



Understanding the Code of Practice on Consumer Credit Data

Frequently Asked Questions on the Sharing of Mortgage Data for Credit Assessment Purpose

This Frequently Asked Questions helps members of the public understand the regulations of the sharing of mortgage data by credit providers through a credit reference agency (“CRA”) under the Code of Practice on Consumer Credit Data – 2013 edition (the “Code”) issued in accordance with section 12 of the Personal Data (Privacy) Ordinance (the “Ordinance”).

►► Q1 Who is a credit provider?

According to the Code, a credit provider refers to an authorised institution under the Banking Ordinance (e.g. banks) and its 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.

►► Q2 Who is a CRA?

A CRA refers to an agency that carries 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.

►► Q3 What is consumer credit data?

Consumer credit data refers to any personal data of an individual collected by a credit 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 its services. Negative credit data generally refers to information on default in payments, while positive credit data refers to information on loans that are not in default, e.g. an individual’s overall credit exposure and payment pattern.

► Q4 How does the system of sharing of consumer credit data operate?

A credit provider may provide consumer credit data to CRA, while CRA may also collect consumer data from public records (e.g. court information and bankruptcy records). When you apply for a credit facility (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 the credit facility is to be granted to you. When a bank provides you with the credit facility, it will also provide CRA with your new credit data which is to be kept in CRA's credit database, which can be accessed by other credit providers. In addition, the bank may request for your credit report from CRA again when it reviews or renews your existing credit facilities.

► Q5 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, a credit provider may also use consumer credit data for debt collection purpose. The Code permits a credit provider to provide its customers' name and contact information, the nature of the credit, the amount to be recovered, and details of any goods subject to repossession to its appointed debt collection agencies for collection against an individual in default.

► Q6 Can consumer credit data be used for direct marketing?

No. The Code expressly prohibits a credit provider 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.

► Q7 What kinds of my credit data could a credit provider provide to a CRA?

A credit provider could provide the following data to a CRA:

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

► Q8 What kinds of my positive mortgage data could a credit provider provide to a CRA?

A credit provider could provide the following positive mortgage data to a CRA:

- (i) name;
- (ii) capacity (i.e. borrower, mortgagor or guarantor);
- (iii) HKID Card number or travel document number;

- (iv) date of birth;
- (v) address; and
- (vi) account number, type of facility, account status (active, closed, write off, etc.) and closed date.

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

► **Q9 What positive mortgage data could a credit provider be able to access from a CRA?**

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

► **Q10 Under what circumstances could a credit provider request for my mortgage count from a CRA?**

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

► **Q11 I have two existing residential mortgage loans obtained from a bank. Can the bank disclose my positive credit data of these two mortgages to a CRA?**

If your mortgage loan was obtained from the bank before 1 April 2011, the bank can disclose your positive mortgage data to CRA only 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.

However, if your mortgage loan was obtained from the bank after 1 April 2011, the bank is permitted to disclose your positive mortgage data to CRA under the Code.

► **Q12 Under what circumstances could a credit provider access my negative mortgage data?**

A credit provider may, for the purpose of granting any new credit facilities or reviewing or renewal of your existing credit facilities, access your negative credit data on residential and non-residential mortgages held by a CRA.

►► **Q13 Are there any measures that the industry has to take to strengthen the protection of my personal data in view of the expansion of the scope of sharing of mortgage data under the Code?**

With respect to protection measures:

- (i) Both the 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 Commissioner. In addition, the Code requires the CRA to perform compliance audit every year, and to submit a report to the Commissioner for his consideration and/or comment after the audit.
- (ii) The Code requires the CRA to arrange an independent compliance audit specifically on the sharing of the additional mortgage data. The first audit has to be conducted after six months but within seven months from 1 April 2011, with a view to submitting to the Commissioner an audit report no later than three 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 7002 Best Practice on Information Security Management (or its equivalent as approved by the Commissioner).
- (iv) The CRA should not transfer the consumer credit data held by it to any place outside Hong Kong unless the purpose of the use of the data for such transfer is the same as or directly related to the original purpose of collection of the data.

►► **Q14 If I find out that a CRA or a credit provider deals with my personal data improperly, what actions can I take?**

You may first try to resolve the problem with the credit provider or CRA concerned, and if the matter 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.

►► **Q15 What are the consequences for a credit provider or a CRA if it fails to comply with the provisions of the Code?**

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 Frequently Asked Questions provides general information only. Readers who wish to know the full content of the Code of Practice on Consumer Credit Data should refer to the published version of the Code.

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



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