

The sharing and use of consumer credit data through a credit reference agency

by the Banking Development Department

The Code of Practice on Consumer Credit Data promulgated by the Privacy Commissioner for Personal Data was relaxed in June 2003 to allow a wider range of positive consumer credit data to be shared among lending institutions. In relation to this, the HKMA has issued a Supervisory Policy Manual module, "The Sharing and Use of Consumer Credit Data through a Credit Reference Agency" (SPM-IC6). It sets out the minimum standards authorized institutions (AIs) are expected to observe in relation to the sharing and use of consumer credit data through a credit reference agency (CRA). Specifically, it requires all AIs engaged in consumer lending activities to participate as fully as possible in the information sharing arrangement. This memo seeks to provide guidance to AIs with regard to a few practical issues in complying with the module.

Q1. Are AIs required to share and use the credit data of personal guarantors through a CRA?

A1. The HKMA understands that it is not the general practice of financial institutions to report the credit data of personal guarantors to a CRA except in the case of hire purchase lending (HP loans). According to the industry Associations, this type of data is not of much value to the credit assessment practices underlying high volume consumer credit products.

The HKMA also notes that, with the exception of residential mortgages which are currently not covered by positive data sharing, consumer credit products such as personal loans and credit card advances are rarely supported by personal guarantees. Taking this into account, the HKMA will not insist that AIs should report and share guarantors' credit data through a CRA. This issue will be reviewed from time to time, having regard to the development of AIs' lending practices.

Q2. Similar to Question 1, are AIs required to share and use the credit data of sole proprietorships through a CRA?

A2. A sole proprietorship refers to the commercial activity carried on by an individual. Since lending to sole proprietorships is usually managed by AIs' commercial lending units rather than as part of their consumer loan portfolios, AIs are not expected to report the credit data of sole proprietorships through a consumer CRA. However, if an AI extends credit facilities to the sole proprietor (i.e. the owner of the sole proprietorship) in his capacity as an individual, it should report such credit information to a consumer CRA. AIs should also note that they will, in due course, be required to share the credit data of sole proprietorships through the commercial CRA being established by the two industry Associations.

Q3. Can an AI be exempted from sharing and using consumer credit data from a CRA if its consumer loan portfolio is small?

A3. The use of consumer credit data from a CRA for assessing credit applications and conducting credit reviews is considered an essential part of an AI's credit management system. The HKMA will not normally exempt an AI from sharing and using consumer credit data from a CRA simply because its consumer loan portfolio is small (e.g. where the AI has just started its consumer lending business and therefore the number of customers is still small).

Nonetheless, it is possible that even though an AI does not engage in consumer lending business and has no intention of doing so, it may technically be regarded as providing "consumer credits"¹ within the meaning of SPM-IC6. This may happen, for example, where the AI, at the request of its commercial customers, provides credit facilities to the directors of these customers.

The HKMA is prepared to consider these cases flexibly. An AI that wishes to seek exemption from sharing and using consumer credit data from a CRA is expected to write to the HKMA detailing its case. The factors the HKMA will take into account in assessing an application for exemption include:

- (i) the types of lending activities engaged by the AI;
- (ii) the types of products offered to personal customers;

- (iii) the amount of consumer credits relative to the AI's total loan portfolio;
- (iv) whether the AI is actively seeking to extend consumer credits; and
- (v) whether the AI has plans to expand its consumer lending business.

In accordance with paragraph 3.5 of SPM-IC6, the HKMA may require the AI concerned to mitigate the risk of not using the services of a CRA by restricting the amount of consumer credit business that it undertakes.

¹ "Consumer credit" is defined in SPM-IC6 to mean any loan, overdraft facility or other kind of credit, including leasing and hire purchase, provided by an AI to and for the use of an individual as borrower, or to and for the use of another person for whom an individual acts as guarantor. The definition is consistent with the one used in the Code of Practice on Consumer Credit Data.