

For information
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**LEGISLATIVE COUNCIL
PANEL ON FINANCIAL AFFAIRS**

**ESTABLISHMENT OF A COMMERCIAL
CREDIT REFERENCE AGENCY IN HONG KONG**

PURPOSE

This paper reports on the latest developments in relation to the establishment of a commercial credit reference agency (CCRA) in Hong Kong.

BACKGROUND

2. As part of the reform programme to strengthen the infrastructure of the banking sector, the Hong Kong Monetary Authority (HKMA) has proposed to establish a CCRA in Hong Kong. The HKMA believes that a CCRA, which gathers and collates information about the indebtedness and credit history of commercial enterprises and makes available the information to lending institutions, will bring about significant benefits to Hong Kong. It will provide lending institutions with a fuller picture of the credit worthiness of their corporate customers, thus helping to strengthen their credit risk management. In addition, a CCRA will improve the credit transparency of the corporate sector, thereby making it easier for borrowers to seek bank finance.

3. These benefits of a CCRA are widely recognised by the banking industry and the corporate sector. In fact, there is general agreement that the scheme will benefit small and medium-sized enterprises (SMEs) particularly. The HKMA's proposal has also received the support of the Legislative Council (LegCo). On 25 April 2001, LegCo passed a motion requesting the Administration to expedite the establishment of a CCRA.

4. Following the motion debate, the HKMA has on various occasions reported the progress of the project to LegCo (e.g. during the HKMA's quarterly briefings to the Panel on Financial Affairs). Since the project has now entered the final phase of development, the HKMA considers that it is time to provide a more comprehensive update to Members. The succeeding paragraphs will first outline the key features of the CCRA scheme being established in Hong Kong and then describe the recent developments of the project.

KEY FEATURES OF THE SCHEME

5. As reported to Members previously, the Hong Kong Association of Banks and the DTC Association jointly formed an Industry Working Party in May 2002, with participation from the HKMA, to work out the detailed arrangements for the establishment of a CCRA. Since then, the Industry Working Party has developed, and published in June 2003, a set of recommendations on how the CCRA scheme should be structured. A summary of these recommendations is set out below:-

A non-statutory scheme

- The banking industry's concerted efforts in the promotion of greater sharing of consumer credit data demonstrate that authorized institutions (AIs) are increasingly willing to share credit information among themselves. In view of this development, the Industry Working Party considers it feasible to establish a non-statutory CCRA scheme. Compared with a scheme established by legislation, a non-statutory scheme is easier, quicker and less costly to implement. It is also more flexible and thus more responsive to the changing needs of the banking sector.

Comprehensive participation

- Although participation is not mandated by legislation, the HKMA still expects all AIs involved in SME lending to participate in the CCRA scheme. This will not only benefit the AIs themselves, but is also important to ensure the comprehensiveness and hence the usefulness of the CCRA database. Subsidiaries of AIs involved in SME lending are allowed to join the scheme on a voluntary basis (references to AIs below include these participating subsidiaries).

Coverage

- The CCRA will cover only the SME customers of AIs. As shown in the public consultation conducted in 2000, credit assessment for the SME sector is hampered by the lack of reliable information. It is expected that this sector will benefit most from a CCRA scheme in terms of enhanced credit transparency and improved access to bank funding.
- For the purposes of the proposed scheme, a commercial enterprise will be regarded as an SME if it is an unlisted company with an annual turnover not exceeding HK\$50 million. In order to expedite the implementation process, sole

proprietors and partnerships will not be covered at the initial stage.

Scope of data to be reported and shared

- Both positive and negative credit information will be collected by the CCRA. The former will include the limits of the credit facilities granted by AIs to the SME and the extent to which the facilities are supported by collateral. As regards the latter, AIs should report the amount of facilities that are overdue for more than 60 days. They should also report the amount of loans that have been written off.
- The CCRA will collect data only from its start-up date onwards. Default data of past facilities or overdue payments of current facilities that have been subsequently settled will not be reported. Moreover, information such as the assets of the company and the personal wealth of the company's shareholders will not be covered.
- The information contained in the CCRA will be updated by AIs on a monthly basis. In general, credit information relating to each facility will be retained by the CCRA for five years from the date of full repayment of that particular facility.

Customer consent

- In keeping with their contractual duty to maintain customer data confidentiality, AIs should seek SME customers' consent before disclosing their credit data to the CCRA for the purpose of conducting credit checks or assisting other AIs to conduct credit checks.
- An SME may revoke its consent by giving the AI 90 days' prior notice in writing. In such a situation, the AI should report the revocation to the CCRA as soon as practicable and stop reporting the credit data of that SME to the CCRA after the 90-day period.

Data protection

- AIs will be required to observe a set of data protection rules issued by the HKMA in the form of a statutory guideline under the Banking Ordinance. Consistent with the framework for protection of personal credit information, the rules will specify that AIs can access the CCRA database only in relation to the grant, review or renewal of an SME's credit facilities. They should not access the database for other

purposes such as marketing. The guideline will also require AIs to maintain adequate systems of control to properly protect the data of their SME customers. Failure to comply with these rules will call into question the AI's ability to satisfy the relevant authorization criteria in the Banking Ordinance.

- Moreover, the data protection rules require AIs to use only the service of a CCRA that has taken appropriate steps to safeguard the security and accuracy of the data it holds, and to respond to an access or correction request by an SME promptly. These requirements should be incorporated into the terms of the CCRA's service agreement. Non-compliance with the agreement will amount to a breach of contract that may result in the termination of the services of the CCRA.

Complaints handling

- The HKMA will play an active role to ensure that complaints against AIs and the CCRA operator are properly handled and that the data protection rules are complied with by all parties concerned.

LATEST DEVELOPMENTS

6. With the design of the proposed scheme finalised, the project of establishing a CCRA in Hong Kong has entered the implementation phase. In August 2003, the Industry Working Party appointed Dun & Bradstreet (HK) Ltd (D&B) to operate the CCRA. Meanwhile, the HKMA and the Industry Working Party continue to promote the SME sector's understanding and acceptance of the scheme by attending the meetings of relevant SME bodies and providing briefings to SMEs¹. The Hong Kong Association of Banks and the DTC Association have also issued a leaflet to explain the proposed scheme to SMEs (a copy is enclosed at the **Annex**).

7. Since October 2003, AIs have been seeking the consent of SME customers to disclosure of their data to the CCRA. According to a survey conducted by the HKMA to monitor AIs' consent seeking efforts, by the end of March 2004, AIs have, on average, sought consent from 55% of their SME customers. Over 60% of these customers have responded to AIs' requests for

¹ For example, a luncheon with various SME associations was co-hosted by the HKMA and the two industry associations on 11 June 2003; a briefing was given on 2 September 2003 to the SME Committee which advises the Government on SME related matters; a briefing was given in a roundtable luncheon organised by the Hong Kong General Chamber of Commerce on 29 September 2003; and a seminar open to SMEs was held on 13 November 2003.

consent, and of those responding, about 96% have given consent. The high consent rate is encouraging. It suggests that the SME sector is generally receptive to the scheme. It is expected that the consent seeking process will be completed in the third quarter of 2004.

8. By now, the Industry Working Party and D&B have largely finalised the operational details, including the systems and reporting requirements, of the scheme. Over the past few months, several briefing and training sessions were held to explain these reporting requirements to AIs, and most AIs have started amending their systems to meet these requirements. With reference to the Code of Practice on Consumer Credit Data issued by the Privacy Commissioner for Personal Data, the HKMA has also developed the statutory guideline governing the sharing and use of credit data through a CCRA. The guideline has recently been finalised following two rounds of consultation with the banking industry and was circulated to all AIs in June 2004.

9. Based on the present schedule, if everything goes smoothly, AIs can start uploading credit data to the CCRA in September 2004 and the scheme is expected to be fully operational by the end of 2004.

Hong Kong Monetary Authority
June 2004



A COMMERCIAL CREDIT REFERENCE AGENCY FOR HONG KONG



The Hong Kong
Association of Banks

The DTC Association



HONG KONG MONETARY AUTHORITY

Increasing public attention has been given to the need of small and medium-sized enterprises (SMEs) for greater access to credit. At the same time it is recognised that lending institutions need access to information from an auditable source about the overall indebtedness and credit history of SMEs to allow better credit assessment.

To meet these needs, the Hong Kong Association of Banks (HKAB), the DTC Association (DTCA) and the Hong Kong Monetary Authority (HKMA) are working together to establish a Commercial Credit Reference Agency (CCRA). Participation by SMEs and lending institutions in the CCRA, which is expected to come into operation in 2004, will be voluntary. However, given that the CCRA should benefit all parties concerned, HKAB, the DTCA and the HKMA strongly encourage SMEs and lending institutions to participate in the CCRA.

The aim and benefits of a CCRA

What is a CCRA?

A CCRA is an organisation that collects information about the indebtedness and credit history of business enterprises and makes this information available to lending institutions. CCRA's are a common feature of credit markets around the world. Before deciding whether to extend credit facilities to a customer, lending institutions will check with a CCRA about the customer's credit record in order to help assess the credit application.

What are the benefits of a CCRA to borrowers?

As more information about the creditworthiness of borrowers becomes available through a CCRA, credit-worthy borrowers stand a better chance of obtaining loans from lending institutions more quickly and at more competitive prices.

What are the benefits of a CCRA to lenders?

A CCRA increases lending institutions' knowledge of borrowers' credit records, expedites the loan approval process, and helps to strengthen lending institutions' credit risk management. Exchanging information about borrowers by lenders also increases the incentive for borrowers to repay, thereby reducing the overall default rate.

The operation of the CCRA scheme

Will my business be covered by the CCRA scheme?

The CCRA will cover only the SME customers of lending institutions. Generally, an organisation is considered to

be an SME if it is:

- (a) an unlisted company with an annual turnover not exceeding HK\$50 million (unless the company belongs to a larger group whose annual turnover is larger than HK\$50 million); or
- (b) an unincorporated enterprise such as a partnership or sole proprietorship with an annual turnover not exceeding HK\$50 million.

If your business is covered by the scheme, your lending institution(s) will seek your consent for the sharing of credit data if the lending institution's terms and conditions do not already permit this.

What information will the CCRA hold?

The CCRA will keep credit data about SMEs, such as the total number of credit facilities they have obtained from lending institutions, and the limits on these, as well as information about defaults on loans. Information such as the assets of your business or personal wealth of your business's investors will not be collected.

How long will the CCRA hold the credit data of my business?

The credit data will be held by the CCRA for as long as it is relevant for the purposes of considering any grant, review or renewal of credit facilities. In general, the intention is that credit data relating to each facility will be retained by the CCRA for five years, from the date of full repayment of that particular facility. As there is a cost to maintaining the data in the system, it is in the interests of the CCRA to delete the data as and when the information becomes irrelevant.

Who will have access to the data held in the CCRA's database about my business?

The CCRA is only allowed to disclose the credit data it holds in its records about your business to lending institutions. Lending institutions will only use the data in relation to the grant, review or renewal of your business's credit.

Will lending institutions seek our consent before they report our data to the CCRA?

If consent for disclosure is not included in the terms and conditions of your account, lending institutions will be required to obtain your consent before they can disclose your business's credit data to the CCRA. Disclosure will be made when, for example, your business successfully applies for a new loan, or for an increase in the credit limit of an existing credit facility, or for the renewal of an existing credit facility. You are encouraged to

give your consent to facilitate the process of building a comprehensive database which will help to speed up loan assessment procedures.

Can my business withdraw its consent?

Your business will benefit from a complete credit record. It is therefore not advisable for you to revoke consent to the disclosure of data to the CCRA. Further, revocation of customer consent will provide grounds for the lending institution to terminate or decline to renew the facilities granted to your business. However, if your business decides to revoke its consent, it will need to give 90 days' notice to the lending institution(s). The lending institution(s) will report the revocation to the CCRA and will stop reporting the credit data of your organisation to the CCRA after 90 days.

My business has made some late payments in the past. Will this information be reported to the CCRA?

The CCRA will collect data only from its start-up date onward. Default data of past facilities, or overdue payments of current facilities that have been subsequently settled, will not be reported. In other words, only overdue payments that are still not settled in respect of current facilities will be reported. By keeping payments current and building a good credit history, your business will improve its access to credit in the future.

When will the CCRA start?

The financial industry is now working on establishing the CCRA. If everything goes smoothly, the CCRA is expected to be up and running in the third quarter of 2004.

Who will run the CCRA?

The financial industry will identify an appropriate service provider in the credit bureau business to run the CCRA.

Data protection

Are there adequate safeguards to protect the confidentiality of the data maintained by the CCRA about my business?

Yes, the confidentiality of your business's data will be safeguarded. The HKMA will issue a statutory guideline under the Banking Ordinance to set out the data protection guidelines in relation to the use of credit data by data users. The data protection guidelines will require the CCRA to take appropriate steps to safeguard the security and accuracy of the data it holds,

and to respond to an access or correction request by an SME promptly.

Will I be able to access the data held by the CCRA about my business and request corrections if there are errors in the record?

Yes, you will have the right to access your business's data held by the CCRA. The lending institution will be required to provide you with the name, address and telephone number of the CCRA to which your business's data are disclosed. If you think that any of the data held by the CCRA is inaccurate or incomplete, you can request the CCRA to correct it. The CCRA will investigate your request and make any corrections.

What are the sanctions against lending institutions and the CCRA if they breach the data protection requirements?

If a lending institution breaches the data protection guidelines, this would call into question its ability to satisfy the relevant authorisation criteria under the Banking Ordinance, thereby giving rise to potential regulatory sanction by the HKMA.

The data protection guidelines will be incorporated in the terms of the CCRA's service agreement with lending institutions. Breaching them would be a breach of contract that might lead the lending institution to terminate the service of the CCRA.

To whom should I lodge complaints in case of need?

If you have an unresolved dispute with the CCRA or a lending institution, you may contact the HKMA in writing at:

Address: 30/F, 3 Garden Road, Hong Kong

Fax: 2878-1899

E-mail: hkma@hkma.gov.hk

The HKMA will seek to ensure that your complaints against a lending institution or the CCRA are properly handled in accordance with the relevant data protection guidelines.

Hong Kong Association of Banks
DTC Association
Hong Kong Monetary Authority

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