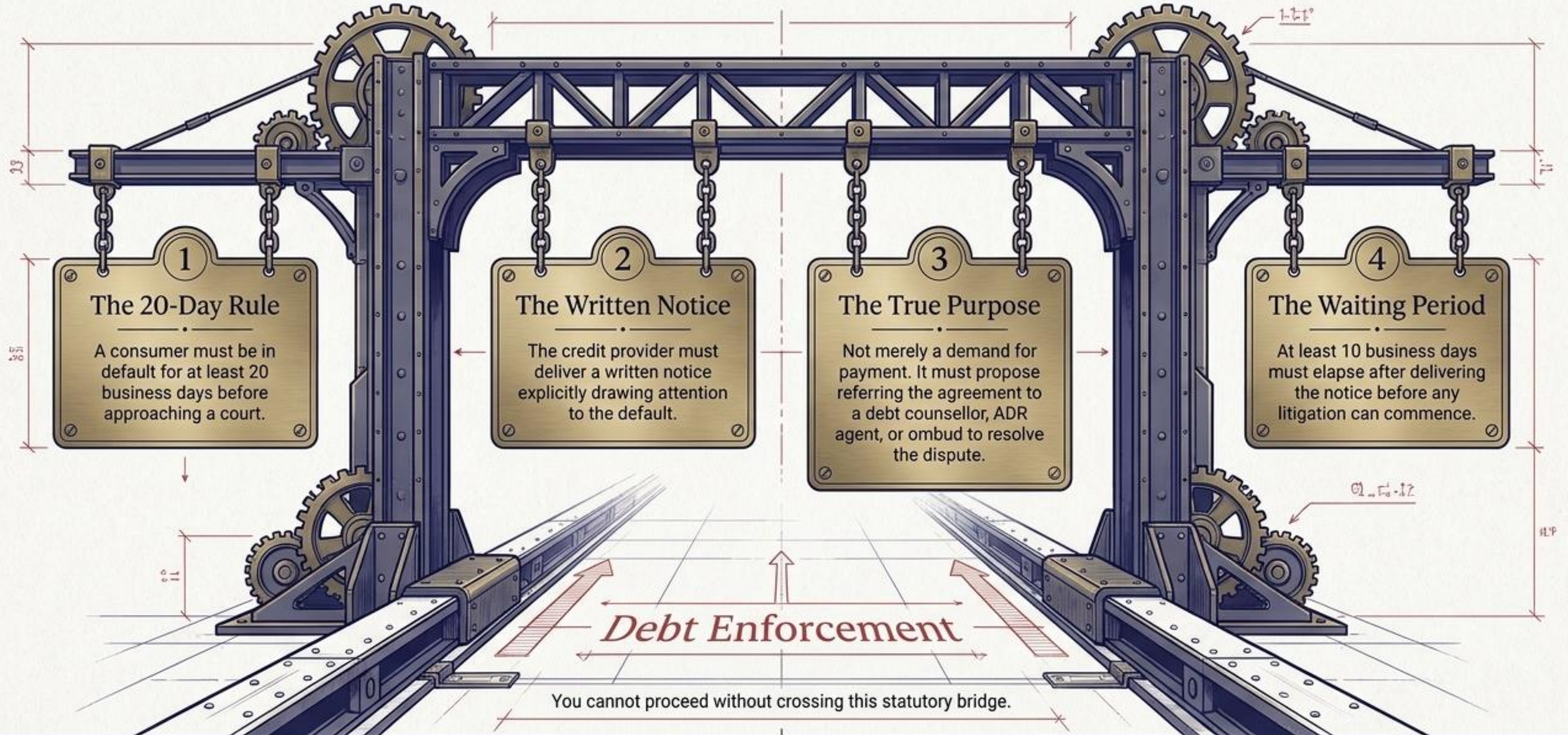
Suspension Orders

The Strategic Takeaway

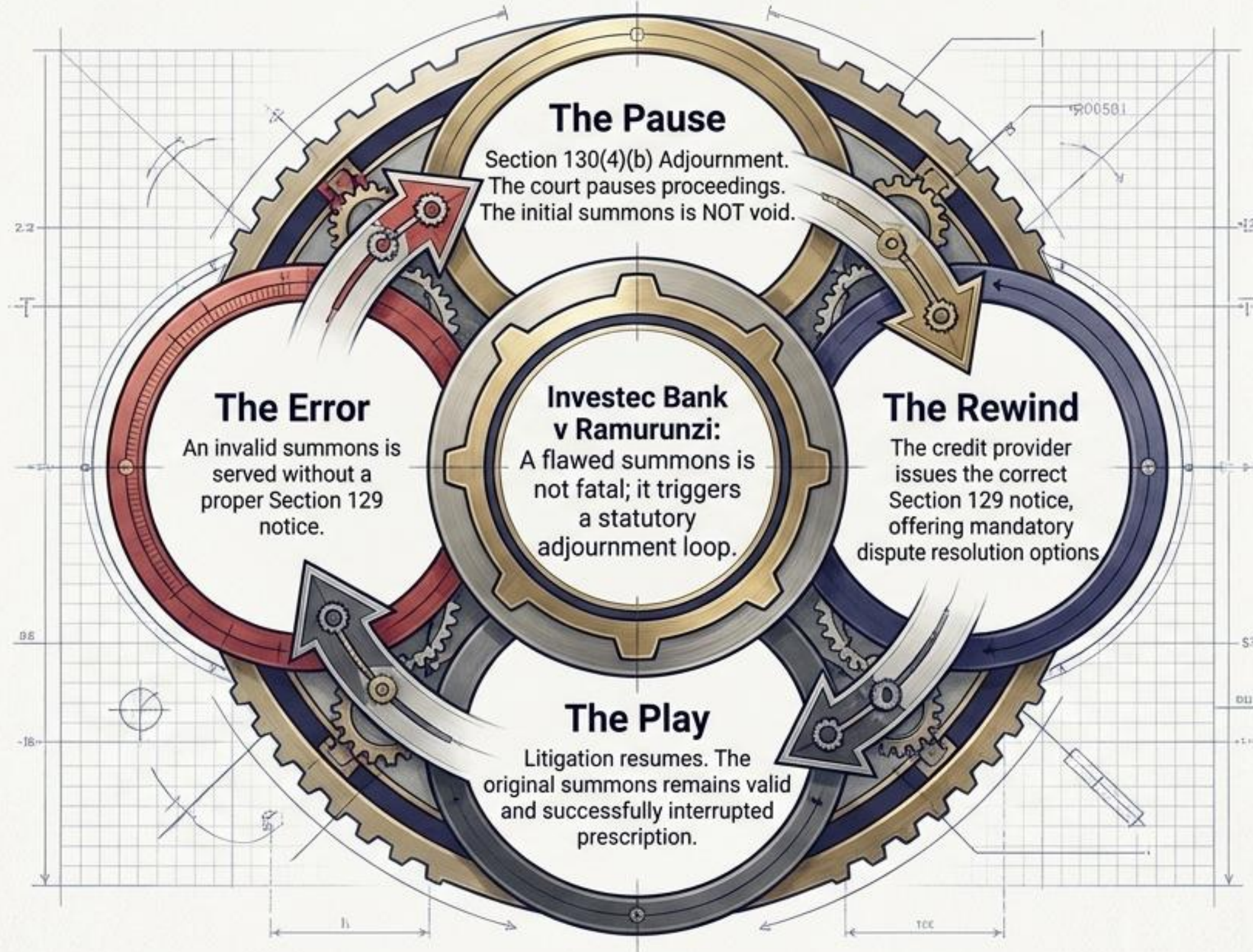
Under Section 78(2), the heavy compliance burdens of Sections 81 to 84 (Reckless Credit) do not apply to student or school loans.

Educational institutions do not face the same reckless lending liability as commercial banks when deferring tuition fees.

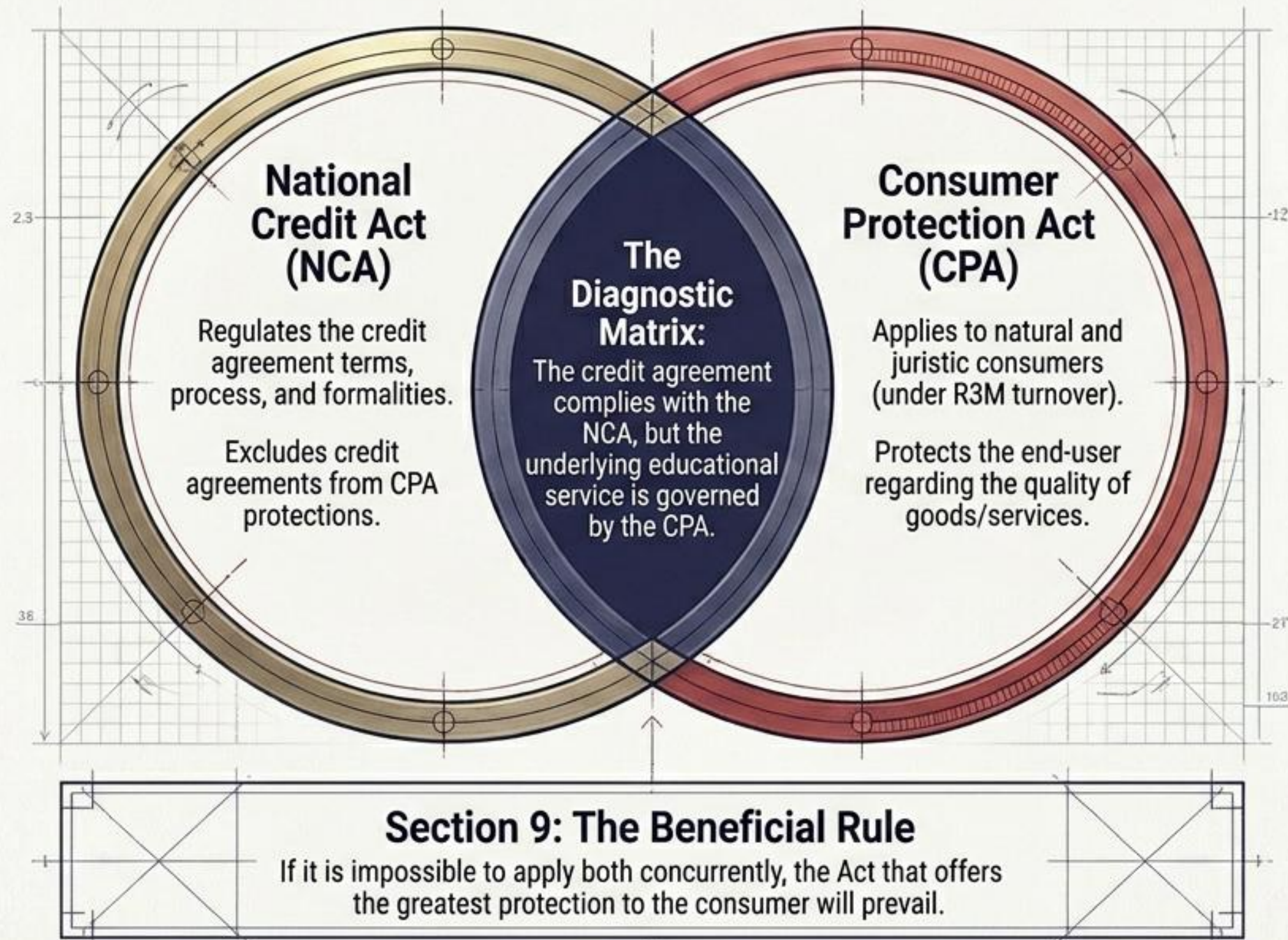
The Gateway to Enforcement: Section 129(1)(a) Notices



The 'Pause and Rewind' Loop: Fixing Enforcement Errors



The Overlapping Net: Concurrent Application of the NCA and CPA



Disrupting the Timeline: Section 14 Early Termination Rights

The Consumer's Right

Despite **ANY** provision in a fixed-term contract to the contrary, the consumer has a statutory right to cancel early.



The Caveat

The supplier is entitled to impose a reasonable cancellation penalty, but cannot legally block the exit.



The Mechanism

Requires exactly 20 business days' notice in writing or other recorded manner.

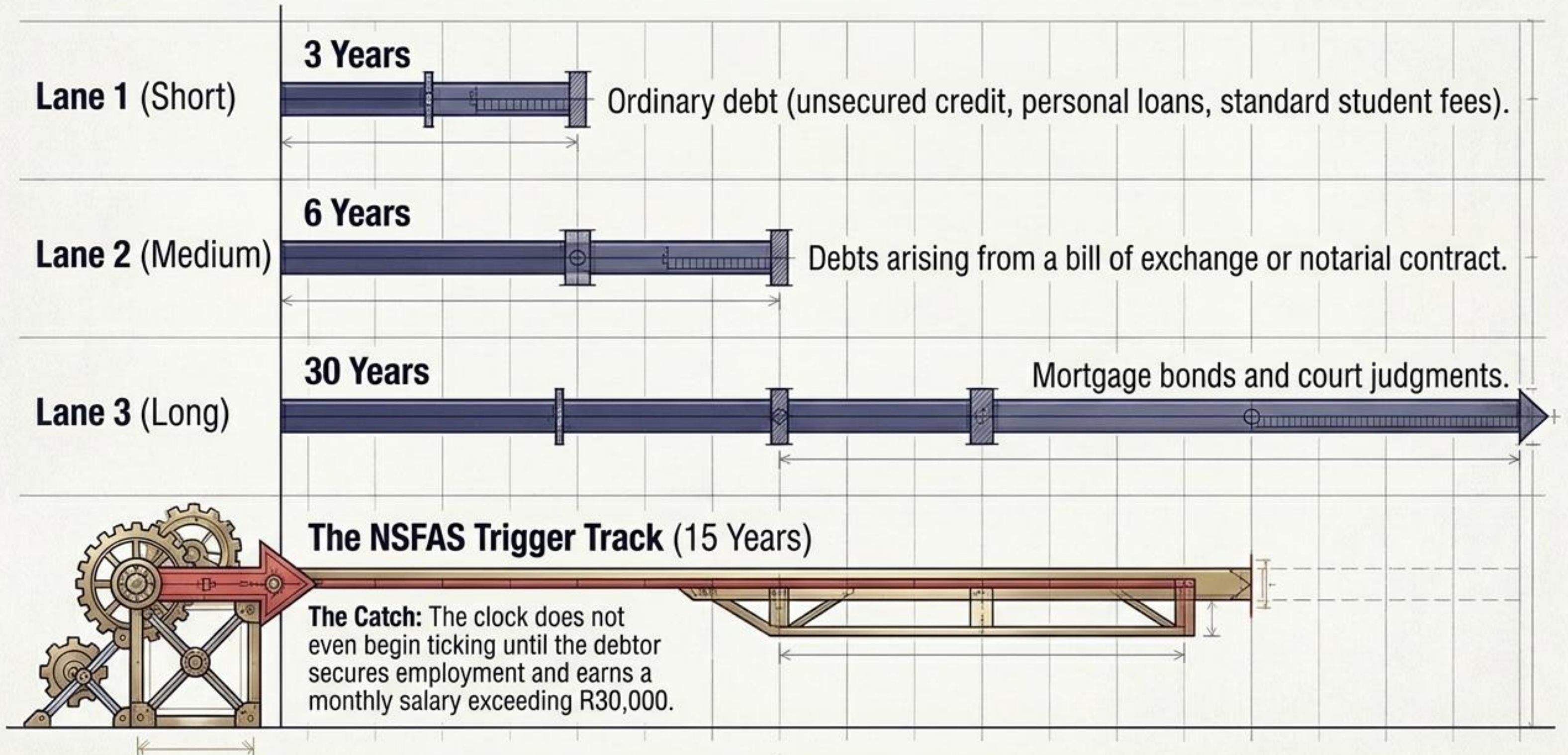


The Exception

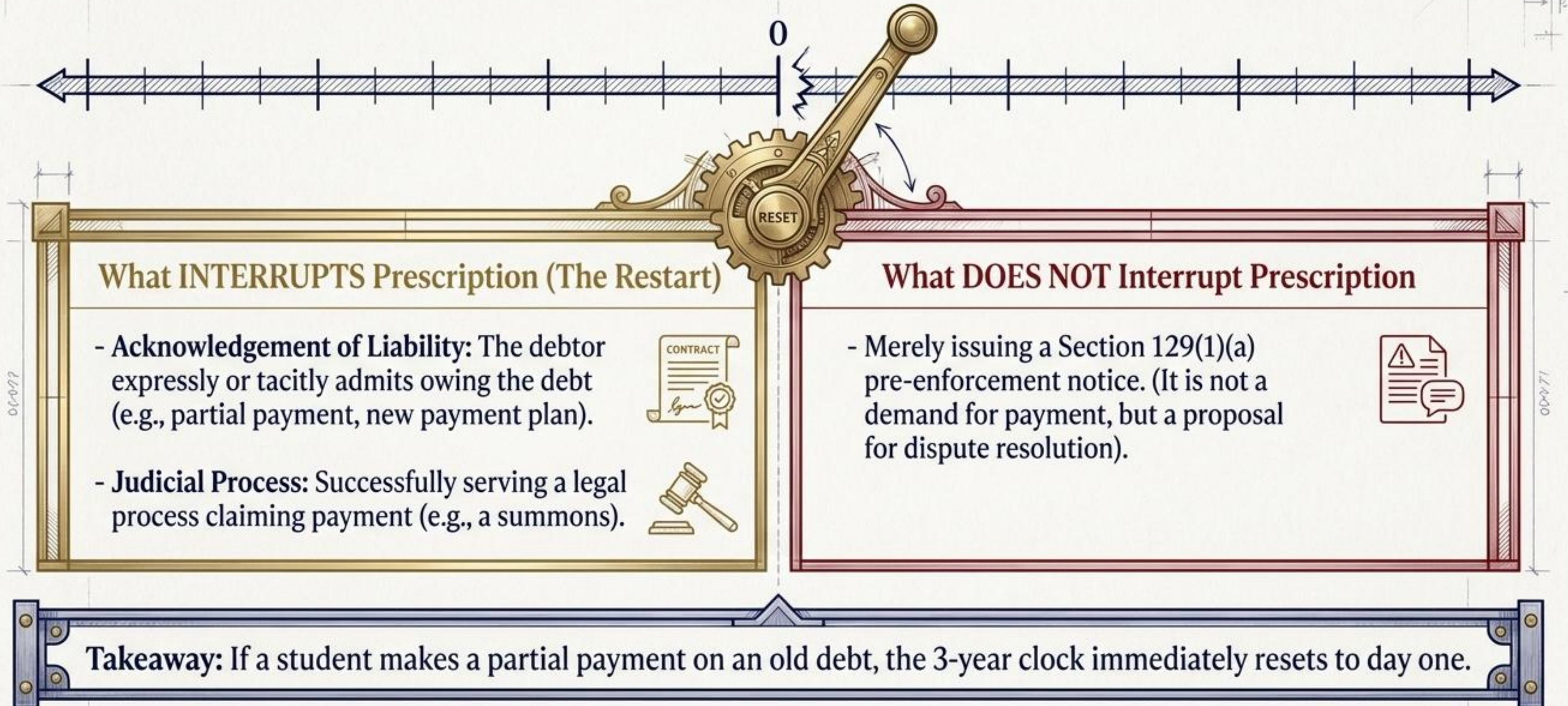
This protection does **NOT** apply to transactions between juristic persons, regardless of their turnover.



The Ticking Clock: Prescription Timeframes and the NSFAS Anomaly



Reactivating the Clock: Prescription Interruption



The Dead End: Section 126B and Prescribed Debt



The Risk: Attempting to trick a consumer into acknowledging a 'zombie' prescribed debt to reset the clock is unlawful and abusive under the amended NCA.

Pausing the Clock: Interruption Methods



Acknowledgement of Liability

Can be express or tacit. E.g., The student signs an acknowledgement of debt or makes a partial payment toward the arrears.

The clock restarts entirely from day zero.

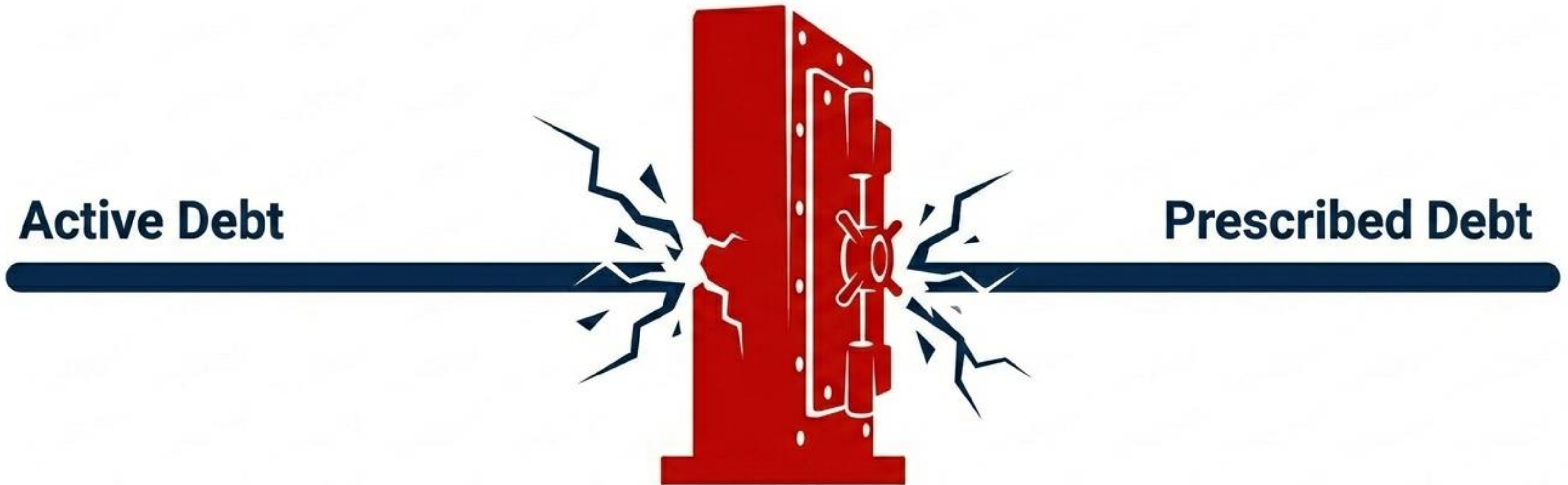


Judicial Process

Service of a legal process claiming payment (e.g., a formal summons).

The interruption lasts until final judgment, converting the debt to a 30-year lifespan.

The Absolute Barrier: NCA Section 126B



The Prohibition

It is strictly prohibited to sell, continue to collect, or reactivate a debt that has been extinguished by prescription.

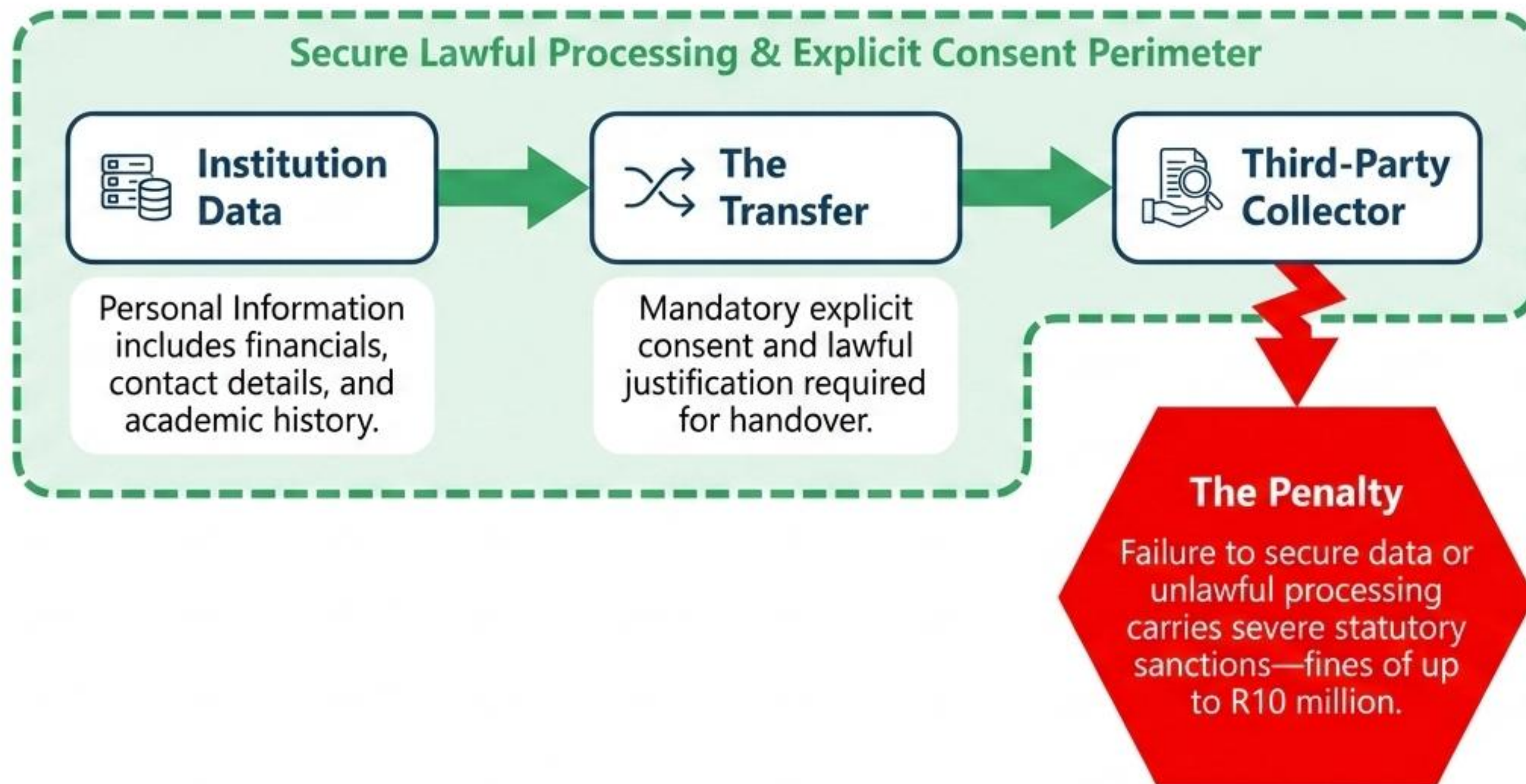
The Trap

Debt collectors can no longer legally trick consumers into reactivating prescribed debt by securing a small, uninformed payment.

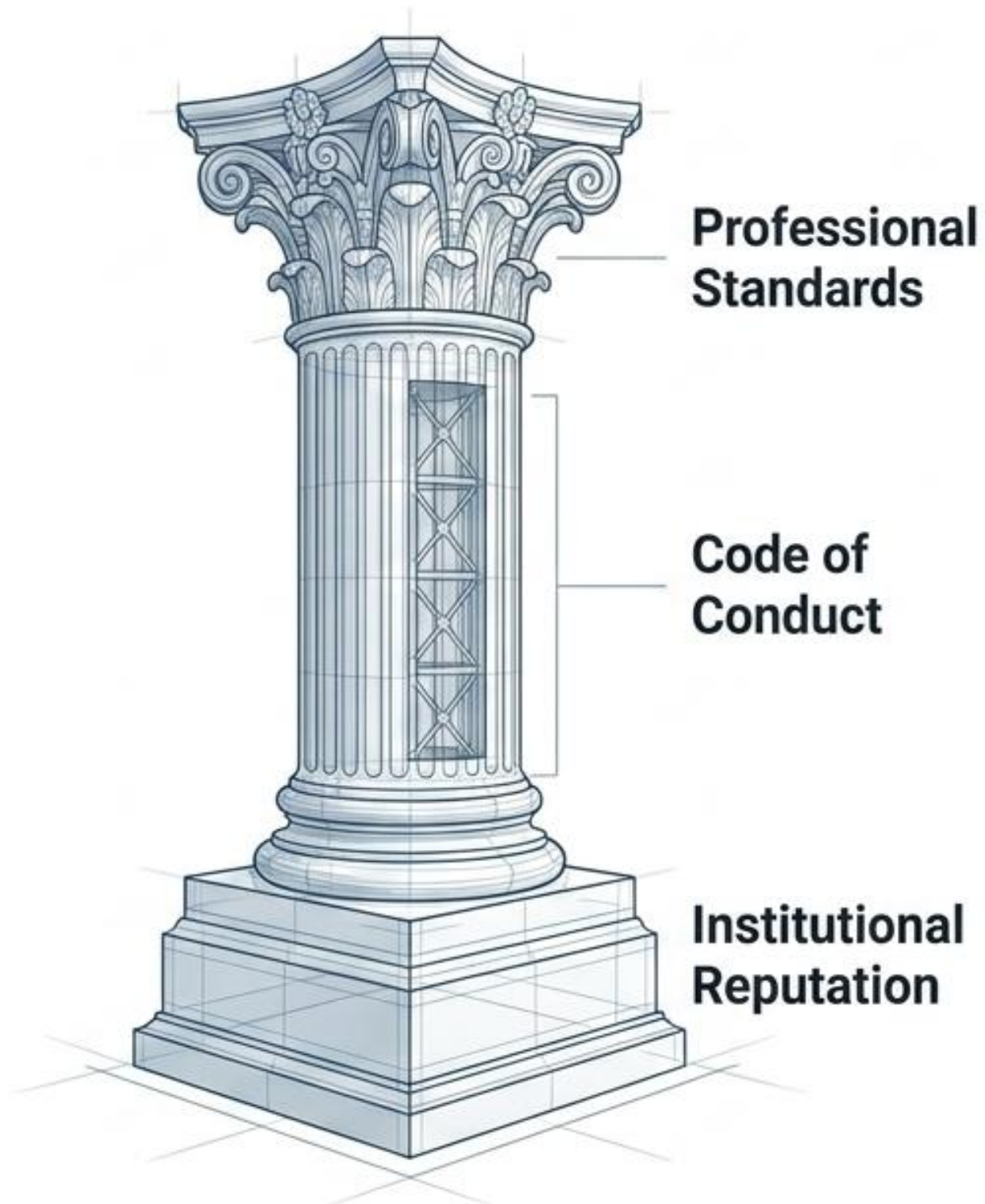
The Risk

Contravention is a criminal offence. Prescribed debt is effectively dead capital.

POPIA in Debt Collection



Debt Collectors Act: Ethical Guardrails



Core Principle

Debt collection must be handled with unyielding criteria of fairness and the absolute highest moral standards.

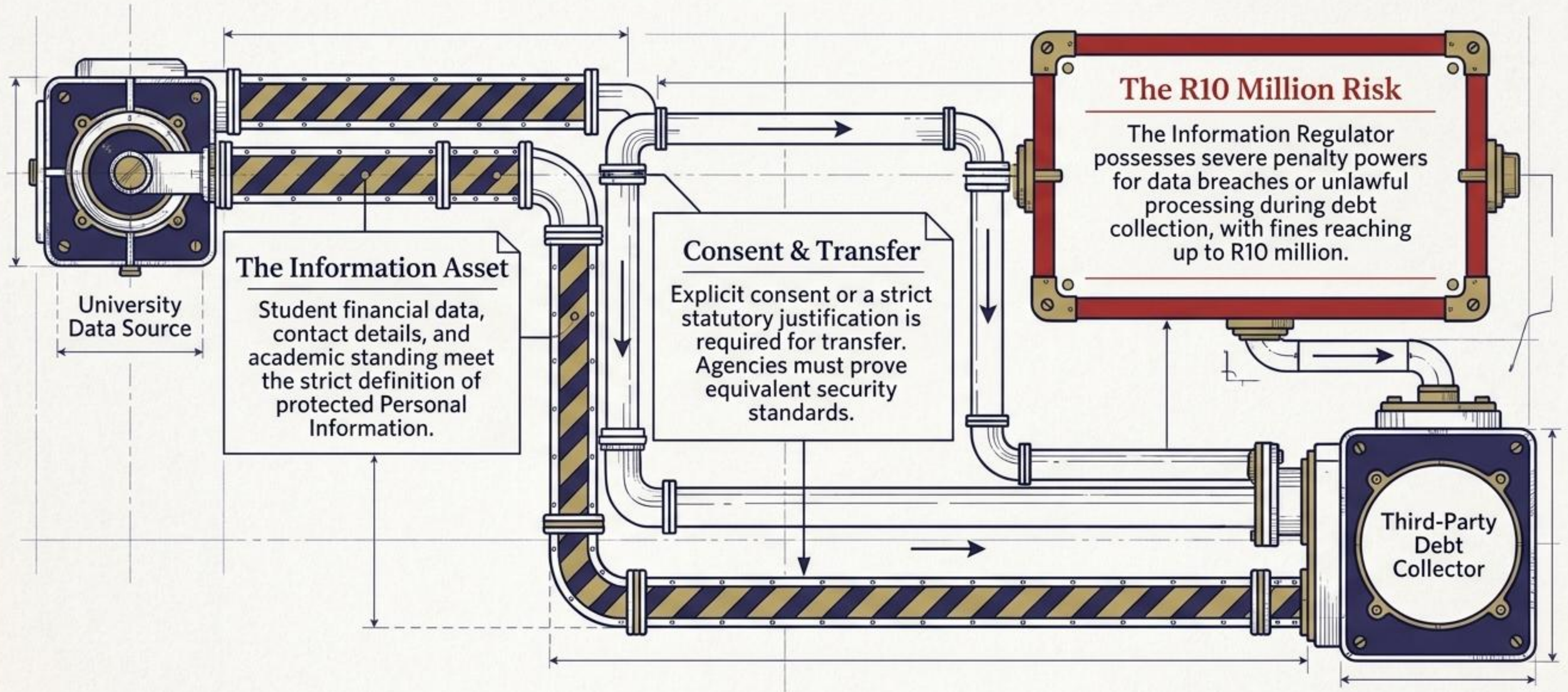
Professional Restraint

Collectors must never allow personal emotion or unfriendly feelings to become evident. The approach must remain strictly professional, guided exclusively by sound debt management principles.

The Behavioural Diagnostic Matrix

PERMITTED (Ethical Standards)	PROHIBITED (Severe Violations)
✓ Strictly professional, objective communication.	✗ Harassment: Deliberately humiliating or threatening the debtor or their family.
✓ Factual representation of authority and role.	✗ Misrepresentation: Falsely claiming legal powers or government affiliation.
✓ Use of formally approved, lawful correspondence.	✗ Simulated Legal Process: Sending letters formatted to look like fake court summons.
✓ Discreet contact protecting the debtor's dignity.	✗ Embarrassment: Using marked vehicles (e.g., cars painted with 'Debt Collector') parked at a residence.

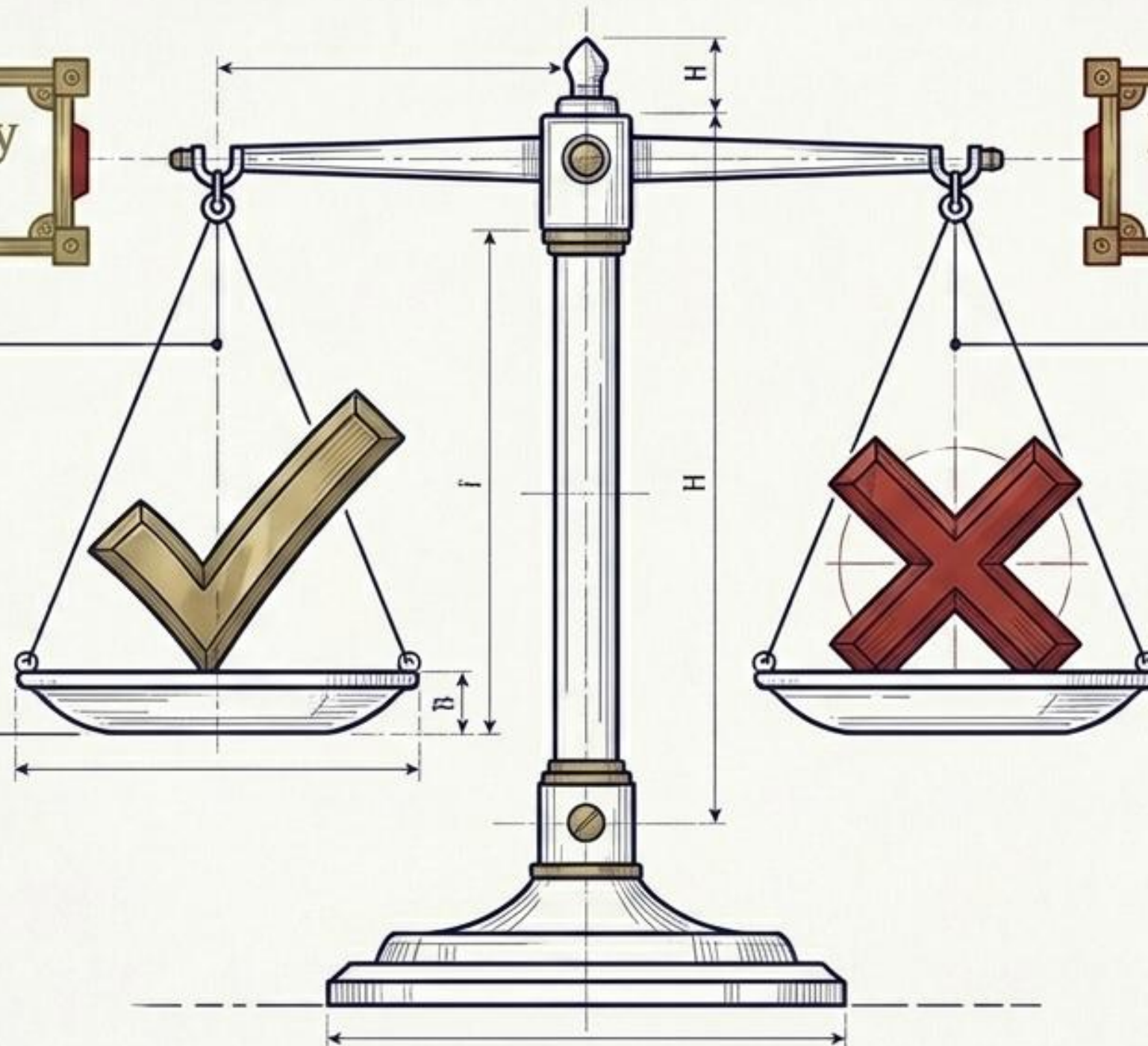
The Data Minefield: POPIA & Student Privacy



The Ethical Boundary: Debt Collectors Code of Conduct



Collections must be handled without infringing on the dignity or rights of the student.



- **Harassment:** Excessive calls, threats, or aggressive communication tactics.
- **Misrepresentation:** Falsely claiming legal powers, inflating costs, or misrepresenting the status of the debt.
- **Embarrassment:** Contacting employers, family members, or publicly shaming the debtor to force payment.

The 2026 Master Protocol: Operationalising Compliance

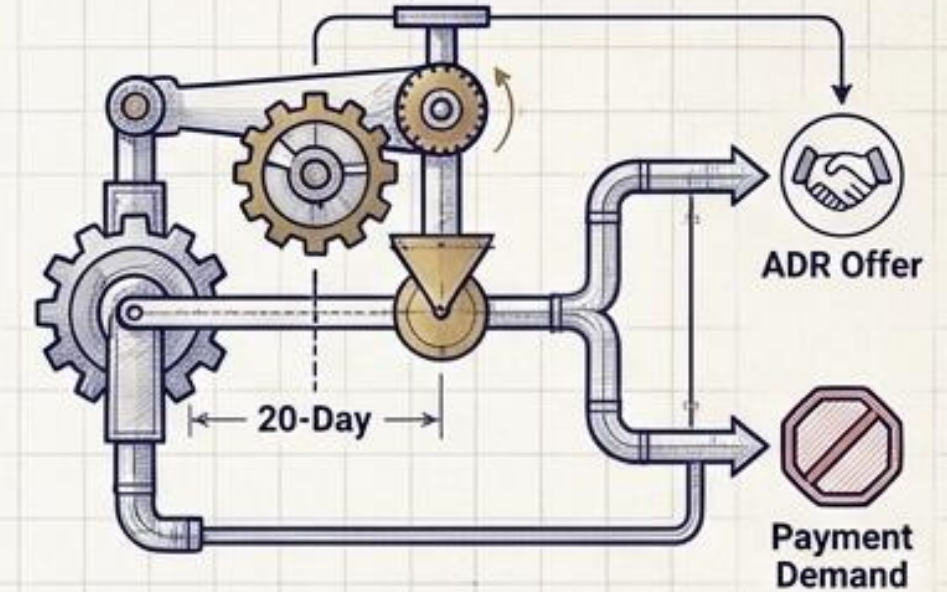
1. The R0.00 Registration Check

Ensure the institution and all third-party collection partners are fully registered as credit providers. No exceptions.



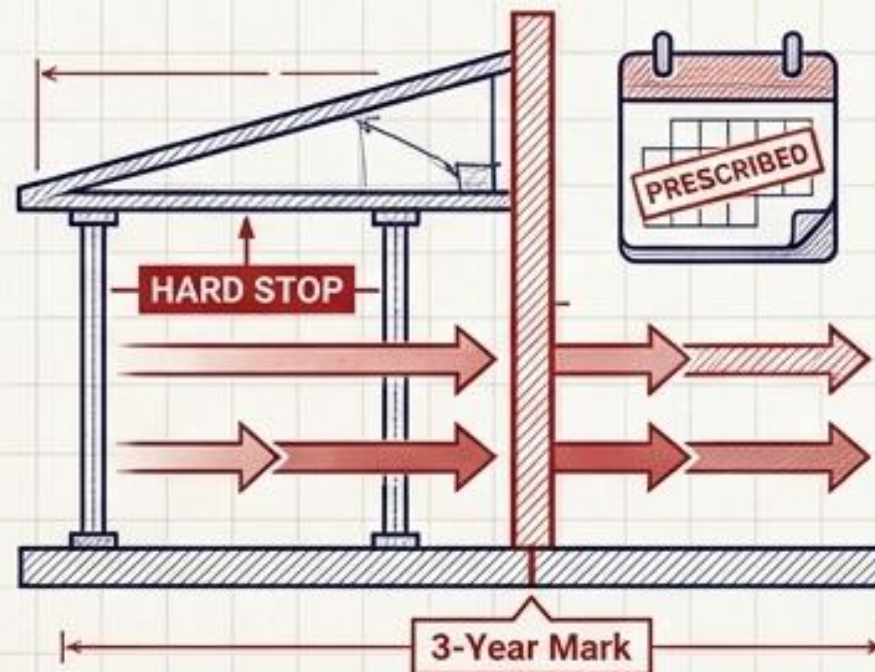
2. Smart System Triggers

Automate Section 129 notices the moment a 20-day default occurs. Ensure notices offer Alternative Dispute Resolution (ADR), not just payment demands.



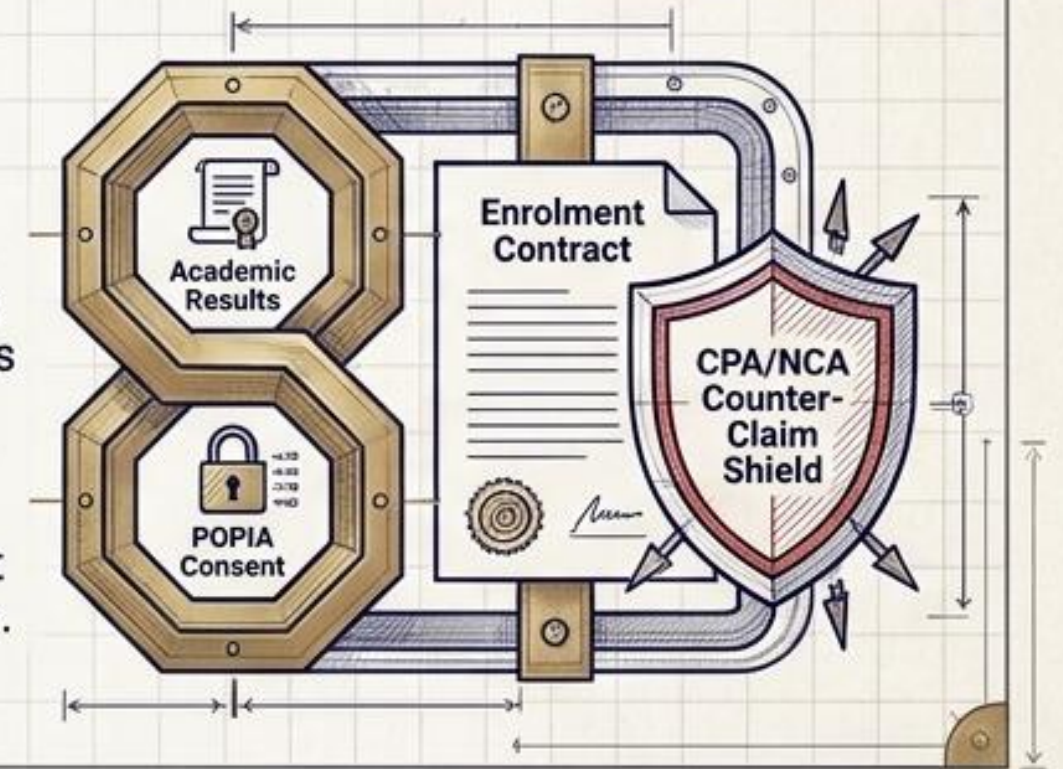
3. Prescription Tracking

Implement hard stops in the system at the 3-year mark to prevent the unlawful collection of prescribed debt (Section 126B).

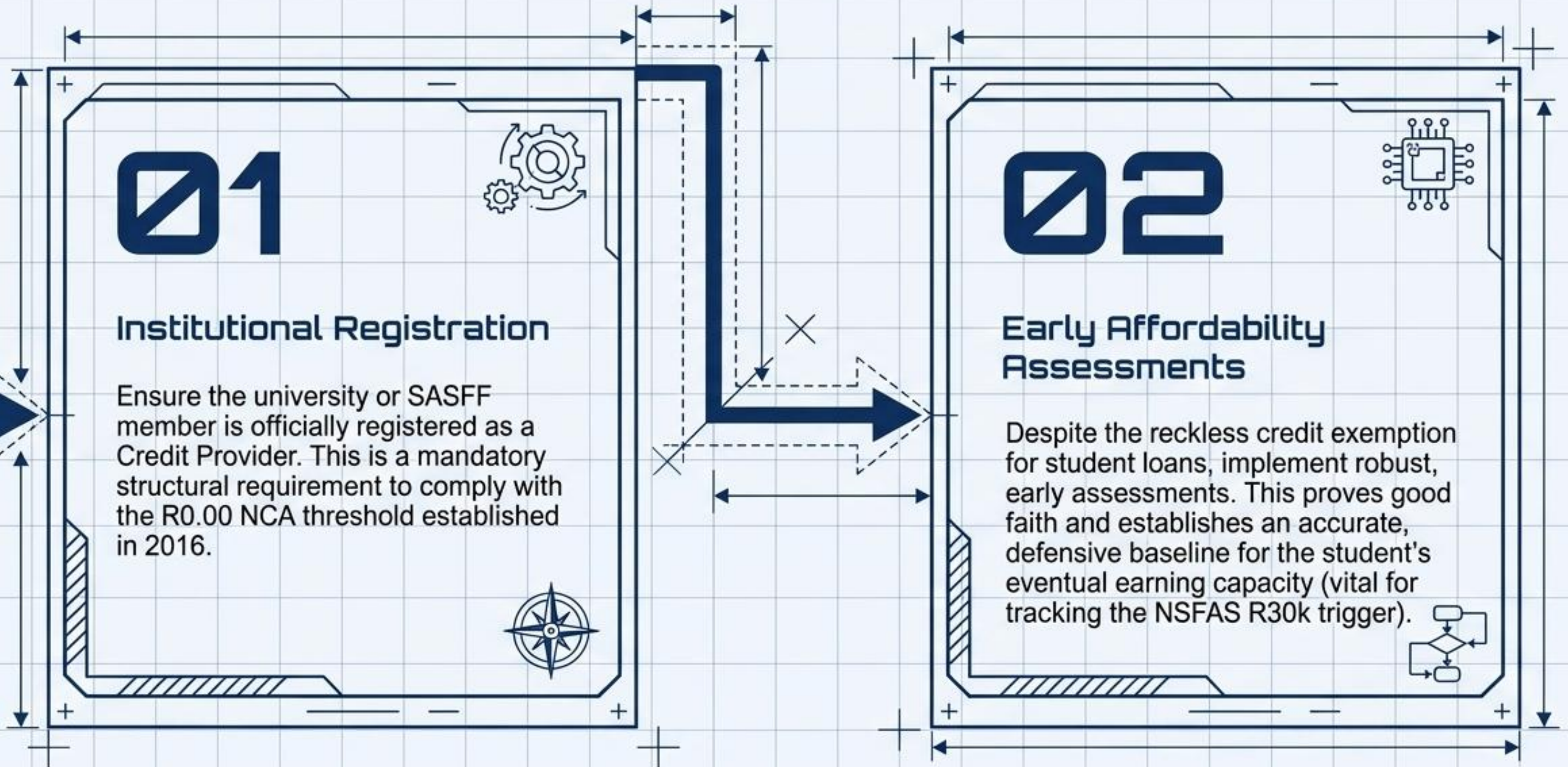


4. The Legal Lien Protocol

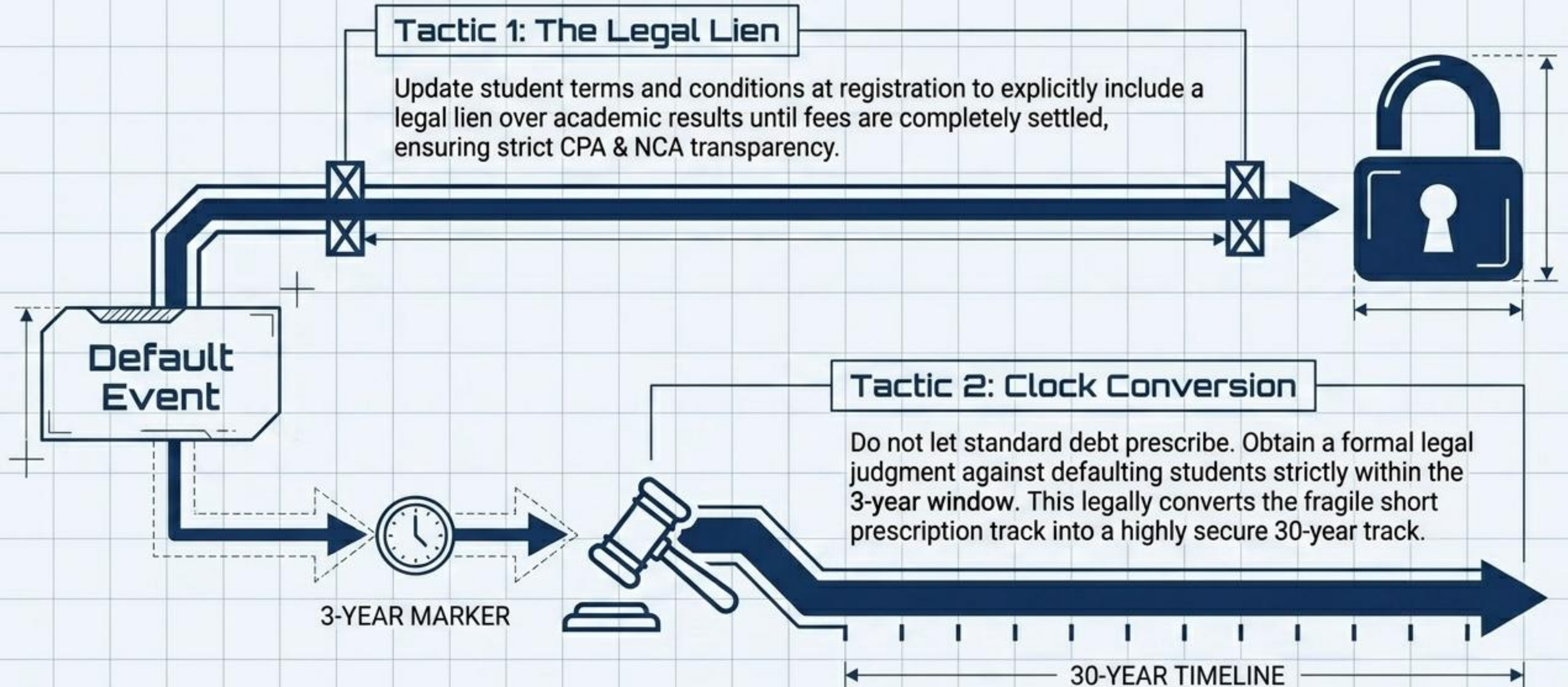
When leveraging academic results, ensure affordability assessments and POPIA consent forms are baked into the initial enrolment contract to shield against CPA/NCA counter-claims.



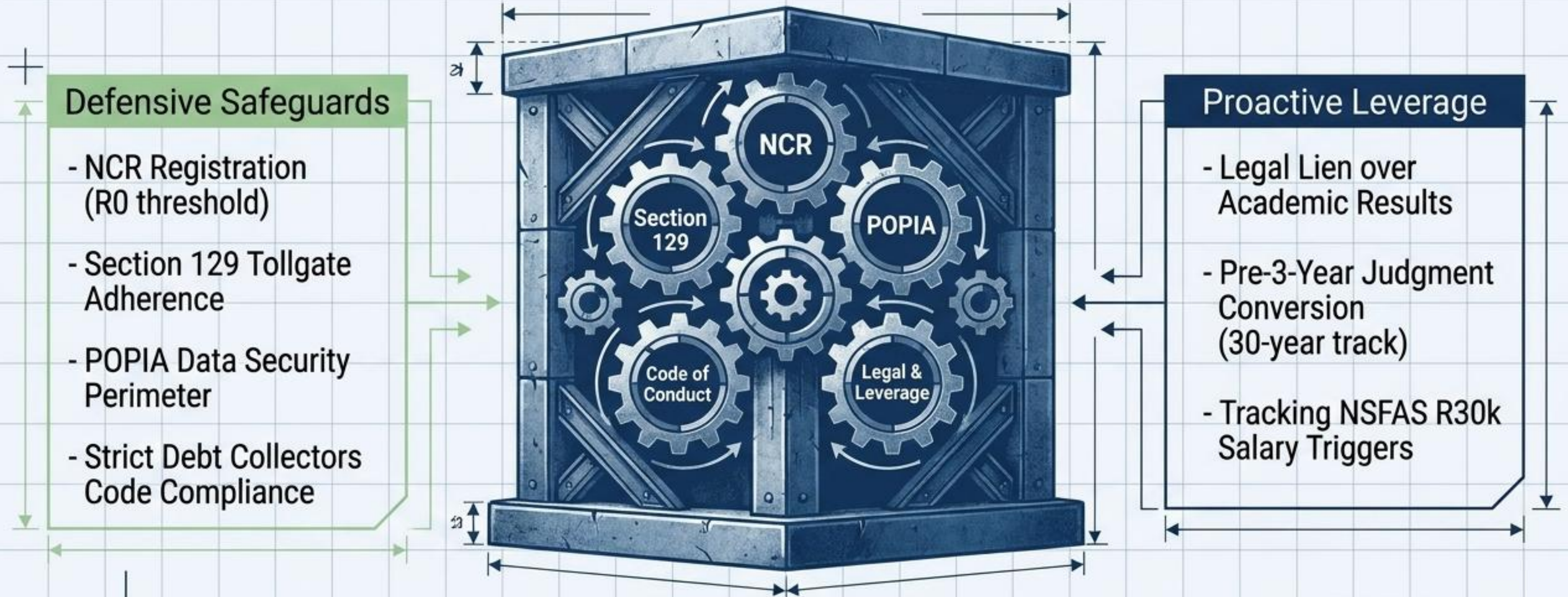
Operational Strategy I: Proactive Structuring



Operational Strategy II: The Ultimate Leverage



Synthesis: The 2026 SASFF Blueprint



Core Takeaway: In 2026, debt collection is not about aggressive force; it is about architectural precision. Lawful structuring guarantees enforceable collections.

Thank You!



Nicolene Schoeman – Louw

 I turn legal complexity into business growth.
With 20+ years guiding start-ups to multinational...

