The challenge of late payment of SMMEs with a focus on South Africa

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Abstract

Small, Medium and Micro Enterprises (SMMEs) are widely recognised as playing a pivotal role in economic development and job creation. This is particularly so in Africa, where SMMEs are responsible for 80% of all formal jobs. While this is recognised by various African continental and national developments plans, the nefarious practice of late payment, by especially governments, not only stunt the growth of SMMEs, but often-time leads to business failure. This article investigates the impact of late payment, with a specific focus on South Africa and touches on international good practice that may be employed to address this phenomenon.

Universities, Entrepreneurship and Enterprise Development in Africa – Conference Proceedings 2018
doi:10.18418/978-3-96043-071-1_19

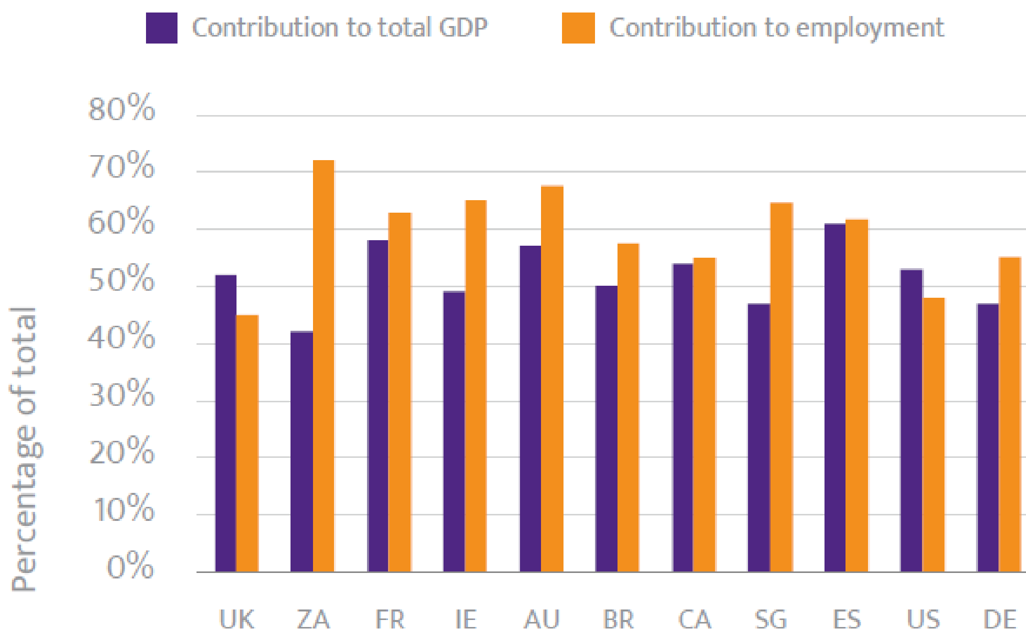
A. Introduction

According to the World Bank (2018) 11 million young Africans are expected to join the labour market within the next decade, IMF (2018) figures projecting that the number of Africans joining the working age by 2030 is more than that of the rest of the world combined. To this end Raja and Amphah (2016: 2) rightly point out that:

> "If they (young Africans) cannot find work, their frustrations could undermine national and regional stability and undo decades of progress."

Confronted with this reality, the onus is on African governments and the private sector to create an enabling environment for Small, Medium and Micro Enterprises (SMMEs), who currently are currently responsible for the creation of 80% of employment in Africa, to thrive. The contribution of SMMEs to GDP and employment (as illustrated in Figure 1) has been recognised globally and in Africa, the African Union, through its agenda 2063 has set itself the strategic objective to promote policies that will increase working capital, trade fiancé and insurance access to SMMEs.

Figure 1: SMME Contribution to GDP and Employment



Source: Plum consulting (2017): The Domino effect.

In the Developing World context governments are mostly the largest buyer of services and products, which places them in a unique position to leverage public procurement to stimulate growth of SMMEs. Governments can also incentivise large private businesses that conduct business with it, to include SMMEs in their value and supply chains.

However, in this article, it will be pointed out that rather than facilitating the growth and development of SMMEs, governments are often-time the reason for business failure of SMMEs, through the nefarious practice of "late payment". Specific focus is placed on South Africa, Africa's second largest and arguably most sophisticated economy. The article concludes with a reflection on internationally good practices to address the problem of late payments and argues for the need to put in place prompt payment legislation to protect SMMEs from the abuse of larger companies and the incompetence and tardiness of government procurement practices.

B. What is prompt payment and why does it matter?

Late payments are a by-product of one of the most important financial instruments in the world - trade credit. As this is not an odd or rare occurrence, the conditions surrounding the need, use, exploitation and legal protections to curb rampant trade credit vary across nations and business cultures. Although cultural practices have different ways of impacting commerce, there are some universal factors that are common.

The Association of Chartered Certified Accountants (ACCA) (2015) estimates that almost half of all business-to business transactions in the world is supported on the back of trade credit, with at least 30% of all trade credit-based sales reportedly paid outside the agreed terms. The survey further suggests that the appeal for debtors to participate in late payment practices is related to the fact that it is cheaper and more easily availed than a loan for working capital. Holding onto interest generating capital in addition to income generated by clients was another reason listed for late payment behaviour.

The UK Department of Business and Innovation (2013) defines "late payment" as that which "…occurs when a business has been supplied with goods or services on credit, but fails to pay within the agreed term"…, while the Australian Small Business and Family Enterprise Ombudsman briefly defines this practice as getting paid beyond the agreed time stipulated in a contract.

In a similar vein, Walker (2017) defines "late payment" as "an umbrella term which is used to encompass several different types of buyer-seller behaviour, but in general it is used to refer to a situation where a buyer with a healthy cash flow fails to pay an invoice for goods or services rendered on the agreed upon date as per their set terms with the seller" (Walker, 2017:1).

As often the case with umbrella terms, late payment is not one-size fits - all situations that arise as a result of flawed business partnerships or business culture. As a multi-faceted and complex phenomenon, the occurrence of late payment can, more often than not be attributed to a range of additional factors such as standard business cycles, an imbalance of power in the market, the efficacy of judicial structures and legislation and end product of industry structures and norms amongst many others. Forces affecting late payments are therefore not random in their occurrence but consist of the interaction of many facets of a working business environment.

In contrast to large companies, SMMEs are not in the position to easily absorb the impact of late payments. This means that upon failure of payment by clients, SMMEs have little choice but to resort to measures such as decreasing future investment in their businesses due to dipping into cash reserves, finding (expensive) external financing to stay afloat, reducing annual bonuses and cutting staff pay, retrenching staff or ultimately going bankrupt. Late payments have a knock-on effect on the entire value chain, with 34% of SMMEs admitting to paying their suppliers late due to liquidation problems caused by late payments further up the value chain (Plum Consulting, 2017). Given that most economies are primarily comprised of SMMEs in addition to their large share in employment, it is a national priority to ensure the health of the sector through not only prompt payment, but focused investment. Walker (2017) summarises the basic impacts of late payment on SMMEs as follows:

- It raises costs associated with the financing of working capital;
- It depletes cash reserves in businesses, while often losing the interest which could have been accrued in the meantime;
- It escalates administrative costs associated with collections and recoveries;
- It drains labour productivity, and causes businesses to require passing up further profitable work;
- It creates distractions from everyday work for both owner-managers as well as the business staff;
- It creates losses for businesses which would otherwise seem profitable on paper;
- It often places the burden of financing the entire supply chain on the smallest sellers and suppliers which are usually placed quite low in the chain;
- It creates unemployment and bankruptcy;
- By killing otherwise profitable business ideas, late payment stifles competition and hampers business progress in markets with unsustainable late payment problems;
- Since companies seem to increasingly accept the presence of late payment as a given, the fall backs required for small businesses to survive late paying clients increases the barriers to entry for businesses in industries (creating insulated markets) with the worst payment practices (Walker, 2017:4).

According to the Small Business Survey (2016) conducted by the South Africa Institute of Chartered Accountants (SAICA), approximately 76% of small businesses operating for less than five years identified the lack of funding and poor cash flow as major impediments to growth. Another study conducted by software company Xero (2017) recorded that SMMEs identify cash flow as the second biggest challenge faced by their business, with 35% of respondents indicating that cash flow issues "keep them awake at night". Similarly, a recent study by Sage, called "Domino effect" (2017) found that 8% of payments to small businesses are either never made, or paid so late that SMMEs forced to write these payments off as bad debt. The study further records that 52% of respondents reported to having experienced negative impacts due to late payments.

SMMEs are particularly vulnerable to disruptions to operations due to their size and are much less able to absorb operational shocks in the short run due to limited capital. SMMEs often have limited cash reserves, with delays in payment having significant impacts on their ability to operate. When experiencing cash flow problems, SMMEs are

more likely to cut down on future investment in order to stay afloat, impacting growth opportunity. Companies are not able to invest, expand into new areas and take advantage of new business opportunities. Additionally, firms that find it difficult to pay their suppliers are unlikely to be able to increase their order of inputs necessary for a larger-scale production.

Late payments therefore have debilitating consequences on the sector's growth and the broader economy as a whole, due to the sheer size of the SMME sector.

C. The South African case

The South African Cabinet has, since 2009 endeavoured to address the problem of late payment of service providers through various initiatives and policies. The National Development Plan (2011) estimates that 90% of all new jobs will be created by Small, Medium and Micro Enterprises (SMMEs) by 2030 - and with approximately 9.3 million unemployed South Africans, supporting the health of the SMME sector as a vehicle for economic growth, sustainable employment and the alleviation of poverty is a matter of national importance.

To demonstrate its commitment to bolstering the SMME sector, government pledged to partner with private business in establishing a fund to provide capital assistance to SMMEs in 2016. Big business raised R1.4 billion to establish the SA SME fund which proved to be barely operational and failed to attract equivalent government funding. In 2018, government went on to announce the creation R2.1 billion start up fund during the budget, with very little elaboration regarding the roll out of this initiative.

In his reply to the debate on the 2018 State of the Nation address, President Ramaphosa pointed out that government should endeavour to remove barriers for the optimal functioning of the SME sector, stating that:

> *"It is clear that the failure of some government departments to pay suppliers within 30 days has a devastating impact on small and medium-sized businesses. This is something that I want to see addressed as I visit government departments, because the culture of late payment has gone on for far too long and has caused far too much damage, particularly to emerging black businesses"*.

Though investment capital forms an important component of assisting SMME sector growth, cash flow is just as crucial for the survival of SMMEs.

Though many initiatives addressing the late payment of service providers have been spearheaded by National Treasury and the Department of Planning, Monitoring and Evaluation (DPME), compliance of departments has moved at snail's pace. The SME insights report published by the South African Institute of Chartered Accountants (SAICA, 2015) reported on the number of days various sectors took to settle payment owed to service providers. Results revealed

that government remained the **main transgressor** when it comes to late payment of service providers, while other SMMEs were found to be the best performers in terms of making timely payments. The exact results were as follows:

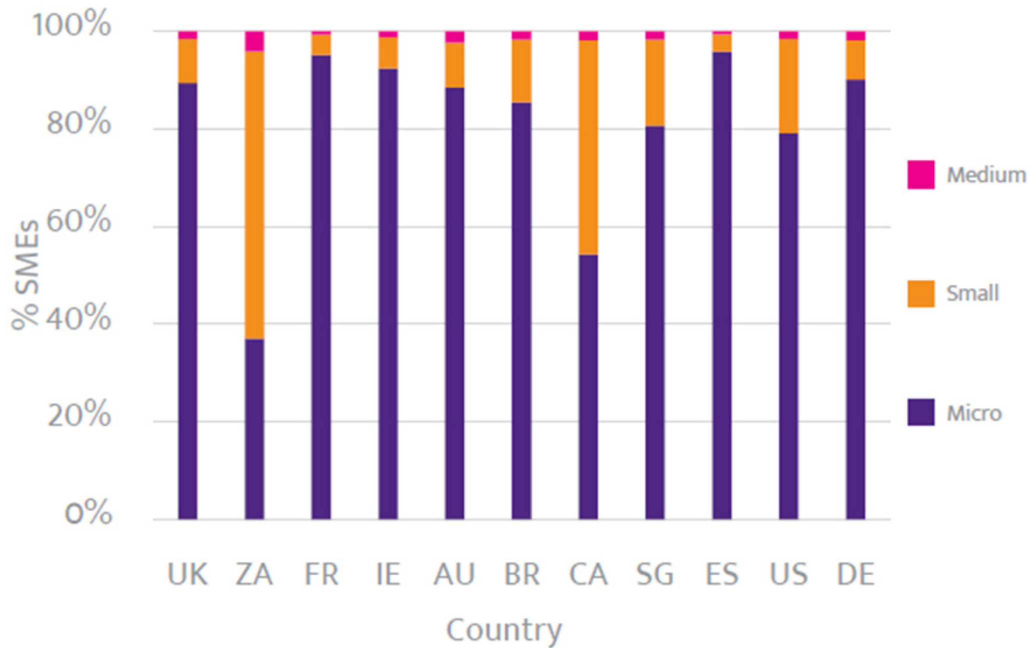
- 86 days for provincial government
- 82 days for national government
- 81 days for municipal government
- 70 days for parastatals
- 42 days for large private sector
- 35 days for small and medium private sector

Apart from the most commonly cited factors determining late payment, such as national business culture, economic conditions and power imbalances in the market, the inconsistency of initiatives, poor planning, lack of efficient monitoring and buy in from all sectors has placed a strangle hold on the South African SMME sector. Initiatives, albeit poorly planned and monitored, have been championed by government, while commitment from the private sector is yet to be seen.

The approach of government with regard to this issue has been self-sabotaging at best and schizophrenic at worst. Not only has government committed to various SME capital funds, but it has championed initiatives to address late payment, while continuing to be the main transgressor in failing to pay SMMEs on time. In the midst of everything, the SMME sector is expected to act as a vehicle for economic growth. Effective intervention requires the buy in of all sectors, alignment of initiatives, proper planning, effective monitoring and the establishment of punitive measures to punish offenders.

In many countries, including South Africa, SMMEs largely outweigh the number of large firms. In a Plum Study (2017) undertaken by Sage, it was found that in South Africa, 97% of registered enterprises were recognised as SMMEs, accounting for a greater share of employment (70%) than any other sector. This percentage does not even include the large South African informal sector.

Figure 2: Comparative size of SMMEs by country



Source: Plum consulting (2017): The Domino effect

Prompt payments to SMMEs by government departments and big businesses have the potential to alleviate strain and reduce the rate of SMME closures in South Africa. STATSSA (2016) found that the total number of SMME liquidations increased by 15.4% in September 2016, compared to the year prior. Additionally, the number of liquidations increased by 4.3% in the third quarter of 2016 compared to the third quarter of 2015 alone, while the number of registered businesses stood at 707 000 in 2008, dropping to 670 000 in 2015. This worrying trend of SMME closures suggests that instead of being the source of employment as expected by the NDP, SMMEs have been bleeding jobs, crippled by cash flow and funding issues.

Late payments need to be followed up on, creating a further administrative burden to SMMEs. A survey completed by Plum Consulting (2017) reports that approximately 5-10% of all administrative work of SMMEs is related to chasing late payments. The study further reports that South African SMMEs spend an average of 20 days chasing late payments, incurring approximately R48 000 in costs, ultimately resulting in productivity loss. Seeing that SMEs generally do not have many employees, the allocation of man power to chasing payments has a significant impact on productivity.

Xero (2017) reports that South African small business owners spend on average 1.3 days a month chasing invoices. The study further suggests that chasing payments is experienced differently by various sectors, with the worst-affected sector constituting healthcare, where businesses spend 2.6 days a month chasing invoices, followed by manufacturing and utilities, architecture, engineering and building at 1.5 days each.

D. Public and private sector solutions to the late payment crisis

In terms of Section 38(1)(f) of the South African Public Finance Management Act (PFMA) of 1999 (as amended), Accounting Officers are required to settle all contractual obligations and pay all money owing, including intergovernmental claims, within the prescribed and agreed period. In March 2005, National Treasury published regulations in terms of the PFMA of 1999, requiring Accounting Officers to pay invoices within 30 days of receipt.

Despite Cabinet having issued various directives to government departments to ensure that invoices are settled within 30 days, continued non-compliance on the issue has been experienced. Cabinet has noted the negative impact on suppliers within Small, Medium enterprises and its effect on service delivery, SMME collapse, the broader ripple effect on the rest of the supply chain, employment opportunities and even effects suffered by larger companies. Cabinet therefore took resolutions in 2009 and 2010 instructing departments to implement mechanisms to ensure that payments are processed within 30 days.

Subsequently, National Treasury issued a communique in May 2010 that non-compliance with the PFMA and the Treasury Regulations constitute grounds for financial misconduct. To further ensure compliance, National Treasury issued an instruction note on November 2011 to enforce monitoring of the payment of suppliers. This note required that national departments and provinces submit monthly inception reports for late and/or non-payment of suppliers within 30 days and include the reasons thereof (DPME, 2016:2).

In 2009 and 2010, Cabinet took resolutions to ensure the payment of service providers within 30 days. This commitment to addressing late payment subsequently led to the establishment of an SMME Payment Assistance Hotline, championed by the Department of Trade and Industry and under the stewardship of the Small Enterprise Development Agency (SEDA). It is reported that by 2012, the line had received 7109 queries related to issues of late payment by departments, with 5155 queries to the value of R300million being resolved. Common challenges identified by SMMEs via the hotline included:

- SMMEs were not informed about the correct payment processes requirements such as registering on the central database;
- Having no formal paper trail recording agreement to render services and receive payment;
- Government departments requesting additional deliverables without revising the initial agreement;
- No provision of order numbers to render services in emergency situations; and
- Invoices that were displaced or lost

The hotline was subsequently moved to the Presidency. SMMEs were then able to contact the Presidential Hotline and use a dedicated email address to lodge queries. Performance of the follow up on cases has since not been reported since.

In an attempt to further bolster initiatives to address late payment, a series of provincial hearings were held in 2012 aimed at i.) garnering input from SMMEs with regard to government compliance ii.) gaining an understanding of challenges experienced by service providers, and (iii.) enlisting the help of SMMEs in the provision of suggestions as to how bottle necks could possibly be removed and payment fast tracked (Public Service Commission, 2014:2). The biggest reasons for late payment were communicated by service providers as follows:

- Service providers were not knowledgeable of, and did not adhere to the requirements of proper invoicing;
- Service providers often did not have official purchase orders when they submitted invoices;
- Quality assurance of goods and/or services often took place after capturing invoices delayed payment;
- Accrual of unpaid invoices from one financial year to the next caused cash flow shortfalls;
- Departments did not monitor their payment processes effectively;
- Capacity related constraints hampered departments' ability to pay service providers on time;
- Fraud and corruption resulted in late and/or non-payment to service providers with some service providers receiving preferential treatment.

Since 2011, the current administration has required all Directors to report to the Forum of South African Directors General (FOSAD) on the timeous payment of service providers. Additionally, Outcome 12 of the 2014-2019 MTSF also tracks the performance of departments in meeting their obligations to pay invoice within 30 days.

As of 2015, a special unit was established within DPME in a collaborative effort with the National Treasury and DPSA. This unit was mandated to investigate cases where there is late or non-payment of legitimate invoices within 30 days, identify the causes for delays and non-payment in aforementioned cases, facilitate the process for instituting misconduct proceedings to ensure that there are consequences for late and non-payment of legitimate invoices and support /intervene in cases of continuous non- compliance. Since the inception of the unit, it is reported that a total of 102 cases have been lodged and 47 of those have been closed while 55 cases are in progress. To date, a total amount of R177 million has been paid to various service providers as facilitated by the Unit (DPME, 2016:9).

Additionally, oversight visits were conducted to various national and provincial departments whose performance was deemed unsatisfactory, in an attempt to identify the main causes of non-payment, the bottlenecks and to assist putting in place measures for improvement. The national departments that were visited include the Department of Defence, Home Affairs and Water and Sanitation, Public Works/PMTE as well as those on provincial level in Gauteng, Northern Cape, Kwazulu-Natal and North-West Provinces.

Despite steps taken to address the problem of non/late-payment, the unit has experienced a number of constraints, above all being the issue of capacity. Three officials have been allocated to the unit, who are assigned to other tasks within the department as well. Due to the lack of capacity, the unit is experiencing severe backlog, which can be seen through the facilitation of payment to the value of R177 million over 16 months. This demonstrates that with sufficient capacity, the DPME can achieve more in assisting SMMEs on payment of their invoices.

The Office of the Chief Procurement Officer (CPO) was established on the 1 September 2015 by National Treasury. In order to simplify the process of doing business with government, an electronic registration and verification process of businesses supplying services to government was set up. By July 2016, over 150 000 registrations had been submitted.

In another collaborative effort between the DPME and National Treasury, a walk in centre was established at the National Treasury offices in Tshwane, which was created to address service providers' queries and act as a conduit of information between suppliers, the DPME and NT.

Following a study on late payment completed by the Construction Development Board (CIBD), the Department of Public Works published a set of Prompt Payment regulations in 2015 to ensure prompt payment of both private and public contractual agreements in the construction industry. It has been recorded that the regulations are to be revised for Constitutional compliance and will subsequently be republished. Not only does section 26D (2) of the regulations outline the 30-day time frame within which payment is expected, but provides a clause instructing the payment of interest to the supplier should the client fail to pay within the agreed upon time frame. Additionally, section 26D (3) stipulates that all interest paid in terms of the previous section should be disclosed in the financial statements by the client or employer. This can be seen as ensuring compliance as these payments qualify as fruitless and wasteful expenditure and can name and shame transgressors in financial reporting. These contractual regulations should be expanded beyond the construction industry to include all private and public contractual obligations (Construction Industry Development Board Act, 2000:61).

Notwithstanding these initiatives (and the challenges that accompany them), addressing the issue of late payment remains limited in scope, as platforms only target the relationship between government and SMMEs and not necessarily the payment behavior in dealings between big business and SMMEs. Other than voluntary commitments such as the Prompt Payment Code championed by the National Small Business Chamber (NSBC), credible effort from the private sphere is yet to be seen. Although the code strives to improve payments to suppliers within 30 days, this code does not constitute an enforceable obligation. The focus is primarily on reputational gains and the adherence to ethics and good business practices.

E. Current state of affairs in terms of late payment in South Africa

In a 2016, the DPME released a progress report in the status of payment of invoices by national and provincial departments. At the time of writing, no updated progress report has been published by the department.

As of June 2016, the number of invoices paid after 30 days stood at 17 668 to the value of R340 million. The Department notes that in June 2015, invoices payed after 30 days amounted to 13 803 to the value of R224 million, demonstrating a downward trend. An analysis of national departments' performance for the first quarter of 2016/17 is as follows:

Figure 3: Invoices paid after 30 days

INVOICES PAID AFTER 30 DAYS		
Month	**Number of Invoices**	**Rand Value**
April 2016	11 375	R327 559 415
May 2016	20 948	R305 158 185
June 2016	17 668	R340 011 659

When looking at the first quarter of 2016/2017, out of the 40 departments investigated (23 departments showed signs of improvement), the main contributors to the 17 668 outstanding invoices included: The Department of Defense is a main transgressor with 10 719 invoices paid after 30 days, followed by Public Works/PMTE (1 601), Home Affairs (963), Water & Sanitation (784), Rural Development (667), IPID (606) and the Office of the Chief Justice and Judicial Administration (517). Additionally, the rand value of the invoices increased from R327 million to R340 million during the first quarter, displaying evident regression in adhering to the stipulations of prompt payment.

The number of invoices older than 30 days that continue to go unpaid demonstrates a worrying trend. As of June 2016, national departments failed to pay a total of 12 870 invoices to the value of R62 million, compared to 4 543 unpaid invoices to the value of R410 million recorded in June 2015. The table below shows a gradual increase in the number of invoices over the quarter.

Figure 4: South African National Departments: Invoices older than 30 days

INVOICES OLDER THAN 30 DAYS AND NOT PAID		
Month	**Number of Invoices**	**Rand Value**
April 2016	9981	R499 376 365
May 2016	12780	R55 172 334
June 2016	12870	R62 027 458

The departments that most contributed to the 12 870 unpaid invoices older than 30 days and displayed a downward trend in performance from the year prior as it relates to payment include the Department of Public Works (10 757), followed by the Department of Justice and Constitutional Development (1088), Home Affairs (375), The Presidency (331) and the Department of Water and Sanitation (151).

The DPME reports that, in terms of the number of unpaid invoices and the rand value thereof, Provincial government performance remains worse than that of National government.

As of June 2016, the total number of invoices paid after 30 days amounted to 29 306 to the value of R1.8 billion, compared to June 2015 where the number of invoices stood at 30 466 to the value of R1.6 billion.

Of serious concern is the number of unpaid invoices older than 30 days, which continue to go unpaid. As of June 2016, provincial departments failed to pay 39 833 invoices to the value of 3.3 billion, compared to June 2015, where the number of unpaid invoices older than 30 days stood at 32 339 to the value of R2.5 billion. The table below demonstrates the number and value of invoices older than 30 days that are unpaid for the first quarter of 2016 (DPME, 2016:9).

Figure 5: South African Provincial Departments: Invoices older than 30 days

INVOICES OLDER THAN 30 DAYS AND NOT PAID		
Month	**Number of Invoices**	**Rand Value**
April 2016	50 460	R3,8 billion
May 2016	43 423	R3,5 billion
June 2016	39 833	R3,3 billion

Gauteng province alone accounted for almost 50% of unpaid invoices older than 30 days, with R2.2 billion (out of the total of R3.3 billion) owed to suppliers by the same provincial government.

F. Transnational Solutions and international examples of good practice

The European Union (EU)

While late payment may be a multifaceted phenomenon, there are key drivers that exacerbate the culture of late payments, including economic conditions, national business culture and power imbalances. In 2015, EOS Holdings conducted a survey in which 1 in 4 companies cited the general economic situation/crisis as the biggest factor influencing the payment behaviour of EU companies. It was found that prevailing business culture influenced late payment of service providers, with intentional non-payment being a common practice in some countries and is still exercised by one in four companies. Additionally, power imbalances in the supply chain were also cited as a primary reason for late payment, with more powerful actors imposing long waiting periods on smaller companies and SMMEs not taking any steps for fear of losing future business.

Multiple survey results clearly demonstrate the detrimental effects of late payment on small and medium enterprises. In order to tackle this persisting problem, EU policy on this matter is aimed at prioritising payment delays by public administrations, given the importance and scale of procurement in the EU, representing more than €1,943billion. During the impact assessment for the current Directive (addressing late payment) in place, the European Parliament found that late payments "undermine the creation of stable and economic businesses and policies to drive growth and employment". Subsequently, an economic paper on late payments was published by the European Parliament, which estimated that implicit costs associated with payment delays by public administrations observed in 2012 ranged

from 0.005% of GDP in Finland to 0.19% in Greece. Echoing sentiments of the prolific impact of late payments, in a working paper completed in 2015, the IMF argued that a standard deviation increase in delayed payment reduces growth by 1.5 to 3.4 percentage points. Similarly, Intrum Justitia published a 2018 report, approximating that 1.69% of annual revenue generated in the EU had to be written of due to non-payment, a decrease compared to 2.8% in 2012 (which was equivalent in value to the total debt of Greece at the time-€340 Bn), 2.44% in 2016 and 2.14% in 2017 (Intrum Justitia, 2018: 4).

In an attempt to discourage late payment and contribute to the development and improvement of the single market and to improve European competitiveness, the EU has introduced contractual terms to discourage late payment periods, late payment in general and enable creditors to exercise their rights when they are paid late (EU, 2016: 26). The latest EU instrument which aims to tackle the issue of late payment in commercial transactions is Directive 2011/7/EU, which replaced the original Directive 2000/35/EC, which featured the same objectives and operating principles (European Parliament, 2015: 1). The current directive was adopted by the commission following an inter-institutional negotiations process. The terms of the revised directive needed to be transposed into national law of all member states by the 16 March 2013. The main provisions of the directive include:

- Harmonisation of period for payment by public authorities to businesses: Public authorities are obligated to pay for procured goods and services within 30 days or, in exceptional circumstances, within 60 days.
- Contractual freedom in business commercial transactions: Enterprises are obligated to pay their invoices within 60 days, unless expressly agreed otherwise and provided it is not "grossly unfair".
- Businesses are entitled to claim interest for late payment: In addition to interest, businesses are also able to obtain a minimum fixed amount of EUR €40 as a compensation for recovery costs. Compensation can be claimed for all remaining reasonable recovery costs.
- There exists a statutory interest rate for late payment**:** Interest rates on late payment in Member States should be increased to at least 8 percentage points above the European Central Bank's reference rate. Public authorities are not allowed to fix an interest rate for late payment below that figure.
- Member States should ensure that recovery procedures for undisputed claims are available: An enforceable title can be obtained within 90 calendar days of the lodging of the creditor's action or application to a court.

Germany

Of member states party to the European Union, Germany has proved to be one of the best performers in terms of paying invoices on time. The European payment report (2018), conducted across 29 European countries gathered data from 9607 companies in order to gain insight on the payment behaviour and financial health of European firms. The C2FO Working Capital Outlook Survey (2017) records that approximately 29% of invoices issued by German SMEs have been paid late in the last year (C2FO, 2017:24).

EOS European Payment Practices Survey (2017) reports Germany to have the lowest incidence of "wilful non-payment", while the incidence of late payment was recorded to be more common a practice in Eastern Europe as

opposed to Western Europe. Specifically, approximately 10% of German companies surveyed reported wilful non-payment, while the bottom of Western European rankings included Belgium (43%), Austria (41%) and France (40%) companies and Eastern European companies including are Romania (50%), Greece (45%) and the Czech Republic (42%).

The European payment report (2018) further records that, on average, German SMEs allowed the settling of B2B invoices to be made within a period of 29 days (compared to 21 days in 2017). The average time for (B2B) customers to pay stands at 24 days for 2018 and 19 days for 2017, indicating somewhat of an extended waiting period (European payment report, 2018:30).

Germany transposed the EU late payment directive with a slight delay owing to reported difficulty with reconciling the instrument with already existing national law which focuses on addressing late payments from the angle of unfair contract conditions. After infringement proceedings owing to late transposition of the directive by the EU, the Directive has now been transposed by the "*Gesetz zur Bekämpfung von Zahlungsverzug im Geschäftsverkehr und zur Änderung des Erneuerbare-Energien-Gesetzes*". The country has given greater protections to creditors than those outlined by the 2011 EU late payments directive, due to pressure from the crafts industry. In February 2014, the German Minister of Justice circulated a revised draft law on the implementation of EU directive 2011/7/EU. The terms are as follows:

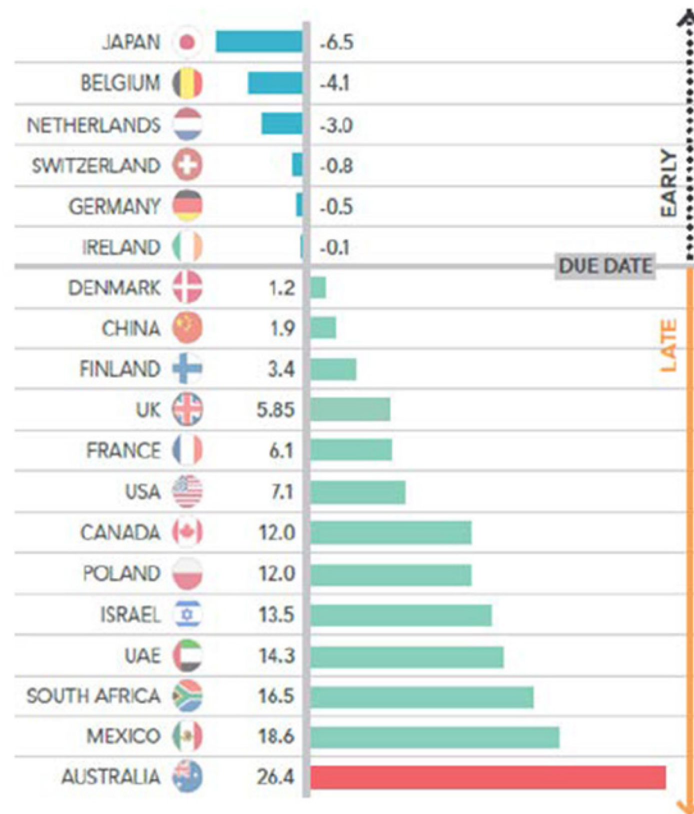
- Contractual terms agreeing to more than 60 days payment time and 30 days for acceptance and verification proceedings are considered as void;
- If in the event the client is a public authority, this time period is limited to 30/15 days respectively;
- The general terms of contract period are limited to 30/15 days, any payment exceeding 60 days will be deemed as grossly unfair;
- No exception will be allowed for late payments in the Public Health Service;
- The interest rate for late payments will increase from 8 to 9% above the European Central Bank (ECB) reference rate for commercial transactions;
- In addition to receiving interest on late payments, creditors are allowed to claim an allowance of €40 (solicitors' fees and costs for engagement of a debt collection agency are recoverable upon the representation of proof);
- In the case of an invoice that is unclear, the set period for payment commences upon receipt of the goods or services; and
- Apart from undue terms and conditions, undue contract terms and practices will be challengeable by third parties.

Japan

Beyond the European Union, Japan ranks highly in facilitating prompt payment to service providers. Representing a five-year international survey on late payment, undertaken by Market Invoice (2015), the figure below suggests that

while Germany falls within the range of early payment (0.5 days early), Japan has outperformed the federation (6.5 days early), while Australia proves to be the weakest performer (26.4 days late).

Figure 6: Average payday 2015. Longitudinal study completed by Market invoice



As noted by Atradius Payment Practices Barometer (2016), Japanese businesses are far more likely to demand upfront payment, request payment in cash on receipt of goods and services, trade in cash equivalents or in terms other than trade credit.

In many countries, delaying payment of suppliers has proved to be an effective source of cash for many corporates. ACCA (2016) argues that Japan's unique record of early payment could be attributed to its zero to negative interest rates. With no reason to save and hold on to capital, capital is better invested by purchasing material stock or physical goods. In this way, Japanese businesses actually have an incentive to pay early, and have less reason to hoard cash. The survey further records that Japanese firms expect the payment of invoices to be cleared within 45 days, a payment term which is significantly higher than the average of 33 days for the Asia Pacific region. Interestingly, while 90.2% of businesses faced late payment on Asia Pacific level, 63.2% of Japanese firms were paid late by clients.

Additionally, 24.8% of the total value of Business to Business (B2B) sales remains unpaid by their due dates, compared to the Asia Pacific region average (44.8%), while 5% of invoices older than 90 days remained unpaid, lower than the Asia Pacific region level (10%) once again. Japanese suppliers have written off approximately 1.2% of the total

value of B2B receivables as uncollectable. This rate has in fact remained stable over recent years, suggesting an unchanged efficiency in collecting overdue receivables.

It should be noted that Japan has one of the longest Days Sales Outstanding (DSO) in the region and in comparison, to most countries. This can be attributed to the longer payment terms offered to clients by Japanese businesses themselves, indicative of a measure of their usual regular contractual terms as opposed to their efficiency in collection process or treatment of late payment culture.

Approximately 45% of Japanese suppliers also indicated that late payment did not have a significant impact on their businesses. This likely reflects a strong focus of Japanese companies on the protection of their businesses from the risk of payment default arising from B2B trade on credit. Compared to businesses in the Asia Pacific that attribute liquidity issues to intentional late payments, the most common instances of late payment in Japan are due to disputes over services and goods and the complexity of payment procedures. Only 20% of Japanese businesses report insolvency or intentional late payments as reasons for overdue accounts receivables.

According to Euler Hermes (2016) collection profile of Japan, the Japanese payment culture is quite stringent. Despite longer DSO's, payments are largely made on time. Financial information of firms is publically available, in a bid for increased transparency. In matters of late payment, businesses are allowed to charge 6% interest on the principal amount if the debtor is deemed responsible for having failed contractual obligations. If in the event the debtor has failed to make the payment within one year, the interest accrued on late payment is included into the principal amount.

The law allows firms to claim compensation for damages as a result of late payment, on condition that the contract includes provisions defining the compensation and the form of payment. With regard to debt collection, Japan has a Civil Law system through which cases regarding breach of contract can be enforced.

The Doing Business Report (2016) investigates the efficacy of the Japanese court system, specifically how long it takes to enforce a contractual payment for goods and services agreed to between two companies. In order to have a contractual payment enforced in Japan, the study records this process to take an average of 360 days and 23.4 % of the total claim value. Due to this time lag, Japan ranks 51st out of 189 countries in enforcing contractual payment through courts.

However, the most significant protections against late payment are those outside of the legal system. These cultural particularities have unique incarnations of late payment protection, one of which is that debtors who have failed to pay on time twice over a six-month period may be banned from the banking system.

Beyond court factors enforcing B2B contracts

One of the largest out of court payment practices that drive timely B2B payments stem from the nature of the Japan's payment practices. In particular, according to a business guide released by Sumitomo Mitsui Banking Corporation (Japan's second biggest banking entity), majority of B2B transactions are carried out through Corporate checks (referred to as "Kigitte") and Promissory notes ("Tegatta") which are similar to promissory notes, so-called IOUs, but are legally defined under Japanese law. Promissory notes represent somewhat of a mid-way between the informal nature of an IOU and the absolute nature of a loan contract in terms of legal enforceability. These notes contain relevant details of the business transaction such a promise by one party to pay another party a definite sum of money wither on demand or at a specified future date, as well as the terms relating to the indebtedness such as the balance due, the place of issuance and the issuers signature.

As the most popular forms of business transactions in Japan, corporate checks and Promissory notes are heavily policed by the Japanese clearing house and are even outlined in the Japanese commercial code. The Japanese clearing system is characterised by a mandatory bank suspension rule, which requires banks to suspend transactions for a certain duration with obligatory payers whose bills or checks are dishonoured, a rule which has been in existence as early as 1887 in an attempt to maintain orderly and fair credit conditions. Currently, all financial institutions participating in a particular clearing house are required to halt their current checking account and lending transactions for two years to a person/business whose checks have been dishonoured twice during a 6-month period (Japanese Bankers Association, 2012:6). Seeing that approximately 74% of these kinds of transactions are carried out by Tokyo clearing house, which functions with the participation of 323 financial institutions, defaulting on payments may as well mean being banned from the Japanese banking system altogether.

While the system employs punitive measures for repeat offenders, service providers are able to reclaim owed compensation for goods and services after 90 to 120 days in the Japanese discount notes market. This system allows service providers to approach banks for discounted rates on promissory notes or private financial institutions for capital. If the bank is made aware of the possible upcoming default, it could possibly halt processing the payment and offer it back to the issuing business for repurchase.

G. Conclusion

The importance of SMMEs, especially in the African context, in terms of contributing to economic growth and employment cannot be overstated. Although a multitude of continental and national development plans acknowledges this, the continued nefarious practice of late payment, mainly perpetrated by governments themselves, undermines the role that SMMEs can play in economic development. International good practices referred to in this article, clearly points out working models for addressing the phenomenon of late payments, but serious political will, coupled with appropriate legislative reform to ensure sanctions against those public officials that are guilty of this malpractice is required.

References

Association of Chartered Certified Accountants (2012). Getting paid: Lessons from SMEs.

Association of Chartered Certified Accountants (2015). Ending late payment- Part 1: taking stock.

Atradius (2016). Atradius payment practices barometer: International survey of B2B payment behaviour Japan- key survey results.

C2FO (2018). The state of working capital for small and midsize enterprises: challenges and opportunities for the global economy. Capital Outlook Survey- 2017 insights.

Department for Business, Energy and Industrial Strategy (2016). Payment Reporting requirement- Summary: Intervention and options. Impact Assessment conducted by the UK government.

Department of Planning, Monitoring and Evaluation (2016). Report on the payment of suppliers (service providers) within 30-days and the role of the Special Unit within the Department of Planning, Monitoring and Evaluation (DPME).

Intrum Justitia (2018). European Payment Report 2018.

Japanese Bankers Association (2012). Payment Systems In Japan.

Manos, S. (2016). Ending Late Payment Part 3: Reflections on the Evidence. Survey undertaken by the Association of Chartered Certified Accountants.

Market Invoice (2016). The state of late payment report 2016.

Market Invoice (2017). Late Payment insights 2017.

Miller, T. and Wongsaroj, S. (2017). The Domino effect: the impact of late payments. Paper completed by Plum consulting on behalf of Sage.

Public Service Commission. (2014). Consolidated report on Public Hearings on Compliance with governments 30-day payment period to service providers.

Raja, S and Ampah, M. (2016). Will the digital revolution help or hurt employment? Connections: Transport and ICT. http://pubdocs.worldbank.org/en/418571454610036743/ConnectionsNote02-020416-hr-web.pdf
Sumitomo Mitsui Banking Corporation (2017). Characteristic of Japanese Banking Practices.

European Union (2011). Directive 2011/7/EU.

The European Parliament (2015). State of play of the transposition of Directive 2011/7/EU on late payments in commercial transactions. Briefing document produced by the Ex Post Impact Assessment Unit of the European Parliamentary Research Service (EPRS) on the implementation of the Directive.

The South African Institute of Chartered Accountants (2016). 2016 SMME Report.

World Bank Group (2015). Doing Business Economy Profile 2016: Japan.

Xero (2017). The State of South African Small business in 2017. A report produced by Xero in partnership with World Wide Worx.