



Understanding the Code of Practice on Consumer Credit Data Frequently Asked Questions on the Sharing of Mortgage Data for Credit Assessment Purpose

The Office of the Privacy Commissioner for Personal Data ("PCPD") issued the third revised version of the Code of Practice on Consumer Credit Data ("the Code") on 1 April 2011 in accordance with section 12 of the Personal Data (Privacy) Ordinance ("the Ordinance"). The purpose of this information summary is to help members of the public understand the regulations with regard to the sharing of mortgage data by credit providers through a credit reference agency ("CRA") under the revised version of the Code.

The following questions help you understand how credit providers and CRA handle your credit data and the protection measures for such data after revision of the Code.

1: What are credit providers?

According to the Code, credit providers refer to authorized institutions under the Banking Ordinance (e.g. banks) and their subsidiaries, money lenders licensed under the Money Lenders Ordinance (e.g. some finance companies), or a person whose business is to provide finance for the acquisition of goods by way of leasing or hire purchase.

provider in the course of or in connection with the provision of consumer credit, or any personal data collected by CRA in the course of or in connection with the provision of their services. Negative credit data generally refers to information on default in payments. Positive credit data refers to information on loans that are not in default, i.e. an individual's overall credit exposure and payment pattern.

2: What are credit reference agencies?

Credit reference agencies refer to agencies that carry on a business of compiling and processing of consumer credit data (including consumer credit scores) and providing such data to credit providers for consumer credit purposes.

4: How does the system of sharing of consumer credit data operate?

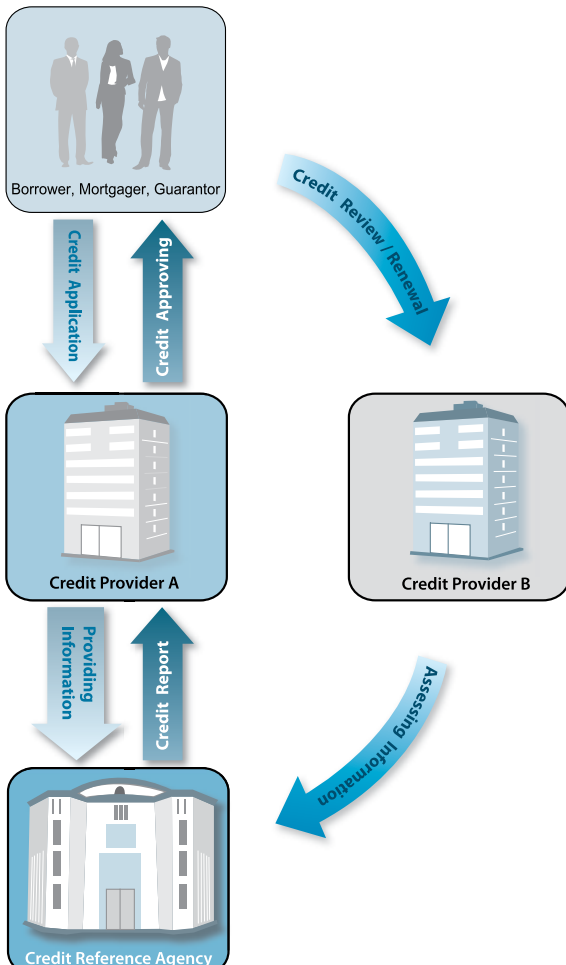
Credit providers may provide consumer credit data to CRA, while CRA may also collect consumer data from public records (e.g. court information and bankruptcy records). For example, when you apply for credit (e.g. mortgage loans, credit cards, overdrafts, hire purchase or tax loans) from a bank, the bank may request for your credit report from CRA, and refer to the information of the report in assessing your credit profiles and repayment ability, so as to decide whether to grant you the credit. While the bank provides you with the credit facilities, it will

3: What is consumer credit data?

Consumer credit data refers to any personal data concerning an individual collected by a credit



also provide CRA with your new credit data which is to be kept in the credit database, so as to enable other credit providers to access. In addition, the bank may request for your credit report from CRA again when it reviews or renews your existing credit facilities.



5: Can consumer credit data be used for purposes other than credit assessment by credit providers?

Apart from using consumer credit data for credit assessment purpose, credit provider may use consumer credit data for debt collection purpose. The Code permits credit providers to provide the customers' name and contact information, the nature of the credit and the amount to be recovered to their appointed debt collection agencies for collection against an individual in default.

6: Can consumer credit data be used for direct marketing?



No. The Code prohibits credit providers from accessing the consumer credit data of an individual held by a CRA for the purpose of offering or advertising the availability of goods, facilities or services to such individual.

7: What kinds of my credit data could a credit provider provide to CRA?

(A) Before the revision of the Code, a credit provider could provide the following data to CRA:

- (i) Positive and negative credit data on unsecured consumer credit loans; and
- (ii) Negative credit data on residential mortgage loans.

(B) After the revision of the Code, a credit provider could provide the following additional data to CRA:

- (i) Positive credit data on residential mortgage loans; and
- (ii) Positive and negative credit data on non-residential (i.e. retail, commercial and industrial property) mortgage loans.



8: What kinds of my positive mortgage data could a credit provider provide to a CRA?

With respect to positive mortgage data, a credit provider could provide the following items of your personal data to CRA:

- (a) Name;
- (b) Capacity (i.e. borrower, mortgagor or guarantor);
- (c) Hong Kong Identity Card number or travel document number;

- (d) Date of birth;
- (e) Address; and
- (f) Account number, type of facility, account status (active, closed, write off, etc.) and closed date.

Before providing the above data to CRA, a credit provider must give prior notice to you on the relevant data provision arrangement.

9: What positive mortgage data could a credit provider be able to access from CRA?

When a credit provider requests for your credit report from CRA, only the mortgage count (that is, the number of outstanding mortgages) with respect to your positive mortgage data will be shown.

10: Under what circumstances could a credit provider request for my mortgage count from CRA?

When you apply for mortgage loan or other non-mortgage credit facilities (reaching a threshold amount to be determined by the Commissioner) from a credit provider, or when you negotiate for a loan restructuring due to financial difficulty, the credit provider can, with your written consent, request for your mortgage count from CRA. A credit provider cannot request for your credit data for other purposes (such as direct marketing).

11: Before the revision of the Code, I applied for two residential mortgages from a bank. Can the bank disclose my positive credit data of these two mortgages to CRA?

In these circumstances, the bank can only disclose your positive mortgage data to CRA upon obtaining your “prescribed consent”. “Prescribed consent” means express consent given by you voluntarily, but it does not include any consent that you have withdrawn by notice to the bank in writing.

12: I heard that there is a “transitional period” for the revised Code. During the transitional period, what limitations does a credit provider have when accessing my credit report from CRA?



There is a transitional period of 24 months for the revised Code, which is the period from 1 April 2011 to 31 March 2013. Upon expiry of transitional period, a credit provider can, with your written consent, access your mortgage count for review or renewal of existing mortgage loan or other credit facilities (reaching a threshold amount to be determined by the Commissioner).

In the absence of a threshold amount being determined by the Commissioner on non-mortgage credit facilities, access to mortgage count will be restricted to review of existing mortgage loans only.

During the transitional period, credit providers can only access your mortgage count based only on the prescribed circumstances as stated in Q10 above.

13: Under what circumstances could a credit provider access my negative mortgage data?

According to the present provisions of the Code, a credit provider may for the purpose of granting new credit facilities or reviewing or renewal of your existing credit facilities, access your negative credit data on residential mortgages held by the CRA. The revised Code permits access to your negative credit data on non-residential mortgages in line with the treatment for negative credit data on residential mortgages.

Q14: The revised Code expands the scope of mortgage data to be shared. Will the industry take measures to strengthen the protection of my personal data?



With respect to protection measures:-

- A** (i) Both credit providers and CRA are governed by the provisions of the Code and the Ordinance. According to the provisions of the Code, a credit provider is required to specify to the CRA, on each occasion of accessing its credit reference database, the reason and circumstances under which the access has been made. The CRA shall maintain a log of all instances of access to its database by credit providers. In the event of there being any suspected abnormal access by a credit provider, the CRA shall report such incident to the senior management of the credit provider and the Privacy Commissioner. In addition, the Code requires the CRA to perform compliance audit every year, and to submit a report to the Privacy Commissioner for his consideration and/or comment after the audit.
- (ii) The CRA should arrange an independent compliance audit which should commence after 6 months but within 7 months from the implementation date of the revised Code, with a view to submitting to the Privacy Commissioner an audit report on the sharing of the additional mortgage data no later than 3 months from the date of commencement of the compliance audit. Thereafter, the annual privacy compliance audit of the CRA will also cover the expanded scope of sharing of mortgage data.

- (iii) The CRA's regular compliance audits should include an audit on its IT security arrangement covering the control objectives of the ISO/IEC 27002 Best Practice on Information Security Management (or its equivalent as approved by the Privacy Commissioner).

- (iv) The CRA should not transfer the consumer credit data held by it to any place outside Hong Kong unless the purpose of use of the data for such transfer is the same as or directly related to the original purpose of collection of the data.

Q15: If I find out that a CRA or a credit provider deals with my personal data improperly, what actions can I take?

A You may first try to resolve the problem with the credit provider or CRA concerned. If the matter still could not be resolved, you may make a complaint in writing to the PCPD. To obtain the complaint form, please visit the PCPD or download it from the PCPD's web site at www.pcpd.org.hk.

Q16: What are the consequences for a credit provider or a CRA if it fails to comply with the provisions of the Code?

A A breach of the Code by a data user will give rise to a presumption against the data user in any legal proceedings under the Ordinance. Generally speaking, a data user in breach of the Code is deemed to have contravened the provisions of the Ordinance, unless there is evidence that the requirements under the Ordinance are actually complied with in a different way, notwithstanding the non-observance of the Code.

This information summary provides general information only. Readers who wish to know the full version of the Code of Practice on Consumer Credit Data, please refer to the published version of the Code itself.

If you wish to obtain other booklets published by the PCPD, please visit the Office of the PCPD at 12/F, 248 Queen's Road East, Wanchai, Hong Kong. In addition, you can also download the relevant information from the website of the PCPD : www.pcpd.org.hk.

© Office of the Privacy Commissioner for Personal Data
April 2011 (First edition)