MONEY ADVICE TRUST

BUSINESS DEBTLINE | NATIONAL DEBTLINE | WISER ADVISER

Consultation Response:

FCA Credit information market study discussion paper

Response by the Money Advice Trust

Date: February 2023

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Introduction

About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2022, our National Debtline and Business Debtline advisers provided help to 140,980 people by phone, webchat and our digital advice tool with 1.87 million visits to our advice websites. In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2022 we delivered this free training to 2,780 organisations.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at www.moneyadvicetrust.org.

Public disclosure

Please note that we consent to public disclosure of this response.

Executive summary

We welcome the opportunity to comment on the FCA credit information market study interim report. There are a number of elements of the proposals that we welcome – such as the proposal to establish a common data reporting format; plans for a single portal and a streamlined process for disputing and correcting errors.

However, overall, we are not convinced by the direction of travel that the FCA has embarked upon. We would like to see one central credit information body rather than multiple CRAs in competition with each other. The landscape in this market is already confusing, inefficient, with poor data accuracy and non-transparent for consumers, and will not be enhanced by more CRAs offering multiple services.

We have set out a summary of our points below.

New governance body

- ✓ We agree that a new credit reporting governance body should be set up to replace the Steering Committee on Reciprocity (SCOR). We believe that this should be an independent public body set up to act as a governance body rather than an industry-led body.
- ✓ This body needs to be transparent and accountable to both consumers and the FCA and operate under clear objectives.
- ✓ If the FCA leaves it to the industry to set this up, then there is the potential for the body to be designed in the interests of the industry rather than consumers.
- ✓ We would prefer to see clear FCA rules and guidance put in place that are enforceable via the FCA supervision and enforcement regime rather than guidance for the industry to interpret when setting up the scheme.

Mandatory reporting

- ✓ We agree with the principle of a mandatory reporting requirement. This should help to establish a consistent and comprehensive data set for credit information and hopefully assist consumers to get an accurate picture of their credit history.
- ✓ This will only mitigate – rather than solve – the problem of there being multiple CRAs all collecting different information and offering different commercial services. We would prefer to see one central body, rather than multiple small CRAs in competition with each other.
- ✓ We would agree that the FCA should prescribe the type of information to be shared under the mandatory reporting requirement.

Common data format

- ✓ We very much support the proposal to establish a common data reporting format. This should help to improve the consistency of credit information held by CRAs and we would hope this would lead to fairer consumer outcomes.

- ✓ However, again we must express our concern that this complex issue is proposed to be led by the industry governance body.

- ✓ This will need to be tightly controlled by the FCA, to ensure that there is a strict timetable for the work to be carried out, and that the scope of the work is set out clearly.

Reporting arrangements and debt

- ✓ We think that the importance of a "perfect" credit score has been over-emphasised generally to the extent that there have been concerns expressed that people may put off seeking debt advice because they are worried about damage to their credit score even though they have more pressing concerns about household debts.

- ✓ We support the principle of a more granular approach to reporting debt arrangements to ensure clarity and consistency across the board for all consumers, especially about how long their credit files will be impacted by their chosen debt option.

- ✓ It is vital that this is addressed to ensure that the framework is in place to deal with the existing debt solutions regime, in advance of any changes that result from the Insolvency Service Review of the personal insolvency framework.

- ✓ Whatever approach is taken, we would not like to see any set of solutions that have a poorer outcome for peoples' credit files when they are in debt, so this has to be very carefully thought through.

Vulnerability

- ✓ Consumers should have the ability to record non-financial vulnerability markers and notices of correction in a streamlined way.

- ✓ We are not convinced that lenders or other users such as debt advisers should have the ability to record non-financial vulnerability markers. We do not have confidence that lenders would make use of these provisions effectively enough for the benefits to outweigh the risks.

- ✓ We agree that consumers should have the ability to record a credit freeze marker in a streamlined way.

Regulatory reporting

- ✓ We agree with the proposal to establish a new regulatory reporting framework for CRAs. This framework should be put in place as soon as possible.
- ✓ We would urge the FCA to work closely with the Ministry of Justice, HMCTS and the Registry Trust to try to resolve issues regarding the accuracy of the data reported by lenders, and improvements to the Register of Judgments regarding recording claimant data and the settlement of judgments.
- ✓ We would strongly agree with the view in the paper that data contributors (creditors) should be required to respond to data dispute queries raised by CRAs or consumers within 14 days.

Signposting to statutory credit files

- ✓ There should not be any link to adverts for subscription services allowed as part of this information and such advertising should not be allowed within the single portal.
- ✓ We very much support a requirement on CISPs to prominently signpost the availability of credit information through the statutory credit report process.
- ✓ We strongly support a requirement for prescribed wording for the information so that all firms include the same messaging, and this is delivered in a consistent manner.

Single portal

- ✓ The single portal should operate as a holistic one-stop shop for consumers.
- ✓ We very much agree in principle that a single portal could help consumers to access their credit information file. This would be able to act as a single reference point for consumers to be signposted to when seeking information about their credit file.
- ✓ It is crucial that the information is simple and presented as one report in an easy-to-understand common format. No one will want to navigate three or more different reports, even if they are in a common format.
- ✓ The statutory information should include a credit score as part of the credit report.
- ✓ We would very much support the development of one single prescribed format for the presentation of key credit information under the portal.
- ✓ There should be no links or cross-selling to credit information subscription services or other credit products from the single portal.

Streamlined disputes service

- ✓ We very much support the establishment of a streamlined process for disputing and correcting errors in credit information that protects consumers and corrects errors as efficiently as possible across all the designated CRAs.

- ✓ We very much support the principle that consumers should be able to record notices of correction (NoC), non-financial vulnerability and credit freeze markers through a single portal.

Responses to individual questions

Remedy 1 – Industry Governance reform

Question 1: Do you agree that there is a need for a new credit reporting governance body with broader objectives that is more inclusive, transparent and accountable?

We agree that a new credit reporting governance body should be set up to replace the Steering Committee on Reciprocity (SCOR). This body needs to be transparent and accountable to both consumers and the FCA and operate under clear objectives.

However, given the wide social impact of credit referencing, which affects housing and tenancies, mortgages and house purchase, and future employment, we believe there should be an independent public body set up to act as a governance body. This should be accountable to and sponsored by the FCA, but should be independent of the FCA, in recognition that many types of account from different sectors such as utilities, and so on will be recorded on files.

The impact of credit referencing on vulnerable groups also leads us to recommend an independent public body. This would be best place to consider what improvements to the system could be put in place that would materially benefit particular vulnerable groups. We have not attempted to create a definitive list of examples here, however this could include:

- ✓ people with thin or non-existent credit files because they are unbanked;
- ✓ consumers who are unable to provide the current range of documents required for proof of identity to access financial products;
- ✓ people who move about between temporary accommodation, or are homeless;
- ✓ people excluded from all forms of credit but high-cost credit.

We are concerned that many of the potential remedies set out in this paper rely upon implementation by the new governance body. This means that it is crucial that the governance body is set up very carefully, with sufficient tools, powers and expertise to carry out these tasks. It needs to be fully accountable, with a new constitution, as well as have clear objectives, and operate to a strict timetable for implementation of the remedies identified in the paper. This should not be left to an industry body.

Question 2: Do you agree that a new credit reporting governance body could be effectively designed and implemented through voluntary industry-led change?

We are not convinced that the new credit reporting governance body should be implemented through a process of voluntary industry-led change.

If the FCA leaves it to the industry to set this up, then there is the potential for the body to be designed in the interests of the industry rather than consumers. We are also doubtful if the industry is capable of developing a new body out of SCOR. If there had been the will for the sector to do this previously, why has no reform been undertaken already? It appears to us that this option leaves open the potential for delay and obstruction or lack of input of sufficient resources, if left to the sector to build its own successor.

We suggest a more formal regulatory solution should be considered given the uncertainty of relying upon industry to set up a body that is fit for purpose and can act in a timely fashion.

Question 3: Do you agree with the potential 'blueprint' for the new industry body?

The blueprint as set out in the paper looks like a good start in relation to the functions required of a new industry body. We absolutely agree that it should have a much broader remit than SCOR. However, as we have said in our response to question 2, this should have the underpinning of a formal regulatory structure in order for it to function properly and be accountable to the FCA and consumers.

We are particularly pleased to see financial inclusion as one of the broader objectives for the new body. We are also pleased to see an objective of "trust and transparency" to enhance consumer trust. This broader remit of accountability to consumers and regulators is to be welcomed.

Question 4: Do you agree that funding and resources for the new industry body should be a matter for industry to determine and provide?

We are concerned that if funding and resources for the industry body are left to industry to provide, then this may not be optimal. If industry did not agree with the body or its direction of travel, this could result in inadequate funding or an underpowered new regime. We would prefer to see the funding and resources being agreed upon with industry in conjunction with the FCA.

Question 5: Please indicate if there are any alternative ways that you think such a body could be made more representative, transparent and accountable.

As we have said, we believe there should be an independent public body set up to act as a governance body. We would like to see consumer representation as a key part of the new body to help ensure it is both representative, transparent and accountable. In our experience, consumer representation can be restricted to one or two consumer bodies who are outnumbered by the trade bodies represented on such bodies.

We suggest that the FCA Consumer Panel could come under "FCA regulators input" in the blueprint. We would also suggest that lived consumer experience panels should form part of the blueprint, rather than just consumer bodies to ensure that the new body builds in consumer feedback into its model.

Remedy 2A – Mandatory data sharing with CRAs

Question 6: Do you agree with the principle of a mandatory reporting requirement to certain designated CRAs to establish a 'core' consumer credit information dataset?

We agree with the principle of a mandatory reporting requirement. This should help to establish a consistent and comprehensive data set for credit information and hopefully assist consumers to get an accurate picture of their credit history.

However, we would point out that this will only mitigate – not solve - the problem of there being multiple CRAs all collecting different information and offering different commercial services. We would prefer to see one central body, rather than multiple small CRAs in competition with each other.

The credit information landscape is already confusing, inefficient, with poor data accuracy and not transparent for consumers. We do not see how this landscape will be enhanced by more CRAs offering multiple innovatory services as suggested in the paper.

Question 7: Do you agree in principle with the proposal to establish a CRA designation framework?

Yes, we agree with the proposal for the FCA to establish a CRA designation framework.

Question 8: Do you agree with the potential designation criteria? If not, what else should or should not be included?

We do not have any thoughts on what additional matters that should be included in the designation criteria at this stage.

Question 9: What might the competition implications be if only a small number of CRAs become designated CRAs?

We do not agree with competition measures that result in larger numbers of CRAs. It is already confusing and difficult for consumers to understand the market as it stands. Even more CRAs would run the risk of greater inefficiency and a decline in data accuracy which would be a detrimental outcome for consumers.

Question 10: Do you have views on the possible costs and benefits of including a broader range of CRAs within a designation scheme?

We do not see any benefits of including a broader range of CRAs within the scheme for the reasons set out above.

We note that the FCA recognises that sharing data with a larger number of CRAs raises questions about whether this is an efficient mechanism and that *"rather than sharing information directly with CRAs it may be more efficient to share information through a single third-party entity which could act as a central repository and distributor of information"*.

This demonstrates the point that there are no clear benefits of including a broader range of CRAs within the scheme and that if this was to develop, the current system would have to change.

Question 11: Do you have views on which types of regulated activity should be subject to a mandatory reporting requirement and on the further options set out above on scope?

We would share the FCA's initial view that a mandatory reporting requirement should apply to all firms involved in the provision or administration of regulated credit agreements and regulated mortgage contracts. This should be an "absolute" requirement as this seems to be the most comprehensive and simple approach.

Question 12: Do you think it would be appropriate to introduce 'de minimis' reporting thresholds, if so how should these be defined?

We suspect that the implementation of "de minimus" reporting thresholds would not be helpful.

There may be undesirable consequences for consumers if firms could avoid sharing credit information by keeping the size of their firm or the type of lending product below the reporting threshold. We would not like so see niche high-cost credit products or services developed by small firms with the aim of targeting particularly vulnerable consumers.

Question 13: Do you think designated CRAs should be prevented from levying direct charges to receive data under a mandatory reporting requirement?

We agree that designated CRAs should be prevented from levying direct charges in relation to the receipt of credit information under the mandatory reporting requirement.

Question 14: Do you agree that firms should be left to decide whether to share full or negative only credit information under a mandatory reporting requirement?

It appears sensible for firms to continue to report full or negative credit information as they do now, but to be required to share this across all designated CRAs. However, we are not close enough to this issue to be clear as to what the drawbacks might be to taking this approach.

Question 15: To what extent do you think the FCA should prescribe the type of information to be shared with designated CRAs under a mandatory reporting requirement?

We would agree that the FCA should prescribe the type of information to be shared under the mandatory reporting requirement. We understand that the FCA does not think it should be prescribing this in detail and that this should be left to the industry body. We continue to be concerned that this should not be left to the industry body alone. We would prefer this to be carried out by the FCA alongside the new body. This needs a clear mandate for the nature of the information that will be subject to a mandatory reporting requirement. There should also be a strict implementation timetable put in place.

Question 16: Do you think that more prescriptive requirements should be introduced around permissible use cases for credit information shared by FSMA-regulated data contributors with designated CRAs? If so, what should these include?

We cannot comment on whether more prescriptive requirements should be put in place.

Question 17: Please provide evidence on the additional costs that might be incurred from mandatory data sharing, separately identifying any one-off and ongoing costs, and on the possible benefits that would result.

We cannot provide evidence on additional costs as we are neither a lender nor a CRA. However, we would agree that these are likely to be minimal where firms are already sharing data with at least one CRA already. We agree with the potential benefits set out by the FCA in the paper, in particular, that a comprehensive and consistent consumer credit information dataset could help with a more accurate, transparent and easy to access market for consumers.

Remedy 2B – Common data format

Question 18: Do you agree with the proposal to establish a common data reporting format?

We very much support the proposal to establish a common data reporting format. This should help to improve the consistency of credit information held by CRAs and we would hope this would lead to fairer consumer outcomes.

However, again we must express our concern that this complex issue is proposed to be led by the industry governance body. This will need to be tightly controlled by the FCA, to ensure that there is a strict timetable for the work to be carried out, and that the scope of the work is set out clearly. The body needs to be held to account to ensure good consumer outcomes, otherwise, it is the type of issue that can remain unresolved for an extended period of time.

Question 19: Do you agree with the principle of a new approach to reporting arrangements to improve consistency and granularity?

We very much welcome the recognition that there is an inconsistency in the way people in financial difficulties and vulnerable circumstances are reflected in credit information as a different approach may be taken by lenders and CRAs. There is a great deal of confusion for consumers about the consequences of embarking on an arrangement to pay their debts back informally, or to take out a formal debt solution.

The confusion also makes it difficult for debt advisers to provide accurate information about the likely outcome for consumers e.g. how long each type of arrangement will affect a client's credit rating and what the unintended consequences might be.

We are concerned about the way in which the credit information market impacts people in vulnerable circumstances. We are a debt advice charity, and so by the time people seek debt advice they are not usually in a position to solve their debt problems by taking out further consumer credit. Generally, their financial position has deteriorated to the point that defaults are registered on their credit file, making mainstream credit unavailable to them.

We think that the importance of a "perfect" credit score has been over-emphasised generally to the extent that there have been concerns expressed that people may put off seeking debt advice because they are worried about damage to their credit score even though they have more pressing concerns about household debts. This is not necessarily a rational response, but a concern about access to credit in the future and possibly concerns about "status".

We agree that the development of a common data format provides a good opportunity to reconsider how payment arrangements and debt solutions including the new Debt Respite Scheme should be reflected in credit information. We would agree with the aims set out in point 83 of the paper that:

"this should include whether the reporting framework could better incentivise consumers to engage with lenders when they are in financial difficulty and whether it could provide greater certainty about the longevity of impact on credit files".

We support the principle of a more granular approach to reporting debt arrangements to ensure clarity and consistency across the board for all consumers, especially about how long their credit files will be impacted by their chosen debt option.

It is vital that this is addressed to ensure that the framework is in place to deal with the existing debt solutions regime, in advance of any changes that result from the Insolvency Service Review of the personal insolvency framework[1] which is under consideration.

One final thought is that the credit information market should be reformed to require free access to statutory credit reports via the portal for the free-to-client debt advice sector to use for debt relief orders, statutory breathing space and so on.

Question 20: Do you agree with the potential new approach to reporting arrangements and debt solutions?

We welcome the proposals in the paper regarding the reporting of debt payment arrangements and debt solutions. Implementation of these proposals could help to rebalance the disproportionate effect of falling behind or defaulting on contractual payments for vulnerable people in debt. However, there needs to be a coherent policy leading to common practice that is easy to understand and straightforward for people in debt and advisers to navigate. Currently, it is too difficult for anyone to predict the outcome depending upon the type of debt and the debt option.

There has been some thought given to the idea of debt rehabilitation and the idea that credit files could better reflect a good debt repayment record. The Money Advice Service issued a report "Debt solutions in the UK: Recommendations for change"[2] that looked at these ideas.

This has led to discussions about debt rehabilitation when HM Treasury consulted on the Breathing Space and Statutory Debt Repayment Plan schemes. Consumer groups suggested that the plan should be recorded in a way that is less damaging for an individual's credit rating. These proposals could help to develop a transparent approach to how such schemes are recorded on credit files and address the issue of debt rehabilitation for people who have "done the right thing" to deal with their debts.

We would like to see progress in dealing with the discrepancies for people paying smaller or token payments where a default is not recorded for that debt until the debt arrangement breaks down. This unfairly prolongs the effect of the debt on that person, by extending the time that the debt sits on the credit file once the default is finally recorded. This needs to be resolved as soon as possible so that people trying to cooperate with their creditors are not met with a default being recorded on their file.

[1] https://www.gov.uk/government/consultations/call-for-evidence-review-of-the-personal-insolvency-framework
[2] Debt Solutions in the UK (moneyandpensionsservice.org.uk)

We like the idea set out in the paper that new missed payments would only be reported against the payment arrangement in place, rather than the original contractual payment.

We do not have a firm view about the length of time a "debt solution flag" should remain on a file. The proposal for the flag to be removed twelve months after an arrangement or debt solution has come to an end could help solve the extended default recording issue, depending upon what residual information would still be on the file. This would help provide certainty for consumers about how long their file would be impacted once they go into a payment arrangement.

However, if payment arrangements go on for more than six years then a consumer's credit file will remain affected. Whereas if they had defaulted and not paid anything back, the default would only have been recorded for six years. This could act as a disincentive for people in debt to engage with their creditors. One option would be to keep to the six-year limit for a default and six years or less for a payment arrangement. This would mean less time for a payment arrangement of less than six years, but only a marker on file for a maximum of six years for longer payment arrangements.

Whatever approach is taken, we would not like to see any set of solutions that have a poorer outcome for peoples' credit files when they are in debt, so this has to be very carefully thought through.

Question 21: Do you agree that consumers should have the ability to record non-financial vulnerability markers and/or Notices of Correction across designated CRAs in a streamlined way?

We would agree that consumers should have the ability to record non-financial vulnerability markers and notices of correction in a streamlined way. The current system is unwieldy and confusing for consumers. It appears to make sense for consumers not to have to communicate their vulnerabilities repeatedly to many different parties using different mechanisms to do so.

For this process to work to the benefit of consumers, it must be very clear what types of vulnerability information they can record, and the potential benefits and drawbacks of doing so and how this information would be used by the CRA and potential lenders. This process might be helpful, where a consumer wants to try to communicate the context for a default or forbearance mark on their credit file. Perhaps this has been caused by the financial impact of a medical condition which the consumer feels is important should be recognised on their file.

We have some concerns about whether lenders would take such markers into consideration given that the information on vulnerability would be self-reported. If this policy was to have any effect, it would need to include an element of compulsion on lenders to take such disclosures into account in a meaningful way. This could build on the work of some lenders who are already encouraging disclosure and even providing "disclosure friendly" areas on websites and apps.

Question 22: Do you agree that lenders and other users should have the ability to record non-financial vulnerability markers across designated CRAs with appropriate consumer consent?

We are not convinced that lenders or other users such as debt advisers should have the ability to record non-financial vulnerability markers. We do not have confidence that lenders would make use of these provisions effectively enough for the benefits to outweigh the risks.

Depending on the information recorded, lenders and others may need to obtain explicit consent from consumers to conform with data protection rules. For example, as we understand it information relating to health or disability would require explicit consent, whilst other information relating to a recent bereavement would just require ordinary consent.

Lenders and debt advice providers would need to be able to confidently explain how the information would be used to get consumer consent and comply with data protection regulations. However, we worry that it would be difficult to tell someone how that information would be used given lenders all utilise credit files differently and the system is not transparent as to what happens to information that is shared. We appreciate that some firms are good at ensuring staff are trained to respond to the disclosure with empathy and deal with consent issues appropriately, but this will not apply universally.

Many consumers are already wary about the information that is recorded about them and how it is used, meaning they may be unlikely to consent to lenders and debt advice agencies recording non-financial vulnerability data about them on credit files, even with reassurance about its purpose.

As the FCA acknowledges, there is a risk that non-financial vulnerability markers could be used to discriminate against people, particularly in the insurance market. Even with protections in place to prevent this eventuality, there is a risk that people would perceive that there might be a risk. This perception again, might lead to a reluctance to give consent for sensitive personal information being recorded.

We are also concerned that there may be unintended consequences in relation to how landlords or employers make use of the information which could affect a tenancy or future employment.

We believe that where someone discloses something relating to mental capacity, or the lender should have been aware of this, then according to CONC rules, the lender should suspend recovery. This might therefore impact on future lending decisions as well in cases where mental capacity might fluctuate.

We are concerned there would potentially also be challenges around ensuring the information was kept up-to-date in line with ICO expectations. This might necessitate repeat contact to ensure the vulnerability data is still valid after a certain point with individual consumers. Alternatively, data would need to be deleted as part of a mass operation depending upon lender and CRA systems. This would then not be responsive to individual circumstances.

Question 23: Do you agree that consumers should have the ability to record a 'credit freeze' marker across the designated large CRAs in a streamlined way?

This sounds like a potentially useful and welcome idea for people who might be concerned about their credit use, worried about the potential of fraud, or potentially where they are in an economic abuse situation. We expect that this could probably build on and learn from the success of innovations such as gambling blocks which are already in place in some situations.

However, whilst the ability to record a credit freeze marker might protect some people experiencing economic abuse, it could provide the abuser with another way of restricting their credit access (including after the person has left the relationship). As a consequence, it would be imperative that this policy is only developed with the appropriate safeguards in place.

We would suggest that any such policy development should be made in conjunction with the Surviving Economic Abuse charity. Their expertise would be vital in ensuring that this policy should only proceed after an evaluation of the potential harms and how these can be mitigated through the required safeguards.

Question 24: Please provide evidence on the additional costs that might be incurred from a common data format, separately identifying any one-off and ongoing costs, and on the possible benefits that would result.

We are unable to assist with providing evidence on the additional costs that might be incurred from a common data format as we are not a credit reference agency.

Remedy 2C – Designated CRA regulatory reporting to FCA

Question 25: Do you agree with the proposal to establish a new regulatory reporting framework for designated CRAs?

We agree with the proposal to establish a new regulatory reporting framework for CRAs. This measure appears to be long overdue. As the paper says, the current arrangements do not provide the FCA with *"early insight into emerging issues that could contribute to consumer harm".*

The proposed regulatory reporting framework should be put in place as soon as possible.

Question 26: Do you have views on the potential areas identified above for a designated CRA regulatory reporting regime?

The potential areas identified for the reporting regime sound sensible.

The accuracy of data on CRA files is clearly influenced by the quality of the data that is on public record. It is certainly the case that public data such as a county court judgment (CCJ) can cause matching error issues. The quality of the information such as names and addresses of defendants on CCJs appears to be patchy which resulted in defendants having default judgments registered against them that they were not aware of due to the address being inaccurate or to them having moved address, or that were not valid.

We responded to a consultation by the Ministry of Justice looking at the quality of data on default judgments launched in 2017.[3] However, there has been no further response from the Ministry once the consultation closed.

The creditor or debt collection agency may be collecting small energy, phone and parking penalty debts that come under a variety of regulators such as Ofgem, Ofwat and Ofcom. This could lead to an inconsistent approach to debt collection and to verifying the accuracy of address details, the legitimacy of the debts in a portfolio, and whether a debt can be legally pursued through the courts under the Limitation Act 1980. There seems to be no incentive on such firms to clear up their data collection faults. Debt collection or debt purchase companies might be issuing court claims in large numbers, without putting in place rigorous checks on address accuracy aware that they will only get a return on some of the claims issued.

There is also no requirement to include claimant data in the Register of Judgments, Orders and Fines. Registry Trust has raised this as a necessary reform to enhance data accuracy and empower consumers to deal with queries and complaints more easily between the courts and CRA data.[4] As the Registry Trust says in its blog:

"Firms are required to comply with minimum standards on how to treat customers fairly when in financial difficulty. Inclusion of claimant data could help regulators such as the FCA, OFGEM, OFCOM, and OFWAT supervise markets and protect consumers more effectively."

Registry Trust also argue that the onus should be on creditors to report settlements either in full or in part, to the Register of Judgments, Orders and Fines, and ultimately to CRAs. The Registry Trust has set up a Partial Settlements Register, and the implications of this, need to be factored into the FCA market study and how reporting to the Register of Judgments, Orders and Fines has an impact on CRA files.[5]

We would urge the FCA to work closely with the Ministry of Justice, HMCTS and the Registry Trust to try to resolve these issues.

[3] https://consult.justice.gov.uk/digital-communications/default-county-court-judgments-2/supporting_documents/defaultcountycourtjudgmentsconsultation.pdf
[4] https://registry-trust.org.uk/blog/credit-week-awareness-week-2022-why-creditors-should-back-call-inclusion-claimant-data-register-judgments-orders-and-fines/
[5] https://www.registry-trust.org.uk/blog/improving-credit-decision-making-ccj-debt-partial-settlements-data/

Question 27: Please provide evidence on the additional costs that might be incurred from the potential new regulatory reporting framework for designated CRAs, separately identifying any one-off and ongoing costs, and on the possible benefits that would result.

We are unable to assist with providing evidence on the additional costs that might be incurred from the potential new regulatory reporting framework as we are not a credit reference agency. However, we would expect that it is reasonable for CRAs to provide this information, which is likely to already be available in an adaptable format.

Remedy 2D – Data contributor requirements (error correction and reporting satisfied CCJs)

Question 28: Do you have views on the potential requirements for FSMA-regulated data contributors, including whether they are necessary in the light of firms' obligations under the Consumer Duty?

We would strongly agree with the view in the paper that data contributors (creditors) should be required to respond to data dispute queries raised by CRAs or consumers within 14 days. We would like to see this as a clear requirement under FCA rules rather than guidance or part of an industry scheme to ensure that the FCA can supervise compliance.

We also support the FCA's suggestion that the claimant (creditor) should be responsible for ensuring that the Register of Judgments, Orders and Fines is marked as satisfied. They should also ensure that CRA records are updated where a judgment is paid in full. The onus should not be on consumers to apply for a certificate of satisfaction in order for this to be recorded on the register. The fall in satisfactions being registered demonstrates that this process is not working.

We do not think that the Consumer Duty will be able to deliver consistent good consumer outcomes without clear regulatory requirements on lenders being put in place. It should not be left to FCA supervision to root out poor outcomes as a result of a firm behaving inconsistently in their approach to recording judgment information.

The FCA needs to give serious consideration to ensuring that partial settlements where a lender will not take further action on a debt are also reported to both Registry Trust for their new partial settlement register and CRA records are updated. Rules or good practice guidance will need to be developed to ensure that partial settlements are treated in a similar way and recorded consistently.

Question 29: Please provide evidence on the additional costs that might be incurred from the potential requirements for FSMA-regulated, separately identifying any one-off and ongoing costs, and on the possible benefits that would result.

We are unable to assist with providing evidence on the additional costs that might be incurred from the potential new regulatory requirements as we are not a credit reference agency.

Remedy 3A – CRA/CISP signposting to statutory credit file

Question 30: Do you agree that CRAs and firms providing credit information services (CISPs) should be required to prominently signpost to the availability of credit information through the statutory process?

It is extremely disappointing that the FCA found almost half of consumers in its sample were unaware that their credit information is available for free.

We very much support a requirement on CISPs to prominently signpost the availability of credit information through the statutory credit report process.

There should not be any link to adverts for subscription services allowed as part of this information and such advertising should not be allowed within the single portal.

Question 31: To what extent do you think that specific new requirements in this area are necessary in the light of firms' obligations under the Consumer Duty?

Whilst it is very helpful for the Consumer Duty to enhance the focus of firms on good consumer outcomes, this is not a substitute for consistent and clear rules. It is still necessary to set out expectations by way of rules and guidance and not leave matters to interpretation by individual firms.

We see the Consumer Duty as complementary in this respect and should be considered alongside the requirements set out in this paper.

Question 32: Do you have views on whether such a requirement should be at a high-level or whether information to be provided to consumers should be prescribed?

We strongly support a requirement for prescribed wording for the information so that all firms include the same messaging, and this is delivered in a consistent manner.

There should be no temptation for firms to change the wording to suit their own marketing purposes or to allow areas of nuance that could lead to consumer confusion or even worse, promotion of subscription services.

In addition, common prescribed messaging allows for the FCA or industry body to carry out consumer testing to ensure understanding, and to update the wording of the messaging across the board when necessary.

It is also vital that the prominence of the messaging should be prescribed, including where it should sit on the website or other advertising, and size of font and so on.

Question 33: Please provide evidence on the additional costs that might be incurred from the potential requirements for CRAs and CISPs to prominently signpost to the availability of credit information through the statutory process, separately identifying any one-off and ongoing costs, and on the possible benefits that would result.

We cannot see how there would be much in the way of additional costs incurred by CRAs or CISPS in complying with this requirement.
We do not believe it is valid for firms to argue they have lost revenue from fees they will lose via people paying for subscription services they neither need nor want in this scenario.

Remedy 3B – Single portal – access to statutory credit file

Question 34: Do you agree in principle that a single portal could help consumers to access and engage with their credit information?

We very much agree in principle that a single portal could help consumers to access their credit information file. This would be able to act as a single reference point for consumers to be signposted to when seeking information about their credit file.

However, the portal is only a way of navigating the different processes and policies that the different CRAs operate under, and the variable information they maintain within their systems.

It is crucial that the information is simple and presented as one report in an easy-to-understand common format. No one will want to navigate three or more different reports, even if they are in a common format.

In addition, the statutory credit report alone contains no requirement to include a credit score or credit rating as part of the information reported. We suspect that this is the basic information that most people will want to see as part of the report. We recognise that including this information will be complicated by the likelihood that all the credit reference agencies use different criteria to present their own scores so it will not be possible to provide one combined score as part of the report. However, it should be an aspiration to solve this problem so a score can be included.

This solution does rather beg the question as to why we cannot have one single centralised CRA to retail all the information in a systematic and consistent way.

Question 35: Do you think it would be desirable to introduce a single process for consumers to gain access to credit information held by all designated CRAs? What operational or other implications might this raise?

Yes, we agree there should be a single process for consumers to gain access to credit information held by all designated CRAs. This should allow the development of a simplified identity verification process that works for consumers across the system. It should have the aim of reducing or removing the requirement for consumers to produce hardcopy documentation.

Question 36: Do you think that a single portal could play a positive role in enhancing consumer understanding by providing factual information about credit information and hosting key documents?

Yes, we agree that this could definitely be an advantage to the presence of a single portal which could host information and fact sheets about credit information.

In addition, we very much support the portal being able to provide helpful information for consumers that includes links and signposting to sources of free debt advice.

The portal could also provide an easy access point for key documents for that individual consumer.

Question 37: Do you think that consumers would benefit from greater consistency in the presentation of key information and metrics in the SCR (to allow easy comparison between SCRs)?

We would very much support the development of one single prescribed format for the presentation of key credit information under the portal. This is again an opportunity to reform the current confusing landscape of varying approaches on presenting information to consumers. It would hopefully mitigate the confusion and difficulties people have in comparing the information they receive across the different credit reference providers if there is a single common format.

Alignment of the way in which CRAs present information to consumers should make it easier for the industry and consumers to identify and correct errors.

Ideally, people would not need to navigate separate agency information at all if it is presented through the portal in one format.

Question 38: Do you agree that there should be no links or cross-selling to credit information subscription-based services or other credit products from the single portal?

We completely agree that there should be no links or cross-selling to credit information subscription services or other credit products from the single portal.

In our opinion, this would be inappropriate and potentially put consumers at risk of taking out inappropriate or unnecessary products. It would also confuse the key messages on impartial consumer information that could be a prime benefit of a single portal.

Question 39: Do you think that the new industry governance body should have a role in the development and operation of a single portal?

We appreciate that the single portal development needs to be centrally coordinated to ensure it is constructed well and works for consumers. We would expect the new industry governance body to have a role in the development and operation of the portal, but would suggest the FCA is in charge of setting the parameters of the project and the timescale for its early implementation.

This project should also involve consumer bodies and conduct timely user research with consumers to ensure that the product works well and is easy to use and easy to understand.

Question 40: Please provide evidence on the additional costs that might be incurred from a single portal to access statutory credit file information, separately identifying any one-off and ongoing costs, and on the possible benefits that would result.

We cannot comment on the additional costs that might be incurred from the single portal. However, we agree that the potential consumer benefits identified in section 175 of the paper as *"enhanced consumer access and engagement with credit information"* should very much outweigh the costs of developing the single portal.

Remedy 3C – Single portal – streamlined disputes process

Question 41: Do you agree that there should be a streamlined process for disputing and correcting errors in credit information held across designated CRAs?

We very much support the establishment of a streamlined process for disputing and correcting errors in credit information. Ideally this would be delivered as part of the single portal. However, if this disputes process can be put in place in the short term through industry cooperation, then this should be addressed.

Question 42: Do you have views on the potential effectiveness of the implementation options described above?

We would like to see the strongest and most streamlined process put in place that protects consumers and corrects errors as efficiently as possible across all the designated CRAs.

The implementation options set out in the paper under section 188 look complicated and potentially could cause extra opportunities for industry error to occur. The process will need to be robust and efficient to avoid further confusion for consumers when attempting to resolve their dispute.

Question 43: Are there any alternative options that might help deliver a more streamlined processes for disputing and correcting credit information in the absence of a single portal?

We have not identified any alternative options for a more streamlined process for disputing and correcting credit information in this scenario.

This is, however, a good argument for a single portal being put in place that would operate as a holistic one-stop shop, either before this disputes process is put in place, or that allows a temporary process to be included in the single portal at a later stage.

Question 44: Please provide evidence on the additional costs that might be incurred from the potential streamlined data dispute process, separately identifying any one-off and ongoing costs, and on the possible benefits that would result.

We cannot comment on the additional costs that might be incurred from the streamlined data dispute process. However, we can see clear consumer benefits. Consumers find it very difficult to navigate the current disputes process. This streamlined process should help to reduce the complexity of navigating separate CRAs and reduce the resulting confusion. The current time-consuming process causes anxiety and stress for consumers. Where errors are not corrected, this can have catastrophic "real world" effects such as the loss of a house when a mortgage is refused and so on.

Remedy 3D – Single portal – streamlined Notice of Corrections (NoC) and vulnerability markers

Question 45: Do you agree in principle that consumers should be able to record NoC, non-financial vulnerability and credit freeze markers across designated CRAs through a single portal?

We very much support the principle that consumers should be able to record notices of correction (NoC), non-financial vulnerability and credit freeze markers through a single portal.

This process should be made as streamlined as possible, and very easy for consumers to complete in a standardised format. The same information should be held in the portal to be accessed by all CRAs so that no one is required to complete different forms with variable information for each firm.

Question 46: What operational, technical or other implications might such a process raise?

We cannot comment on the operational, technical or other implications that may arise as a result of this process.

Question 47: Are there any alternative options that might help deliver a more streamlined processes for recording NoC in the absence of a single portal?

We see no reason why the industry body could not work with CRAs to produce one simple form and a streamlined process to allow a NoC to be recorded once and shared across all CRAs. Clearly this process should form part of the single portal once developed, but we are unable to identify a reason why this cannot be put in place in the short-term.

Question 48: Please provide evidence on the additional costs that might be incurred from enabling consumers to record NoC, non-financial vulnerability and credit freeze markers across designated CRAs through a single portal, separately identifying any one-off and ongoing costs, and on the possible benefits that would result.

We cannot comment on the additional costs that might be incurred from enabling consumers to record this information through a single portal. From an outside perspective, it does not sound like onerous or costly undertaking, if there is a willingness for the process to succeed.

We would agree that there are potential consumer benefits that should outweigh the costs. Again, this could minimise the scope for confusion and duplication of information. It may even promote consumer engagement if the ability to apply is simple, straightforward, and easy to access.

Remedy 4A – More timely reporting of key data

Question 49: Do you agree in principle that more timely reporting of key data to designated CRAs could deliver net benefits to firms and consumers?

We would agree in principle that more timely reporting of key data could deliver benefits for consumers. The changes in product type over time, such as the development of BNPL and HCSTC mean that data needs to be provided in real time where possible. This is why we have supported the exploration of the idea of establishing a central credit information database in the past.

We are concerned that under the current CRA system, there would be a time lag and delay in recording credit information about BNPL agreements on CRA files. This means that lenders would not have access to real-time information about other BNPL agreements the consumer might have.

This leads us back to the proposal for a mandatory comprehensive real-time dashboard for short-term lending that was suggested for payday lending at the time when the FCA put in place its payday lending regime. This would provide granular data that could assist in both credit assessment and for credit checking for short-term lending products.

Question 50: Do you agree with our suggested approach of encouraging industry-led change in this area?

We recognise that this issue is complex and will need industry expertise to develop. However, the proposals do run the risk of becoming a long-term debating issue amongst the sector. If the new industry body is to undertake further analysis to assess the potential costs and benefits, this should be required to be carried out under a strict timetable, set by the FCA. We would otherwise be afraid that there would be further unnecessary delay in resolving this issue which could be kicked into the long grass. If the industry had wanted to report data in a timely fashion, it surely could have done so by now.

The FCA points out under section 213, that it may consider a "*more prescriptive regulatory approach in relation to more timely reporting to designated CRAs*". If this is subject to the report by the industry body, then it again encourages a rapid timetable for that analysis to be carried out.

Remedy 4B – Updated data access arrangements (PoR)

Question 51: Do you think that the underlying principle of reciprocity would remain relevant and appropriate where credit information is provided to designated CRAs under a mandatory reporting requirement?

We can see that there is potential for the underlying principle of reciprocity to be less relevant where there is a mandatory reporting requirement for firms.

We would welcome exploration of the potential benefits for consumers if credit information were able to be used for a wider range of purposes and by a wider range of users as suggested in the paper. However, we have concerns that there may be unforeseen consequences for consumers of this approach which is why any changes would need a full assessment taking into account all the implications.

Certain types of debt are not included in the CRA files, so the picture will not be complete. It is clearly difficult for a lender to solely rely upon CRA data for the assessment of affordability where someone has particular priority debts such as rent, court fines, utilities or council tax. We have expressed our reservations in the past about including debts like council tax, rent and utility debts on credit reports.

This is because such debts are very prone to reporting error due to housing benefit or council tax support delays or overpayment problems, errors by the DWP or local authority, or changes in government policy in relation to benefits, and with over or under-estimated utility bills.[6] This will mean that people can be behind with their household bills when they have no control over the outcome. Such errors can unfairly affect a consumer's credit record, through no fault of their own.

Question 52: Do you agree with our suggested approach of encouraging industry to consider this issue with input from all relevant stakeholders?

We would welcome the suggested approach of industry and consumer bodies determining whether the principle of reciprocity remains relevant and whether there is a requirement for this principle under a mandatory reporting requirement for firms.

However, we would expect the FCA to be able to require the new industry body to consider this issue and report back within a designated time frame rather than relying on "encouragement".

Remedy 4C – Updated data access arrangements (CATO)

Question 53: Do you agree that granular CATO data should be made available to non-PCA providers? What implications might this have?

We do not object in principle to granular CATO data being made available to firms who do not offer personal current accounts. We are open to this idea if it has the effect of improving outcomes for consumers.

However, we are not familiar with the complex issues in this area, and cannot help to identify what the implications might be for consumers were this to go ahead. We would welcome further information on the potential consumer benefits of such a move.

Question 54: Do you agree that there is scope to enhance the consistency and granularity of CATO data? If so, how might this best be achieved?

We would of course support moves to enhance consistency in data if this results in benefits for consumers. We cannot comment on how this can be achieved.

For more information on our response, please contact:

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[6] For more information see https://debtcamel.co.uk/liability-orders-credit-records/

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