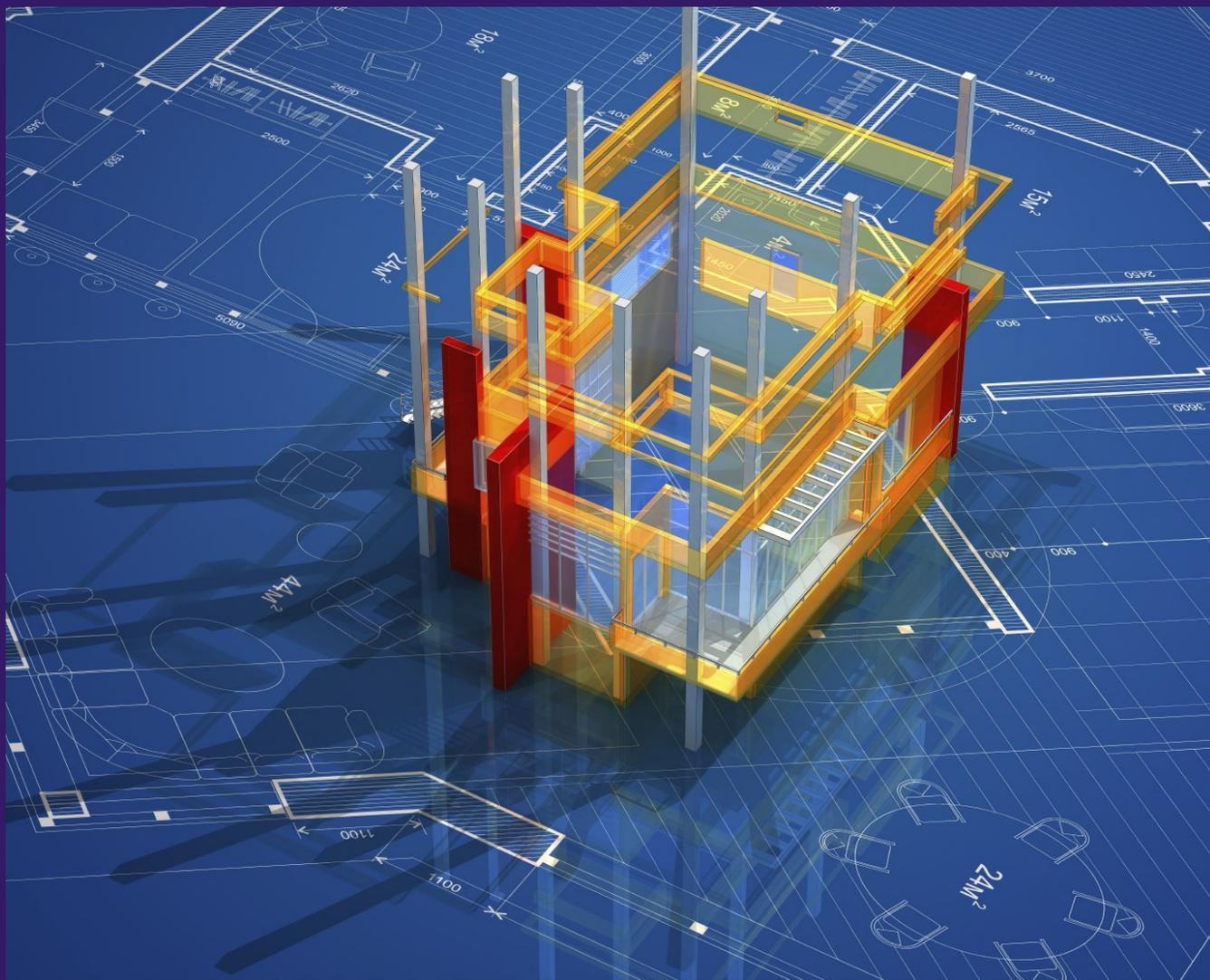


# CREDIT BUREAUS IN EMERGING MARKETS: OVERVIEW OF OWNERSHIP & REGULATORY FRAMEWORKS



Michael Turner, Ph.D., Robin Varghese, Ph.D. and Patrick Walker, M.A.

September 2014

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RESULTS AND SOLUTIONS

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## ABSTRACT

Currently, private credit bureaus exist in over 80 economies. Most of these formed in emerging markets in only the last decade or two. For policymakers and other stakeholders, the focus of concern has shifted from whether information sharing and private credit bureaus are needed, and whether more comprehensive data is better than a negative-only system (these are now generally settled issues), to the structure and governance of the credit information sharing market: 1)How much competition is needed? 2) How should ownership of private credit bureaus be configured? 3) What are the consequences on efficiency when user-furnishers are owners? And 4)how should the regulation of credit information sharing be implemented? This study focuses on these questions.

Evidence suggests that bank ownership may not inhibit bureau development in the very early stages. Instead, bank ownership of credit bureaus may actually help get data reported by banks that own the bureau. However, concentrated majority ownership by banks (or data furnishers-data users), appears to act as a drag beyond this initial stage by misaligning incentives. In these circumstances, credit bureau incentives to create value added service and products that serve all lending and non-lending markets appear to be weak. And in the extreme, the bureau can become a tool to serve the narrower interests of the owners.

Bank ownership has also been seen to fragment data sharing as one group of lenders / financial services companies owns a bureau and only reports to the bureau that they own, whereas other lenders / financial services companies then establish their own bureau, and only report to it. The fragmented data inhibits value-added service development and competition as bureaus have different sets of data and do not compete directly in terms of price, value added services, and data quality. As such, private bureau ownership by independent third parties (not data furnishers or data users) is seen as the optimal owner configuration to enable long-term bureau and credit information sharing development.

On regulations and governance, a survey PERC conducted revealed the absence of any discernible patterns—there does not appear to be any trend by state of economic development for example. This suggests strongly that many policymakers and regulators in emerging markets (while no doubt surveying global practices) are developing models of regulatory implementation and oversight based on their specific concerns, needs, and capacities. PERC supports the customization of credit bureau enforcement regimes to meet the idiosyncrasies of a given market being mindful of both the varying objectives (financial inclusion, economic development, privacy, consumer protection) and the capacities of the key stakeholders (regulators, judicial system, data furnishers, credit bureaus, and end users).

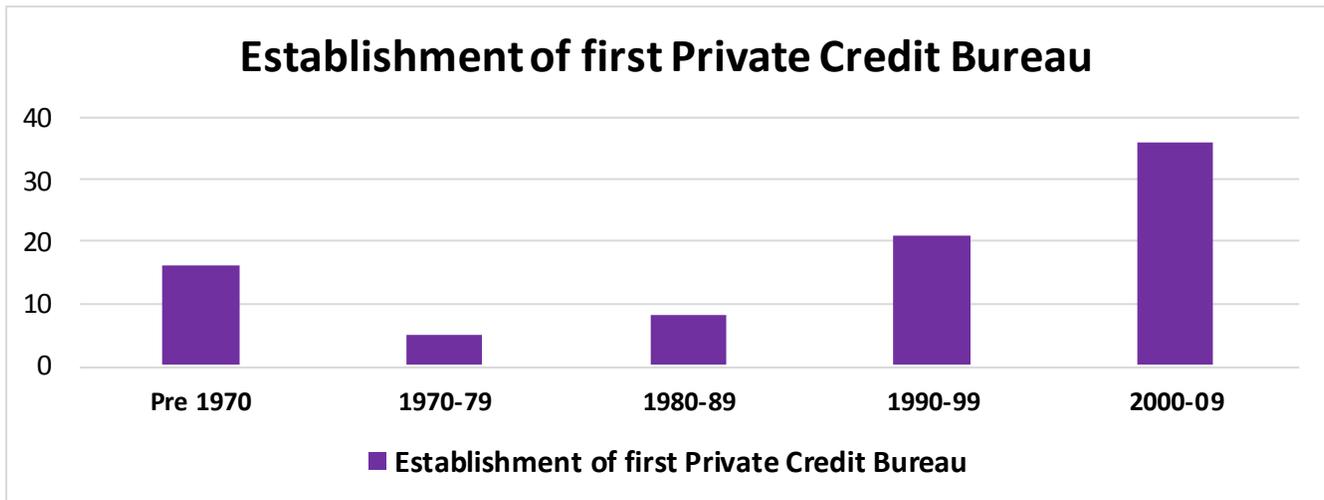
## 1. INTRODUCTION

To share, or not to share credit information is no longer the question. The vast majority of countries, nearly three-quarters surveyed in the World Bank’s Doing Business 2012, have either one or more private credit bureaus or a public credit registry. As can be seen in Figure 1, most of these credit reporting service providers were established in the 1990s and 2000s. Also seen in Over the past few decades, there has been a decided shift toward the establishment of private credit bureaus

A number of factors can be attributed to this proliferation of credit reporting, including the spreading of market-based economies, economic development, expansion of retail

lending, and advancements in information technology combined with reductions in their cost. These factors account for the increased need for and the decreased costs of credit reporting services. In addition to these “organic” drivers, there has also been increased attention by researchers on this topic who have found positive economic and social impacts from credit reporting and private credit bureaus in particular.<sup>1</sup> These findings, in turn, have driven policymakers, regulators and development organizations to prioritize the development of credit information sharing. Today, market actors and policymakers view credit reporting as a key aspect of a nation’s financial infrastructure.

Figure 1: The Introduction of Private Credit Bureaus



Source: GFDR 2013: Credit Reporting Database

1. Jappelli, Tullio and Marco Pagano (2002), “Information Sharing, Lending and Defaults: Cross-Country Evidence,” *Journal of Banking and Finance*, October, 26(10), 2017-45; Simeon Djankov, Caralee McLiesh, Andrei Shleifer, “Private Credit in 129 Countries.” NBER Working Paper No. 11078 (January 2005). <http://papers.nber.org/papers/w11078>; Michael Turner and Robin Varghese, “The Economic Impacts of Payment Reporting in Latin America,” PERC, 2007; Galindo, Arturo, and Margaret J. Miller (2001), “Can Credit Registries Reduce Credit Constraints? Empirical Evidence on the Role of Credit Registries in Firm Investment Decisions.” Paper prepared for the Annual Meetings of the Inter-American Development Bank, Santiago, Chile, March; Love, Inessa, and Nataliya Mylenko (2003), “Credit Reporting and Financing Constraints,” World Bank Policy Research Working Paper n. 3142, October; Barron, John M. and Michael Staten (2003), “The Value of Comprehensive Credit Reports: Lessons from the U.S. Experience”, in *Credit Reporting Systems and the International Economy*, Margaret Miller, ed. Cambridge: MIT Press.

Policymakers and regulators often support the development of credit reporting to further other policy aims including:

- Expansion of private credit
- Lowered costs of credit
- Fairer, more inclusive access to credit
- Safer and sounder consumer credit markets
- Increased lender competition for borrowers.

The details of credit reporting are arguably as important, if not more important than, the existence of credit reporting for achieving sought after policy aims. These details include the quality/accuracy of the data exchanged, whether positive data (on-time payment, account balances, etc.) is exchanged in addition to negative data (very late payments, defaults, bankruptcies, etc.), coverage of a population, and which types of data furnishers/accounts are reported to credit bureaus.<sup>2</sup> Policymakers and regulators are looking for ways to encourage the

greater development of comprehensive and information-rich credit reporting in economies with private credit bureaus but where credit sharing suffers inadequacies (such as Mexico and Australia) and in economies in which no sharing currently occurs (such as Suriname). At the same time, policy is also guided by other concerns, such as consumer protection and the integrity of the financial system.<sup>3</sup>

In seeking optimal credit bureau rules and regulations, policymakers in emerging markets often turn to their peers in more mature economies with more mature credit sharing environments.

There is no shortage of policymaker networks through which to transmit templates of ideal or typical credit reporting models. Multi-lateral organizations such as the World Bank Group, the Asia-Pacific Economic Cooperation (APEC), and the Organisation for Economic Co-Operation and Development (OECD) have offered standards or principles for lawmakers seeking guide posts.<sup>4</sup>

2. Turner, Michael, et al., "The Structure of Information Sharing and Credit Access: Lessons for Policy." PERC, 2008.

3. What makes policymakers' and regulators' task so difficult is that encouraging the private sector via policy, rules, and regulations (that enable private credit reporting) does not guarantee that a private market will develop as desired. This could be due to a number of reasons, such as the details of regulations that make it too difficult or costly for a private credit bureau to operate effectively or the idiosyncrasies of the lending market or the credit sharing market that has developed to date. For instance, the dominant lenders in a market may not want to share positive data with credit bureaus because they may feel that they would lose control over this valuable data and may make it easier for their good customers to be marketed to by their competitors. Here, private actors are able to share positive data but choose not to. Otherwise frustrated policymakers may be understandably reticent to mandate credit reporting and use of credit reports by lenders for fear of micromanaging and dictating the contours of the credit market. Such a route may get data moving around, but given how important details of credit reporting can be (in terms of data quality) and that so much of the value and benefit from data sharing comes from the creation of value added services and the interplay between data user needs and service providers, this may produce a distorted, stifled, and ossified credit sharing market that does not function very well.

4. World Bank, "General Principles for Credit Reporting." September 2011. Washington DC. Available at [http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Credit\\_Reporting\\_text.pdf](http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Credit_Reporting_text.pdf)  
 OECD (Organization for Economic Cooperation and Development). "Improving Financial Literacy: Analysis of Issues and Policies." 2005. Available at: [ftp://ftp.fsb.co.za/public/Consumer%20Education/Presentations/2005%20Improving\\_Financial\\_%20Literacy.pdf](ftp://ftp.fsb.co.za/public/Consumer%20Education/Presentations/2005%20Improving_Financial_%20Literacy.pdf)  
 OECD (Organization for Economic Cooperation and Development). "Principles of Corporate Governance." 2004. Available at: <http://www.oecd.org/corporate/ca/corporategovernanceprinciples/31557724.pdf>  
 Powell, A., Nataliya Mylenko, Margaret Miller, and Giovanni Majnoni. 2004. "Improving Credit Information, Bank Regulation and Supervision: On the Role and Design of Public Credit Registries." World Bank Policy Research Working Paper 3443, World Bank, Washington, DC. OECD (Organization for Economic Cooperation and Development). "Guidelines on Protection and Flow of Personal Data." 1980. Available at: <http://www.oecd.org/internet/ieconomy/>

Further presenting a new and greater challenge to the development of regulatory systems for credit reporting sectors that are appropriate for their economies is the fact that in the years following the global financial crisis, regulators are increasingly influenced by the perspectives and recommendations that come out of the G20, recommendations that are heavily informed by European and North American experiences.

It is not surprising that lessons are drawn from established markets with long experiences in credit reporting. But policymakers considering these established systems must also be aware of the hidden assumptions inherent within these models. What may inform these guidelines in many occasions is the assumption that the economy does not have a development imperative, that it, by contrast, has an established and robust market for credit bureau products and services, and a degree of oversight and enforcement capacity characteristic of wealthier societies. It may also rely on a well-functioning legal system that is universally accessible and a retail credit consumer base with a relatively sophisticated understanding of the consumer financial system.

Among policymakers in emerging markets, the temptation to overlook variations in development, regulatory capacity, and consumer literacy and consumer experiences with the sector is both strong and understandable—after all, well established frameworks are time tested, and have withstood growth and contraction in retail credit markets while protecting consumers—the two policy imperatives from the perspective of lawmakers and regulators charged with consumer credit market issues. These templates can be seen as representing the state of the art.

The problem, however, is that in attempting to achieve the efficiency gains through the creation of regulation and policy based on importing a convenient ready-made credit reporting

regulatory framework, policymakers in emerging markets may be jeopardizing credit information sharing in their market by enacting regulations and policies that are not calibrated for their economic objectives. These model regulatory frames presuppose regulatory, data furnisher and end user capacity, market culture, and the structure of operational costs, which vary by economy—in some cases dramatically so.

Of course, regulators are aware of the limits of importing models wholesale, but a more systematic framework for understanding regulatory enforcement can help avoid pitfalls. The non-systematic approach, which looks to models in more developed economies, can generate powerful investment disincentives. Carried further, if compliance burdens are such that sufficient returns are impossible, then either no private credit bureaus will enter, or those that do will quickly exit leaving the task of credit information sharing to a public credit registry—which is ill-suited for servicing the market needs of lenders and have a long and ignominious track record of failure in this regard.

Policy and regulation in the US and Europe evolved over time, with the retail credit reporting and lending industries, in response to specific consumer, business, and societal needs and norms. What is optimal and appropriate in 1950s America may not be in 2014 America and what is optimal and appropriate in 2014 Germany may not be in 2014 America or 2014 Indonesia. The policies and regulations are very much need-specific and depend on particular social, economic, and business circumstances. The danger in basing policies and regulations in an emerging market, potentially with a nascent credit reporting system and consumer lending market, on those found in very developed markets is that the policies and regulations may be inappropriate (disconnected from objectives and capacities) and may ultimately stunt the development of credit reporting.

The question, then, is this: if much of the available prescriptive literature carries considerable risk if imported by policymakers in emerging markets without regard to the domestic context, what other guidance is there?

The answer, unfortunately, is that presently there is little consistent, reliable, and validated information that is centrally available to policymakers seeking guidance from disinterested parties. This report aims to add relevant information to this topic.

In Section 2, we provide an overview of private credit bureau ownership structures. This is a natural starting point since policies and regulations can, at their core, describe minimum standards for credit bureau entities including their ownership structure. In turn, the ownership structure of credit bureaus may then impact the credit sharing and policy and regulatory needs. Section 3 discusses credit bureau enforcement models and the results of an international credit bureau survey PERC created for this report.

## 2. BUREAU OWNERSHIP STRUCTURES



Until recently, how the ownership of a credit bureau may impact its role and performance was understood in the classic division of whether it was state-owned or privately-owned. This dimension of variation was the focus, understandably, as questions of who should provide infrastructural services naturally centers on the public-private dimension. Variations in private ownership matter considerably since financial infrastructure can make a difference in a competitive environment.

Table 1 details some of the variations in private ownership of credit bureaus. The principal dimension along which private ownership varies is the extent to which users (lenders) own the credit bureau. The advantages and disadvantages to the bureau and to the financial sector of user ownership depend on how many (users) and how much (shares of a bureau). Table 1 shows the four variations. Each is associated with different advantages and disadvantages for the lending sector, as indicated in Table 2 and elaborated in the following sections. (Diffused minority user-furnisher ownership will not be discussed because of its rarity.)

**Table 1:** Variations of Private Sector Ownership of Credit Bureaus

		Number of Users as Owners	
		<i>Concentrated (few)</i>	<i>Diffuse (many)</i>
Share of Credit Bureau Owned by Users	Minority	Minority Data User-Furnisher Ownership <i>(see 2.2.4: Australia)</i>	Diffused Minority User-Furnisher Ownership*  uncommon
	Majority	Majority Concentrated Data User-Furnisher Ownership <i>(see 2.2.1: Mexico)</i>	Ownership by Industry Association <i>(see 2.2.3 CFIN/ Columbia and 2.5.3: Japan)</i>
			Majority Diffuse Data User-Furnisher Ownership <i>(see 2.2.2: India, until 2014)</i>

**Table 2:** Summary of Ownership Structures of Credit Bureaus

	Third-Party (Independent)	Some Degree of Data Furnisher Ownership			
General Type of Data Furnisher Ownership	No direct or little practical ownership	Minority Data User-Furnisher Ownership	Association (Majority) Ownership	Majority Difuse Data User-Furnisher Ownership	Majority Concentrated Data User-Furnisher Ownership
Example(s)	(USA) Veda (Australia) CIBIL (India, in 2014)	Experian (Australia)	Credit Bureau Singapore	CIBL prior to 2014 (India)	Buro de Credito (Mexico)
Advantages	Decisions focused on earnings, bureau business and serving users	Ease of acquiring data from data furnishers that are owners			
Disadvantages	Furnishers	Bureau decisions may skew to serve interests of the data furnisher owners, which are likely a subset of all potential users.  Data furnisher owners may be less willing to report to other bureaus, reducing competition and segmenting data.			

## 2.1 Third-Party (Independent) Ownership

Third –party, or independent ownership, is characterized by credit bureau owners whose investments in the credit bureau is motivated by the financial returns offered by the credit bureau as a business, such as individual investors or institutional investors. Importantly, these owners are interested in the earnings of the credit bureau through the provision of services. This interest in the provision of services—not just for established lenders, but also for new players in the market and new types of financial services—leads the bureaus to make new technological investments and expansions of services. The main challenge with this ownership structure is that data furnishers, particularly large ones, may be reticent to furnish data to a completely independent entity.

They may feel that by sharing information they are losing undue control over private and valuable information on their customers.

Example: Equifax, Experian, and TransUnion (USA)

## 2.2 Variations in Data User-Furnisher Ownership

### 2.2.1 Concentrated Data User-Furnisher Majority Ownership

Concentrated ownership by a few users results from a few large data user-furnishers (typically lenders) owning the majority of a credit bureau. This configuration has come about in markets in which a few large lenders dominate lending and may be reluctant to share data with outside parties, but given the need to share data, create

an industry exchange in which a few large entities exercise control. In this way, major data furnishers supply data and purchase data from their own consortium. One concern with this model is that the credit bureaus operate in ways that mostly serve the interests of the large owners, at the expense of, perhaps, smaller lenders, large non-bank lenders, retail companies, insurance companies, and the multitude of other potential credit bureau users. The bureaus in turn may price credit bureau services in the interests of the owners qua users. Additionally, as the bureaus are less driven by the need to service newer ends of the market, or non-owning lenders, they may underinvest in new technologies and underprovide new services, producing a less than optimal credit sharing market.

Example: Buro De Credito (Mexico)

### 2.2.2 Diffused Data User-Furnisher Majority Ownership

As opposed to a few large data user-furnishers owning a controlling share of a credit bureau, diffused data user-furnisher ownership results when many data furnishers, each owning a small stake in the credit bureau, together own a controlling share. In this structure, it is less the case that a few large firms control a credit bureau, but that an industry may. Here, there may be concern that while the credit bureau may not be guided to serve the interests of only a hand full of firms, it may, nonetheless, be guided to serve the interests of a single industry (such as banking), with other potential users and furnishers outside of this industry neglected to some extent. For this reason, regulators should monitor such arrangements to ensure the data user-furnisher owners do not unfairly discriminate against the credit bureaus they do not own a share of (either in furnishing data or purchasing services) and that the bureau serves all customers.

Example CIBIL (India), pre-2014

### 2.2.3 Majority Ownership by Industry Association

Majority ownership by industry association is similar to diffused data user-furnisher ownership, except ownership is through an industry association. As above, while this model may not guide the credit bureau to unduly serve the interest of just a few large firms, it may guide it to unduly serve the interest of a particular industry. As with other data furnisher ownership schemes, this approach may be an industry response to an industry's need to share customer data among its members. The limit to this approach is that the most inclusive and comprehensive data sharing environments share data across several industries.

Example: CIFIN (Colombia) pre-2013, Japan

### 2.2.4 Minority Data User-Furnisher Ownership

In this case data user-furnishers, together, own only a minority share in a credit bureau. This ownership approach may be set up to provide some assurance to data furnishers regarding the sharing of data while at the same time addressing government concerns raised over collusion and anti-competitive practices. The minority stake also allows outside capital and expertise to be brought into the venture. The minority data furnisher owners would still have some influence on the decisions of the credit bureau (beyond that of the typical data furnishers), so it is unclear how closely such a credit bureau would operate relative to a completely independent credit bureau. And policymakers may want to be open to such ownership arrangements as this provides a way for lenders to quickly introduce competition in a market that contains independent credit bureaus that the lenders feel is/are not serving their needs adequately. However, regulators should monitor such situations closely to make sure the data user-furnisher owners do not begin unfairly discriminating against the credit bureaus they do not own a share of, either in furnishing data or in purchasing services.

Example: Experian (Australia)

## 2.3 Other Data Furnisher Ownership Variations

### 2.3.1 Governance Structures and the Management of Conflicts of Interests

Can a well-structured board of directors militate against potential conflicts that arise from data furnisher ownership? Guidelines and textbooks on corporate governance note that the role of the board of directors is to provide guidance to and monitoring of senior management *for the benefit of the shareholders*.

Like most boards of directors, a credit bureau's board of directors is tasked with shaping the company's objectives and outlook; reviewing and approving strategies, the implementation of objectives, budgets, public communications, and business plans; and making sure that senior management is carrying out its duties as required. It is also tasked with overseeing the financial activities of the credit bureau, making sure that accounting records are properly maintained, reviewing and approving capital expenditure, and examining management budgets.

In this regard, the board of directors of a credit bureau is like that of other enterprises. There are, however, two factors that, in conjunction, make the functions of a credit bureau's board slightly different. The first is what we have noted previously, the issue of owner-users who can augment bureau services to disadvantage competitors. The second factor is what enables the first, namely the fact that a credit bureau is a crucial part of financial infrastructure. The reason that owner-users may be able to distort a credit bureau's activities into providing the

owner-users a market advantage stems from the fact that credit bureaus are a component of financial infrastructure.

As in cases of boards of directors that provide infrastructural services, the directors should also be in a fiduciary position in relationship to the lending sector. That is, in the interests of the credit bureau as well as in the interests of its customers, board members must exercise their role as primarily ones of stewards of the company's interest, which in turn means serving the whole of the lending sector. If directors are drawn from owner-users, they must represent the interests of the 'owner' in 'owner-user', and not 'user' as one of many users in a competitive arena. The interests of the lending sectors can be made explicit in the mission statement of the bureau, or in formal codes.<sup>5</sup>

Enshrining this principle—the bureau will act to make the whole of the lending sector more efficient as long as it can do so profitably—the company's mission statement can provide clear guidance to the directors on avoiding conflicts of interest.

Finally, where there are potential conflicts of interest between the credit bureau and the directors, an advisory board can serve as a complement. While an advisory board would not have the same powers and responsibilities, it can provide expertise and oversight of the board itself, indicating where conflicts of interest may be present. While Boards of Directors may not be under obligations to follow an advisory board's recommendations, they can act as signals to the market and to regulators, but ultimately to the credit bureau itself when it veers off mission.

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5. German law, for example, requires that boards take into account interest beyond shareholders to include that of the firm as a distinct entity and its employees. Similarly, some American jurisdictions require that boards act in the best interests of the company and out of loyalty to the company. See Paul L. Davies, "The Board of Directors: Composition, Structure, Duties and Powers." OECD. Company Law Reform in OECD Countries: A Comparative Outlook of Current Trends. December 2000. <http://www.oecd.org/daf/ca/corporategovernanceprinciples/1857291.pdf>

### 2.3.2 Limited Foreign Ownership

In some cases there may be limitations on the ownership of credit bureaus by foreign entities. Given that there are relatively few international corporations with expertise in credit sharing, such restrictions may inhibit credit-sharing development, depriving that market of the added values obtained from product innovation, competition and foreign investment. All these may be acceptable trade-offs for policymakers if a robust, competitive and world-class domestic credit sharing market develops. What appears to be more typically the case is that it does not develop in this way. Permitting foreign majority ownership, both permits increased competition by international corporations (in an industry that is itself not large but is very important to other very large industries) and allows for a greater likelihood of attracting independent/third-party bureaus. India, for instance, recently permitted its bureaus to be majority foreign owned. This enabled India's largest bureau, CIBIL, to become a majority independent bureau (from a majority bank owned bureau) and no doubt increased the attractiveness of the Indian credit sharing market among the international credit bureaus, which will likely result in greater actual competition, the threat of competition, and foreign direct investment in this strategic sector.

### 2.4 Credit Bureau Ownership, Competition, and Evolution

*"It is when private bureaus are initially formed or needing to be formed, that furnisher ownership is most advantageous and it is as the private credit bureau begins to develop that furnisher ownership appears to create a drag and may begin to hold back further bureau development."*

Table 3 outlines seven stages of credit bureau development. This is primarily for illustrative purposes as in the real world stages are not so clearly cut in stone and development across credit bureaus is not uniform. As seen, the evolution and development of CRAs involves developing more mature value added services, consumer life-cycle and management tools, and operating across multiple lines of business with multiple data sources. Such a complex evolution of the CRA businesses will likely be impacted by CRA owner strategies. As such, it is not surprising to see the more independent CRAs in the more advanced stages.

Being bank- or industry-owned may hold back bureaus in terms of reaching out to other industries or in providing additional services to lenders. This may be if lenders are only concerned with their own industry and if large owner/lenders are not interested in maximally assisting other lenders in the industry.

It should also be noted that the relative advantage for bank owned bureaus exists in the very early stages of bureau development, when the main tasks are simply getting large data furnishers furnishing and creating a database. As development occurs, bank ownership potentially becomes more of a hindrance to development.

**Table 3:** Stages of Development and Examples of Services

Stage	Examples of Services		Examples of Markets
Stage 1	Database Provision of Basic Data	Build Stage	
Stage 2	Credit Reports Alerts and Some Add-On services	Initial Core Services	Kenya Bolivia
Stage 3	Initial Score and Decision Tools Initial Custom Analytics	Initial Decisions and Analytics Tools	Argentina
Stage 4	Fraud & Identity Management Marketing Services & Collections Management Commercial Credit Report	Consumer Life Cycle Management Tools	Mexico
Stage 5	Consumer Reports Consumer Scores Credit Monitoring Consumer Education		Brazil India
Stage 6	Auto, Utility, Teleco Solutions Rental Screening, Employment Screening Healthcare, Small Business Insurance, Government Solutions Very Mature Scoring, Decision Tools, and Custom Analytics	Multiple Lines of Business	South Africa Dominican Republic Canada
Stage 7	Macroeconomic Factors Based Models		U.S.A.

Source: Adapted from the presentation “Going Beyond Financial Services” delivered TransUnion at IFC Credit Bureau Conference in Malaysia, May 2010.

Ideally, bureaus that are launched as bank majority owned entities would transition to less bank owned and ultimately independent/third-party bureaus. This evolution has been seen in a number of bureaus. For instance, Brazil’s Serasa was founded by banks, became majority independent (majority owned by Experian), and then became entirely independent (entirely

owned by Experian). This is also seen with India’s CIBIL, which was founded by large banks (80% owned by two large banks initially), transitioned to majority owned by several banks (with 10% being the largest equity share by a single bank), and then, very recently, became a majority independent bureau with TransUnion acquiring a majority share in 2014.

**Table 4:** Phases of Bureau Evolution

Phase	Description
Early/ Initial Build Phase	Bank/Data furnisher ownership can be used to develop data sharing, as well as revenues
Middle/ Scale Phase	Transitions away from core data of owners, bank ownerships decreases, begins to focus more on new data sources and value added services
Mature/ Optimal Phase	Independent credit bureau(s), optimal incentives to serve all users, has data furnishers and customers across many segments, most revenue comes from value added services

Table 4 describes these changes in ownership as bureaus evolve. Again, this is for illustrative purposes, the specifics of how bureaus evolve vary. But the general pattern appears to be that while bureaus can begin as independent bureaus, in many cases they have begun as either owned or otherwise within a tight relationship with lenders (furnisher / users). This is not surprising given that credit bureaus typically begin as banks and/or retailers understand the benefits of exchanging information with other banks/retailers. Then bureaus gain greater independence and the scope of services and the range of sectors served by bureaus expand. Ultimately, data sharing moves sufficiently away from just a focus on exchanging basic data across banks that independence for the bureau becomes the optimal ownership structure.

The danger with a bureau beginning as lender owned is that the lenders may not want to relinquish control over the bureau. This could occur if lenders simply wanted a bureau but would not share data with an entity that they did not control or deeply trust. A more *anti-competitive* explanation is that a group of lenders may want to retain control so as to limit the services bureaus offer lenders, particularly

non-owner or smaller lenders.<sup>6</sup> The result of such a dynamic could be the establishment of multiple bureaus in a market, with certain lenders contributing to one and certain lenders contributing to another, with lenders trusting and using just one bureau. Once this dynamic begins it may be difficult to overcome entrenched vested interests and have bureaus develop and evolve into independent bureaus. Examples of this dynamic can be seen in Japan and Mexico where certain lenders own certain bureaus and don't share data with other bureaus. The result is that the bureaus don't really compete directly with one another; the incentives of the bureau are more aligned with their owners than the needs of the market, consumer data fragments across bureaus, and general bureau development is stifled.

For these reasons, policymakers should be open to the notion of lender involvement, participation, even ownership of bureaus at inception, and should maintain a watchful eye that private credit bureaus will be allowed to mature and gain independence and not be used as a tool of a few companies or a single sector in perpetuity. And this is particularly the case if it appears that a bureau may be used as a tool to reduce competition in lending.

6. Examples of lenders wanting to control the data they release to the larger market for anti-competitive reasons can be seen when bureaus shift from negative-only reporting to also reporting positive data. In several such cases it has been observed that large lenders are reluctant to share positive data on their customers for fear that this will aid their competitors in marketing to their customers (crème skimming/cherry-picking).

## 2.5 Cases: Concerns of Majority User-Furnisher Ownership & Transitions to Greater Independence

### 2.5.1 Mexico: Concentrated Data User-Furnisher Ownership with Voting



The consumer credit information sharing market in Mexico consists of two CRAs, Buró de Crédito and Círculo de Crédito. Each of the CRAs is majority owned by banks and/or retail firms. (Mexican law prohibits a user of CRA services from owning more than 18%; this restriction also extends to non-user owners that are owned and controlled by users.) The majority of the shares of each CRA are bank owned by a few banks.

Along many indicators, Mexico's credit reporting system ranks quite highly: the CRAs have positive and negative data on both firms and individuals; they also possess data from retailers, utility companies, and post-paid telecom services, in addition to financial institutions; the data is of significant historical depth; data on small loans is shared; and each data subject can inspect their report for free once a year. Perhaps more importantly, of the estimated 80 million adults in Mexico, Buró de Crédito has information on 56 million adults and

Círculo de Crédito on 55 million adults; i.e., a rate of coverage that is remarkably high for an emerging economy.

Given bank ownership, however, decision making in the bureaus may be skewed as the main function of bureaus, serving the general needs of all lenders to lend more efficiently in the market can be at odds with the specific interests of large users/shareholders, including an interest in limiting competitive entry into their markets. Additionally, the presence of a large user majority-owned bureau can serve as a barrier to the entry of new, third-party bureaus that will justifiably have far less confidence that users will engage them instead of the bureaus these large end users own.

One strong indication that the CRAs in Mexico are underperforming, is that the larger of the two bureaus, Buró de Crédito produces much less revenue than Brazil's Serasa. For the fiscal year ending in March 2012, Serasa, a bureau in an economy twice as large as Mexico's, produced revenues of US\$870m, approximately thirteen times that generated by Buró de Crédito in 2012. Such large differences no doubt result in part from less credit bureau innovation and value added services development by Buró de Crédito.

A real concern may be that underperforming CRAs will have a negative impact on the performance of the financial sector. A key performance measure of a nation's financial sector is the amount of credit to the private sector relative to GDP. By this measure Mexico has been underperforming in Latin America. For instance in 2003, the share of credit to GDP was 24% for Latin America but 16% for Mexico and by 2012 these figures grew to 49% and 28%, respectively (World Bank Data). Mexico witnessed lower levels of credit and lower growth rates in credit relative to Latin America as a whole. Over the same period (between 2003 and 2012) credit extension also grew more rapidly in Brazil than in Mexico. By 2012, Brazil's

domestic credit extended to the private sector rose to nearly 70% of GDP while Mexico's was a little under 30%. In turn, this may have impacted general economic growth, where Mexico's GDP grew at rate of 2.6% between 2003 and 2012, Brazil's GDP grew at a rate of 3.6% (IMF).

Mexican policymakers concerned with an underperforming financial sector have passed reforms aimed at both the financial sector and credit information sector. As this paper was going to press, the implementing regulations for the new laws were being drafted. Consequently, the impacts of the new laws are not measurable and may require several years before one can assess the efficacy of the new laws.

### 2.5.2 India: Ownership that Evolved from Majority to Minority User-Furnisher Ownership

The largest consumer credit bureau in India is Credit Information Bureau (India) Limited or CIBIL. The State Bank of India (SBI) and HDFC (each owning 40% of equity) initially set up CIBIL in 2000, with Dun & Bradstreet and TransUnion owning the remaining 20 percent. Thus, it was created as a concentrated data furnisher majority owned bureau. Chakravarti and Chea note that "According to the Reserve Bank of India (Central Bank of India) 2004-2005 policy declaration, the diversified ownership was recommended. Accordingly SBI and HDFC have divested their equity stake in favor of significant data providers with representation from all categories of credit grantors."<sup>7</sup> Until very recently, ownership of CIBIL was spread among at least 16 data organization, ranging in ownership stakes from 2.5% (GE Strategic

Investments) to 10% (TU, SBI, and others). This meant the bureau became more industry owned rather than owned by a few lenders.<sup>8</sup>

As of May 2014, however, CIBIL became mostly a third-party, or independent, bureau with the announcement by TransUnion that it had acquired a majority equity stake in CIBIL.<sup>9</sup>

CIBIL currently shares positive and negative data, produces value added services, and has a direct to the consumer line.

### 2.5.3 Japan: Fragmented Sector Ownership

Japan's credit information sharing market consists of three primary consumer CRAs and is fragmented by the type of financial services providers. The Japanese Bankers Association operates the Personal Credit Information Center, which exchanges data between banks. Its members includes banks, financial institutions, bank-affiliated credit card companies, and guarantee companies. The transactions registered include consumer loans, current account transactions, guarantees, and credit card transactions. The Japan Credit Information Reference Center Corp. (JICC) includes consumer finance companies, credit card companies, and guarantee companies. The transactions registered include consumer loans. And the Credit Information Center Corp. (CIC) which includes consumer credit companies, department stores, retailers, leasing companies, and guarantee companies. Transactions registered in CIC include credit card transactions, installment credit sales, leasing contracts, guarantees, consumer loans, and home loans.

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7. See [http://www.business-school.ed.ac.uk/waf/crc\\_archive/2005/papers/chea-beng-hai-chakrabarti-rita.pdf](http://www.business-school.ed.ac.uk/waf/crc_archive/2005/papers/chea-beng-hai-chakrabarti-rita.pdf)

8. See <http://www.equityz.com/2010/04/what-is-cibil-credit-information-report-cir-credit-information-bureau-of-india-limited.html>

9. <http://newsroom.transunion.com/press-releases/transunion-strengthens-holding-in-credit-informati-1117774#.U5IEVoWxFe5>

As such, there is a bank-dominated bureau, a finance company dominated bureau, and a consumer credit dominated bureau. These three organizations share mostly negative information with one another via Credit Information Network (CRIN). CRIN was established in 1987 under a directive from the Ministry of International Trade and Industry (MITI) and the Ministry of Finance to eliminate excessive lending and promote healthier consumer lending.

As with Mexico, the fact that data furnishers typically report to only one bureau means that (except for the negative data shared via CRIN) no single bureau contains the complete picture on borrowers. This inhibits competition among the bureaus and the development of value added services. The fragmentation of the data itself reduces its value in underwriting.

A PERC (then the Information Policy Institute) report found that such fragmented data, as is found in Japan, resulted in a reduction in annual consumer lending of between 4% and 8% assuming lender portfolio default rates of 2% compared to lending based on unfragmented data.<sup>10</sup> Reform enabling comprehensive lending was found to have increased Japanese annual GDP by 0.33%.<sup>11</sup>

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10. Turner, et al, "On the Impact of Credit Payment Reporting on the Financial Sector and Overall Economic Performance in Japan." PERC, March 2007. Available at: <http://www.perc.net/wp-content/uploads/2013/09/Japan.pdf>

11. Op. Cit.

### 3. ENFORCEMENT MODELS



Regulatory frameworks presuppose certain levels of regulator, data furnisher, and end user capacity, market culture, and the structure of operational costs. These factors, observably, vary by economy—especially within large, disparate, and dynamic regions like Southeast Asia or between regions. Regulators are aware of the limits of importing models wholesale, that a more systematic framework for understanding regulatory enforcement can help avoid pitfalls, and that what makes for an effective regulatory enforcement model depends on context. This section fleshes out these issues in greater detail and examines commonalities and variations in the regulatory oversight and enforcement of credit bureaus' operations in several economies.

To note that an effective regulatory enforcement model depends on context is in some ways trivial. Here, we mean something more specific. Credit bureaus are a core element of financial infrastructure in modern lending markets. It is from this starting point we take context into account.

First, the objectives of regulation are context specific. Regulators and regulatory analysis are all keenly aware of the dangers of confusing process for the goal, and means for ends. They are aware that clearly identifying ends is, therefore, paramount. They also know that most areas of regulation comprise multiple goals. Workplace regulation, for example, must balance between worker safety and making

labor markets efficient. Similarly, credit bureau regulation tries to balance consumer protections (e.g., notice, disclosure and correction) and making consumer credit markets efficient. These objectives, furthermore, are locally understood. Privacy standards vary by culture, as do the societal value placed on privacy relative to other objectives. Likewise, what an “efficient” credit market means varies by whether the economy is in a development phase or not. Efficiency in emerging markets possess as an objective financial inclusion, as majorities or near-majorities of consumers are often outside credit mainstreams.

What is less commonly considered is the fact that predetermined models of regulatory enforcement can shape how, and to what extent different goals are pursued. That is, different models of enforcement can bias the goals. For example, it is easier to monitor violations of consumer privacy rights than it is to monitor efforts to expand finance to underserved consumers. A heavy emphasis that reviews and audits lenders on consents—by increasing the costs of gathering and validating consents—can hinder lender efforts to reach newer, more needy markets. Tensions—real and potential—between goals are not always self-evident and must be identified and understood by policymakers in emerging markets who are considering importing regulatory regimes from more mature economies.

Second, the methods of regulation depend in large part on the capacity of regulators and the structure of the legal and regulatory framework. The legal and regulatory framework can, of course, be changed, though there may be challenges as regulation often intersects with privacy law, data ownerships, regulations on underwriting, and financial inclusion objectives. Developing regulatory capacity is harder still, especially for a developing economy. Even in economies with regulatory capacity, regulation should work in tandem with, or even ideally

advance, self-regulation and a culture of voluntary compliance. As shown in the following subsections, in terms of regulatory enforcement, more developed economies are often characterized by industry- and self-audits.

We engaged bureaus, regulators and industry experts in 23 economies (two in Africa, four in East Asia, eight in Europe, eight in Latin America, and one in South Asia). The responses reflect commonalities and differences among credit information sharing systems. Europe and Latin America have longer histories with credit reporting than do Asia or Africa. More than half of the economies we examined are emerging ones, with the remainder (approximately 10) being advanced market economies. We sought to get a wide sense of regulation, specifically on issues of regulatory enforcement.

We looked into the regulatory authority and how regulations, whether through law or industry code, were enforced in different economies.

The economies in which self-regulation works in tandem with regulation by public agencies are not geographically concentrated, nor were they characterized by having been established in a specific period. Of the 23 economies we looked at, five—Guatemala, India, Italy, the Netherlands, the United Kingdom, and South Africa—are extensively regulated by a mix of statute and industry code. These economies do not have a specific legal tradition in common, as civil law and Napoleonic code are both represented. Moreover, if we compare these five to economies where regulation and regulatory enforcement is carried out by solely a government agency—Costa Rica, El Salvador, Honduras, Nicaragua, Dominican Republic, Hong Kong, Malaysia, the People’s Republic of China, Colombia, Spain, Russia, Norway, Morocco, Estonia, Singapore, and Denmark—there are no noticeable patterns in terms of performance of the credit reporting sector. Each group includes credit reporting sectors that are relatively older—e.g., South Africa and United Kingdom,

on the side of mixed regulation and oversight, and Colombia on the side of government oversight. Similarly, India and Morocco have relatively young credit reporting sectors.

This variation across economies is also reflected in the methods of oversight. We asked bureaus and experts in each of the economies about practices regarding examinations and audits. By examinations, we meant government inspections of bureau activities. By audits, we meant reviews by the bureau or by third party inspectors. Again, we find no noteworthy correlation or pattern. A mix of examinations and audits conducts oversight in 13 of the economies. In six, oversight is conducted largely by audits, with examinations as the primary method of oversight in four economies. In two of four economies in which examinations are the prominent means of oversight, Norway and the Dominican Republic, examinations take place only when there is an incident. In the other two, examinations are frequent—monthly in Guatemala—but in practice, these are more akin to regulators monitoring standardized benchmarks. Overall, the frequency of examinations vary; interestingly, annual examinations were more commonly seen in emerging markets such as India, South Africa, Morocco, and Honduras. Singapore was unique among the developed markets included in our survey in that they also employ annual examinations.

Examinations in developed markets such as Norway, Denmark, and Italy take place every few years or are only requested when an incident takes place. The Italian process is worth a closer look. The bureau is required to annually verify that the processes comply with regulations and conduct data quality and security checks. The bureau, representatives from data furnishers, and a consumer NGO carry out a review of the audits. The information is shared with regulators, but stakeholders serve as the principal oversight agent.

### 3.1 Reports to Regulators/Monitoring

**Table 5:** Domain of Regulation by Mode of Regulation

Domain of Activity	Regulated by...		
	Government Agency	Industry Code	Both
Data Accuracy/ Integrity	16	2	5
Data Security	14	3	6
Consumer Dispute Process	17	1	5
Data User Credentialing	13	2	4
Permissible Use/Data Access	16	1	6

Table 5 shows which body (a government agency, industry code, or both) regulates credit bureaus in the 23 surveyed economies, by issue area.

While government agencies regulate most activities in most of the economies examined, industry codes and self-regulation play a prominent role in more than one-third of them.

Table 5 also shows that governments are somewhat more likely to regulate the consumer dispute process, permissible use, data access, data accuracy, and data integrity than data security and data user credentialing. This likely results from the latter being perceived as technical, evolving areas in which either industry or specific CRAs are best suited to oversee. And it is also the dispute process and data use/access for which there is a clearer need for government involvement to set rights and legal boundaries.

While, as with the UK case (see below, section 3.6), there may be several organizations that work together in some fashion to oversee and coordinate data sharing, only four of the 23 respondents noted that the CRA was regulated by multiple government agencies. In these four cases two of the four additionally noted that there was a lack of cooperation among the multiple regulatory agencies that oversee them resulting in a lack of coordination in directives/rules put forth.

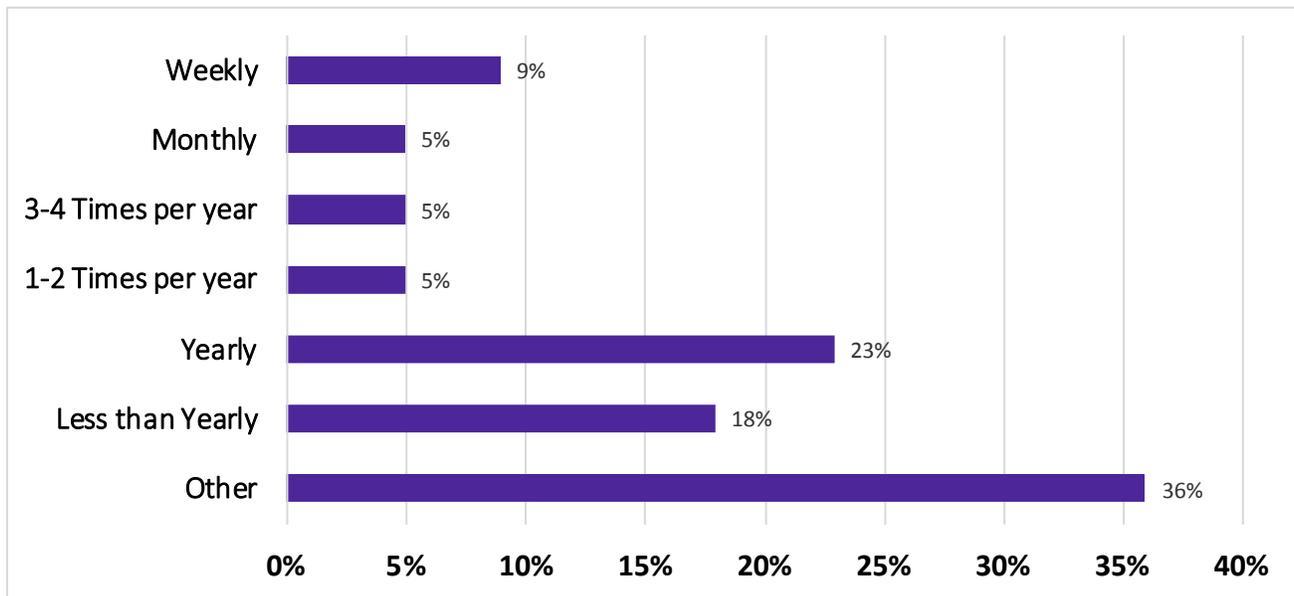
Figure 2 displays the results to the survey question “How frequently are you subject to a government/regulator examination?”

Figure 2 shows that there is no uniform frequency to examinations. Whereas 23% (or five respondents) indicated some form of examination more than once a year, 23% (or five respondents) indicated yearly examinations, and 18% (or four respondents) indicated less than yearly examinations (such as once every two or three years). The largest category is “Other” and this includes two respondents that said it was unclear or it depended on the regulator’s decision on when there would be an examination. A further three in this category reported that they had yet to have an examination, and one that said an examination is undertaken only when an incident occurs.

The survey responses suggest that credit bureau examinations are typically not too frequent, usually occurring annually or even less frequently. Comprehensive examinations are, of course, time consuming and very costly to all parties. Intuitively, the need for regular comprehensive examinations are mitigated by due diligence on the part of regulators when licensing a bureau.

As Table 6 shows, a mix of regulatory examinations and audits (reviews carried out by the bureau or by third party inspectors) most often carry out oversight.

**Figure 2:** Frequency of Government/Regulator Examination



**Table 6:** How is oversight carried out?

Frequency	Number of Responses
Primarily by Examinations	4
Primarily by audits	6
Examinations and Audits	13

Where there is not a balanced mix, oversight is more likely to be carried out by audits than examinations. The variety of configurations that we find suggests that, either intentionally or unintentionally, regulators develop enforcement systems that are calibrated towards their local circumstances. The absence of the pattern is, so to speak, the finding.

### 3.2 Audits by the Sector

Table 7 shows that the most common subject of industry audits relate to permissible data use and data access, followed by data security.

Data security and access are natural areas to be audited for firms working with customer/consumer data. Less likely to be reported as being audited were more complex areas relating to the efficiency and effectiveness of business operations/functioning of the CRAs, such as credentialing, the dispute process and data accuracy/integrity. This may be due to the fact that these more complex areas may be less easily audited. For instance, it is relatively more easily and effectively determined which entities have accessed data and whether industry/internationally recognized data security measures are used than to determine whether data is of sufficient quality.

When asked in a follow-up question who conducted the audits, three respondents indicated that they were carried out by the bureau itself, three indicated that third parties carried them out, and two indicated that it was carried out with bureau participation (with a regulator or as part of a body with other representation), demonstrating an additional level of diversity in the way oversight is conducted.

**Table 7:** Subject of Audits by the Sector

Subject of Audit	Number of Responses
Data Accuracy/Integrity	2
Data Security	5
Consumer Dispute Process	4
Data User Credentialing	3
Permissible Use/Data Access	8

**Table 8:** Length of Time an Audit Takes

Subject of Audit	Number of Responses
Less than a week	1
1 week	2
1-2 weeks	2
2-4 weeks	6

Eleven respondents provided information on how long audits typically take. In only one case did the audit takes less than a week. In four cases it took either one week or between one and two weeks. In the majority of cases, however, audits took between two to four weeks to be completed. It should noted that an audit that took four weeks to complete would not mean that an auditor worked full-time for four weeks, but simply that the entire process took four weeks.

When asked, “how long are you provided to correct any failure to meet standards?” two respondents said weeks to months, one said one to six months, three said three to six months, and one said years (as long as progress was being made). In addition, five respondents said that the time it took depended on the issues, circumstances, or if a time limit had been given by the regulator. Other than the extreme cases of weeks or years, the typical period provided appears to be months (up to six months), with the time provided likely depending on the particular issue.

### 3.3 Oversight and Audit Efficacy

The 23 survey respondents were asked how they viewed the responsiveness of their oversight agency to appeals. Figure 3 shows that only one respondent (or 4% of the sample) viewed their oversight agency as being unresponsive. A large majority (70%) viewed their agencies as being either very or moderately responsive.

This combined with the previous finding (of the typical period provided to correct any failure to meet standards) indicates a reasonable degree of communication and expectations between bureaus and regulators. However, the bureau respondents were less convinced of the cost-effectiveness of the audits and oversight process.

Figure 4 shows that while only one respondent (4% of the sample) considers the oversight and audit process to be “very costly/cumbersome,” an additional 48% consider it to be “moderately costly/cumbersome.” Slightly under half of respondents considered the audit and oversight process to be costly or cumbersome only to a minor degree or not at all.

Taking the reported perceptions about regulatory compliance costs in combination with the perceived efficacy of the audit process in terms of improving bureau performance (Figure 5), evidence suggests that the perceived impacts (benefits) from audits varies considerably. As a result, policymakers and stakeholders may want to take particular care in working together to design practical and useful audits (as opposed to just creating a perfunctory process...boxes to check). Toward that end, a cost/benefit approach to assessing the relative merits of different auditing approaches may be of great value to regulators, bureaus, and the financial system more broadly. Those approaches identified as costly and yielding little to no benefit by a majority of bureaus may warrant additional scrutiny by regulators in emerging markets seeking guidance on optimal regulatory frameworks for their country.

Figure 3: How responsive are oversight agencies to appeals?

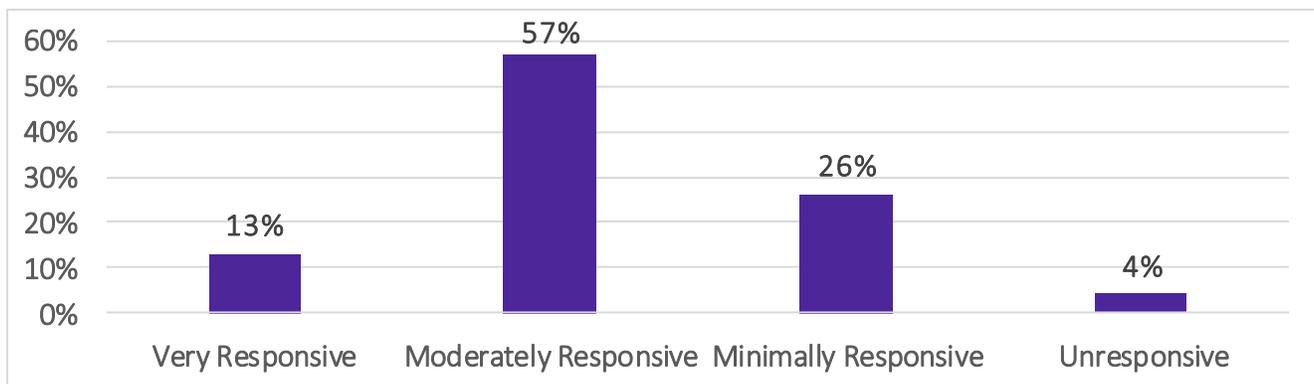


Figure 4: How costly/cumbersome is the oversight and audit process?

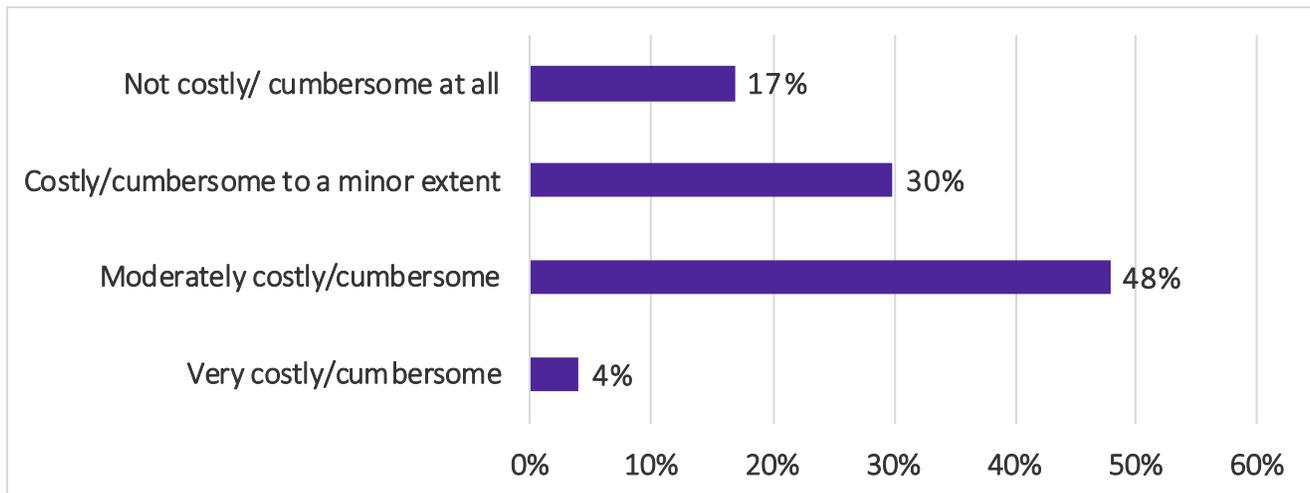
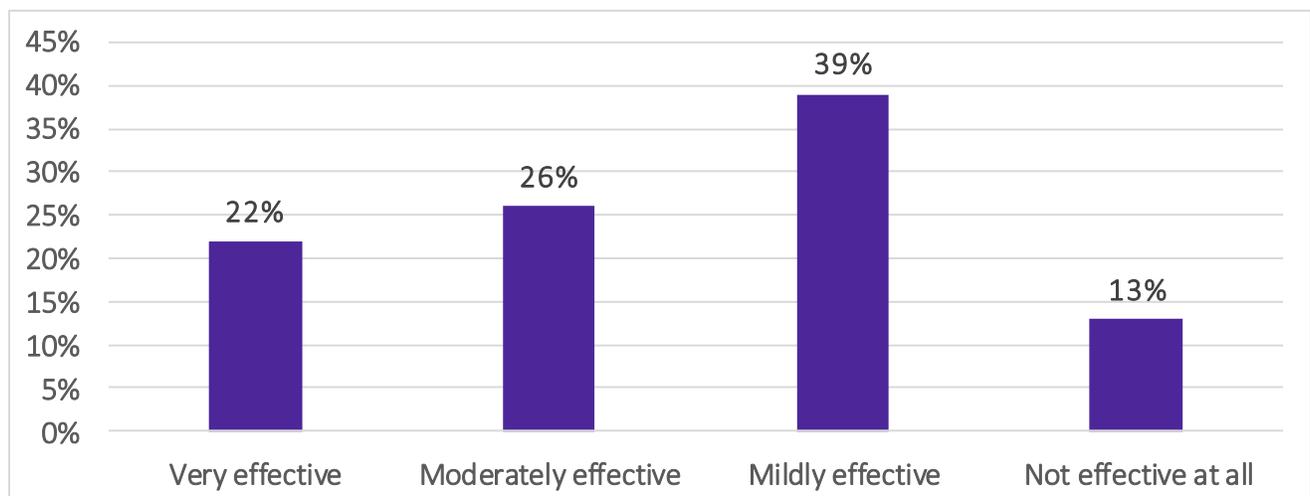


Figure 5: How effective are audit processes in helping your performance?



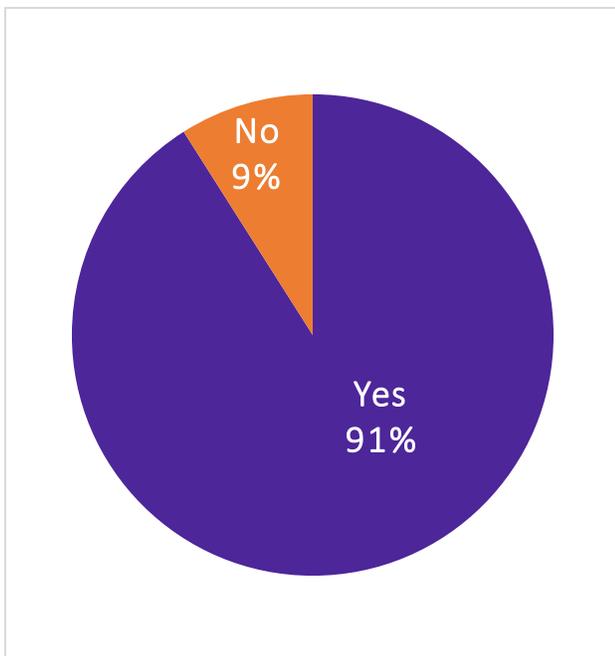
## 3.4 Private Right of Action

Beyond audits and examinations, a more personal way for individuals to incentivize bureaus and data furnishers to adhere to laws and proper use of data is to permit the private right of action for data subjects.

Figure 6 shows responses to the question “Is there a private right of action for data subjects/ individuals to sue your firm for alleged violations of national law, such as instances of data inaccuracies?”

Only two (or 9% of the sample) responded “No,” that there was no private right of action for data subjects. When asked about the nature of sanctions from private actions some noted the existence of statutory penalties, others noted no such penalties. Many also mentioned various maximum penalty amounts for violations of national law, and many noted that criminal charges could be brought while others noted that it would only or typically be considered civil violations.

**Figure 6:** Is there a Private Right of Action?



## 3.5 Responses to What Could Improve Audits and Regulations

The final question asked the respondents what changes could improve the audit process and/or make regulations more effective with respect to credit bureau operations.

The following contains the answers provided; with the exceptions of those that stated that did not have any suggestions or that was too early to tell what changes could be made (in the case of new regulations or a new bureau). Edits were made to the responses only to make them anonymous, translate them to English, and/or to correct grammar.

- The regulator could socialize changes in regulation as they pertain to the impact on the operation of the company with the credit bureaus.
- The laws are not sufficiently clear nor are its rules. It is expected that the agency must clarify several points stated.
- The regulations should be based on business standards and self-regulation.
- Regular reviews and upgrades of code in the light of technological developments, the experience gathered in its application, and regulatory changes, also if so requested by the trade associations undersigning the code.
- Better understanding of the Credit Reference Agencies practices.
- Better law. Better understanding of Credit Bureau business.

The problems or areas that can be improved appear to be in regulator-industry communication, clarity and appropriateness of regulations, and rigidity of industry code. Bureaus also want regulators to better understand their industry. For instance, in a follow on discussion one respondent suggested that having former bureau executives or senior staff employed by the regulator may facilitate a mutual understanding and result in better policy.

It should be noted that the majority of respondents did not suggest any changes, which could either be due to the respondent not thinking any changes were needed or simply the respondent skipping the question. Altogether twelve respondents answered the question in one form or another (such as stating that they had no suggestions), only six or half that provided specific suggestions.

### 3.6 Mixed Governance: The United Kingdom Example



The United Kingdom's system of governance of oversight of bureaus is a telling example of how a mix of industry and public codes provides an effective framework for credit bureau activity.

Prior to April 2014 the Office of Fair Trading was the primary CRA regulator in the UK. Now, the Financial Conduct Authority (FCA) has taken over regulation of Consumer Credit (including CRAs). There are a number of industry codes, independent bodies, and private organizations in the UK that impact credit reporting. The Steering Committee On Reciprocity (SCOR) is a forum made up of representatives from credit industry trade associations, credit industry bodies, and credit reference agencies. SCOR maintains a Principles of Reciprocity, a set of guidelines that govern the sharing of personal credit performance. It has a sub-group, the Data Quality Working Party, in which lenders and the UK's three CRAs convene to discuss data quality

issues. The UK's Information Commissioner Office (ICO) is an independent body "set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals."<sup>12</sup> The ICO provides guidance in a number of areas of credit reporting including reporting arrears and reporting arrangements and defaults. The British Bankers' Association produces a banking code. The Finance and Leasing Association – the UK association for the asset, consumer and motor finance trade – produces a lending code. And these organizations (and others like them) also collaborate with one another in areas relating to credit reporting and data use, such as producing The Guide to Credit Scoring 2000.

There are also a number of Acts of Parliament, rules, or regulations, such as The Consumer Credit Act or The Sex Discrimination Act, that have an impact on credit information sharing in the UK.

Among the more consequential Acts of Parliament is The Data Protection Act 1998, which gives citizens important rights, including the right to know what information is held about them and the right to correct information that is wrong. The Act helps to protect the interests of individuals by obliging organizations to manage the information they hold in a proper way.

While it is beyond the full scope of this paper to address, the issue of the pros and cons of sector-specific privacy legislation and rulemaking as compared to those of the "omnibus" type common in the European Union is an important one. The issue is made more complicated by the fact that omnibus privacy rules can coexist with sector specific approaches that are made in the rulemaking process. Experience strongly suggests that a one-size fits all approach to privacy at the level of the sector may provide insufficient protection in some areas, while in other such as credit reporting it may generate

12. [http://ico.org.uk/about\\_us](http://ico.org.uk/about_us)

substantial hurdles to efficient information sharing. Given the structural issues of reputation, trust and liability that accompany credit reporting, the credit information sharing sector is more likely to be characterized by strong safeguards that mitigate the need for strong consent requirements.

As such, a web of private associations, committees, and other such organizations coordinate the private sector data sharing efforts by setting various guidelines, principles, and standards that are designed to ensure a fair and well functioning credit reporting system that adheres to various Acts of Parliament, rules, or regulations, such as The Consumer Credit Act or The Sex Discrimination Act.

### 4. CONCLUSION



*Regulators and economies do in fact develop systems that reflect their concerns and their capacities.*

In the over 80 countries that private credit bureaus exist, a variety of ownership structures, enforcement models, and levels of development are seen. Some private credit bureaus are over a century old, while others are newly formed.

Typical configurations of private credit bureau ownership include:

- Independent/Third-party Ownership
- Minority Data Furnisher Ownership
- Association (Majority) Ownership
- Majority Industry / Diffuse Data Furnisher Ownership
- Majority Concentrated Data Furnisher Ownership

On one extreme, one, two or a few very large data furnishers (typically lenders) own the majority of a private credit bureau; this is the Majority Concentrated Data Furnisher Ownership case. On the other extreme, private credit bureau ownership is entirely independent of major users and furnishers to the credit bureau, this is the Independent/Third-party Ownership case.

The main advantage of ownership by data furnishers / users is the ability to jump start data sharing in the early years of credit bureau development if large lenders are otherwise reluctant to share credit information. One disadvantage with data furnisher ownership is that non-owners or furnishers from other sectors / credit silos may be reluctant to share information and either not report at all, report in a limited way, or form their own separate bureau, thus fragmenting credit reporting. This may short-circuit credit bureau competition and inhibit the development of value added services. Another disadvantage is that furnisher ownership may misalign incentives for the credit bureaus away from serving the entire market, across all sectors, and assisting underwriting and other lending processes for all lenders as much as is possible and towards the narrower interests of the owners. It is when private bureaus are initially formed or needing to be formed, that furnisher ownership is most advantageous and it is as the private credit bureau begins to develop that furnisher ownership appears to create a drag and may begin to hold back further bureau development. Optimally, private credit bureaus that are formed with heavy furnisher ownership and involvement would transition to an ownership structure of greater independence and ultimately majority or entirely independent ownership that is only concerned with serving the market needs for credit information sharing. It is in the more advanced stages of credit bureau development that properly aligned incentives appear to become very important.

This transition has been seen with CIBIL in India, which transitioned from two lenders owning a majority share to a bureau in which many lenders owned a majority share to a bureau, that today, is majority independently owned.

Private bureau ownership by *independent third parties* (not data furnishers or data users) is seen as the optimal ownership structure to enable long-term bureau and credit information sharing development.

What our survey revealed in many ways, beyond noting the variety of enforcement methods, is the fact that self- and third-party audits are very common. Government agencies largely intervene under two circumstances. First, their examinations come into play when there is an incident. Second, in those rare economies where regulators do conduct routine examinations, they appear to do so in areas that are most implicated in potential consumer harm, e.g., data quality and accuracy.

From this observation, we can understand the different roles of regulatory enforcement models and issues of ownership and governance. The balance that credit bureaus must strike is between making lending markets more efficient by reducing information asymmetries and providing value added services that enable financial inclusion and reduce over-indebtedness, all of which are in the interest of the sectors, on the one hand, and protecting consumers from the misuse of their data, including from inaccurate data, on the other.

How this balance is struck furthermore depends on (i) cultural and legal understandings of harm and (ii) economic development objectives. How the principles and rules govern these objectives is also dependent on the capacity available to regulators. It would, however, be a mistake to infer that if governments have the capacity to conduct regular exams they will do so, as shown in the case of Norway's credit reporting sectors.

We observe the following:

- Regulators are more likely to conduct examinations on areas that impact / relate to consumer harm, such as data accuracy.
- Audits are more common on issues of market efficiency.
- Exams are not common but instead are largely conducted when there is an incident.
- In economies where there are regular exams, a standard procedure to measure, e.g., data quality, the bureau and/or third parties conduct the test, which is in turn reviewed by regulators.
- Undergirding audits, examinations, and regulations is the private right of action, which was found in nearly all economies covered by the survey

In summary, regulatory enforcement works to minimize harm and does so by working with bureaus to monitor operations. This approach reduces the capacity strain that can be placed on regulators. Nor is this approach lenient. South Africa's regulatory enforcement process that has bureaus regularly report the result of data quality tests to regulators has seen strong disciplinary actions by the regulator.

This approach also appears to match the condition that many emerging markets find themselves in, namely, striking a balance between consumer protection, financial access and economic development.

On a larger level, the absence of any discernible patterns—there do not appear to be any trend by state of economic development for example—suggests strongly that regulators and economies do in fact develop systems that reflect their national concerns and capacities.

*Private bureau ownership by independent third parties (not data furnishers or data users) is seen as the optimal ownership structure*

## APPENDIX

Countries of 23 Credit Bureau Respondents in PERC Survey

Brazil  
Colombia  
Costa Rica  
Denmark  
Dominican Republic  
El Salvador  
Estonia  
Guatemala  
Honduras  
Hong Kong  
India  
Italy  
Malaysia  
Morocco  
Netherlands  
Nicaragua  
Norway Peoples Republic of China  
Russia  
Singapore  
South Africa  
Spain  
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