



# World Data Protection Report

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## Swedish Data Inspection Board welcomes proposal to amend Credit Information Act

*By Mahgol Sharili, Trainee Lawyer, and Wim Nauwelaerts, Attorney at Law, Hogan & Hartson LLP. Wim can be contacted at: [wnauwelaerts@hhlaw.com](mailto:wnauwelaerts@hhlaw.com). Mahgol can be contacted at: [msharili@hhlaw.com](mailto:msharili@hhlaw.com)*

*On August 26, 2008, the Swedish Data Inspection Board ("DIB") issued a statement on the proposed amendments to the 1974 Credit Information Act. The amendments, which are supposed to come into force on April 1, 2009, are intended to restrict the processing of online credit data by credit rating agencies. The proposed changes are a response to previous investigations launched by the Swedish government, which raised concerns about the disclosure and use of information pertaining to the financial background and debt situation of natural as well as legal persons. The DIB has concluded that the proposed changes are necessary in light of the growing market for credit data and the relative ease with which such data can be obtained online.*

### Background

A person's credit rating history may provide useful information to banks and other financial institutions. However, according to the DIB, credit information can also be used for other purposes, such as direct marketing or the selection of employees on the basis of their credit history. The 1974 Credit Information Act ("1974 Act") therefore regulates the collection and further processing of credit data by credit rating agencies. It applies to both natural and legal persons and particularly restricts the disclosure of personal data on natural

persons that are not conducting business if such disclosure would lead to unjustified exposure of the persons in question.

The Swedish Credit Enforcement Authority (Kronofogdemyndigheten), a State-owned institution responsible for tracing debtors, is in charge of a database which credit rating agencies can consult, provided that they have been authorised by the DIB. Under the 1974 Act, whenever a request to obtain credit data on a particular individual is submitted, a copy of the request must be sent to the person whose information is requested. Without this, in most cases the DIB is likely to find that there is an infringement of the individual's privacy rights. Such infringement can lead to fines or imprisonment of up to one year.

### Proposed amendments

On May 12, 2008, the Swedish government released a proposal (Ds 2008:34) to amend the 1974 Act. The DIB welcomes the proposal and issued a statement commenting on the main changes to the Act. It is clear that the 2008 amendments aim to update the 1974 Act in order to cope with current credit data handling practices, without changing the framework of the original legislation. The main purpose is to prevent the illegitimate dissemination of data via websites, which the DIB believes is an emerging problem.

The most important changes introduced by the proposed amendments involve the retention period for

credit information. The current legislation requires that information on natural persons that is processed for other than business purposes must be removed from the database within a period of three years after the expiration of a specific business relationship or when it is no longer necessary for the purposes for which the information was originally collected. These provisions remain unchanged in the amended proposal. Under the amended 1974 Act, credit information held on individuals not conducting business (*i.e.* ‘consumers’) and whose debt is below 4000 Swedish kronor, shall need to be removed ultimately after one year. It is expected that this distinction will be difficult to apply in practice, as it may not also be clear whether or not a person should be considered as ‘conducting business’. The proposal further provides that credit information on natural persons who do not conduct business may not be collected if their debt is less than 2500 Swedish kronor. Under certain circumstances, the data retention period will be limited to five years, *e.g.* where arrangements have been made to pay back a loan over a longer period of time.

The proposed amendments also emphasise the need to provide “*legitimate reasons*” when requesting credit information on an individual. This requirement will restrict the supply by credit agencies of online credit data and is intended to increase the protection of individuals’ right to privacy by ensuring that the handling of information is for credit update and risk assessments purposes. Another important change is the requirement of sending a copy of the credit information request to the person whose information has been requested. The copy should include who is responsible for handling the data, information concerning the person and who has requested the information. In addition, the section on penalties

has been extended to cover the dissemination of information in the absence of *legitimate reasons* and without sending a copy of the information request. In its statement, the DIB supports all of these changes.

### Concluding remarks

The proposed amendments are certainly a step in the right direction, but the question remains whether they will suffice to address the emerging challenges of the credit market. According to the DIB, further measures may be necessary to prevent the unauthorised dissemination of credit data via other technological means such as CDs or DVDs. The proposed amendments are also expected to pose practical problems for major credit agencies such as UpplysningsCentralen and CreditSafe. Assuming that the proposed changes regarding retention periods and minimum debt records come into force, they may need to adapt their databases as well as data processing practices – most likely a costly and time-consuming exercise. On the other hand, the requirement to provide legitimate reasons when requesting access to credit data will force credit agencies to balance the necessity to disclose credit information against the privacy rights of those persons whose data they want to process. In the meantime, the Swedish debt collector union (Svensk Inkasso) has aired that an amendment of the 1974 Act would require a thorough review of all constitutional laws dealing with data access/disclosure. The DIB, on the other hand, stresses that the changes should enter into force as soon as possible. However, given the outstanding issues, it cannot be excluded that the Swedish Parliament may not be able to adopt the proposed amendments before 2010.