

<p>Title: The Small and Medium Sized Business (Credit Information) Regulations 2015</p> <p>PIR No: N/A</p> <p>Original IA/RPC No: RPC14-HMT-2060</p> <p>Lead department or agency: HM Treasury</p> <p>Other departments or agencies: N/A</p> <p>Contact for enquiries: SMElending@hmtreasury.gov.uk</p>	Post Implementation Review
	Date: 30/10/2024
	Type of regulation: Domestic
	Type of review: Statutory
	Date measure came into force: 01/01/2016
	Recommendation: Subject to consultation
RPC Opinion: N/A	

1. What were the policy objectives of the measure?

The policy objective of Commercial Credit Data Sharing (CCDS) - as established by the Small and Medium Sized Business (Credit Information) Regulations 2015¹ - was to increase competition by lowering the barriers to entry in the SME credit market. It was anticipated that this would provide a wider choice for SMEs beyond their existing credit provider leading to an increased availability of credit for SMEs. It was to be achieved by improving the availability of SMEs' credit data amongst lenders to reduce information asymmetries and therefore enable newer lenders to differentiate high and low risk SME borrowers, removing a barrier to entry for newer credit providers. It was also anticipated that improving access to SME credit data would improve SME credit scoring, and therefore the availability and price of credit to SMEs, particularly for smaller and newer businesses which had no credit footprint and which were potentially denied access to credit.

Background:

When assessing the creditworthiness of small businesses with a view to making a loan an important source of information for the lender is a business' past financial performance. Prior to CCDS this information was, however, often held by the bank that provided the business' current account and was not widely shared. Challenger banks and alternative finance providers therefore did not have access to the same level of information as the bank with which the small business already has a relationship. When the policy was designed, the largest four banks accounted for over 80 per cent of UK SME main banking relationships, giving them access to SME data, particularly current account data, and therefore a comparative advantage in assessing the risk of a borrower.

At the time, the problem of a lack of available credit data was highlighted by a range of informed comments on SME access to finance. The Office of Fair Trading, the Competition Commission and the 'Boosting Finance Options For Business' Review, headed by Tim Breedon, all highlighted a lack of information about the creditworthiness of SMEs as a potential barrier to competition in the SME banking market and SME lending in particular.

Credit reference Agencies (CRAs) and Principle of Reciprocity:

In the UK, the provision of credit information has evolved around CRAs. CRAs are privately owned enterprises that collect a wide range of financial and non-financial data from a variety of

¹ <https://www.legislation.gov.uk/ukdsi/2015/9780111138861>

sources to support credit approval. Financial information is combined with relevant non-financial information, such as county court judgements, to build a more complete picture of a borrower's creditworthiness. CRAs play a key role in providing credit risk information, such as credit scores, to inform lending decisions and banks and non-bank lenders all use CRAs as part of their credit risk assessment process.

To be able to compete effectively, challenger banks and alternative finance providers need access to more than credit scores. In order to not be reliant on the modelling and judgement of Credit Reference Agencies (CRAs) they wanted access to the underlying data. Before CCDS, the sharing of this data was governed by the 'principle of reciprocity'; a set of guidelines overseen by the Steering Committee of Reciprocity ('SCOR'). SCOR is a cross industry forum made up of representatives from credit industry trade associations, credit industry bodies and CRAs. The intention of these guidelines was to ensure that all companies that used and/or subscribed to shared data did so on a reciprocal basis so that "subscribers receive the same credit performance level data that they contribute and should contribute all such data available".

In theory these rules allowed for scenarios where a creditor was not able (rather than not willing) to provide like-for-like data, for instance because a creditor did not offer a product type (e.g. a business current account) or was new to the market and had not yet been able to generate data to share. For example, if a challenger bank only offered loans and was willing to provide credit data on its loan book, then it should have been able to access a reciprocal level of data from the CRAs about other products such as current accounts shared through a closed user group. In practice, however, they could only see proxy indicators, 'warning flags' showing whether declared income matched that available from current account turnover data, whether that data suggested the customer was over indebted and whether the customer may have struggled to repay credit. Challenger banks and alternative finance providers could not see the underlying data itself.

The guidelines on reciprocity did not therefore provide a level playing field. Institutions that did not offer business current accounts, for example, were not able to access the same level of data on current accounts that was available through CRAs to those that did offer such accounts. This put newer lenders that did not offer business current accounts at a disadvantage in taking well-informed credit decisions and in monitoring the ongoing creditworthiness of an SME once a loan had been made. Credit may have, as a result, been over or under provided.

CCDS Regulations:

The CCDS Regulations require designated banks (of which there are currently nine)² to share all their credit data on in-scope SME customers with designated CRAs (of which there are currently four)³. A designated bank must share data specified in the regulations with the CRA, where that CRA has requested it and the customer of the bank has agreed. In turn, designated CRAs are broadly required to provide this information to other lenders, where the finance provider has requested it, the SME consents and specific conditions are agreed and met where necessary. The information shared includes certain business current account data and information on the performance of business loans and corporate credit cards for consenting SMEs. CCDS allows non-designated finance providers to receive credit data held by a

² Allied Irish Banking Group (trading as First Trust Bank); Bank of Ireland (UK); Barclays; Clydesdale Bank (trading as Virgin Money); Northern Bank (trading as Danske Bank); HSBC; Lloyds Banking Group; Royal Bank of Scotland Group; and Santander UK.

³ Experian; Equifax; and Creditsafe. Dun & Bradstreet was then designated in 2019.

designated CRA, if they agree to reciprocate and share their own SME data within 12 months, provided (among other things) the SME customers in question have consented. This obligation only relates to information relating to the period after which the designated CRA first provides credit information to the finance provider.

At the time the designated banks accounted for the vast majority of SME lending and consequently held a significant amount of the data that should be shared. The government considered that the cost of having to establish relationships with multiple CRAs would disproportionately affect smaller credit providers and could therefore act as a barrier to entry in the SME lending market. The government designated banks that account for the majority of SME lending having consulted, and on the advice of, the Bank of England. Capturing these banks achieved the policy objective of opening up competition in SME lending, without imposing the burden of sharing data with multiple CRAs on smaller credit providers.

The review clause contained in regulation 47 of the Small and Medium Sized Business (Credit Information) Regulations 2015 requires a post-implementation review (PIR) to be conducted, the conclusions of the review to be set out in a report, and the publication of the report. The report must in particular set out the original policy objectives intended to be achieved by the Regulations and assess the extent to which they have been achieved. Furthermore, this review should discuss the extent to which those objectives remain appropriate and, if so, assess the extent to which a system that imposes less regulation could achieve the same result. HM Treasury last reviewed CCDS on 14 October 2020⁴ and, as such, an updated review is now due for publishing before 14 October 2025. Following a recommendation set by the Centre for Finance, Innovation and Technology (CFIT) to review the CCDS, HM Treasury has decided to bring forward this review.

2. What evidence has informed the PIR?

HM Treasury has received feedback on the current performance of CCDS from a range of sources including:

- UK Finance, whose feedback covered views gathered from a broad selection of lenders, including designated banks, non-designated banks, and a sample of the alternative credit sector.
- The four designated CRAs.
- The ‘Smart Data: improving SME lending to drive economic growth’ report published by The Centre for Finance, Innovation and Technology⁵ (CFIT)’s SME Finance Taskforce - a group of banks, alternative lenders, fintechs, accountancy software providers, payment schemes, credit reference agencies and industry bodies.
- Publicly available research (Babina et al 2024)⁶ examining the early impacts of Open Banking on competition and growth within the financial services market, including the impact of CCDS on the probability that SMEs obtain new loans from new lenders when participating.
- Autumn Budget 2024 representations to HM Treasury from industry representative bodies.

⁴ https://www.legislation.gov.uk/ukxi/2015/1945/pdfs/ukxi0d_20151945_en.pdf

⁵ <https://cfit.org.uk/wp-content/uploads/2024/08/CFIT-SME-Finance-Taskforce-Smart-Data-Unlock-SME-Lending-Aug-2024.pdf>

⁶ Analysis from Tania Babina, Saleem Bahaj, Greg Buchak, Filippo De Marco, Angus Foulis, Will Gornall, Francesco Mazzola and Tong Yu - <https://www.bankofengland.co.uk/-/media/boe/files/working-paper/2024/customer-data-access-and-fintech-entry-early-evidence-from-open-banking.pdf>

We have also engaged with the Financial Conduct Authority (FCA), who have certain obligations to monitor and enforce relevant CCDS requirements. FCA recently carried out a Credit Information Market Study (CIMS)⁷ which resulted in the creation of an interim working group to set up a new Credit Reporting Governance Body. The FCA's work is focused on consumer credit, but there has been some beneficial crossover that has helped inform our review.

Notably, the report by CFIT's SME Taskforce, published in August 2024, explores how smart data can enhance access to finance for SMEs. It discusses the potential of data-driven innovations to improve lending processes, making it easier for SMEs to secure the funding they need for growth and development. The report sets out seven 'key actions' for leveraging smart data to address the challenges faced by SMEs in the financial landscape. One of those actions is for Government to 'review and improve HM Treasury's Bank Referral and Commercial Credit Data Sharing (CCDS) Schemes', which the report recommends is done 'at the earliest opportunity by the incoming Government so that they reflect today's lending environment'.

It is in response to this recommendation that we have brought forward this review and endeavoured to collect evidence from key stakeholders and sources relevant to CCDS.

3. To what extent have the policy objectives been achieved?

On the basis of the evidence gathered the policy has met its stated objectives, which remain appropriate and important for maintaining a competitive SME credit market.

Small and Medium Sized Enterprises (SMEs) play an important role in the UK economy. They represent over 99% of the total number of enterprises in the UK; almost half of the UK's private sector output, and account for around half the net growth in jobs in the UK. It is essential that SMEs can access the appropriate finance to manage cash flows and fund investments. The policy has improved the availability of SME credit data for SME finance providers, reduced information asymmetries, supporting more accurate credit risk assessment and enables a wider range of finance providers to offer credit facilities to SMEs. A more substantive assessment is provided below.

The first review of CCDS noted that the policy was still in its early stages, making it difficult to fully assess its impact on increasing competition in the SME credit market. Operational delays initially hindered its implementation, but the policy was fully functional at the time of the review. Positive signs were already noted such as increased lending to SMEs by alternative credit providers and enhanced credit decisions. The review suggested future improvements, including faster data sharing and more designated finance providers. Stakeholders remained optimistic that CCDS would have a positive impact, and the previous government made a commitment to continue to monitor CCDS.

Evidence gathered for this second review suggests that the regulations have significantly enhanced competition in the SME credit market. Researchers (Babina et al. 2024⁸) have found that CCDS has effectively increased the likelihood of SMEs forming new lending relationships, particularly with non-bank lenders, while also reducing interest expenses for those businesses. Their analysis suggests that the policy has boosted the probability of SMEs establishing new

⁷ <https://www.fca.org.uk/publications/market-studies/ms19-1-credit-information-market-study#:~:text=A%20well-functioning%20credit%20market%20supports%20our%20overall%20strategic%20objectives%20and>

⁸ <https://www.bankofengland.co.uk/-/media/boe/files/working-paper/2024/customer-data-access-and-fintech-entry-early-evidence-from-open-banking.pdf>

borrowing relationships by 25%. Schemes such as CCDS are seen as facilitating easier access to financial data, which fintech companies may leverage to offer tailored financial products and services to SMEs, which could result in increased loan availability and potentially better terms. Likewise, the report by CFIT's SME Taskforce sets out that that CCDS has made and continues to make a positive contribution to the SME finance sector, and provides a very valuable source of data to lenders.

Nonetheless, the SME credit market and finance technology have both evolved substantially over the past decade. Industry feedback suggests this may necessitate updates to CCDS to ensure the policy continues to meet its objectives.

UK businesses have been increasingly turning to challenger and specialist banks, facilitated in part by the effectiveness of CCDS. British Business Bank data shows that these banks had a record 59% market share of gross new SME bank lending in 2023 compared to an estimated 20% of gross new lending in 2016.⁹ This trend is reducing the proportion of the market that finance providers are certain to receive data on from the designated CRAs. This is because currently only the designated banks are required to provide their data to all four CRAs. In practice, the majority of undesignated firms that provide data under the policy are opting to do so with only one CRA. As non-designated firms only receive access to the data held by the CRA that they provide their own data to, this can create disparities in the market coverage of data that non-designated firms are receiving, as well as competition issues between the CRAs.

While there are substantial incentives for non-designated firms to voluntarily share data under CCDS (because they will receive wider market data in return), their decision to share data is an optional one.

Additionally, innovations such as Open Finance create new opportunities to support SME access to finance. For example, the report¹⁰ by CFIT's SME Taskforce has identified ways to enhance CCDS and help ensure that it will continue to function in a way that is complementary to these developments, such as designating new specialist and fintech finance providers that meet the applicable criteria and incorporating a wider range of business lending products.

This is consistent with other stakeholder feedback we have received which has highlighted that, despite its success to date, some enhancements to CCDS may be necessary to ensure its continued effectiveness into the future. Suggestions include, for example, that HM Treasury:

- Consider designating more finance providers to better reflect the modern SME lending market and requiring non-designated finance providers to share their SME data with all designated CRAs rather than just their preferred CRA.
- Consider whether the £25 million annual turnover cap for SMEs in scope of CCDS remains appropriate - as CCDS has matured, borderline cases have emerged where businesses transition in and out of eligibility due to changing circumstances, leading to data gaps in historical records.
- Explore how businesses can better access the CCDS data held on them by the CRAs - although businesses have the right to access their CCDS data, this right is seldom utilised,

⁹ <https://www.british-business-bank.co.uk/sites/g/files/sovrnj166/files/2024-03/small-business-finance-market-report-2024.pdf>

¹⁰ <https://cfit.org.uk/wp-content/uploads/2024/08/CFIT-SME-Finance-Taskforce-Smart-Data-Unlock-SME-Lending-Aug-2024.pdf>

and data provided by CRAs is often in a proprietary format, making it difficult for businesses or third-party service providers to interpret.

Sign-off for Post Implementation Review: Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: ***Tulip Siddiq***

Date: 24/10/2024

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions?

The assumption underpinning these Regulations was that, without intervention, the significant information asymmetries that prevented alternative credit providers from serving SMEs would be perpetuated. These asymmetries raised the cost of credit for SMEs as the lack of market competition made it difficult for SMEs to access credit at the right price, because alternative providers either were not in a position to offer finance, or they were forced to offer finance at a higher price due to the lack of information available to accurately assess risk. CRAs were identified as ideally placed to reduce information asymmetries by making risk assessments more efficient and fostering greater competition. Delivering this objective through the CRAs required Government intervention.

The original impact assessment¹¹ for these Regulations underlined the need for government intervention to achieve improved and more equitable sharing of SME credit data to enhance competition, reduce barriers to entry, and promote a more efficient allocation of credit within the economy.

The central estimate of costs – calculated in 2013/14 – was set at £14 million in the original Impact Assessment, linked to changes to IT systems that designated banks and CRAs were required to make. This estimate included a £10.5 million one-off cost for designated banks, and a £3.5 million one-off cost for CRAs. Moreover, the impact assessment estimated a direct impact annual equivalent of £1.63 million. This was founded on a 10-year time period with an assumed discounted rate of 3.5%. Monetised benefits were not possible to quantify. As part of a future consultation, HMT will invite stakeholders to consider the original cost estimates of the regulation and to offer stakeholders an opportunity to provide evidence or estimates where they consider the original IA to have been inaccurate.

5. Were there any unintended consequences?

The first review identified that there were some unintended consequences of the Regulation:

Firstly, that stakeholders had highlighted the inconsistent quality of data shared under CCDS. As a solution, data templates were agreed as part of implementation and ongoing governance procedures, and HM Treasury continued working closely with credit providers and CRAs to drive further improvements. However, based on further feedback from CCDS stakeholders for this review, some inconsistencies in data quality appear to persist.

Secondly, the Regulations do not require non-designated finance providers to provide data to all designated CRAs; they are free to choose not to share data or provide it to one or more of the designated CRAs as they prefer. In turn, the designated CRA is required to provide that finance provider with access to reciprocal data. This is unlike the designated banks which are required to provide data to all four CRAs, and in return receive access to reciprocal data from all four CRAs. The first review highlighted that the consequence of this is that one CRA had become dominant. Feedback for the first review was clear that in order to level the playing field between

¹¹ https://assets.publishing.service.gov.uk/media/5a7e170ded915d74e33effd1/FSTs_Office_Credit_Data_IA_Clean_Version_E-sig.pdf

finance providers and to prevent harm to competition among CRAs, HM Treasury should take steps to ensure that all the designated CRAs receive the same data.

At the time, no action was taken to the feedback not least due to the pressures of Covid-19 but feedback suggests that there continue to be implications for the level of data finance providers receive from CRAs. It effectively means that some SMEs are still approaching finance providers who may not hold any of their credit data – under CCDS there is no way for an SME to know which CRA(s) hold their data.

Feedback for this second review is similarly clear that in order to maximise outcomes for SMEs and ensure effective competition between providers and between CRAs, HM Treasury should consider steps to ensure that all designated CRAs receive, and then share, the same data.

We intend to now explore how these consequences could be addressed through a consultation.

6. Has the evidence identified any opportunities for reducing the burden on business?

The original impact assessment for the implementation of CCDS set out that there is no direct impact on businesses; rather, it was expected that CCDS would have a positive, indirect impact on SMEs seeking finance and for the CRAs who would in turn receive more data than they previously did. The burden of sharing data falls exclusively on the credit providers, not the businesses themselves, and is reasonable given the policy objectives to increase competition and access to finance. This assessment was also made in the previous review of CCDS and this has not changed.

Feedback for this second review has identified potential opportunities for reducing the burden of complying with CCDS for both designated banks and CRAs. For example, feedback suggests that CCDS may not be sufficiently flexible in responding to market changes such as the introduction of new products and the withdrawal of older products with low take-up. This can leave designated banks required to report to CRAs on facilities held by a very small number of businesses (such as stocking loans), where the burden of complying is disproportionate to the benefits of this information to the wider market. Other opportunities have also been raised around reducing the frictions banks face when sharing data with multiple CRAs. HM Treasury intends to use a consultation to explore options that could reduce the burden of complying with CCDS, as well as increase its benefits to the market, for example whether there are enhancements that could be effective in supporting fraud detection and prevention.

Can CCDS's objectives be achieved with a system that imposes less regulation:

Although the SME credit market has successfully diversified since CCDS was introduced, HM Treasury still considers that the current legislation remains necessary. CCDS protects against information asymmetries for new entrants to the SME credit market, which would otherwise be a barrier to market entry. Ease of market entry is a key component of a competitive market. Without legislation, there are market incentives for incumbent firms to maintain control of SME data given the advantages this confers such as the ability to more accurately price risk.

Environmental impacts:

CCDS does not have any associated environmental impacts.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

As set out in section one above, in the UK the provision of credit information has evolved around Credit Reference Agencies (CRAs). Banks and non-bank finance providers all use CRAs as part of their credit risk assessment process.

Other jurisdictions, such as The Republic of Ireland, have opted to implement a publicly held register of credit data information. The Bank of England previously considered whether the UK should develop a national database of credit information, but formed the opinion that this shouldn't be done without first seeking to address this through the existing credit reference agency infrastructure, given the cost implications to the exchequer of building a full register.

Recommended Next Steps (Keep, Amend, Repeal or Replace)

CCDS continues to meet its objectives and has had a significant positive impact on competition in the business lending market, helping to lower barriers to market entry for finance providers and improving SMEs' access to finance. These objectives remain appropriate given the ongoing importance of a competitive SME credit market. However, to keep pace with market and technological changes and remain effective in meeting its objectives into the future, stakeholder feedback has highlighted potential enhancements to CCDS.

As such, HM Treasury intends to carry out a consultation to assess potential enhancements to CCDS. Depending on stakeholder feedback from this consultation, HM Treasury may explore whether the existing legislation needs to be amended or whether the policy objectives can be achieved by alternative means such as through relevant guidance.