

Legislative Council Panel on Financial Affairs

Business Practices of Authorized Institutions in relation to Credit Cards

Purpose

This paper sets out the Administration's response to the letter dated 19 December 2008 from the Panel on Financial Affairs, requesting the Administration to provide information about (i) the regulatory framework governing authorized institutions (AIs)' operation of credit card business, including those governing their practices in the collection of outstanding credit card payments; and (ii) the guidelines and/or measures to protect the interest of credit card customers in respect of the terms and conditions for credit card services, notably interest rates for credit card lending and other credit card fees.

Supervisory Policy Manual

2. To ensure that AIs manage their credit card business prudently, the Hong Kong Monetary Authority (HKMA) has issued a Supervisory Policy Manual (SPM) module on "Credit Card Business". This SPM module provides guidance to AIs on the management of risks associated with credit card business. It covers areas such as the major risks associated with credit card business, risk management controls, account solicitation and approval process, account and portfolio management, and provisioning and charge-off.

3. AIs are expected to put in place systems of control consistent with the guidance in the SPM module in managing their credit card business. Specifically, they should among other things establish prudent underwriting criteria for approving applications for credit cards. These criteria should have regard to the applicant's income level, occupation and past credit records.

Code of Banking Practice

4. Apart from the HKMA's SPM module on Credit Card Business, the Hong Kong Association of Banks and the DTC Association have issued the Code of Banking Practice (the Code), containing among other things requirements pertinent to AIs' credit card business. The Code sets out the minimum standards that AIs are expected to observe when dealing with their personal customers. The aim of the Code is to promote good banking practices among AIs and an equitable relationship between AIs and their customers. The HKMA has played an active role in bringing the Code into being. It endorses the good banking practices contained in the Code and monitors AIs' compliance with the Code as part of its regular supervision of AIs.

5. Chapters 1 (Relationship between banks and customers), 3 (Card

Services) and 5 (Recovery of Loans and Advances) of the Code are relevant to credit card business. Those requirements concerning terms and conditions of credit card services and the use of debt collection agencies (DCAs) are highlighted below.

Terms and conditions

6. The setting of the terms and conditions (including fees and charges and interest rates) of credit card services (indeed any banking services) is a commercial decision for AIs. Under the existing legal framework, the HKMA does not have the authority, nor is it appropriate for it, to interfere with such commercial decisions. The guiding principle adopted by the HKMA is that AIs should provide their customers with readily available, clear and up-to-date information about the terms and conditions of banking services so that they can select the service most suitable for them.

7. In keeping with this principle, the Code requires AIs to make readily available to customers the terms and conditions of banking services and details of their fees and charges. In relation to credit card services, card issuers are required to draw the attention of customers to those major terms and conditions which impose significant liabilities or obligations on their part. These terms and conditions should be described or highlighted in plain language (both in English and Chinese) in the application forms for card services. In addition, card issuers should quote annualised percentage rates on card products, together with the annual card fee, to facilitate comparison between different charging structures. Although AIs are exempt from the Money Lenders Ordinance to allow them free scope to set interest rates under the currency board system in Hong Kong, they should not charge customers extortionate interest rates.

8. Where AIs want to introduce any amendments to their terms and conditions which affect fees and charges or the liabilities or obligations of customers, they should give customers 30 days' notice before such amendments take effect. If a cardholder refuses to accept the revised terms and conditions and wants to cancel his or her credit card, the AI should refund part of the annual fee to the cardholder on a pro-rata basis.

Use of DCAs

9. As regards the use of DCAs, the Code requires AIs to enter into formal contracts with their DCAs. The contracts should specify, among other things, that the DCAs should act within the law, refrain from action prejudicial to the business, integrity, reputation or goodwill of the institutions for whom they are acting, and observe a strict duty of confidentiality in respect of customer information. The Code further requires AIs to take steps to ensure that their DCAs do not employ harassment or improper debt collection tactics such as putting up posters or writing on the walls of the debtor's residence or other actions designed to humiliate the debtor; pestering the debtor with persistent phone calls; pestering the debtor's

referees, family members and friends for information about the debtor's whereabouts; and making abusive or threatening remarks to the debtor. In addition, the Code requires AIs to have proper systems and procedures to monitor the performance of their DCAs to ensure compliance with the requirements of the Code. If AIs are aware of any improper practices of their DCA, they should consider terminating their relationship with that agency.

10. In March 2002, the HKMA introduced a reporting arrangement under which AIs are required to submit a quarterly return on the number of complaints received by them against the DCAs they employ. Since the introduction of this reporting arrangement, the number of complaints received by AIs against their DCAs has decreased from 717 in 2003 to 103 in 2007 (the number of DCA complaints received by AIs during the first three quarters of 2008 is 75). While the DCA complaint figures have stayed at a low level in recent years, the HKMA will continue to monitor the situation.

Financial Services and the Treasury Bureau
Hong Kong Monetary Authority
December 2008