

LegCo Panel on Financial Affairs

Meeting on 9 April 2002

Background brief on Proposal on sharing of positive consumer credit data

Against a rising trend of delinquent consumer debts and personal bankruptcies, there have been increasing calls in recent months from the banking sector and the Hong Kong Monetary Authority, the regulatory authority of the banking sector, for extending the scope of consumer credit data to be shared among authorized institutions (AIs).

2. In January 2002, the Government announced that a high-level roundtable discussion was held on 15 January 2002 among the Hong Kong Association of Banks (HKAB), the Hong Kong Monetary Authority (HKMA), the Financial Services Bureau, the Official Receiver's Office (ORO), the Police and the Office of the Privacy Commissioner for Personal Data (OPC) to discuss the measures to tackle the issue of consumer debt and bankruptcy. A key initiative discussed was the proposal submitted by HKAB on sharing of positive consumer credit data among banks so that banks could be in a better position to assess applications for credit. The Secretary for Financial Services (SFS) expressed support for the proposal, and HKMA would follow up with OPC on the proposed amendments to the Code of Practice on Consumer Credit Data (the Code).

Statistics on consumer debt and bankruptcy

3. The trend of consumer debt can be gleaned from the relevant statistics in respect of credit cards. The survey results on credit card receivables for the years 1999 to 2001 published by HKMA are set out in **Appendix I**. For the year 1999, HKMA has released figures only on the delinquency ratio and the charge-off ratio in respect of credit cards. Figures on bankruptcy for the years from 1994 to 2001 published by the Official Receiver's Office are set out in **Appendix II**.

4. Based on the statistics, it is observed that credit card receivables that are overdue for more than 90 days (as indicated by the delinquency ratio) have not fluctuated considerably in the past three years, but credit card receivables that have been written off by banks (as indicated by the charge-off ratio) have been on the rise over the past three years. The number of bankruptcy cases has also increased considerably over the past eight years from 306 bankruptcy orders made in 1994 to 9 151 orders made in 2001.

Scope of consumer credit data sharing permitted under the law

5. At present, the sharing of consumer credit data through credit reference agencies is governed by the Code of Practice on Consumer Credit Data issued by the Privacy Commissioner for Personal Data (the Privacy Commissioner) under section 12 of the Personal Data (Privacy) Ordinance (Cap. 486). The Code first took effect on 27 February 1998. Some revisions in respect of data retention and disclosure have been made to the Code recently and such revisions took effect on 1 March 2002 following a public consultation exercise conducted in May 2001.

6. Under the Code, the main items of consumer credit information that a credit reference agency may collect from and disclose to a credit provider included information relating to-

- (a) any default in making a repayment;
- (b) any application for credit within the previous 5 years (extended from 90 days as a result of the recent revision to the Code);
- (c) any financial loss suffered by a card issuer as a result of an unauthorized transaction carried out through the use of a credit card that has been reported lost; and
- (d) a motor vehicle or equipment that is subject to a hire-purchase or leasing arrangement with a credit provider.

In addition, a credit reference agency may also collect information about a person from official public records about any court actions against him to recover monies owed, judgement for monies owed and declarations and discharges of bankruptcy.

7. According to the OPC, the amendments made in March 2002 do not involve any relaxation of positive credit data sharing amongst credit providers as recently suggested by the banking industry. The Privacy Commissioner has stressed that it is necessary to strive for a balance between privacy rights and community interests in maintaining the stability and integrity of the financial market and the soundness of the consumer credit environment. In summary, the amendments are as follows-

- (a) restrict access to an individual's credit file only in situations involving considerations of grant, review or renewal of consumer credit, or where default has occurred;
- (b) extend retention period of "credit application data" from 90 days to 5 years;

- (c) extend retention period of "file activity data" from 12 months to 5 years;
- (d) permit the carrying out of consumer credit scoring by credit reference agencies;
- (e) permit "credit application data" and "file activity data" within 2 years of creation to be used for all credit reference purposes, and afterwards for credit scoring only;
- (f) require credit reference agencies to delete account default data 5 years after discharge of bankruptcy as proved by an individual to an agency; and
- (g) require credit reference agencies to automatically delete public records about an individual's bankruptcy within 8 years from the declaration of bankruptcy.

Previous discussions on measures to tackle the problem of consumer over-indebtedness and rising bankruptcies

Members' concerns and Government's stance

8. The trend of rising bankruptcies and consumer debts, in particular credit card holders' failure to make credit card repayments, has all along been a subject of concern among Members. At the Council meeting on 14 February 2001, Hon Mrs Sophie LEUNG enquired whether credit reference agencies would be allowed to collect more comprehensive personal credit information for the reference of credit card issuers in vetting credit card applications. In his reply, the Secretary for Home Affairs informed Members that the Privacy Commissioner had ongoing liaison with relevant parties including HKMA and credit reference agencies and had been reviewing the provisions in the Code.

9. Hon Mrs Sophie LEUNG raised another question at the Council meeting on 19 December 2001 about the extent of assistance to banks in assessing the repaying ability of loan applicants when vetting their applications so as to curb the upward trend of bankruptcy cases and safeguard the overall credit rating of banks in Hong Kong. In response, SFS mentioned HKMA's discussions with AIs on how to exchange more comprehensive consumer credit information. SFS advised that since consumer credit data sharing was currently confined mainly to negative data, as permitted under the Code, the discussions between HKMA and AIs were aiming at identifying effective ways to improve AIs' risk management measures.

10. At the Council meeting on 6 February 2002, SFS provided information on the latest bankruptcy situation in Hong Kong in response to a question raised by Hon Ambrose LAU. SFS provided a comparison between the numbers of

bankruptcy orders made by the court in the past 10 years and the relevant figures for neighbouring countries in Asia as set out in **Appendix III**. He also revealed that in general, those debtors petitioning for bankruptcy in 2001 were aged between 30 to 50, with monthly income between \$10,000 to \$15,000, each possessing 8 to 10 credit cards and having outstanding loans between \$400,000 to \$500,000. He also informed Members that among the 9 100 bankruptcy orders made in 2001, over 6 000 orders were related to consumer credit or credit cards. To guard against abuses of the bankruptcy system, 44 bankruptcy-related prosecutions were made by ORO in 2001. As regards the impact on the local economy, SFS advised that the number of bankrupts and the amounts of liabilities involved a very small proportion of the working population and the amount of loans and advances for use in Hong Kong, with little impact on Hong Kong's economy. However, the increase in the number of bankruptcy cases had some impact on the credit risks and delinquency ratios of financial institutions.

11. SFS also mentioned that the Administration was studying with OPC and the Consumer Council the proposal on sharing of positive consumer credit data submitted by the banking industry. The Administration considered that the sharing of positive consumer credit data among banks would be an effective measure to tackle the problem of rising number of bankruptcy cases.

Views of the Hong Kong Monetary Authority

12. In his viewpoint article published on 9 August 2001, the Chief Executive of HKMA highlighted that a fundamental problem relevant to the large increase in bankruptcies in Hong Kong was the limited scope in Hong Kong for the sharing of information on consumer credit. He pointed out that in the light of the prevailing circumstances, there ought to be scope for greater sharing of positive data on consumer credit, in order to assist the banks in assessing credit risk with greater ease.

13. At the Panel meeting on 26 February 2002 when the subject of "Consumer protection in the banking sector" was discussed, HKMA highlighted the growing problem of over-indebtedness of individuals in Hong Kong. HKMA found that the lending policies and procedures of banks were generally satisfactory and a number of banks had tightened or enhanced their credit controls in the light of growing delinquencies. HKMA considered that in the absence of full sharing of consumer credit data, there were limits to what individual banks could do to deal with the problem of multiple indebtedness.

14. HKMA further pointed out that negative data about customers, i.e. data about defaults on consumer credit, were inadequate for banks to build up a full picture of the borrower's total indebtedness and of his overall credit history. HKMA therefore suggested that the scope of consumer credit data shared among banks should be extended to include positive credit data, which would include information on the number of facilities held by a customer, the limits and outstanding amounts on such facilities and the overall credit history of the borrower (covering not simply defaults but including the extent to which debt

payments have been made on time as well as having gone overdue). HKMA considered that this would benefit the banks by improving their credit assessment and helping to control the growth in bad debts. For consumers, it would help to mitigate the problem of over-indebtedness by some borrowers, and help to increase the availability of credit and reduce its cost.

Views of the Consumer Council

15. Also at the Panel meeting on 26 February 2002, the Consumer Council pointed out that a number of issues, in particular the issue of privacy safeguards, needed to be addressed before there was any further action taken to extend the sharing of credit data as proposed by the banking industry. The Consumer Council highlighted that mandatory sharing of credit information to include substantial information would expose a majority of consumers to unnecessary detailed scrutiny. Given the problems that had arisen in the past with leakage of personal information that was used for marketing purposes, the Consumer Council was concerned with the potential risk of unauthorized disclosure.

16. The Consumer Council also pointed out that the problem of rising bankruptcies was attributed to the questionable marketing practices of some credit providers which tended to exaggerate in their marketing tactics the benefits of their credit products and/or omit important facts, in particular the compounding effect of interest on the debt incurred. The Consumer Council considered that there was a need to tighten the regulation of these marketing practices in Hong Kong.

Views of the banking sector

17. HKAB and the DTC Association informed the Panel on 26 Febraury 2002 that the cost of consumer finance was currently very high, and this was a reflection of a comparatively high level of bad debts. The fact was that the majority of borrowers who paid on time were subsidizing the minority who defaulted. As AIs were currently restricted to access to the negative credit data of banking consumers, they were not in a position to ascertain the credit-worthiness of customers, nor able to detect over-borrowing problems before such problems became unmanageable. Such restriction was not in line with the current requirements of the banking industry. Allowing AIs to access to positive and negative credit data of individual customers would bring mutual benefits to AIs and their customers, as it would enable better credit assessment and increase the availability of loans for deserving cases. Bad debt level would fall and as a result, the cost of financing consumer borrowings would fall. The sharing of positive consumer data among banks had been the practice of the United kingdom, the United States and Canada. With a high standard of professional behaviours of AIs in Hong Kong, the prudent monitoring of HKMA and proper controls under the statutory regime for safeguarding personal data privacy, there was no reason why the sharing of positive consumer credit data could not be implemented in Hong Kong.

Other measures

18. According to the Administration's press release, the following measures to tackle the problem of rising bankruptcies were also discussed at the aforementioned high-level roundtable discussion held on 15 January 2002-

- (a) To facilitate banks to have early access to information in respect of persons who have lodged a petition for bankruptcy, ORO would, upon request, provide the names of such persons and the first three digits of their identity card numbers. Arrangements were being made for this to be done electronically;
- (b) Banks had tightened their lending policies by improving their credit scoring models and making more use of the services provided by Credit Information Services Ltd;
- (c) Banks would explore the feasibility of implementing debt relief plans on a case-by-case basis and would promote public awareness of the importance of personal financial management by issuing financial health warning leaflets;
- (d) On the enforcement front, ORO and the Police would step up enforcement action against those who had abused the bankruptcy provisions; and
- (e) The Government would examine HKAB's latest proposals for bankruptcy reform, including the proposal for new civil provisions and criminal offences related to bankruptcy fraud, stepping up enforcement, shortening the period between a bankruptcy petition and a bankruptcy order, and mandatory credit counselling etc.

Legislative Council Secretariat
25 March 2002

Survey on Credit Card Receivables 1999

	Dec 98	Mar 99	Jun 99	Sep 99	Dec 99
Delinquency ration (%)	1.16	1.26	1.28	1.13	0.92
Charge-off ratio (% annualised)	4.13	4.64	5.00	4.95	4.92

Survey on Credit Card Receivables 2000

	20 reporting institutions			
	Mar 00	Jun 00	Sep 00	Dec 00
Total number of accounts ('0 00)	5,952	6,376	6,662	7,191
<i>quarterly change (%)</i>	+3.05	+7.11	+4.50	+7.94
<i>yearly change (%)</i>	+17.78	+21.27	+21.32	+24.49
Total receivables (HK\$ mn)	40,360	43,844	46,895	+51,373
<i>quarterly change (%)</i>	+0.29	+8.63	+6.96	+9.55
<i>yearly change (%)</i>	+12.48	+19.34	+25.03	+27.66
Delinquency ratio (%)	0.82	0.73	0.71	0.76
Charge-off ratio (% annualised)	4.24	3.98	3.57	3.72
Rollover ratio (%)	56.18	54.92	52.79	53.82

Survey on Credit Card Receivables 2001

	23 reporting institutions			27 reporting institutions
	Mar 01	Jun 01	Sep 01	Dec 01
Total number of accounts ('0 00)	7,485	7,922	8,400	9,217
<i>quarterly change (%)</i>	+4.5	+5.8	+6.0	N/A
<i>yearly change (%)</i>	+25.7	+24.2	+26.1	N/A
Total receivables (HK\$ mn)	51,485	54,521	56,505	62,050
<i>quarterly change (%)</i>	+0.5	+5.9	+3.6	N/A
<i>yearly change (%)</i>	+27.6	+24.4	+20.5	N/A
Delinquency ratio (%)	0.93	1.00	1.13	1.28
Charge-off ratio (% annualised)	3.68	4.60	5.33	8.27
Rollover ratio (%)	55.2	55.3	55.1	53.2

*source: website of Hong Kong Monetary Authority

Notes

1. **Credit card receivables** in the survey refer to credit card receivables from individual credit cardholders.
2. Credit card receivables are classified as overdue when a payment is past due at the last day of the reporting month (see also Note 6 below). The **delinquency ratio** is measured by the total amount of credit card receivables overdue for more than 90 days and remaining unpaid at the last day of the reporting month as a percentage of total credit card receivables.
3. **Charge-off ratio** refers to the total amount of credit card receivables written off during a period as a percentage of the total credit card receivables at the end of that period. The charge-off policy may vary among authorized institutions. Normally, an account will be written off when the receivable has been overdue for more than 180 days or when the ultimate repayment of the receivable is unlikely (e.g. the cardholder is bankrupt or cannot be located). To facilitate comparison among AIs (especially for those which may provide charge-offs at different intervals during the year), the charge-off ratio is **annualised**.
4. The delinquency ratio provides an early indication of the quality of the credit card portfolio while the charge-off ratio measures the gross credit loss of that portfolio to an authorized institution over a specified period of time. The two ratios are complementary to each other in that the delinquency ratio takes into account those credit card receivables overdue for more than 90 days and not yet written off, whereas the charge-off ratio relates mainly to seriously overdue receivables (e.g. overdue for more than 180 days) that were written off during the specified period. Since the charge-off ratio is annualised but the delinquency ratio is measured based on the month-end position, the former is usually greater than the latter.
5. **Rollover amount** of a credit card account is the amount outstanding at the previous statement date less any amount paid between the previous statement date and the current statement date.
6. **Accounts with rollover amount** are those accounts in respect of which the cardholder has repaid at least the minimum amount of payment required by the authorized institution but has not fully repaid the statement balance. Such accounts are not regarded as overdue. An account is overdue when the minimum payment is not made upon the due date.
7. **Rollover ratio** refers to the percentage of total rollover amounts to total credit card receivables. While total receivables relate to the month-end position, total rollover amounts are based on balances recorded at the statement date.

Statistics on Bankruptcy Petitions & Orders

Year	Month	Petitions presented by			Receiving/Bankruptcy Orders made on		
		Debtors	Creditors	Total	Debtors' Petitions	Creditors' Petitions	Total
1994		3	417	420	3	303	306
1995		10	633	643	7	448	455
1996		23	757	780	20	523	543
1997		39	790	829	33	606	639
1998		492	870	1362	305	588	893
1999		2721	1155	3876	2306	765	3071
2000		3810	1677	5487	3387	1219	4606
2001		11089	2097	13186	7389	1762	9151
2002	1	1976	145	2121	965	286	1251
	2	1495	121	1616	872	128	1000
Sub-total:		3471	266	3737	1837	414	2251

Notes

1. Receiving orders were made upon bankruptcy petitions presented before 1 April 1998 and bankruptcy orders, after that date.
2. The number of orders made in a particular month is affected by the number of weekly hearings (usually on every Wednesday and, if necessary, Tuesday commencing July 1999) in the month when cases are heard in Court. Cases are not heard in public holidays.
3. New statutory provisions came into operation on 1 April 1998.
4. Petitioners appear to be getting used to new provisions for bankruptcy petitions effective from 1 April 1998.

Source: Website of Official Receiver's Office

Appendix III

Comparison between Numbers of Bankruptcy Cases in Hong Kong and the Relevant Figures for Australia, Singapore and New Zealand¹

Year	Hong Kong	Australia	Singapore	New Zealand
1992	295	15,328	1,226	2,624
1993	329	14,754	1,453	2,480
1994	306	13,647	1,413	2,037
1995	455	15,380	1,276	2,023
1996	543	19,819	1,251	2,393
1997	639	23,424	1,696	2,658
1998	893	25,409	2,585	3,224
1999	3,071	25,405	3,054	3,003
2000	4,606	20,910	2,710	2,746
2001	9,151	26,045	3,039 ²	2,317

1. The figures are the numbers of orders made by the court.

2. Up to November 2001