

Rules of Conduct for the Processing of Data on Natural Persons by Credit Reporting Agencies in Switzerland

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1. Introduction

Credit reporting agencies are of significant economic importance. Without their services, broad sections of the population would be practically excluded from credit transactions such as purchase on account, as the default risk could no longer be assessed. Typical bulk transactions of the information age, for example in the areas of e-commerce or telecommunications, would be made considerably more difficult, if not impossible. This is not in the interest of consumers (hereinafter referred to as "consumers") or the general public.

The Credit reporting agencies support self-regulation and issued the first Rules of Conduct for the industry in May 2020. In doing so, they have set an example to also protect the interests of the persons concerned and voluntarily set standards. In the Federal Council's report "Rechtsrahmen der Praktiken von Wirtschaftsauskunfteien" (Legal framework of credit reporting agency practices) of 19 May 2021, it acknowledges self-regulation as a purposeful instrument and states that the legal framework is sufficient.

These Rules of Conduct are intended to safeguard the interests of the providers as well as those of the persons concerned.

Safeguarding the interests of the	Description
Providers	<p>Credit reports present the provider decision-making aids for assessing the solvency of individuals. The decision whether to offer a transaction on credit (e.g. purchase on account) is made by the provider himself. He does not only rely on the creditworthiness information obtained from Credit reporting agencies for the decision-making process.</p> <p>An automated individual decision may be made as part of the credit decision by the provider. The latter must inform the consumer about this and enable him to exercise his rights under data protection law.</p>

Consumers buying on credit	The general public or consumers want to be able to shop on credit. However, it is also important for them that the information is processed in accordance with the Data Protection Act and that its factually correct.
Advance payment of consumers	If the consumer is obliged to perform in advance (e.g. by making a down payment), he bears the loss if the supplier fails to deliver or goes bankrupt. The consumer also has the option of checking providers for their creditworthiness.

2. Avoidance of over-indebtedness

Credit reporting agencies play an important role in reducing excessive consumer debt. They help to limit credit purchases by people with payment difficulties.

3. Data protection

The collection of data and the provision of information are governed by the Swiss Data Protection Act (FADP) of 25 September 2020. The Credit reporting agencies that adopt these Rules of Conduct for themselves (hereinafter referred to as "participating Credit reporting agencies") thereby explicitly undertake to comply with the provisions of the FADP. Implementation and compliance are the individual responsibility of each Credit reporting agencies involved.

4. Purpose of these Rules of Conduct

In the spirit of self-regulation, the participating Credit reporting agencies voluntarily commit themselves to the following Rules of Conduct with the intention of ensuring that the rights of consumers following from the Data Protection Act are respected.

These Rules of Conduct are intended to create common quality standards and to concretise the processing principles of the FADP, in particular of Art. 6 (lawful data processing, transparency and purpose limitation requirement, proportionality, handling of information claims, accuracy of information content).

These Rules of Conduct refer in particular to:

- the categories of data processed,
- the retention periods of data on private individuals and
- the principles to be observed when handling the right to information.

These Rules of Conduct set out here is intended to provide assurance to the persons concerned that:

- their data is processed transparently,
- their data is processed or stored in compliance with the purpose limitation principle and proportionality,
- the statutory right to information is granted,
- their rights, such as rectification, etc., are safeguarded.

5. Scope

The rules set out herein relate exclusively to the processing of data on natural persons domiciled in Switzerland and govern the business area of Credit reporting agencies of the member companies.

In individual cases, a deviation from these Rules of Conduct is possible at the request of the person concerned.

6. Accession/leaving

The Credit reporting agencies adopting the present Rules of Conduct shall be obliged to comply with it from the date of accession. The Rules of Conduct are published on the website of the companies that undertake to adopt them.

Credit reporting agencies may revoke their acceptance of the Rules of Conduct but may no longer refer to the Rules of Conduct from that point on.

7. Categories of personal data

The Credit reporting agencies undertake to exclusively process the following categories of data on private individuals:

Category	Data
Identification	<ul style="list-style-type: none"> • Last name, first name, birth name • Date of birth and date of death, place or country of birth/country of residence • Gender • Addresses • Contact details, such as: Telephone numbers, fax numbers, e-mail addresses, URLs • Marital status • Spouse • Professions • Connections to legal entities
Creditworthiness information	<ul style="list-style-type: none"> • Payment behaviour • Data from receivables management • Data from public registers, such as: debt collection register, residents' register, commercial register • Official notifications • Credit score • Connections to legal entities

8. Personal data not processed

No personal data requiring special protection is processed for the credit assessment of private individuals (Art. 5 Para.1c FADP). This excludes the processing of data on

- religious, ideological, political or trade union views or activities,
- health, privacy or racial or ethnic affiliation,
- genetic data,
- biometric data that uniquely identifies a natural person,
- administrative and criminal prosecutions or sanctions,
- social assistance measures.

Not be processed for credit assessment:

- Social media data
- Car numbers
- Passport, ID, foreigner's identity card, driving licence
- Data of minors (Art. 31 Para. 2c Clause 4 FADP).

9. Information of the person concerned

The Credit reporting agencies inform the persons concerned about the processing of personal data, in accordance with the Data Protection Act. This can be done as follows:

- with the privacy policy on the website of the respective Credit reporting agencies.
- when a self-disclosure is issued.
- directly in obtaining the personal data,
- indirectly via the consigning third party,

- by informing the persons concerned through third parties when personal data is provided by them to the Credit reporting agencies.

10. Automated individual decision-making by third parties

Credit reporting agencies provide third parties with the information necessary for credit decisions. The credit decision is made by the third party. In the context of this credit decision, an automated individual decision may be made by the third party. The latter must inform the consumer about this and enable him to exercise his rights under data protection law.

11. Deletion period of creditworthiness information

The deletion period regulates from when creditworthiness information on a person must be deleted. The following deletion periods apply regardless of whether the underlying data was collected and stored on a legal basis or on the basis of consent. The data must be deleted by the end of this period at the latest.

The statutory deletion period is 10 years. The following maximum deletion periods are defined within the framework of the Rules of Conduct:

Type of claim	Maximum deletion period
Receivables not collected / payment experiences	5 years
Receivables in collection , not yet continued (The person concerned has the possibility to apply for non-disclosure of a debt collection at the debt collection office according to SchKG 8a)	10 years
Collected receivables that have been executed	10 years
Certificates of loss	10 years
Bankruptcy proceedings	10 years

12. Deletions, blocking and correction of data

Credit reporting agencies undertake to correct undisputed data errors within 5 working days of detection, subject to Art. 32 Para. 1 a and b FADP ("legal requirement" and "archiving purposes"). The proof of an alleged inaccuracy shall be incumbent on the person concerned. In addition to providing evidence of legitimacy, the person concerned must provide the Credit reporting agencies with evidence of the validity of the requested correction.

Credit reporting agencies may include all data supplied by the consumer in their database for the purpose of correcting, supplementing or updating it, subject to the data subject's right to object (see collections below).

If a person concerned (pursuant to Art. 30 Para. 2 b or Para. 3 FADP) no longer wishes information or wishes to have it deleted, the Credit reporting agencies will delete or block all data of the person concerned for any queries. If possible, blocking is to be preferred so that it can be ensured that a person concerned is not re-entered into the database through a new registration. However, if the request for complete deletion is granted, it cannot be ensured that creditworthiness information will not be recorded about them again. In addition, it has to be accepted that the lack of creditworthiness information can be assessed negatively by the service provider in the context of a credit decision.

No deletion or blocking is possible in the case of

- presence of negative payment experiences. However, the person concerned shall have the possibility to correct such characteristics if there are errors by providing appropriate evidence.

- publicly published data relevant to creditworthiness. Corrections can only be requested from the responsible body or office.

13. Retention periods and data backup

The statutory retention obligations apply to the Credit reporting agencies and are not affected by the present Rules of Conduct. This also applies to the data backups. In any case, these data backups can also be used for scientific and analytical purposes.

14. Data security

Credit reporting agencies shall implement appropriate technical and organisational measures to ensure data security.

15. Right of information of the person concerned

The right to information of the person concerned regarding the personal data processed by the Credit reporting agencies is governed by Art. 25 et seq. FADP. In this context, the person concerned may also request information on the origin of the personal data processed, insofar as this is available (Art. 25 Para. 2 e FADP). However, if these are not available - because a corresponding source of information is not filed with every piece of information - the Credit reporting agencies does not have to carry out any further clarifications - subject to an express mandatory provision of the law to the contrary.

The following principles apply when drawing up a self-disclosure pursuant to Art. 25 FADP (right to information):

- The data provided in the self-disclosure are valid at the time of issue.
- In the self-disclosure, all stored and processed data shall be indicated in accordance with the chapter of the above section 7.
- The self-disclosure should be designed in an understandable way so that the requesting private individual can understand the content.

16. Evaluation of personal data

The Credit reporting agencies subject to these Rules of Conduct undertake to carry out the assessment of the individual creditworthiness data in a proportionate manner and to take due account of the purpose of use. The credit score must be based on scientifically recognised methods. Only characteristics that are relevant to the determination of the ability or willingness to pay or that relate appropriately to the person concerned may be used. The features used in the credit score and in particular their weighting must be proportionate. Factors such as age and number of dates, amount, status, etc. shall be adequately considered. Illustrated by an example: A bankruptcy 9 years ago is not valued the same as a bankruptcy one year ago, even if it may still be shown in the information itself.

The evaluation model used (scoring) is part of the business secret of the respective Credit reporting agencies. Credit reporting agencies publish the basic features of the calculation of their credit score themselves, subject to commercial confidentiality.

17. Disclosure of personal data abroad

Personal data may only be disclosed abroad if this country has an appropriate level of data protection or suitable guarantees have been agreed with the contractual partners.

18. Final provisions and reservation of validity

These Rules of Conduct apply subject to any changes in the law or contradictions to court decisions, and shall enter into force on 1 September 2023.

In case of contradictions, the German version shall prevail.

We undertake to comply with these Rules of Conduct.



St.Gallen, 25.08.2023