



HONG KONG MONETARY AUTHORITY
香港金融管理局

Banking Policy Department

Our Ref:

26 June 2007

Mr Roderick B Woo
Privacy Commissioner for Personal Data
12/F, 248 Queen's Road East
Wanchai
Hong Kong

Dear Roderick,

**Amendments to Code of Practice on Consumer Credit Data –
Consultation Paper**

Thank you for your letter of 23 May 2007 seeking our views on the proposed amendments to the Code.

We welcome your proposed amendments regarding the retention of data in relation to accounts which have been written off due to bankruptcy. Similar to “material default” data, information regarding “write-off due to bankruptcy” is important for the banking industry to make credit decisions, and therefore it would be appropriate for it to be subject to the same retention period as “material default” data.

I would also like to raise three minor drafting suggestions for your consideration:

- (a) On effecting the above amendment, your proposal is to subsume the “write-off due to bankruptcy” under “account not revealing material default” (Clause 3.4A), which may seem to suggest that a bankruptcy is not a material default. You may wish to consider revising the definition of “material default” to include bankruptcy instead.
- (b) On Clause 2.2, to be consistent with your proposed amendment to Clause 2.1.3, we suggest amending it to read “... the individual shall be liable to have his account repayment data retained by the CRA until ...”.

Tel :

Fax :

Email :

- (c) On Clause 3.8.2.2, it is not entirely clear what is the treatment of an account which has been in material default but has subsequently been fully repaid – will it be regarded as “material default” data and thus subject to the 5-year rule, or will it be regarded as “terminated account” (since it is fully repaid) and thus subject to the 2-year rule?

I hope that you would find the above comments helpful.

Yours sincerely,



消費者委員會
CONSUMER COUNCIL

**Amendments to Code of Practice on Consumer Credit Data –
Consultation Paper**

With regard to the proposed amendments set out in the Consultation Paper, the Consumer Council has the following views for consideration of the Privacy Commissioner for Personal Data (PCPD).

(a) Technical amendments as a result of the expiration of the transitional period

The Council has no objection to the revisions proposed to deal with the lapse of restrictions imposed on credit providers from access to positive credit data of existing customers during the transitional period.

(b) Amendments relating to the retention of data in relation to accounts written-off due to bankruptcy orders being made

The Council understands the longer the retention period of account data, the better for credit providers to make credit assessment. However, the Council believes that the data made available for credit assessment should not be excessive, as stipulated in the Personal Data (Privacy) Ordinance, in order to protect consumer interests.

On the matter of whether or not to go for a longer retention period for “write-off account” data, the Council raises the following points for your consideration:

- Suitability of adopting a broad-brush approach: It is debatable to what extent early write-off of account data due to bankruptcy can infer material defaults in a bankrupt's all other accounts. If that is in doubt, it is questionable whether the CRA should be allowed to retain all the account repayment data in its database until 5 years after final settlement of the accounts as if there were cases of material default.
- Negative impact on the bankrupts: Allowing the data relating to a write-off account with no material default due to the making of a bankruptcy order against an account holder to be retained in the CRA database as if they were account repayment data that reveal a payment default may defeat the purpose of shortening the discharge period under the Bankruptcy Ordinance to allow a bankrupt to start afresh after discharge of the bankruptcy.
- Level of materiality: It is mentioned in the Consultation Paper that bankruptcy may even be more important than material default in that

it evidences a much more serious financial condition. For that reason, the fact of a bankruptcy order and a period of 5 years from the discharge from bankruptcy for the CRA to retain the account repayment data in its database should adequately assist credit providers in their lending decisions.

(c) Miscellaneous Amendments

Updating of account data

To truly reflect a customer's creditworthiness, it is very important to ensure his account data in the CRA database is accurate. The Council therefore supports the PCPD's proposal of specifying the time allowed for credit providers to update status of an account with default data (in particular where there is change in the amount in default).

Retention of account general data

Many consumers in Hong Kong may not take the initiative to contact credit providers to terminate their credit cards, even if they are no longer using them. In such circumstance, the Council is concerned that allowing the CRA to retain the account general data until actual termination despite account inactivity for over 5 years may be unduly prolonging the retention period without necessarily enhancing consumers' credit exposure.

If an account has been inactive for a long period of time so that there is no repayment data, its value to credit providers may be questionable. The Council is of the opinion that if the CRA wants to keep account general data beyond 5 years from the date of creation of repayment data, it should obtain the consent of the customers concerned.

Account repayment data

The Council agrees to the PCPD's proposal of requiring a credit provider to supply the date of final settlement of the amount in material default to the CRA for calculation of the retention period for account repayment data. It is the responsibility of the credit provider who inputs default data in a customer's account to inform the CRA upon the final settlement of the amount in default.

24 Jul 2007

----- Original Message -----

Subject: RE: Amendments to Code of Practice on Consumer Credit
Data-Consultation Paper
Date: Sat, 30 Jun 2007 16:21:25 +0800
From:
To:

Dear

In response to your consultation paper "Amendment to Code of Practice on Consumer Credit Data", we understand that the proposed amendments have been earlier reviewed by the Consumer Credit Forum (CCF) of the Hong Kong Association of Banks (HKAB). Member banks have shown great concern on changes to clause 2.7.2, requiring banks to update the "delinquent status" of an account with payments within 14 days. They will consolidate a formal feedback to PCO on this issue through a separate channel.

Should you need any discussion, please call me at

Thanks and regards,

DBS Bank (Hong Kong) Limited

From:

Sent: Friday, June 01, 2007 2:49 PM

To: undisclosed-recipients

Subject: Amendments to Code of Practice on Consumer Credit Data-Consultation Paper

Dear Sir/Madam

I have the pleasure to inform you that a Consultation Paper on the Amendments to Code of Practice on Consumer Credit Data has been issued for public consultation by my Office on 22 May 2007.

The proposed amendments to the Code can be divided into the following categories:-

- (a) amendments relating to the retention of data in relation to accounts which have been written off due to bankruptcy orders being made; and
- (b) technical minor amendments.

Organizations from the public and private sectors, and members of the general public are invited to make submissions in response to the consultation paper not later than 29 June 2007.

Copies of the consultation paper are available at our office, all Public Enquiry Service Centre of District Offices and our official website at <http://www.pcpd.org.hk/english/publications/con doc report.html>.

Yours sincerely

Roderick B Woo
Privacy Commissioner for Personal Data

香港信貨機構聯會有限公司
The Finance Houses Association of Hong Kong Limited

FROM THE OFFICE OF:
CHAIRMAN
VICE-CHAIRMAN
SECRETARY
TREASURER

*PLEASE REPLY TO:

26 June 2007

The Office of the Privacy Commissioner for Personal Data
12/F., 248 Queen's Road East
Wan Chai
Hong Kong

By Hand and
Fax : 2877-7026

Dear Sirs

Personal Data (Privacy) Ordinance
Amendments to Code of Practice on Consumer Credit Data – Consultation Paper

We write to provide our comments on the amendments to the Code of Practice on Consumer Credit Data proposed in the above consultation paper published by the Office of the Privacy Commissioner on 22 May 2007.

▪ Clause 2.7.2 – Updating of account data

The proposed revised clause 2.7.2 would require the credit provider to update not later than 14 days the account data in the database of the CRA upon the occurring of (i) the repayment in full or in part of any amount in default; (ii) a scheme of arrangement being entered into with the individual; (iii) the final settlement of the amount payable pursuant to such a scheme of arrangement or (iv) the write off of any amount. In line with international norm, it is the general practice of financial institutions in Hong Kong to provide such updates via their regular monthly reports to the CRA. In effect, this means that the records of some customers are updated earlier than 14 days and some later with the average being 14 days, but none later than 31 days. In practicable terms, compliance with the 14 days' time limit would necessitate a fortnightly reporting cycle. The effort involved for both the CRA and financial institutions would likely to be significant and the total cost would make sharing of information by the industry less efficient. In the broader public interest of maintaining an efficient market for consumer credit and in keeping with international practices, we would propose a time limit of 31 days be adopted for clause 2.7.2.

We hope that you would find our comments helpful in revising and finalising the Code. In case of any questions, please do not hesitate to contact us.

Yours faithfully

The Finance Houses Association of Hong Kong Limited

The DTC Association

(The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies)

存款公司公會 (香港有限制牌照銀行及接受存款公司公會)

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E-mail: dtca@dtca.org.hk HomePage: <http://www.dtca.org.hk>

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電子郵件: dtca@dtca.org.hk 網頁: <http://www.dtca.org.hk>

Our Ref.:

Your Ref.:

26th June, 2007 (Tue)

Mr. Roderick B Woo
Privacy Commissioner for Personal Data
*Office of the Privacy Commissioner
for Personal Data, Hong Kong,*
12/F., 248 Queen's Road East,
Wanchai,
HONG KONG

[Fax# 2877-7026 Pages Faxed: 1]

Dear Mr Woo,

Amendments to Code of Practice on Consumer Credit Data - Consultation Paper

Thanks for your letter of 23rd May, 2007 (Wed) sending us the captioned consultation paper and pointing out some relevant background to this consultation exercise.

This is a topic of much interest to us and we have been studying your proposals. However, on this occasion, we are not planning to send in a separate submission:- Our reply to that paper will be combined with that of the *Hong Kong Monetary Authority* (HKMA) in the format of the *Consumer Credit Forum* (CCF). It will be sent in to you in due course. We are currently working on that reply with the CCF and will therefore not be writing separately.

Thank you for your kind attention,

Yours Sincerely

Chairman :

(☎) :

Vice-Chairman : \

(☎) :

Association Secretary : |

(☎) :

Incorporated Under the Companies Ordinance of Hong Kong and Limited by Guarantee

根據香港公司條例成立之有限保證法團



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29 June 2007

By fax and e-mail

The Office of the Privacy Commissioner for Personal Data
12/F., 248 Queen's Road East
Wan Chai
Hong Kong



Dear Sirs

Personal Data (Privacy) Ordinance
Amendments to Code of Practice on Consumer Credit Data – Consultation Paper

We write to provide our comments on the amendments to the Code of Practice on Consumer Credit Data proposed in the above consultation paper published by the Office of the Privacy Commissioner on 22 May 2007.

1. Amendments relating to “write-off account” data

We welcome and support the amendment to clarify that early write-off bankruptcy account data with no “material default” should be retained in the CRA database as if they were account repayment data that reveal a payment default in excess of 60 days.

2. Clause 2.7.2 – Updating of account data

The proposed revised clause 2.7.2 would require the credit provider to update not later than 14 days the account data in the database of the CRA upon the occurring of (i) the repayment in full or in part of any amount in default; (ii) a scheme of arrangement being entered into with the individual; (iii) the final settlement of the amount payable pursuant to such a scheme of arrangement or (iv) the write off of any amount. Under the general current practice adopted by our members, where the accounts involved are still active, the update is provided to the CRA via their system generated data files which are integral to the lending product's monthly billing cycle. In practical effect, the records of such customers are updated within 31 days, aligning with the widely practised monthly reporting cycle for all account records as adopted in the world's mature credit markets. Isolating specific accounts for a different reporting treatment either through existing systems (for active accounts) or manual handling (for inactive accounts) required to comply with clause 2.7.2 as currently drafted would not be

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Chairman Standard Chartered Bank (Hong Kong) Ltd
Vice Chairmen Bank of China (Hong Kong) Ltd
The Hongkong and Shanghai Banking Corporation Ltd
Secretary

主席 渣打銀行(香港)有限公司
副主席 中國銀行(香港)有限公司
香港上海匯豐銀行有限公司
秘書



practicable to implement and would put an undue burden on the efficiency of the operation of data sharing against the objective of consumer protection. In the broader public interest of maintaining an efficient market for consumer credit and in keeping with international practices, we would therefore propose a time limit of 31 days be adopted for clause 2.7.2.

3. Other comments

Our other comments of a drafting nature are set out in the attachment to this letter.

We hope that you would find our comments helpful in revising and finalising the Code. In case of any questions, please do not hesitate to contact us.

Yours faithfully

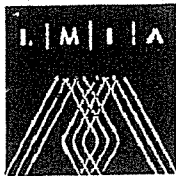
Enc.

c.c. Hong Kong Monetary Authority

Consultation Paper - 29 June 2007

Amendments to Code of Practice on Consumer Credit Data

| Clause | HKAB's comments |
|------------------------|---|
| 1.20 | The approach adopted in addressing the issue of 'write-off account' data is to introduce a new clause 3.4A, add a new definition of "terminated account" and make other consequential amendments. Please see our comments below on the changes proposed. The amended Code in its current form would make it even more difficult to comprehend. A preferred approach might be to simply amend the existing definition of "material default" to include bankruptcy. |
| 1.26 | The definition of "terminated account" excludes any accounts where there was a write-off of any amount in full or in part as being a repayment. Repayment should also exclude payment by refinancing (see clause 2.3). |
| 2.1.3 & 2.2 | The wording in both clauses suggest a written-off balance, except in the case of bankruptcy, is not a default, in conflict with the definition of "terminated account". The wording also gives the impression that the customer can ask the credit provider to write off the account to avoid their delinquent data appearing on the bureau record. |
| 3.2.2 | The words "or until the termination of the account, whichever is later" would seem unnecessary and should be removed since the repayment data will always remain longer than the event of termination. |
| 3.3.2, 3.4A.1 & 3.4A.2 | A review of the wording of these clauses to ensure consistency of the various retention periods and to ease comprehension by the Code is recommended as part of the comprehensive review of the Code. |



The Hong Kong S.A.R.
**LICENSED
MONEY
LENDERS**
ASSOCIATION LTD.

香港持牌放債人公會

29 June 2007

Our ref.:

By fax (2877-7026) and e-mail enquiry@pcpd.org.hk

The Office of the Privacy Commissioner for Personal Data
12/F., 248 Queen's Road East
Wan Chai
Hong Kong

Dear Sirs

Personal Data (Privacy) Ordinance
Amendments to Code of Practice on Consumer Credit Data – Consultation Paper

We refer to the proposed amendments to the Code of Practice on Consumer Credit Data (the "Code") as set out in the subject consultation paper published by the Office of the Privacy Commissioner on 22 May 2007. We write to advise you that the Association welcomes and supports the proposed amendments in general and would be much more grateful if you could consider the following comment:

Clause 2.7.2 – Updating of account data


The proposed revised clause 2.7.2 would require the credit provider to update not later than 14 days the account data in the database of the CRA upon the occurring of (i) the repayment in full or in part of any amount in default; (ii) a scheme of arrangement being entered into with the individual; (iii) the final settlement of the amount payable pursuant to such a scheme of arrangement or (iv) the write off of any amount.

Under the general current practice adopted by our members, where the accounts involved are still active, the update is provided to the CRA via their system generated data files which are integral to the lending product's monthly billing cycle. In practical effect, the records of such customers are updated within 31 days aligning with the widely practised monthly reporting cycle for all account records as adopted in the world's mature credit markets. Isolating specific accounts for a different reporting treatment either through existing systems (for active accounts) or manual handling (for inactive accounts) would put an undue burden on the efficiency of the operation of data sharing against the objective of consumer protection. In the broader public interest of

maintaining an efficient market for consumer credit and in keeping with international practices, we would therefore propose a time limit of 31 days be adopted for clause 2.7.2.

We hope that you would find the above comment helpful in finalising the Code.

Yours faithfully



TransUnion.

環聯

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28 June 2007

The Office of the Privacy Commissioner for Personal Data
12/F, 248 Queen's Road East
Wanchai, Hong Kong

By fax (fax no: 2877 7026) and by courier

Dear Sirs,

**Re: Comments on Consultation Paper on Amendments to Code of Practice on
Consumer Credit Data**

Thank you for soliciting our views on the Consultation Paper on Amendments to Code of Practice on Consumer Credit Data issued on 22 May 2007 ("the Paper"). We would like to set out our comments below from our perspective as a Credit Reference Agency on some proposed amendments in the Paper. Please note that we have no objection to being named or being attributed any comments made by us on the Paper in any subsequent report.

Our comments

1. Paragraphs 2.14 to 2.17 of the Paper - Proposed Amendment to Clause 2.7.2 of the Code (Updating of Account Data)

We recognize the intention is for the events set out in the Clause 2.7.2 of the Code relating to settlement of accounts with default data to be updated within a definite time frame. The existing clause merely specifies that such events should be updated as soon as reasonably practicable. However, we have concerns on the amendments regarding the time limit for updating such records by the credit provider which is proposed to be not later than 14 days upon the occurring of the events. We would like to draw your attention to the following points:

- a) If the 14 days time frame is implemented, it is uncertain at this point in time as to 1) the frequency of updates; 2) the volume of updates; and 3) whether credit providers will differentiate data for updating or merely send the entire portfolio to us. For your information, based on our existing system, we can only handle about 15% more transactional volume per month. In a conservative scenario, if credit providers simply send the entire portfolio for updating without sorting, our system will not have the capability to handle the additional transactional volume.

- b) We would like to share our observation that currently, in many other developed credit markets like the US and Canada, there are no prescribed time limits for the updating of data generally. Even where there is time stipulation as in India where there are highly prescriptive laws, the time limit for updating data generally is 30 days without differentiation to the type of data being updated. For our information, we will appreciate it if you could share with us the rationale behind the suggestion of 14 days time frame and whether it has the support of the industry.

2. Paragraph 2.13(d) of the Paper – Clause 3.8.2.2 of the Code (Providing of Credit Report)


We understand that consequential amendments have to be made to this Clause as a result of giving “terminated account” a definition which excludes written-off accounts. However, this amendment gives rise to a practical issue.

Currently under the Code, both bankruptcy accounts written-off with material default and written off without material default are treated as terminated accounts under Clause 3.8.2.2.2. Upon enquiry, the credit report can show repayment data created within 2 years of the account termination (or write-off) date, notwithstanding the date of enquiry (refer to Appendix A). With the proposed amendments, these accounts will be categorized as “account other than a terminated account” under the amended Clause 3.8.2.2.2 and the credit report can only show repayment within 2 years before date of enquiry (refer to Appendix B). However, as these accounts will not be updated once they have been written off, the practical effect is that if the enquiry is made 2 years after the date of the write-off, no repayment data can be shown at all.

According to our records, there are currently about 1,700,000 written off accounts in our database. If the proposed amendments are implemented, about 1,000,000 accounts will be affected ie no repayment data will be shown if enquiry is made 2 years after the date of write-off.

3. Paragraph 2.13(e) of the Paper – Clause 3.10.5.1 of the Code (Other Uses of Consumer Credit Data: Credit Scoring)

This is another issue caused by consequential amendments to the new definition of a “terminated account”.



TransUnion.

環聯

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Under the amended Clause 3.10.5.1, accounts with write-off repayment data will be classified under 3.10.5.1 as "account other than a terminated account". If so, account data created more than 5 years before scoring cannot be used to carry out scoring. The practical effect of this is that certain individuals with write-off data more than 5 years old will move to a "lower risk" category and the complete credit profile of such individuals will not be reflected. This will affect credit decisions made by credit providers.

We also wish to point out that based on professional opinion from model developers, they view any historical write-off data as a good indicator that an individual will default again. This view is likely to be shared by banks. Exclusion of old write-off data affects the credit profile of certain individuals and will have an impact on the credit decision of banks.

Based on our records of about 1,700,000 written off accounts in our database, approximately 300,000 accounts relating to 130,000 individuals contain write-off data more than 5 years old.

The above sets out our views towards the Paper. We would be very happy to discuss with you any points raised by us. Please contact the undersigned at _____ if you have any queries.

Yours sincerely,

For and on behalf of
TransUnion Limited

Encl - Appendix

APPENDIX

Appendix A: Existing Code (Report Display - Clause 3.8.2.2)



ACTIVE

TERMINATED

Closed
Accounts

Write-off in
Material
Default

Write-off in
Non-material
Default

No on-going update once
write-off reported unless
there are changes

Report Display for Write-off Accounts

Displays the last 2 years of repayment data from the write-off reported date regardless of the date of enquiry.

***No change to data retention.

Appendix B: Amended Code (Report Display - Clause 3.8.2.2)



OTHER THAN TERMINATED

TERMINATED

Active

Write-off in
Material
Default

Write-off in
Non-material
Default

Closed
Accounts

No on-going update once
write-off reported unless
there are changes

Report Display for Write-off Accounts

Displays the last 2 years of repayment data from the enquiry date. If the enquiry is made more than 2 years after the write-off reported date, NO repayment data can be shown at all.

香港信貸報告協會

12/6/2007

致個人資料私隱專員:

本協會對私隱專員公署於上月二十二日所發表之建議，即保留破產者的個人財務記錄由現時的五年增至九年及應將該類破產者定義為「重要欠賬」人士，本協會表示贊同。

香港信貸報告協會

聯絡電話

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網址