

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT SMALL AND MEDIUM SIZED BUSINESS  
(CREDIT INFORMATION) REGULATIONS 2015

DRAFT SMALL AND MEDIUM SIZED BUSINESS  
(FINANCE PLATFORMS) REGULATIONS 2015

*Thursday 5 November 2015*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS  
LONDON – THE STATIONERY OFFICE LIMITED

£3.00

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**Monday 9 November 2015**

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**The Committee consisted of the following Members:**

*Chair:* MR DAVID NUTTALL

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| † Ali, Rushanara ( <i>Bethnal Green and Bow</i> ) (Lab)          | † Ryan, Joan ( <i>Enfield North</i> ) (Lab)                          |
| † Churchill, Jo ( <i>Bury St Edmunds</i> ) (Con)                 | † Sandbach, Antoinette ( <i>Eddisbury</i> ) (Con)                    |
| † Gauke, Mr David ( <i>Financial Secretary to the Treasury</i> ) | † Scully, Paul ( <i>Sutton and Cheam</i> ) (Con)                     |
| † Heaton-Harris, Chris ( <i>Daventry</i> ) (Con)                 | Simpson, David ( <i>Upper Bann</i> ) (DUP)                           |
| † Herbert, Nick ( <i>Arundel and South Downs</i> ) (Con)         | † Stride, Mel ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| Lewis, Mr Ivan ( <i>Bury South</i> ) (Lab)                       | Thompson, Owen ( <i>Midlothian</i> ) (SNP)                           |
| † McDonald, Andy ( <i>Middlesbrough</i> ) (Lab)                  | † Wood, Mike ( <i>Dudley South</i> ) (Con)                           |
| † McGinn, Conor ( <i>St Helens North</i> ) (Lab)                 |  |
| † McPartland, Stephen ( <i>Stevenage</i> ) (Con)                 | Mark Oxborough, <i>Committee Clerk</i>                               |
| † Marris, Rob ( <i>Wolverhampton South West</i> ) (Lab)          |  |
| † Pawsey, Mark ( <i>Rugby</i> ) (Con)                            | † <b>attended the Committee</b>                                      |

## Third Delegated Legislation Committee

Thursday 5 November 2015

[MR DAVID NUTTALL *in the Chair*]

### Draft Small and Medium Sized Business (Credit Information) Regulations 2015

11.30 am

**The Financial Secretary to the Treasury (Mr David Gauke):** I beg to move,

That the Committee has considered the draft Small and Medium Sized Business (Credit Information) Regulations 2015.

**The Chair:** With this it will be convenient to consider the draft Small and Medium Sized Business (Finance Platforms) Regulations 2015.

**Mr Gauke:** It is a great pleasure to serve under your chairmanship, Mr Nuttall, I think for the first time.

I am pleased to introduce the draft regulations. The Government are committed to ensuring that small and medium-sized enterprises can access the finance that they need to grow and to create jobs. The major four banks account for 80% of SMEs' main banking relationships, but the Government believe that such high concentration levels are bad for business. We are determined to see a significant change in competition in the UK SME banking market.

The two sets of draft regulations represent the final two legislative flagship measures to improve competition in the SME lending market. They will remove major structural barriers to entry to the SME lending market: the lack of availability of credit information, a lack of understanding of alternative finance providers and a tendency on the part of most SMEs to give up when declined for finance. It might be helpful if I provide some detail on the need for the draft regulations, which are linked and complement each other. I will focus first on the credit information aspects.

A lender needs to know the creditworthiness of an SME in order to lend to it. The major banks have access to those data, particularly current account data, which gives them a comparative advantage in assessing the risk of a borrower. The control of information on the creditworthiness of SMEs by existing providers is a barrier to entry in the lending market. Lack of access to the data limits the ability of challenger banks and alternative finance providers to assess credit risk accurately in absolute terms and relative to those lenders that hold the relevant information.

That barrier can be removed through the sharing of credit information by lenders. In the UK, data are shared through private credit reference agencies, but certain data—current account data in particular—are shared through closed user groups and not on an equal basis. That puts newer lenders without access to the full range of data at a disadvantage in taking well informed credit decisions. The Office of Fair Trading, the Competition Commission, the Bank of England, the “Boosting Finance

Options for Business” review headed by Tim Breedon, and numerous think-tanks and informed commentators have all highlighted the lack of SME credit information as a barrier to competition in the SME banking market and in SME lending in particular.

The draft regulations will open up the closed groups that have access to certain types of information, which will level the playing field between providers, allowing alternative finance providers and challenger banks accurately to conduct SME credit risk assessments and to make it easier for SMEs to seek a loan from a lender other than their bank. More available data should also enable a better understanding of the SME sector, which will further stimulate competition and innovation in SME lending, improving the cost and quality of services offered.

The finance platforms draft regulations will also have a major impact on SMEs' ability to access more and better finance and on the ability of challenger banks and alternative finance providers to compete effectively. Survey data show that many small businesses approach only the large banks when seeking finance. A large number of such applications are rejected. For first-time SME borrowers the rejection rate is about 42%. When applications are declined, a large number of smaller businesses cancel their plans, rather than exploring alternative options. Other finance providers with different business models might be willing to lend to such businesses, so that represents a market information failure, with borrowers looking to borrow and lenders willing and able to lend, but an inability on the part of both to identify each other.

Under the new legislation, designated banks will be required to offer any SME that they decline for finance the chance to have their details shared with an online platform that can help to match them with other finance providers. This will help to put together the alternative finance providers and challenger banks that may not be aware of the SMEs seeking finance, and the SMEs seeking finance that may not know about alternative providers and challenger banks. That will help to facilitate more lending to SMEs that are looking to grow and expand.

Challenger banks and alternative finance providers have been very supportive of both proposals, as have the UK's major business groups, including the Federation of Small Businesses and the Confederation of British Industry. The major banks and the British Bankers Association have also been supportive.

Together, the policies have the potential to create a significant change in the market for SME finance. However, for that to happen, it is essential that SMEs have confidence in how their data are being used and that the necessary protections are in place to safeguard the quality of those data. The Government have ensured that SME protections are key elements of the policy design and have provided those protections in a number of ways.

I will start by outlining the protections afforded to SMEs under the draft credit information regulations. First, data will be shared only where the terms of products allow data to be shared with credit reference agencies. That reflects the existing framework for the sharing of personal data in the UK and is line with the Data Protection Act 1998.

Secondly, the finance provider requesting access to the information from the credit reference agency must gain the express permission of the SME to do so and can only access the information for the purpose of undertaking a credit assessment.

Thirdly, the vast majority of SMEs—sole traders, small partnerships and unincorporated bodies—have the right to action in respect of any incorrect data held about them by a CRA. That allows for a complaint to be made to the CRA seeking correction, for a complaint to be made to the Financial Conduct Authority or the Information Commissioner, and ultimately, for a court to order the CRA to rectify, block, erase or destroy any incorrect data. Those rights are enshrined in the Data Protection Act and the Consumer Credit Act 1974.

However, there is a difference in protections based on whether the CRA in question is FCA-regulated. CRAs that mainly handle business data do not need to be regulated by the FCA, as the provision of commercial credit data is an unregulated activity. The credit information regulations will modify both the Data Protection Act and the Consumer Credit Act to ensure that the protections apply to data held by all designated CRAs.

Fourthly, the draft regulations will extend the right of action in respect of any incorrect data provided under the draft regulations to all SMEs, including companies. That will allow a court to order the CRA to rectify, block, erase or destroy any incorrect data held on any SME.

Finally, the draft regulations will extend the remit of the Financial Ombudsman Service, so that any micro-business with a dispute with any designated CRA can seek a Financial Ombudsman Service decision, which replicates the situation in other areas of the regulated financial sector.

I turn to the protections provided to SMEs under the draft finance platforms regulations. First, data will be provided to finance platforms only with the SME's agreement, and finance platforms will be able to provide those data only to finance providers on their lending panel, in anonymous form. Finance providers will then make expressions of interest through the platforms, and SMEs will have the choice to allow specific finance providers to see their details and begin a bilateral conversation. That process will ensure that the business seeking finance remains protected and in control throughout the process.

Secondly, mirroring the draft credit information regulations, the draft finance platforms regulations will extend the remit of the Financial Ombudsman Service so that any micro-business with a dispute with any designated finance platform can seek a Financial Ombudsman Service decision. Together, those provisions are a welcome strengthening of the protections for SMEs, and they have been welcomed by SMEs and business groups.

I turn to the issue of designation and identifying the banks, CRAs and finance platforms upon which the obligations contained in the draft regulations will fall. The Government have already announced that they intend to designate the Royal Bank of Scotland, Lloyds, Barclays, Santander, HSBC, Allied Irish Bank, Bank of Ireland and Danske Bank. That decision was made on the advice of the Bank of England, based on market share and the importance of those banks in the SME

lending market in both Britain and Northern Ireland. Capturing those banks achieves the policy objective of opening up competition in SME lending without imposing the burden of sharing data on smaller credit providers.

The Government have not yet announced which CRAs or finance platforms will be designated under the draft regulations. The British Business Bank is currently undertaking a due diligence process on CRAs and finance platforms that have expressed an interest in becoming designated, and it will advise the Treasury on designation later in the autumn. The due diligence process will ensure that any designated CRA or finance platform has the required systems and processes to ensure that the obligations and policies within the draft regulations can be carried out, while providing the necessary protections for SMEs. That help will ensure that these policies are successful and have a significant positive impact on the SME lending market.

I hope that my words have assured the Committee that the draft regulations are needed and will have a positive impact on the SME lending market by providing improved outcomes for the UK's SMEs when they access finance. The draft regulations will create a level playing field between finance providers and will make small businesses aware of alternative finance options, while maintaining and strengthening protections for our smallest businesses, meaning that the small businesses that are so vital to the UK economy will be able to have confidence when accessing finance and continue to get the finance they need to grow and expand. I hope that the regulations will have the support of the Committee.

11.42 am

**Rob Marris** (Wolverhampton South West) (Lab): It is a pleasure to serve under your chairmanship for the first time, Mr Nuttall. I thank the Minister for his usual lucid explanation. I shall, as I often do, depart from convention and ask him some questions first, so that he has time to ponder the answers, before I make some general remarks about the two sets of regulations.

The Breedon taskforce of 2012 stated that the Government have a role to play in encouraging lending "through the disclosure of data that sits within public bodies."

First, I wonder what the Government have done in the intervening three years to play their role. Secondly, the taskforce also recommended that the British Bankers Association, with which I met recently, should

"explore greater credit data sharing".

Will the Minister give some indication of what greater data sharing banks have done with non-bank providers? I appreciate that he is not answerable for the banks. They are independent institutions—apart from two of them, to which we will return—but he may have some information that would assist the Committee.

Thirdly, what have the Government done to encourage RBS and Lloyds bank, which are basically owned by taxpayers, although in declining proportions, to lend, particularly to SMEs?

Fourthly, the explanatory notes to the credit information regulations indicate:

"The provision of credit data on companies is not a regulated activity".

[Rob Marris]

If that continues to be the case after these technical regulations are passed—I think it will, although I appreciate there will be designation—will the Minister explain why?

Fifthly, it is up to CRAs, as I understand it, to apply to be designated under the credit information regulations. Will the Minister explain to the Committee the Government's thinking on why that will not be compulsory? There may be a good reason, but it is not clear to me.

Sixthly, the explanatory notes to the credit information regulations state at paragraph 10.3, under the details about the impact of the regulations:

“The Bank of England will benefit from receiving an increased depth of credit information as a result of the regulations.”

Some of us feel that we suffer from information overload, particularly when we look at our emails, so will the Minister tell us why the Bank of England needs that even greater depth of credit information?

My seventh question—I assure you, Mr Nuttall, that I have only nine, or perhaps 10—is about paragraph 7.1 of the explanatory notes to the finance platforms regulations, which states:

“A proportion of the SMEs that are rejected by the largest UK lenders are viable businesses, and are rejected simply because they do not meet the risk profiles of the largest banks.”

Will the Minister give some indication of what proportion of SMEs are rejected? Those explanatory notes also say, in paragraph 9.2, that an implementation guide will be produced. Will he indicate the date by which that guide will be produced and published, as it will help lenders?

I have two more questions. I note—the Minister may correct me on this—that Handelsbanken is not on the list of designated banks that he read out. If he is at liberty to do so—I appreciate that he may not be—will he indicate why that sound, upcoming bank, which does a lot of lending to SMEs, is not designated? Of course, perhaps I misheard the list.

My final question is somewhat rhetorical. Regulation 2 of the draft finance platform regulations is about interpretation. I may have missed this, but as far as I can see the regulations do not define what a finance platform is. Will the Minister tell us where that definition is? It seems to me an awkward phrase. It is one that seems to be generally accepted, as it is being used in the draft regulations but is not defined in them, but for those of us who are not finance anoraks it is a new expression.

The Opposition are likely to support the draft regulations. I hope we will get some information from the Minister pursuant to my questions, but the regulations are helpful and, as he adverted to in his remarks, have multiple safeguards. Labour supports business, and SMEs in particular. They are the drivers of growth, especially, very often, in employment. For that reason, for example, I met the Institute of Directors this week to get its take on various things, not specifically on these regulations.

Both sets of regulations will help SMEs access borrowing so that they can invest and expand, which we all want. According to the helpful table produced by the Library, however, in recent months the problem has not been lending to SMEs, which has grown in the past three months, but a shrink in lending to large businesses—for these purposes, SMEs are businesses with a turnover of less than £25 million a year and large businesses those

with a yearly turnover of more than that. Large business lending is suffering, whereas SME lending is growing. It is not growing as fast as many of us would wish, and we hope the regulations will encourage more growth, but that is the recent trend.

In its response to the consultation on the SIs, Experian supported them—unsurprisingly, given its commercial imperative—and said they would be a “market-changing enhancement” and would result in “significant improvements in finance providers’ ability to assess risk, consider affordability and lend responsibly.” Experian also said that the assistance the regulations would give to SMEs would

“support market growth and stability”.

Will the Minister explain the apparently hands-off approach to Lloyds bank and RBS? The Government have had significant leverage over those banks through United Kingdom Financial Investments, but have not used it on lending to SMEs or certain of the unusual practices of those banks, so will he say why? Had that leverage been used in the past five and a half years, it would have helped the SME sector, which we are keen to support, as are the Government. Indeed, that leverage could have been used more than it was under Mr Brown and the last Labour Government.

As I have said, the Opposition are likely to support the regulations, but a little more clarity from the Minister would help to inform the debate.

11.50 am

**Joan Ryan** (Enfield North) (Lab): It is a pleasure to serve under your chairmanship, Mr Nuttall. I have only three questions, so I am not able to compete with my hon. Friend the Member for Wolverhampton South West on quantity. Nevertheless, I hope the quality will appeal to both him and the Minister.

I agree with my hon. Friend that, overall, the regulations are welcome. We all recognise how important SMEs are in our local areas and to the UK economy, and we want to do anything we can to support them. The Minister mentioned the removal of existing barriers as the reason for the regulations. I presume the main banks do a detailed risk factor analysis. Can he reassure me that in reducing the barriers, presumably through referrals to other lenders with different risk-based analyses, we will not be encouraging SMEs to take an excessive risk and drive themselves to the wall when they might not have done so otherwise?

My other two points are related. The impact assessment says that there has been a voluntary scheme of a similar nature, but it does not seem to have had much success. Will the Minister say why it failed? Was it simply that the main banks were not doing what they had signed up to do, or were there other reasons? If so, how have they been taken into account in the new regulations?

On page 3 of the impact assessment there is a section on improving transparency. In what seems to me a sensible move, it says that the Government have secured “a voluntary agreement with the major lenders to publish bank-by-bank lending data across 10,000 postcodes, enabling smaller lenders, both banks and non-banks, to see where lending is low and pursue new business in these areas.”

Why is that going to be voluntary if other voluntary schemes on similar matters have had little success? Would it not have been better to make the scheme compulsory?

11.53 am

**Mr Gauke:** I thank the right hon. Member for Enfield North and the hon. Member for Wolverhampton South West not only for their questions but for their support for the draft regulations. We have had a productive discussion, and I hope to respond to their questions. Before I do, let me reiterate that, together, the draft regulations will generate a significant change in competition in the market for SME finance, which could improve not only the amount of finance available to SMEs but the cost and quality of services offered to small firms.

As I set out in my opening remarks, there is a large body of evidence that there are market failures in the SME lending market. The draft regulations will help to remove the barriers to entry identified in that evidence; increase competition in a highly concentrated market that is dominated by the four largest banks; and remove information market failures that prevent SMEs from seeking finance and prevent alternative finance providers and challenger banks from knowing of each other's existence.

I stress, particularly in the context of the first point raised by the right hon. Member for Enfield North, that the regulations are about providing opportunities to businesses seeking finance, so that they do not just go to one place, get rejected and give up, but choose to go to other providers. That is an important option available to businesses. Of course, it is ultimately for businesses to determine how much they wish to borrow, but the way of protecting businesses from over-borrowing is not to have a position whereby they cannot access finance at all. That is an important point.

The shake-up of the lending market for SMEs will improve the ability of our small and medium-sized businesses, which are so vital to UK growth, jobs and opportunity, to access the finance they need to grow, expand and continue to have a significant positive impact on the UK and its economy.

In light of some of the questions that have been asked, it might be helpful if I provide a little more information. The hon. Member for Wolverhampton South West raised a point about overall credit conditions. On an annual basis, the growth rate of net lending to SMEs continues to ease. It was 0.6% in June 2015, up from minus 2.8% in June 2014. Across all SMEs, 67% of applications in the 18 months to quarter 1 of 2015 were successful. That is up from 59% in the same period to quarter 1 of 2014. For small businesses, successful credit applications fell slightly in quarter 2, but the trend over the past few years has been improving.

It also might be helpful for the Committee to have a bit of information about SME finance application rejection rates. The rate for new money is 35%. For new money for first-time borrowers, it is 45%. For renewals it is 2%, with an overall rejection rate of 24%. To break it down in another way, loans are at 33% and overdrafts are at 18%. It would be difficult to provide information on rejections on the basis of the loan application not meeting the bank's risk criteria. I can understand why the hon. Member for Wolverhampton South West asked that question—I am not sure I can provide that information, but I hope what I have said is helpful to him.

On the provision of data through public bodies, I would argue that the UK is a best practice example throughout Europe of data sharing by CRAs. A register

remains an option that can be considered if the current system and the regulations are not effective, but our proposals are part of our desire to ensure that data are properly shared.

A question was asked about the purpose of the Bank of England accessing the data, and whether that would constitute overload. That access should give the Bank of England a much fuller understanding of the regional and sectoral allocation of credit, of the type of small and medium-sized businesses that are getting credit and of the risk profiles of different small and medium-sized businesses. We believe that that access will be helpful to the Bank of England.

On encouraging RBS and Lloyds bank to lend to SMEs, the regulations do just that. They apply to both RBS and Lloyds, which will share the data through the CRAs. That is how the UK system works.

**Rob Marris:** Will the Minister say what the Government and their predecessors have been doing for the past five and a half years, before these regulations to get RBS and Lloyds to lend to SMEs?

**Mr Gauke:** The best way of ensuring that our banking sector, including RBS and Lloyds, is in a position to lend to SMEs has been to look at the overall situation of the economy and to ensure, for example, that we have had lower interest rates than we might otherwise have had, and that we have not had to increase interest rates prematurely. That has been part of ensuring that we have good lending conditions. We have had policies such as funding for lending, which was designed to help banks across the piece. We must remember that although RBS and Lloyds are publicly owned, operational decisions are not made by Ministers. That has never been the Government's approach.

The challenge for banks in recent years has been that we needed them to ensure that their balance sheets were restored and that, to some extent, they moved on from a period of risky lending to ensure that they were more secure, while at the same time ensuring that a flow of finance was available to SMEs in particular. The Government have sought to maintain that balance throughout the past five and a half years but, in truth, there was never an option of simply telling RBS and Lloyds to lend merrily without due regard to the risks. I am not saying that the hon. Member for Wolverhampton South West is suggesting that.

**Rob Marris:** The Minister is right, that is not what I am suggesting. He mentions interest rates, which the Bank of England sets. It sets the tone for the whole market and does so independently. We have had low interest rates since before the coalition Government came in, and the Bank of England's interest rate has not changed.

On operational stuff, the Minister must distinguish between strategy and tactics. It is right for a major shareholder, such as the Government in those banks, to set the tone not of individual lending decisions—yea or nay—to an SME, but of the risk matrix used by the institution. On a strategic level, the Government could influence that as a shareholder, but they have apparently abdicated responsibility and failed so to do, thereby hurting SMEs.

**Mr Gauke:** To be clear about interest rates, decisions are of course for the Bank of England's independent Monetary Policy Committee. None the less, the policy of addressing the need to reduce our deficit, for example, helped to ensure that we did not see a premature increase in market rates, which may well have fed through into bank lending.

I do not intend to digress too much on to the policies on RBS and Lloyds over the past five and a half years, other than to restate my earlier point that RBS and Lloyds had to decide how to achieve the objectives both of ensuring that their finances were on a sound footing, and to some extent deleveraging, and of providing support to small businesses. The Government supported the meeting of both objectives. Those financial institutions found themselves in a difficult situation—I do not suggest that we detain the Committee with a lengthy discussion of why they were in that position, but none the less they were.

The implementation guide, which the hon. Member for Wolverhampton South West mentioned, has been completed by the CRAs, banks and the Treasury. It has not yet been published, but it is being used to help banks and CRAs implement the credit information policies. I believe it should be published shortly, but I cannot be more precise.

On the point about Handelsbanken and designations being based on market share, not being designated will help Handelsbanken to compete more effectively with the largest banks. It will benefit from the regulations; I do not think they will be to its disadvantage.

The definition of a finance platform is in section 7 of the Small Business, Enterprise and Employment Act 2015. As the hon. Member for Wolverhampton South West will of course appreciate, it is normal legislative drafting practice not to repeat such a definition in the regulations made under the Act; but for those studying the debate and scratching their heads, I am happy to clarify that point.

On the question of why the provision of credit data on companies is not a regulated activity, the Government legislate for activities to be regulated under the regime set out in the Financial Services and Markets Act 2000 only when there is evidence that it is required. There is no such evidence in the case of providing data on companies. Regulating the activity under the regime in question would not solve the problems I mentioned earlier, but we believe that the regulations will.

The hon. Member for Enfield North—

**Joan Ryan:** Right hon.

**Mr Gauke:** Apologies; the right hon. Lady raised a point about voluntary and compulsory schemes. The voluntary systems were not 100% effective, which is why we are regulating today for the sharing of data. Other voluntary schemes, such as postcode lending, have been successful and do not require a legislative option. It is a question of being pragmatic as to which voluntary arrangements are working and which are not.

I will check to see whether there are any further points I can add in answer to the questions asked by the hon. Member for Wolverhampton South West.

**Joan Ryan:** Will the Minister say a few words about how monitoring of the voluntary scheme will continue? In relation to the rationale for intervention, there were 50 responses to the consultation on the matters that the Government want to regulate, which does not sound like many when we think how many SMEs there are. Will the Minister go back to SMEs and others to discuss where lending is or is not happening under the voluntary scheme? Will he go to lenders other than the main banks, to assess their view of the information that we get from that scheme?

**Mr Gauke:** I suppose the first point to make is that SMEs understandably, and perhaps rightly, tend to be focused on their business and do not necessarily always respond to Government consultation. That might explain the numbers. All I can say to the right hon. Lady is that all such matters must be kept under review. When voluntary arrangements work, so be it, but when there is evidence that they do not, the Government are willing to take action, as we have seen.

As I said, I will deal in writing with any points that I have inadvertently failed to address in response to questions raised today. I hope that this debate has been productive, that it has provided right hon. and hon. Members with some comfort on any concerns that they have, and that the Committee will join me in supporting the regulations.

*Question put and agreed to.*

*Resolved,*

That the Committee has considered the draft Small and Medium Sized Business (Credit Information) Regulations 2015.

#### **DRAFT SMALL AND MEDIUM SIZED BUSINESS (FINANCE PLATFORMS) REGULATIONS 2015**

*Resolved,*

That the Committee has considered the draft Small and Medium Sized Business (Finance Platforms) Regulations 2015.—(*Mr Gauke.*)

12.10 pm

*Committee rose.*