

**For information  
on 9 April 2002**

## **LegCo Panel on Financial Affairs**

### **Proposal on sharing of positive consumer credit data**

#### **I. Purpose**

This paper sets out the pros and cons of the proposals on sharing of positive consumer credit data in the banking sector.

#### **II. Background**

2. The problem of over-indebtedness has been growing in Hong Kong, as shown by the recent sharp increase in personal bankruptcies. The number of bankruptcy orders increased ten-fold from 893 in 1998 to 9,151 in 2001. The rising trend continued into the first two months of this year, with 3,737 bankruptcy petitions presented and 2,251 orders granted. A particular feature of the Hong Kong situation seems to be the extreme and multiple indebtedness of those who go bankrupt. A recent report shows that, on average, each bankrupt individual in Hong Kong has borrowed from 12 financial institutions and has incurred total indebtedness of 55 times monthly income (compared to 21 months in the US).<sup>1</sup> Furthermore, according to the latest statistics published by Credit Information Services (CIS), a major consumer credit reference agency in Hong Kong, the number of individuals reported to have nine delinquent accounts or more increased by 200% in the second half of 2001 from the same period a year previously.

3. There are a number of measures that need to be taken to deal with these growing problems. The banks themselves have a responsibility to ensure that they lend in a prudent manner and, in particular, do not issue credit cards indiscriminately. From the HKMA's recent examination of the lending policies and procedures of a number of banks, it appears that these are generally satisfactory, though there is scope for improvement in individual cases. In fact, a number of banks have tightened or enhanced their credit controls in the light of growing delinquencies. However, there are limits to what individual banks can do, in the absence of full sharing of consumer credit data, to deal with the problem of multiple indebtedness. If a borrower can convince one bank that he is creditworthy, there is no reason why he cannot convince others and build up indebtedness from a number of banks, all of which are ignorant of the total extent of his borrowing.

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<sup>1</sup> Report prepared by McKinsey & Co (November 2001).

4. At present, the sharing of consumer credit data through credit reference agencies (CRA) is governed by the Code of Practice on Consumer Credit Data (the Code) issued by the Privacy Commissioner under the Personal Data (Privacy) Ordinance (PDPO). This largely restricts data sharing to “negative” data about customers, i.e. about defaults on consumer credit. Data relating to applications for credit and enquiries about customers can also be shared among banks, and the Code has recently been revised to allow greater scope for this.

5. Negative data is certainly useful, but it does not allow a full picture to be built up of the borrower’s total indebtedness and of his overall credit history (including the extent to which debt payments have been made on time as well as having gone overdue). In particular, negative data does not help with the situation of a borrower who builds up large amounts of debt and services it on time (perhaps by utilising other credit facilities) before suddenly defaulting and going into bankruptcy. There seems to be an increasing number of such cases.<sup>2</sup>

6. Concern on this issue has led the banks to agree amongst themselves that they should share “positive” credit data via a credit reference agency. Such data 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). The detailed proposals of the banks and other financial institutions are attached at Annex A. This paper attempts to set out the pros and cons of the proposals.

### **III. The Industry’s Proposal**

7. The proposed scope of positive data sharing covers all consumer credit products—credit cards, other unsecured personal loans (term/revolving) and secured personal loans (mainly mortgages) as well as all customers—existing and new. As shown in Annex A, the proposed sharing of data is restricted mainly to information on borrowers’ credit exposure (such as credit limits and outstanding amounts on credit facilities) and pattern of repayments (such as the date and amount of last payment). Information such as personal income, deposits and other assets of customers will not be shared. Furthermore, while the proposed sharing of positive data items covers both new and existing customers, retrospective credit history of the existing accounts will not be collected<sup>3</sup>. This should address some customers’ concerns about their past repayment behaviour being revealed on the implementation of positive data

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<sup>2</sup> A recent report of CIS revealed that 34% of the bankrupt individuals did not have any delinquent records prior to bankruptcy.

<sup>3</sup> For example, if positive data sharing is introduced on 1 January 2003, the repayment details of the account in 2002 will not be reported.

sharing. Under the existing requirements in the Code, the consumer credit data relating to an individual held by a CRA can only be accessed by a credit provider in the course of considering any grant, review or renewal of consumer credit to the individual or upon default by the individual. This should help to deal with some of the concerns about use of the relevant data for other purposes, such as marketing.

8. The proposed sharing of positive consumer credit data will bring Hong Kong in line with the common practice of other developed countries, like the US and the UK, as shown in the following table:

	Hong Kong		US <sup>(a)</sup>	UK <sup>(b)</sup>
	Current regime	Industry proposal		
Personal details				
Name, address, date of birth	✓	✓	✓	✓
Name of employer	X	X	✓	X
Credit account information				
60+ days in arrears only	✓	N/A <sup>(c)</sup>	N/A <sup>(c)</sup>	N/A <sup>(c)</sup>
All accounts	X	✓	✓	✓
Type of facility	✓	✓	✓	✓
Number of facilities	X	✓	✓	✓
Credit limit approved/ Original loan amount	X	✓	✓	✓
Outstanding balance	X	✓	✓	✓
Amount owed <sup>(d)</sup>	X	✓	✓	✓
High credit <sup>(e)</sup>	X	✓	✓	✓
Overdue amount	✓	✓	✓	✓
Full payment history	X	✓	✓	✓
Previous delinquency (negative data)	✓	✓	✓	✓
Public record	✓	✓	✓	✓

Note: (a) Based on a sample credit report available from TransUnion (<http://www.transunion.com>)  
(b) Based on a sample credit report available from Experian (<http://www.uk.experian.com>)  
(c) With full positive data sharing, information on all accounts (not confined to those with payments in arrears) are captured.  
(d) "Amount owed" refers to the repayment amount that has fallen due.  
(e) "High credit" refers to the highest amount of credit used by the consumer over the period of the credit facility.

9. It should be noted that this industry proposal is supported by HKAB, the DTC Association, the SAR Licensed Money Lenders Association Ltd and the Finance Houses Association. In total these associations represent

approximately 325 financial institutions. In particular, although participation is on a voluntary basis, HKAB supports the HKMA issuing supervisory guidelines encouraging authorized institutions to participate in the positive data sharing. HKAB and the DTC Association are also ready to consider issuing a similar circular to support the HKMA's supervisory guideline. The eleven members of the Bankruptcy Working Group which represent a wide cross section of the financial services industry have committed to participate fully as and when the arrangements are in place. This proposal thus represents a strong consensus of the financial sector, which also reflects their concerns over the present problem of over-indebtedness.

#### **IV. Benefits of Positive Data Sharing**

10. Extending the range of customer information that can be shared would benefit the banks by improving their credit assessment and help to control the growth in bad debt. However, it should also have benefits for most consumers.

11. First, it should help to mitigate the problem of over-indebtedness by some borrowers. It is recognised that positive data sharing is not a panacea for resolving all the problems in relation to rising bankruptcies. In fact, this would be of little help for those who have already overextended themselves and are on the verge of bankruptcy. However, this will put banks in a better position to lend responsibly and help to prevent individual borrowers who are not yet in financial difficulties from over-extension.

12. Apart from the above, there is evidence from the academic research and experience in countries such as the US that sharing of both positive and negative consumer data helps to increase the availability of credit and reduce its cost<sup>4</sup>. The arguments presented in such academic research, though intellectually appealing, are complex. However, the benefits can be presented in simpler terms as follows. To the extent that positive data sharing helps to improve the risk management ability of banks and reduce their bad debt charge<sup>5</sup>, at least part of the benefits should be passed onto customers in a competitive environment. Furthermore, in the absence of positive information, credit providers are less capable of risk pricing their customers. Normal commercial principles suggest that they will need to charge a risk premium to compensate for this. That might be one of the reasons explaining the generally high credit card interest rates in Hong Kong<sup>6</sup> (24% vs. 15-16% in the U.S.). Inability to risk price might have also contributed to the lack of differential pricing in the Hong Kong consumer credit market. Most borrowers pay the

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<sup>4</sup> See e.g. Staten and Barron (2000), "The Value of Comprehensive Credit Reports: Lessons from the US Experience". (Summary at Annex B).

<sup>5</sup> A study by a major consumer credit reference agency in the UK (summary at Annex B) lends support to this apparently logical hypothesis.

<sup>6</sup> Choice Magazine (August, 2000), Consumer Council.

same price for credit regardless of their creditworthiness. This obviously means that the good borrowers are subsidising the bad ones. They should be able to get better terms if the credit providers are able to distinguish them through the sharing of positive data.

13. Positive data sharing will also improve the financial infrastructure of Hong Kong. It should facilitate new entrants into the credit market and increase healthy competition. At the moment, the larger players have a competitive advantage in that they control more data and are able to develop more predictive credit scoring models. Smaller players, not to mention new entrants, have found it difficult to compete. In light of the deterioration in the credit environment, the larger players have now reached the view that the benefits accruing from an improved overall credit environment would outweigh possible erosion of their relative competitive advantage vis-à-vis their competitors. This is why the banking sector was able to achieve the consensus. This will however mean greater competition, which will be of benefit to consumers. The competition that has been taking place in the residential mortgage market is a live testimony to that.

14. Finally, a sound basis for the granting of credit in Hong Kong should encourage foreign banks to increase, or at least maintain, their investment in retail banking here, thus helping to preserve employment. In this connection, it should be noted that Shanghai has already launched a comprehensive credit bureau, and the Chinese authorities are now planning to establish a centralised credit bureau for the whole country. Singapore also intends to do so in September this year. Hong Kong as a consumer credit market will lose its attractiveness if it does not improve its general credit environment. In fact, a possible response by the banks to the current situation would be to cut back on the availability of credit, e.g. by reducing lending. There is already some evidence of this. While some additional caution may be justified, there is a danger that this may be carried too far. Over-aggressive tightening by the bank could lead to shrinkage in the financial industry and could affect consumer spending, thus dampening the prospects for economic recovery. Greater scope to share consumer data could help to reduce this risk.

## **V. Protection of Data Privacy**

15. Concerns have been expressed about the implications of the proposal for data privacy. In particular, the Consumer Council has argued that only a minority of borrowers give rise to bad debt problems, and it is unfair that the majority of borrowers who pay their debts on time, should be subject to “unnecessary detailed scrutiny”.

16. Two points should be made on this argument. The first is that it will generally always be a minority of borrowers who give rise to bad debts.

The problem is that it is more difficult to identify this minority in advance if the banks cannot share information relating to all borrowers, good and bad. Second, as noted above, the bad debts of the minority push up the cost of borrowing for everyone, and if sharing of positive data can help to bring down these bad debts, good borrowers, who are the majority, should benefit from lower interest rates.

17. It is recognised, however, that there is a need to strike a balance between the need to share consumer data and the need to safeguard data privacy. The HKMA fully appreciates the privacy concerns, but we do not believe that these should represent an insurmountable obstacle to greater sharing of information among lenders. As mentioned earlier, in other countries, including the UK and the US, sharing of both positive and negative data is permitted subject to suitable protection for borrowers. There seems no reason why this could not also be done in Hong Kong where a fully-fledged statutory regime to safeguard the privacy of personal data already exists.

18. The Code contains detailed provisions governing the collection, use, security, access and correction of consumer credit data with a view to addressing the privacy concerns of customers. The following are some of the more important safeguards:-

- (a) Data access—data access is limited to credit providers with which the consumer has existing borrowing relationships, or with which he intends to seek a borrowing relationship;
- (b) Data use—the use of CRA data is restricted to the purpose of credit assessment and debt collection only. In other words, any use of the shared data for marketing and other unauthorised purposes is not permitted;
- (c) Data security—CRAs are required to take appropriate measures to safeguard the security of CRA data and protect them from unauthorised access or change. In this regard, it is relevant to note that any CRA has an interest in maintaining data security which is a matter of business survival for the credit reference industry. For example, CIS is required by its shareholders to commission an independent audit annually by a major international audit firm to ensure that it has adequate systems and procedures in place to safeguard data security; and
- (d) Consumers' rights of access and correction—consumers have right of access to their files kept by CRAs and to correct any wrong information contained therein. This would help ensure that consumers' data held by the CRAs are accurate and complete.

19. Breach of the requirements under the Code would be accepted as evidence of breach of the relevant data protection principles under the Personal Data (Privacy) Ordinance (PDPO). The Privacy Commissioner may issue an enforcement notice to a data user following investigation of a complaint about a contravention of the relevant data protection principles. Continued contravention by a data user after the enforcement notice is served on him would constitute an offence. In addition, an individual who suffers damage by reason of a contravention by a data user is entitled to compensation from that data user for that damage under section 66 of the PDPO.

20. We have compared the framework for protection of consumer credit data in Hong Kong (provided under the PDPO and the Code) with that in the US (provided under Fair Credit Reporting Act) and the UK (provided under Consumer Credit Act and Data Protection Act) (Annex C). The key observation is that the data protection provisions in Hong Kong are generally comparable with the practices in these overseas jurisdictions. However, a noticeable difference is noted in the permissible collection and use of data. In Hong Kong, the Code limits the amount of collectible data to mainly “negative” data, while there is no such restriction in the US and UK. This is of course the main subject of this paper. Also, the Code limits the purposes of the use of CRA data to credit assessment and debt collection only, while in the US, CRA data can be used for a list of “permissible purposes” which are wider than those under the Code in Hong Kong. For instance, CRA data in the US can be used for employment and insurance purposes or for any legitimate business need in connection with consumer-initiated transactions.

21. As Hong Kong has a regime for protection of consumer credit data which is comparable to that in other well established banking centres, there seems to be no reason why Hong Kong should be more restrictive in the scope of data sharing. In fact, in light of the heavy indebtedness by bankrupt individuals from multiple lenders, which appears to be a particular characteristic of the Hong Kong market and a more acute problem than, say, in the US, it is all the more important for banks in Hong Kong to be able to share positive data in order to reinforce the responsible lending by banks and help restrain the problem of over-indebtedness.

## **VI. Summary and way forward**

22. In summary, we believe that:-

- (a) the issue of greater sharing of credit data is becoming a matter of pressing urgency in the light of the rise in bankruptcies and the associated delinquencies;

- (b) sharing of positive data is not a panacea, but is undeniably an effective tool to help restrain the problem of over-indebtedness in Hong Kong;
- (c) there are a wide range of benefits of greater sharing of credit data to both consumers, lenders and Hong Kong as a market which can be supported by academic research, economic theory as well as overseas experience;
- (d) the industry's proposal on sharing of positive data is in line with the scope of data exchange in other well established financial centres; and
- (e) the framework of protection of consumer credit data in Hong Kong is comparable to that in other jurisdictions which permit positive data exchange.

23. We are aware of concerns that the sharing of positive consumer credit data might lead to an abrupt tightening of credit by banks against those over-extended customers who have not yet shown any repayment difficulties until then, thus aggravating the problem of bankruptcies. The banking sector is fully aware of the possibility that the implementation of positive data sharing might have some short-term impact on such borrowers. The HKMA will encourage banks to adopt a sensible approach to avoid pushing these customers into bankruptcy unnecessarily. After all, it is in the interest of the banks concerned to work out a solution with the borrowers. It is unlikely that the banks would abruptly cut off credit and demand repayment from over-extended borrowers, particularly if the latter were paying on time. But they might be more cautious in granting increases in limits to such borrowers, thus preventing them from further over-extending themselves financially. In the longer run, the sharing of positive data is likely to improve banks' overall asset quality and increase the supply of credit.

24. The HKMA will discuss the industry's proposal with the Privacy Commissioner to see what the permitted scope of positive data sharing should be and how the Code might be amended to allow this. As any changes to the Code would be subject to full public consultation, the public will have further opportunity to comment on the proposals before implementation of any positive data sharing in Hong Kong.

Hong Kong Monetary Authority  
2 April 2002

**Hong Kong Approach to Sharing Positive Consumer Credit Information**

**Recommendations**

**1. Additional Positive Data to be Reported by Financial Institutions (FIs) in respect of New and Existing Customers**

<b>Product Type</b>	<b>Data to be Reported (per card/account)</b>
1.1 Credit cards <sup>7</sup> (purchase + cash advance)	a. credit limit <sup>8</sup> b. date on which the last payment was made c. last statement balance <sup>9</sup> d. last payment amount
1.2 Other unsecured Personal loans (term/revolving)	a. original credit/loan limit b. type of facility (term or revolving) c. outstanding loan balance d. original repayment term e. date on which the last payment was made f. last payment amount due <sup>3</sup> g. last payment amount <sup>3</sup>
1.3 Secured personal loans <sup>2</sup>	a. original loan amount b. product type (such as mortgages and auto) c. outstanding loan balance d. original repayment term e. date on which the last payment was made f. last payment amount due <sup>3</sup> g. last payment amount <sup>3</sup> h. aggregate value of collateral(s) (at loan drawdown date)

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<sup>7</sup> Corporate and supplemental credit cards are excluded.

<sup>8</sup> A credit card holder may have several credit cards which together have a shared credit limit. Also, issues might arise in reporting mortgage loans. For example, the property so secured can be for more than one loan. Some mortgage loans may have a second mortgage provided by the property developer. How these items should be reported is a matter of operational issue to be agreed between participating financial institutions (FIs) and the credit reference agency.

<sup>9</sup> *Last statement balance/last payment amount due* refers to the total amount due, which may be different from the actual amount of payment as reported under *last payment amount*, particularly in the case of credit cards (e.g. credit card holders may choose to make the minimum amount of payment required by the card-issuing bank).

## 2. Additional Positive Data to be Shared by FIs in respect of New and Existing Customers as Shown on Credit Reports

Product Type	Data Shown on Credit Report (per account)
2.1 Credit cards (purchase + cash advance)	a. credit limit b. date on which the last payment was made <sup>10</sup> c. last statement balance <sup>4</sup> d. last payment amount <sup>4</sup> e. highest credit used <sup>11</sup>
2.2 Other unsecured personal loans (term/revolving)	a. original credit/loan limit b. type of facility (term or revolving) c. outstanding loan balance d. original repayment term e. date on which the last payment was made <sup>4</sup> f. last payment amount due <sup>4</sup> g. last payment amount <sup>4</sup>
2.3 Secured personal Loans	a. original loan amount b. product type (such as mortgages and auto) c. outstanding loan balance d. original repayment term e. date on which the last payment was made <sup>4</sup> f. last payment amount due <sup>4</sup> g. last payment amount <sup>4</sup> h. aggregate value of collateral(s) (at loan drawdown date)

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<sup>10</sup> Data for the most current month only will be displayed on the credit report.

<sup>11</sup> Deriving from *last statement balance*, this is the highest amount of credit used by the consumer in the history of a credit card account.

### 3. Why Additional Positive Data is Required for Credit Evaluation

The “account default data” (see annex A) currently available to FIs does not provide a complete payment behaviour record for the customer. For example, a credit card holder may make use of the “circular payment method” to cover his minimum monthly payments i.e. making such monthly repayments by drawing on the line available under another card. Under the present restrictive credit data sharing, this situation is unknown to the FIs. Together with *last statement balance/last payment amount due* and *last payment amount*, however, the FI will be able to gain a fuller picture of the individual’s payment history. Such information, coupled with the rest of the data described in paragraph 2 above, will provide FIs with an individual’s total credit exposure and payment pattern, which in turn will provide a broader basis for FIs to make credit evaluation.

### 4. Trigger Points for Reporting

FIs participating in the positive data exchange will report on new customers (upon approval of the facility) and existing customers (upon implementation of positive data sharing) and on a monthly basis thereafter until the account is fully repaid.

### 5. Positive Data Retention

As explained above, the purpose of the positive data exchange is to establish a credible credit profile of an individual to provide a more reliable and objective basis for credit evaluation. The longer the period upon which the credit profile is built, the more reliable and representative the credit profile will be. Given the overall low level of consumer loan provisions in Hong Kong, in particular on mortgage loans, it is expected that the credit scores based on positive data for most customers will be high. These customers will be in a better position to negotiate with lenders for more favourable terms. However, the benefit of longer retention period must be balanced against the cost to both FIs and the credit reference agency which may ultimately have to be passed on to consumers. Accordingly, it is recommended that positive data as described in paragraph 1 above should be retained by the credit reference agency for a sufficient period of time for the purpose of building up the credible credit profile of an individual.

## 6. Implementation

- 6.1 Full positive data exchange on all product types as described in paragraph 2 above would begin immediately upon regulatory clearance. An industry-wide phased approach is not preferred since all FIs must be ready before the next phase can commence and as such, it would take a much longer time to build up a comprehensive database.

In recognition that not all FIs are ready to participate on full positive data exchange at the same time, as their systems, customer size and product range may vary, it is recommended that each FI would decide for itself on the timing in terms of the categories of products as described in paragraph 1 above. The approach to take is planned as follows:

- FIs, which choose to participate in full (i.e. reporting on all of its products), will be allowed access to all positive data on all product types contributed by other FIs and use such data across all their products. For example, a finance company, which does not issue cards, but reports on all its other consumer lending products, will have access to all the positive data on all product types contributed by other FIs and use such data for all its products.
- For FIs which initially can only report on some products, only the business division in charge of the same products (on which positive data is contributed by those FIs) will be allowed access to positive data on all product types contributed by other FIs and use such data for the same products. For example, for an FI which decides to report initially on credit card data alone, only its credit card division will be allowed access to positive data on all products contributed by the other FIs and use such data in respect of its credit card business only.

All participating FIs will give mutual undertaking on the use of positive data in the manner as envisaged above. In addition, the credit reference agency will be expected to play an active role in monitoring access of data by FIs to ensure that the undertaking is observed by them.

- 6.2 Whilst the four associations supporting this proposal recognise that FIs will participate in positive data exchange on a voluntary basis, as stated in its proposal submitted to the HKMA on 21.12.2001, HKAB supports the HKMA issuing supervisory guidelines encouraging FIs to participate in the positive data exchange. HKAB and the DTC Association are ready to consider issuing a similar circular to support the HKMA's supervisory guidelines.

The approach of greater sharing positive data as described in this proposal is supported by HKAB, DTC Association, the HKSAR Licensed Money Lenders Association Ltd and the Finance Houses Association. In total, these associations represent approximately 325 financial institutions.

All members of the Bankruptcy Working Group<sup>12</sup>, representing a cross section of the financial services industry, have committed to full participation in positive data exchange as and when it is in place.

The Hong Kong Association of Banks  
The DTC Association  
HKSAR Licensed MoneyLenders Association  
Finance Houses Association  
14 March 2002

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<sup>12</sup> The Bankruptcy Working Group has 11 members representing the Hong Kong Association of Banks, the DTC Association, the HKSAR Licensed Money Lenders Association and the Finance Houses Association. The 11 members are Bank of China (Hong Kong), Bank of East Asia, Citibank, DBS Kwong On, Hang Seng Bank, HSBC, JCG Finance, PrimeCredit, Standard Chartered Bank, United Asia Finance and Inchroy Credit.

## Appendix

The “Payment History” under detailed CIS account information displays up to 36 months’ payment behaviour.

Following is an example of a 7-month account payment pattern:

090    060    030    000    000    030    000

The most left bucket is the most recent month payment and each bucket represents monthly payment update.

000 = 0 day past due

030 = 30 days past due

060 = 60 days past due

090 = 90 days past due

**Empirical Evidence for Benefits of Positive Data Sharing**

1. The following is a summary of two research studies, by Staten and Barron (May 2000)<sup>13</sup> and a major consumer credit reference agency in the UK, which provide useful insight on the subject through empirical studies.

*Staten and Barron (May 2000)*

2. Staten and Barron (May 2000) examined mainly the US and Australian experience and analysed the impact of comprehensive (including positive and negative) credit information.
3. In the study, by simulating individual credit scores for the “full model” (i.e. positive and negative data sharing) and the “negative-only model” (i.e. negative data sharing only) based on a same set of account data, Staten and Barron (2000) estimated that:

- (i) under different target approval rates, there would be different decreases in default rates when the simulation shifted from the “negative-only model” to the “full model”, as follows:

Target approval rate (%)	Default rates (%)		% decrease in default rate on loan with full model
	Negative-only model	Full model	
40	2.9	1.1	-63
60	3.4	1.9	-43
75	4.1	3.0	-25

- (ii) under different target default rates, there would be different increases in the percentage of consumers who were eligible to obtain a loan when the simulation shifted from the “negative-only” model to the “full model”, as follows:

Target default rate (%)	% of consumers who obtain a loan		% increase in the number of eligible borrowers with full model
	Negative-only model	Full model	
3	40	75	88
4	74	83	13
5	85	89	5
6	91	93	3
7	95	96	1

<sup>13</sup> John M Barron and Michael Staten, *The Value of Comprehensive Credit Reports: Lessons from the US Experience*, May 2000.

4. Based on the results of past literature on the impact of information sharing, and also on the results of simulations which compared the efficiency of scoring models built under comprehensive vs. restricted reporting environments, the paper presented the following findings:

- Given the prevailing laws governing the reporting of personal credit histories, consumer credit will be less available in countries (e.g. Australia) where credit reporting is confined primarily to negative (delinquent) information, relative to the United States. The effect will be especially noticeable for those consumers who are financially more vulnerable (higher risk categories) such as consumers who are young, have short time on the job or at their residence, and lower incomes.
- As the amount of credit made available per capita increases in countries that lack comprehensive credit reporting, the pricing gradient will be steeper as compared to the United States. Consumer credit in restricted-reporting countries will likely be more costly in terms of finance charge as well as other features of the loan offer function, including downpayment, convenience of access, credit limits and fees.
- Less accessible consumer credit will likely impair the growth of consumer spending and growth in consumer durable industries in countries that lack comprehensive reporting.
- Restrictions on the storage of past credit history will increase the value to developing other, alternative measures of the likelihood of repayment. Countries that have balked at more comprehensive credit reporting because of concerns over personal privacy should bear in mind that some of these alternative measures may be more invasive and less objective than the payment history itself.
- The effects of more restrictive rules for reporting credit histories may be mitigated by regulatory regimens that provide for harsher collection activities and more restrictive access to personal bankruptcy (and discharge), so that the former's adverse impact on credit quality can be minimised. These incidental effects are not desirable from a social standpoint.

5. The paper then concluded that (Section 6, second paragraph):

“A quarter century of experience within a comprehensive reporting environment in the United States has produced an impressive list of benefits. Detailed information about a borrower's past payment history, including accounts handled responsibly, as well as a current profile of the borrower's obligations and available credit lines have proved to be an important tool for assessing risk. The resulting benefits include:

- Dramatic penetration of lending into lower socio-economic groups, making a variety of consumer loans available across the income spectrum.
- Reduction in loan losses that would have accompanied such market penetration in the past.
- Ongoing account monitoring and use of behavioral scoring by creditors to adjust credit lines and take early prevention action if a consumer is showing signals of overextension. Prevention measures include contacting customers to offer budgetary counseling or concessions on terms to prevent bankruptcy or chargeoff.
- Encourages entry of new competitors, including non-bank financial institutions, which has stimulated vigorous price competition and more convenient products.
- Made feasible the securitization of consumer loan receivables (e.g. mortgages, auto loans, credit cards) which has lowered the cost of providing credit and brought hundreds of billions of additional dollars into consumer lending markets.
- Lowered the prices for other financial products as customers have been freed from their binding relationships with banks and other depository institutions. In the past the customer's own bank was frequently the lowest cost source for a loan because other creditors lacked the information needed to measure risk. Consequently, banks have been forced to become more competitive for customers at all margins.
- Made consumers (and workers) more mobile by reducing the cost of severing established relationship and seeking better opportunities.”

A study by a major consumer credit reference agency in the UK

6. The study compared the bad debt charge of a given credit portfolio under three scenarios (i.e. not using CRA data, using negative CRA data only, and using both negative and positive CRA data). In order for the comparisons between the three scenarios to be valid, the comparisons were carried out at the same reject rate for each credit portfolio. The bad debt rates were then measured at the particular reject rate for each portfolio. The study showed that default rate could be significantly reduced with the use of negative and positive credit information provided by a credit bureau (see the following table).

<i>Asset Quality for new Personal Loan, Cheque, and Credit Card accounts after 18 months trading</i>	<i>Expected bad debt rate @ - 18 months</i>		
	<i>Personal Loans (Reject Rate = 40%)</i>	<i>Cheque Accounts (Reject Rate = 15%)</i>	<i>Credit Cards (Reject Rate = 33%)</i>
<i>1. Asset quality with no CRA data</i>	<i>Bad Debt Rate = 7.3%</i>	<i>Bad Debt Rate = 6.8%</i>	<i>Bad Debt Rate = 8.4%</i>
<i>2. Asset quality with negative CRA data</i>	<i>Bad Debt Rate = 5.6%</i>	<i>Bad Debt Rate = 5.0%</i>	<i>Bad Debt Rate = 6.8%</i>
<i>Reduction in bad debt (2 vs. 1)</i>	<i>25.3%</i>	<i>27.4%</i>	<i>20.7%</i>
<i>3. Asset quality with positive and negative CRA data</i>	<i>Bad Debt Rate = 4.7%</i>	<i>Bad Debt Rate = 4.3%</i>	<i>Bad Debt Rate = 5.6%</i>
<i>Reduction in bad debt (3 vs.1)</i>	<i>38.0%</i>	<i>38.4%</i>	<i>35.9%</i>
<i>Reduction in bad debt (3 vs. 2)</i>	<i>16.9%</i>	<i>15.1%</i>	<i>19.2%</i>

*In addition to the reduction in bad debt charges quoted above, it can be conservatively assumed that collections/recovery costs are reduced proportionally.*

## PROTECTION FOR CONSUMER CREDIT DATA: COMPARISON WITH OVERSEAS REGIMES

	<b>HK Code of Practice on Consumer Credit Data</b>	<b>US Fair Credit Reporting Act</b>	<b>UK Consumer Credit Act 1974 and Data Protection Act 1998</b>
<b>Applicability of legislation</b>	<p>This Code of Practice is issued under the Personal Data (Privacy) Ordinance (Cap. 486) to provide practical guidance for the handling of consumer credit data, including its collection, accuracy, use, security, access and correction. The Code covers credit reference agencies as well as credit providers in their dealing with credit reference agencies and debt collection agencies.</p>	<p>The Fair Credit Reporting Act (FCRA), enforced by the Federal Trade Commission, is designed to promote accuracy, fairness and privacy of information used in consumer credit reporting. FCRA confers specific rights on consumers and corresponding responsibilities on consumer reporting agencies.</p>	<p>Data protection for consumer credit data in the UK is provided under the Consumer Credit Act (CCA) and Data Protection Act (DPA).</p> <p>The CCA is to establish for the protection of consumers a new licensing system, administered by the Director General of Fair Trading, for traders concerned with consumer credit business, including the operation of a credit reference agency. Consumer credit reference agencies in the UK have to be licensed by the Director General under the Act and to observe the part on “Credit reference agencies” (sections 157 to 160) and other relevant provisions.</p> <p>The DPA, enforced by the Office of Information Commissioner, provides for the regulation of the processing of information relating to individuals. A credit reference agency falls under the definition of “data controller” under the DPA.</p>
<b>Fair Information Practice Principles</b>			
<b>1. Notice/Awareness</b>			
Consumers must be notified of their rights	<p><b>Data Protection Principle 1 – purpose and manner of collection of personal data</b>  <b>3.2</b> A credit provider should notify an applicant for consumer credit, at or before the time of collection of his personal data, that the data may be supplied to a credit reference agency and in the event of default to a debt collection agency, if such be the case. The notification should also mention that the individual applicant has the right, upon request, to be informed which items of data are routinely so disclosed, and be provided with further information to enable the making of an access and correction request to the relevant credit reference agency or debt</p>	<p><b>s.609 Disclosures to consumers</b>  <b>(c) Summary of rights required to be included with disclosure</b>  A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section  (A) a written summary of all of the rights that the consumer has under this title; and  (B) in the case of a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, a toll-free telephone number established by the agency, at which personnel are accessible to consumers during normal business hours.</p>	<p><b>(CCA) s.158 Duty of agency to disclose filed information</b>  The agency shall give the consumer a statement in the prescribed form of the consumer’s rights under section 159, such as the right of consumers to make correction requests.</p>

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	collection agency, as the case may be.		
Consumers must be notified if information in their files has been considered, or used to take action against them e.g. denying an application for credit.	<p><b>Data Protection Principle 2 – accuracy and duration of retention of personal data</b></p> <p><b>3.3</b> A credit provider who has considered a credit report on an individual in connection with an application for consumer credit by that individual should, in its notification to the individual of its decision on the application, give notice of the fact that a credit report has been so considered. The credit provider should also inform the individual how to contact the credit reference agency who provided the credit report, for the purpose of making a data access and correction request under the Ordinance. If a correction request made by the individual is subsequently complied with by the credit reference agency, the credit provider should at the request of the individual reconsider the credit application on the basis of a new credit report obtained from the credit reference agency.</p>	<p><b>s.615 Requirements on users of consumer reports</b></p> <p><b>(a) Duties of users taking adverse actions on the basis of information contained in consumer reports.</b> If any person takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report, the person shall</p> <p>(1) provide oral, written, or electronic notice of the adverse action to the consumer;</p> <p>(2) provide to the consumer the name, address, and telephone number of the consumer reporting agency that furnished the report to the person;</p> <p>(3) provide to the consumer an oral, written, or electronic notice of the consumer's right to obtain, under section 612, a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (2).</p>	<p><b>(DPA) s.7 Right of access to personal data</b></p> <p>(1) An individual is entitled (a) to be informed by any data controller whether personal data of which that individual is the data subject are being processed by or on behalf of that data controller.</p>
<b>2. Limitation on collection and use of data</b>			
Personal data shall not be collected unless for recognised purposes	<p><b>Data Protection Principle 1 – purpose and manner of collection of personal data</b></p> <p><b>2.1</b> The Code imposes limitations on the type of collectible data for the purpose of providing credit reference service. The collectible data items are set out below, which are mainly confined to negative data—</p> <p>(i) account default data reported by a credit provider;</p> <p>(ii) public record and related data;</p> <p>(iii) credit application data reported by a credit provider that the individual has made an application for consumer credit – including the party making the report, the type and amount of credit sought, and the date of the</p>	No restriction on the collection of positive or negative credit data of borrowers.	No restriction on the collection of positive or negative credit data of borrowers.

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	<p>reporting of the application;</p> <p>(iv) credit card loss data reported by a credit card issuer;</p> <p>(v) personal data for use in a leasing and hire-purchase enquiry service:</p> <ul style="list-style-type: none"> <li>• current transaction data, being data as to motor vehicle or equipment leasing or hire-purchase transactions including the value and other details of the goods and notice of settlement;</li> </ul> <p>(vi) watch list data:</p> <ul style="list-style-type: none"> <li>• listing of credit providers who wish to be notified and provided information to assist in debt collection if an individual in default has reappeared in the system; and</li> </ul> <p>(vii) file activity data:</p> <ul style="list-style-type: none"> <li>• record of a credit provider accessing an individual's personal data held by the credit reference agency;</li> </ul> <p>(viii) credit score data:</p> <ul style="list-style-type: none"> <li>• the score that results or resulted from applying consumer credit scoring to an individual.</li> </ul> <p>(ix) charge data in respect of the creation of a charge over equipment, vehicles or vessels.</p>		
The credit information collected can only be used for permissible purposes and be accessed by recognised personnel.	<p><b>Data Protection Principle 3 – use of personal data</b></p> <p><b>2.6</b> Unless exempted from the provisions of data protection principle 3 under Part VIII of the Ordinance, a credit reference agency should not:</p> <p>2.6.1 in providing a consumer credit reference service use any personal data relating to an individual held in its record system (including credit application data and file activity data created for 2 years or less but excluding such data created for more than 2 years) except in one of the following ways:</p>	<p><b>s.604 Permissible purposes of consumer reports</b> (which are much wider than those under the Privacy Commissioner's Code in Hong Kong)</p> <p>(a) Subject to subsection (c), any consumer reporting agency may furnish a consumer report under the following circumstances and no other:</p> <p>(1) In response to the order of a court having jurisdiction to issue such an order, or a subpoena issued in connection with proceedings before a Federal grand jury.</p>	<p><b>(DPA) Sch.1 – the Second Data Protection Principle</b></p> <p>Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.</p> <p><b>s.11 Right to prevent processing for purposes of direct marketing</b></p> <p>(1) An individual is entitled at any time by notice in writing to a data controller to</p>

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	<p>2.6.1.1 to provide a credit report to a credit provider making an enquiry in connection with the grant, review or renewal of consumer credit to that individual or to another person for whom that individual proposes to act as guarantor;</p> <p>2.6.1.2 to provide a report to a credit provider making an enquiry to assist in debt collection action;</p> <p>2.6.1.3 to provide notice and information to a credit provider on a watch list, when new data of an individual in default have appeared in the system, to assist in debt collection action;</p> <p>2.6.1.4 to provide notice to a relevant credit provider and to the Transport Department where an individual who has received credit in relation to a motor vehicle has been the subject of advice from the Department that it has received an application from the individual for a duplicate vehicle registration document;</p> <p>2.6.1.5 to provide a report to insurers in relation to insurance cover for property related to a consumer credit transaction; or</p> <p>2.6.1.6 to use the data for reasonable internal management purposes, such as the defence of claims and the monitoring of the quality and efficiency of its service; or</p> <p>2.6.1.7 to use the data for consumer credit scoring.</p> <p>2.6.2 in providing a consumer credit reference service use any credit application data or file activity data relating to an individual held in its record system, which credit application data or file activity data have been created for more than 2 years, except in carrying out consumer credit scoring.</p> <p>2.6.3 in providing a credit report to a credit provider include in such report any credit card loss data held by it under clause 2.1.2.4, unless the data relate to financial loss suffered by credit providers resulting from the loss of credit cards</p>	<p>(2) In accordance with the written instructions of the consumer to whom it relates.</p> <p>(3) To a person which it has reason to believe</p> <p>(A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or</p> <p>(B) intends to use the information for employment purposes; or</p> <p>(C) intends to use the information in connection with the underwriting of insurance involving the consumer; or</p> <p>(D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or</p> <p>(E) intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; or</p> <p>(F) otherwise has a legitimate business need for the information</p> <p>(i) in connection with a business transaction that is initiated by the consumer; or</p> <p>(ii) to review an account to determine whether the consumer continues to meet the terms of the account.</p>	<p>require the data controller at the end of such period as is reasonable in the circumstances to cease, or not to begin, processing for the purposes of direct marketing personal data in respect of which he is the data subject.</p>

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	<p>by the same individual on 2 or more separate occasions happening within a span of 5 years.</p> <p>2.6.4 use any charge data collected under clause 2.1.8 except for providing a leasing and hire-purchase enquiry service under clause 2.1.4.</p>		
<b>3. Rights of access/correction</b>			
<p>Consumers have rights of access to their files kept by the CRA – to find out what is in the file, and a list of everyone who has requested it recently. The legislation may or may not specify the charge for the reports. There may be provisions which specify the circumstances under which the report will be free of charge (e.g. adverse action is taken against the consumer), or otherwise the maximum that can be charged.</p>	<p><b>Data Protection Principle 6 – access to personal data</b></p> <p><b>2.9</b> A credit reference agency should seek to respond promptly to an access request in respect of personal data held by it brought by an individual who advises that he has been refused credit by a credit provider to whom a credit report on him has been provided by the credit reference agency. Where such an access request is made at the office of the credit reference agency, the copy of the data held should, if practicable, be provided forthwith to the individual, or else be despatched by mail to the individual not later than 3 working days from the date of the request.</p>	<p><b>s.609 Disclosures to consumers</b></p> <p><b>(a) Information on file; sources; report recipients.</b> Every consumer reporting agency shall, upon request, clearly and accurately disclose to the consumer:</p> <p><b>(1) all information in the consumer's file</b> at the time of the request;</p> <p><b>(2) the sources of the information;</b> and</p> <p><b>(3) the identity of each person</b> that procured a consumer report</p> <p>(i) for employment purposes, during the 2-year period preceding the date on which the request is made; or</p> <p>(ii) for any other purpose, during the 1-year period preceding the date on which the request is made.</p> <p><b>s.612 Charges for certain disclosures</b></p> <p>(a) Reasonable charges allowed for certain disclosures</p> <ul style="list-style-type: none"> <li>• A consumer reporting agency may impose a reasonable charge on a consumer for making a disclosure to the consumer pursuant to section 609, which charge <ul style="list-style-type: none"> <li>(i) shall not exceed \$8; and</li> <li>(ii) shall be indicated to the consumer before making the disclosure.</li> </ul> </li> </ul>	<p><b>(CCA) s.157 Duty to disclose name etc. of agency</b></p> <p>(1) A creditor, owner or negotiator, within the prescribed period after receiving a request in writing to that effect from the debtor or hirer, shall give him notice of the name and address of any credit reference agency from which the creditor, owner or negotiator has, during the antecedent negotiations, applied for information about his financial standing.</p> <p><b>s.158 Duty of agency to disclose filed information</b></p> <p>(1) A credit reference agency, within the prescribed period after receiving,</p> <p>(a) a request in writing to that effect from any consumer; and</p> <p>(b) a fee of £2,</p> <p>shall give the consumer a copy of the file relating to it kept by the agency.</p> <p><b>(DPA) s.7 Right of access to personal data</b></p> <p>(1) An individual is entitled-</p> <p>(a) to be informed by any data controller whether personal data of which that individual is the data subject are being processed by or on behalf of that data controller,</p> <p>(b) if that is the case, to be given by the data</p>

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		<p>(c) <b>Free</b> disclosure under certain other circumstances. Upon the request of the consumer, a consumer reporting agency shall make all disclosures pursuant to section 609 once during any 12-month period without charge to that consumer if the consumer certifies in writing that the consumer has reason to believe that the file on the consumer at the agency contains inaccurate information due to fraud.</p>	<p>controller a description of-</p> <ul style="list-style-type: none"> <li>(i) the personal data of which that individual is the data subject,</li> <li>(ii) the purposes for which they are being or are to be processed, and</li> <li>(iii) the recipients or classes of recipients to whom they are or may be disclosed</li> <li>(d) where the processing by automatic means of personal data of which that individual is the data subject for the purpose of evaluating matters relating to him such as, for example, his creditworthiness, has constituted or is likely to constitute the sole basis for any decision significantly affecting him, to be informed by the data controller of the logic involved in that decision-taking.</li> </ul>
<p>Consumers have rights to correct any wrong information contained in their credit files.</p>	<p><b>Data Protection Principle 6 – access to personal data</b></p> <p><b>2.10</b> Upon receiving a request for correction of consumer credit data provided by a credit provider, the credit reference agency should promptly consult the credit provider. If the agency does not receive from the credit provider any written confirmation or correction of the disputed data within 40 days from the correction request, the relevant data should upon expiry of the 40 days be deleted or otherwise amended as requested.</p> <p><b>2.11</b> Upon receiving a request for correction of consumer credit data being public record data, the credit reference agency should wherever practicable verify the accuracy of such data by checking the relevant public records. If no such verification is obtained within 40 days from the date of the correction request, the public record data should upon expiry of the 40 days be deleted or otherwise amended as requested, except where the individual alleges any inaccuracy in the data which is not apparent on the face of the public records, it should in that case be incumbent on</p>	<p><b>s.611 Procedure in case of disputed accuracy</b></p> <p><b>(a) Reinvestigations of disputed information.</b></p> <p><b>(1) Reinvestigation required.</b></p> <p>If the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly of such dispute, the agency shall reinvestigate free of charge and record the current status of the disputed information, or delete the item from the file in accordance with paragraph (4), before the end of the 30-day period beginning on the date on which the agency receives the notice of the dispute from the consumer.</p> <p><b>(2) Prompt notice of dispute to furnisher of information.</b></p> <p>Before the expiration of the 5-business-day period beginning on the date on which a consumer reporting agency receives notice of a dispute from any consumer in accordance with paragraph (1), the agency shall provide notification of the dispute to any person who provided any item of information in dispute. The</p>	<p><b>(CCA) s.159 Correction of wrong information</b></p> <p>(1) Any individual (the “objector”) who considers that an entry in his file is incorrect, and that if it is not corrected he is likely to be prejudiced, may give notice to the agency requiring it either to remove the entry from the file or amend it.</p> <p>(2) Within 28 days after receiving a notice under subsection (1), the agency shall by notice inform the objector that it has -</p> <ul style="list-style-type: none"> <li>(a) removed the entry from the file, or</li> <li>(b) amended the entry, or</li> <li>(c) taken no action,</li> </ul> <p>and if the notice states that the agency has amended the entry it shall include a copy of the file so far as it comprises the amended entry.</p> <p>(3) Within 28 days after receiving a notice under subsection (2) or, where no such notice was given, within 28 days after the expiry of the period mentioned in subsection (2), the objector may, unless he has been informed by the agency that it has removed the entry from his file, serve a further notice on the agency requiring it to add to</p>

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	<p>the individual to provide proof of such inaccuracy.</p>	<p>notice shall include all relevant information regarding the dispute that the agency has received from the consumer.</p> <p><b>(3) Determination that dispute is frivolous or irrelevant.</b> A consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under paragraph (1) if the agency reasonably determines that the dispute by the consumer is frivolous or irrelevant.</p> <p><b>(4) Treatment of inaccurate or unverifiable information.</b> If, after any reinvestigation under paragraph (1) of any information disputed by a consumer, an item of the information is found to be inaccurate or incomplete or cannot be verified, the consumer reporting agency shall promptly delete that item of information from the consumer's file or modify that item of information, as appropriate, based on the results of the reinvestigation.</p> <p><b>(5) Notice of results of reinvestigation.</b> A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection not later than 5 business days after the completion of the reinvestigation.</p> <p><b>(b) Statement of dispute.</b> If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute.</p> <p><b>(c) Notification of consumer dispute in subsequent consumer reports.</b> Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency</p>	<p>the file an accompanying notice of correction (not exceeding 200 words) drawn up by the objector and include a copy of it when furnishing information included in or based on that entry.</p>

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		<p>shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.</p> <p><b>(d) Notification of deletion of disputed information.</b> Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) of this section to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information.</p>	
<b>4. Data Integrity/Security:</b>			
<p>Credit providers/CRA's must take reasonable steps to ensure accuracy and completeness of information.</p> <p>There must be adequate safeguards to protect against unauthorized use of / access to consumers' files.</p>	<p><b>Data Protection Principle 2 – accuracy and duration or retention of personal data</b></p> <p><b>3.4</b> A credit provider should only provide consumer credit data to a credit reference agency or to a debt collection agency after checking the data for accuracy. If the amount in default is subsequently repaid or written off in full or in part, or if any scheme of arrangement is entered into with the individual, or if the credit provider discovers any inaccuracy in the data which have been provided to and which the credit provider reasonably believes are being retained by the credit reference agency or the debt collection agency, the credit provider should notify the credit reference agency or debt collection agency as soon as reasonably practicable of such fact.</p>	<p><b>s.623 Responsibilities of furnishers of information to consumer reporting agencies</b></p> <p><b>(a) Duty of furnishers of information to provide accurate information.</b></p> <p>(A) A person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows or consciously avoids knowing that the information is inaccurate.</p> <p>(B) A person shall not furnish information relating to a consumer to any consumer reporting agency if</p> <ul style="list-style-type: none"> <li>(i) the person has been notified by the consumer that specific information is inaccurate; and</li> <li>(ii) the information is, in fact, inaccurate.</li> </ul>	<p><b>(DPA) Sch. 1 – the Fourth Data Protection Principle</b></p> <p>Personal data shall be accurate and, where necessary, kept up to date. In general, credit reference agencies will need to take reasonable steps to ensure accuracy of the data.</p> <p><b>(DPA) Sch. 1 – the Seventh Data Protection Principle</b></p> <p>Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.</p>

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	<p><b>Data Protection Principle 4 – security of personal data</b></p> <p><b>2.7</b> A credit reference agency should take appropriate measures, including the following, to safeguard the security of consumer credit data:</p> <p>2.7.1 enter into formal written agreements with subscribers which specify in detail the controls and procedures to be applied when subscribers seek access to the agency’s database;</p> <p>2.7.2 establish controls to ensure that only data to which a subscriber is entitled are released;</p> <p>2.7.3 maintain a log of all accesses to the record;</p> <p>2.7.4 review on a regular and frequent basis password controls;</p> <p>2.7.5 monitor and review on a regular and frequent basis usage of the system, with a view to detecting and investigating any unusual or irregular patterns of access or use;</p> <p>2.7.6 train staff in relation to the Ordinance and this Code and, in particular, good security practice;</p> <p>2.7.7 develop guidelines, and disciplinary or contractual procedures in relation to improper use of access authorities by staff, external contractors or subscribers;</p> <p>2.7.8 ensure that adequate protections exist to minimise, as far as possible, the risk of unauthorised entry into the database or interception of communications made to and from the database; and</p> <p>2.7.9 ensure that practices in relation to the deletion and disposal of data are secure, especially where records or discs are to be disposed of off-site or by external contractors.</p> <p>2.8 A credit reference agency should maintain a log of all incidents involving a proven or suspected breach of security, which includes an indication of the records affected, an explanation of the circumstances and action taken.</p> <p><b>Data Protection Principle 1 – purpose and</b></p>	<p><b>s.607 Compliance procedures</b></p> <p><b>(b) Accuracy of report.</b> Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.</p>	

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	<p><b>manner of collection of personal data</b></p> <p><b>3.1</b> A credit provider should only access from a credit reference agency consumer credit data relating to an individual:</p> <p>(a) in the course of considering any grant, review or renewal of consumer credit to the individual or to another person for whom the individual proposes to act as guarantor; or</p> <p>(b) upon default by the individual as principal or as guarantor from the time of such default until repayment of all sums owed in connection with the consumer credit provided.</p>		
Data retention periods: outdated information could not be reported.	<p><b>Data Protection Principle 2 – accuracy and duration of retention of personal data</b></p> <p><b>2.2</b> Subject to certain exemptions, a credit reference agency should delete from its records any account default data under clause 2.1.2.1 relating to an individual no later than 5 years from date of final settlement of the amount in default.</p> <p><b>2.4</b> Other items of consumer credit data held by a credit reference agency should be deleted on or before the following dates:</p> <ul style="list-style-type: none"> <li>• public record and related data under clause 2.1.2.2, except data relating to a declaration or discharge of bankruptcy – 7 years from the date of event shown in the official record;</li> <li>• public record and related data under clause 2.1.2.2 relating to a declaration or discharge of bankruptcy – 8 years from the relevant declaration of bankruptcy;</li> <li>• credit application data under clause 2.1.2.3 – 5 years from the date of the reporting of the application;</li> <li>• credit card loss data under clause 2.1.2.4 – 5 years from the date of report of the loss of the credit card;</li> <li>• notification received from a credit provider</li> </ul>	<p><b>s.605 Requirements relating to information contained in consumer reports</b></p> <p>(a) Information excluded from consumer reports. Except as authorized under subsection (b) of this section, no consumer reporting agency may make any consumer report containing any of the following items of information:</p> <p>(1) Cases under title 11 [United States Code] or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report by more than 10 years.</p> <p>(2) Civil suits, civil judgments, and records of arrest that from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.</p> <p>(3) Paid tax liens which, from date of payment, antedate the report by more than seven years.</p> <p>(4) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.</p> <p>(5) Any other adverse item of information, other than records of convictions of crimes which</p>	<p><b>(DPA) Sch.1 – the Fifth Data Protection Principle</b></p> <p>Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes. In general, credit reference agencies retain records for six years for the use of credit grantors in deciding whether or not to grant credit. Records of bankruptcies are held for six years after the date of bankruptcy, records of County Court Judgments are held for six years from the date of the judgment, whether or not they are subsequently satisfied. Account records are held for six years from the date of the last entry on that record. In the Information Commissioner's view, it is not inappropriate for both a default and a subsequent judgment or bankruptcy to appear on a credit file.</p>

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	<p>under clause 2.1.3 – the date of deletion, pursuant to clause 2.2, of the account default data to which such notification relates;</p> <ul style="list-style-type: none"> <li>personal data used in the leasing and hire-purchase enquiry service under clause 2.1.4 – 3 months after the account is settled as notified by the credit provider, except for any account default data to which clause 2.2 applies;</li> <li>file activity data under clause 2.1.6 – 5 years from the date of creation of such data;</li> <li>credit score data under clause 2.1.7 – by the end the next business day following the date of creation of such data;</li> <li>charge data under clause 2.1.8 – 3 months after the date of termination of the relevant charge, as notified by the credit provider;</li> <li>general particulars of an individual under clause 2.1.1 – as soon as there is no other data related to the individual contained in the record.</li> </ul>	<p>antedates the report by more than seven years.</p> <p>(b) Exempted cases. The provisions of subsection (a) of this section are not applicable in the case of any consumer credit report to be used in connection with</p> <p>(1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of \$150,000 or more;</p>	
<b>5. Enforcement/Redress:</b>			
Consumers may seek damages from violators	<p>The provisions of the Code are not legally binding. A breach of the Code by a data user, however, will give rise to a presumption against the data user in any legal proceedings under the Ordinance. Aside from legal proceedings, failure to observe the Code by a data user will weigh unfavourably against the data user in any case before the Privacy Commissioner for Personal Data.</p> <p>A breach of the data protection principles under the PDPO in itself is not an offence. However, the Privacy Commissioner may issue an enforcement notice to a data user following investigation of a complaint about a contravention. Continued contravention by a data user after the enforcement notice is served on him would constitute an offence. In addition,</p>	<p><b>s.616 Civil liability for wilful noncompliance</b></p> <p>(a) Any person who willfully fails to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of</p> <p>(1) (A) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000; or</p> <p>(B) in the case of liability of a natural person for obtaining a consumer report under false pretences or knowingly without a permissible purpose, actual damages sustained by the consumer as a</p>	<p><b>(CCA) s.157 Duty to disclose name etc of agency</b></p> <p>(3) If the creditor, owner or negotiator fails to comply with subsection (1) he commits an offence.</p> <p><b>s.158 Duty of agency to disclose filed information</b></p> <p>(4) If the agency contravenes any provision of this section it commits an offence.</p> <p><b>s.159 Correction of wrong information</b></p> <p>(6) If a person to whom an order under this section is directed fails to comply with it within the period specified in the order he commits an offence.</p>

	<b>HK Code of Practice on Consumer Credit Data</b>	<b>US Fair Credit Reporting Act</b>	<b>UK Consumer Credit Act 1974 and Data Protection Act 1998</b>
	<p>an individual who suffers damage by reason of a contravention by a data user is entitled to compensation from that data user for that damage under section 66 of the Personal Data (Privacy) Ordinance.</p>	<p>result of the failure or \$1,000, whichever is greater;  (2) such amount of punitive damages as the court may allow; and  (3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.</p> <p><b>s.617 Civil liability for negligent noncompliance</b>  (a) Any person who is negligent in failing to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of  (1) any actual damages sustained by the consumer as a result of the failure;  (2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.</p> <p><b>s.619 Obtaining information under false pretenses</b>  Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined under title 18, United States Code, imprisoned for not more than 2 years, or both.</p> <p><b>s.620 Unauthorized disclosures by officers or employees</b>  Any officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency's files to a person not authorized to receive that information shall be fined under title 18, United States Code, imprisoned for not more than 2 years, or both.</p>	<p><b>(DPA) s.13 Compensation for failure to comply with certain requirements</b></p> <p>(1) An individual who suffers damage by reason of any contravention by a data controller of any of the requirements of this Act is entitled to compensation from the data controller for that damage.</p>