



**The Law Society of Hong Kong's Views on  
Consultation Document on Code of Practice on Consumer Credit Data:  
The Sharing of Positive Credit Data**

1. In the light of increasing cases of personal bankruptcy and delinquency in recent years, the banking industry and the Privacy Commissioner's Office ("PCO") propose to expand the sharing of credit data to include positive credit data. Principle 1 of the Personal Data (Privacy) Ordinance should be used as the benchmark when evaluating these proposals. The public have to be certain that the collection of positive credit data is necessary, and that the data collected are adequate but not excessive.
2. The Law Society welcomes in principle a regime which allows borrowers to demonstrate a good credit record – something which is regarded as an asset for individuals in other countries.
3. Adequate safeguards must be in place to restrict the kind of information that can be revealed, prevent abuse of the use of information, and allow borrowers to see what has been revealed. The PCO should review and state clearly the procedures for borrowers to verify the information kept by the credit reference agency.
4. In addition to the inability of banks to share positive credit data, there are other factors leading to consumer bankruptcy and delinquency, such as the economic downturn and some banks' lending policies. Banks should review their lending policies. If, as reported, there has indeed been an improvement in the banks' marketing tactics in recent months, more time should be allowed to observe whether these changes have been effective before considering the current proposals. To convince the public that the sharing of positive credit data is "necessary", the HKMA and the PCO also need to provide evidence of the benefits to consumers: e.g. estimated figures of the decrease in bankruptcy and delinquency cases or the lowered cost of borrowing to consumers once the proposals are put in place.
5. Currently, the Hong Kong Monetary Authority ("HKMA") relies on moral persuasion to enforce the Code of Banking Practice ("the Code"), which is backed up by sanctions in the Banking Ordinance. The public can also rely on the Unconscionable Contracts Ordinance to challenge contracts signed with banks. The HKMA can consider whether it is necessary to provide additional enforcement powers to the Code, or giving some form of statutory backing to the Code.

**The Law Society of Hong Kong  
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