

STATES OF JERSEY



CREDIT-RELATED CHECKS

Lodged au Greffe on 19th December 2018
by Deputy J.M. Maçon of St. Saviour

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to request the Council of Ministers to –

- (a) conduct a public consultation regarding whether, in making rules under the relevant legislation, the Jersey Financial Services Commission should ensure that firms conducting credit-related regulatory and connected activities, and those entering into or varying a regulated mortgage contract or home purchase plan, take into account rental payment history and Parish rates payment history when assessing a borrower's creditworthiness; and
- (b) agree that, should the consultation indicate an endorsement of these proposals, the relevant Minister(s) will bring forward the necessary legislative changes for debate by the States Assembly no later than the end of 2019.

DEPUTY J.M. MAÇON OF ST. SAVIOUR

REPORT

Currently there is a debate occurring in the UK regarding how to assist those in the rental sector to be able to move into homeownership (*please see attached Appendices for detail*).

We know that housing (affordability) is one of the main issues that is of concern to the Public. We also know that home ownership is a dream for many members of the Public, and Jersey is suffering, in that many younger people are leaving/do not return to Jersey due to not being able to afford ownership of a property; this is a matter which was raised by many during the 2018 election hustings.

Housing demand, supply and affordability is a complex web, and there are many strands. I'd like to focus on this one area before going off on a tangent.

So what is being asked? I'm asking the States Assembly whether our current system of credit lending should be changed, so that those renting properties in Jersey are able to have that record and their record of paying parish rates considered as part of their creditworthiness assessment. We know that many people could manage the monthly mortgage payments, but struggle to save up the deposit money, given the high cost of living in Jersey, especially the high cost of rented housing.

This is not a magic bullet and will not be the solution for everyone, but it does attempt to address an unfairness; in that those already with a mortgage, who meet the payments, get that taken into account, whereas those who meet their monthly rental payments generally do not have this taken into account (depending on the provider).

I've lifted the wording of the UK Bill and tweaked it for the Jersey context. However, I appreciate that UK systems and Jersey systems are not the same. This is why I'm asking for a consultation on the measures, in order to assess whether such a move is (A) publically desired; and (B) if any technical tweaks may be required by those with technical knowledge.

Financial and manpower implications

This exercise should be able to be met within existing allocated budgets; there are therefore no additional financial or manpower implications for the States arising from this proposition.

[\[https://researchbriefings.parliament.uk/ResearchBriefing/Summary/LLN-2017-0085\]](https://researchbriefings.parliament.uk/ResearchBriefing/Summary/LLN-2017-0085)



HOUSE OF LORDS

Library Briefing

Creditworthiness Assessment Bill [HL] HL Bill 16 of 2017–19

Summary

The [Creditworthiness Assessment Bill \[HL\] 2017–19](#) is a private member's bill introduced by Lord Bird (Crossbench). It received its first reading in the House of Lords on 28 June 2017, and is due to have its second reading on 24 November 2017. The Bill would provide that rental payment history and council tax payment history were taken into account when assessing an individual's creditworthiness, not least when they are seeking access to a mortgage to buy a home, for example.

Speaking to the purpose of his Bill, Lord Bird said:

It shouldn't cost more to be poor. As a result of this Bill, the Financial Conduct Authority would require credit providers to take rental and council tax payments into account when assessing an individual's creditworthiness. Currently, renters often cannot use the best asset they have, their rental payment history, to help improve their credit score, become digitally authenticated and enter the mainstream marketplace. But rent should count for something.

The aim of the Bill is fairness: it seeks to empower tenants via more affordable credit inter alia for mortgages, insurance, loans, utilities and consumer goods. It will not encourage problematic indebtedness. Rather, it is about improving financial inclusion and affordability in lenders' credit decisions, encouraging a more inclusive system of credit scoring. By strengthening credit reports, authenticating digital identities and providing greater access to mainstream financial services, it is an opportunity to improve our financial system, and the life chances of Britain's renters.¹

Key Provisions of the Bill

Clause 1 would amend the section 64A of the Financial Services and Markets Act 2000 to provide the Financial Conduct Authority (FCA) with a new rule-making power to:

Ensure that firms carrying on credit-related regulated activities and connected activities, and those entering into or varying a regulated mortgage contract or home purchase plan, take into account rental payment history and council tax payment history when assessing a borrower's creditworthiness.²

Clause 2 would dictate it would apply to England, Scotland, Wales and Northern Ireland.

James Tobin | 20 November 2017

Background

The provision of consumer credit is regulated by the FCA. The FCA's *Consumer Credit Sourcebook* requires that any firm seeking to provide credit must undertake an assessment of the creditworthiness of the customer.³ In making that assessment, a firm must consider a number of factors, including the customer's financial situation and their ability to make repayments over the life of the proposed credit agreement. Information used in such an assessment can be obtained from both the customer themselves and credit reference agencies.

Individual credit providers such as mortgage lenders, for example, are already able to use information such as rental history, if available. The intention of Lord Bird's Bill is to ensure a customer's rental and council tax payment histories would be explicitly taken into account as part of this process, by giving the FCA the power to make a new rule to this effect. The Big Issue, founded by Lord Bird, has already been working with the consumer credit reporting agency Experian to develop the Rental Exchange; a project whereby a tenant's payment history is recorded in their credit file at "no cost to either the housing provider or the tenant".⁴ Experian and the Big Issue Invest (the social investment arm of the Big Issue group) suggest this allows consumers with 'thin' credit files to build a credit score and positive credit history as well as online proof of identity, increasingly important when seeking to access goods and services such as a utility or mobile phone supplier.⁵ They further contend this information is held in compliance with data protection standards, is not accessible for marketing purposes, and is made available only if the tenancy information is relevant and the tenant has agreed to a credit check, or if it is necessary for an organisation to check information about a tenancy, such as in the case of fraud.⁶ Tenants are also able to opt-out of the scheme.

With regard to the proposal that rental history be included as a standard feature of credit scores, the Residential Landlords Association (RLA) suggests 60 percent of landlords are in favour of the proposal according to a survey of its 3,000 members. However, the RLA has also expressed concerns about the Rental Exchange model, given it is directed at the social housing sector at the potential exclusion of private landlords, and its requirement that smaller landlords go through another layer of bureaucracy, namely that the rents must first be paid to a 'credit ladder' before being passed onto them. The RLA contend this may muddy the water between who chases rent arrears, and distance landlords further from tenants.⁷

The issue of enabling rental payment history to be taken into account in assessing mortgage eligibility in particular was also the subject of a recent Westminster Hall debate in the House of Commons, following a petition signed by 147,307 people (thus surpassing the 100,000 threshold for such a debate). Introducing the motion in favour of such a proposal, Paul Scully (Conservative MP for Sutton and Cheam) outlined the difficulties faced by a number of people in seeking to access credit, particularly tenants when seeking to secure a mortgage or other types of finance, noting that:

Millions of people are excluded from affordable credit because they do not have a credit history. For the financially excluded, it is a Catch-22 situation; without a credit score, applicants are declined by mainstream providers and considered riskier customers, but the only way to build a credit score is to have a form of credit, such as a mortgage or credit card, in the first place.

Most people on low incomes manage their limited money carefully, yet banks, utility companies and other retailers can discriminate against them. An estimated 2 million people, many of whom are social housing tenants, take out high-cost loans because they cannot access more affordable credit. The Financial Inclusion Commission estimates what is often called the poverty premium—

the extra spent on basic necessities such as gas and electricity, mobile phones, white good and furniture—to be £1,300.⁸

Speaking on behalf of the Labour Party, Jonathan Reynolds (Labour MP for Stalybridge and Hyde) said Britain's renters deserved fair access to credit and better access to the housing market, adding:

Up to 80 percent of renters have seen their credit rating rise when they have been able to include their rental payments in their credit score. Crucially, it has added a digital footprint, which is so important these days, for many people who simply did not have one before.⁹

Mr Reynolds said that the Opposition Front Bench was in favour of the motion on mortgage eligibility, and gave further and explicit support to Lord Bird's Bill on creditworthiness.

For the Scottish National Party, Kirsty Blackmore (SNP MP for Aberdeen North) also declared support for the motion, describing the Rental Exchange as a "genius idea", and a great way of ensuring social rent payments in particular are taken as evidence of creditworthiness.¹⁰

Responding to the debate on behalf of the Government, the Economic Secretary to the Treasury, Stephen Barclay, noted that whilst it was "right to highlight that the Financial Conduct Authority independently makes those affordability assessments, or sets the terms relating to affordability for firms",¹¹ payment of rent can already be used by individual providers to assess affordability:

Turning to the specifics of the petition, the Government agree that a history of paying rent on time is a factor that lenders can consider when assessing creditworthiness, but it is one factor alongside others—not the sole factor to take on board. It is important to stress that mortgage regulations do not prevent lenders from taking into account rent payments as one of the criteria on which to assess affordability.¹²

With specific regard to the information provided to credit rental agencies and the Rental Exchange scheme, Mr Barclay said:

Options are available that allow renters to ensure their credit history is captured in the information that credit reference agencies provide to lenders. That has the potential to improve the chances of someone getting a mortgage. [David Jones MP, Conservative] correctly cited the example of Experian and the potential for housing associations and credit reference agencies to work together to build more examples [...] Part of the problem is that awareness of such schemes is low. The Government would like take-up to be increased and more ways to develop such models.¹³

Indicating that the Government was willing to listen to further proposals for reform, Mr Barclay concluded:

Lenders and credit reference agencies being able to access data relating to a prospective borrower's history of paying rent will benefit both the borrower and the lender. There are already private sector solutions, some of which we have heard about in the debate. I am keen to look for ways to raise awareness of those, and to look at how we use open banking to open up further possibilities in future.¹⁴

On the wider issue of consumer credit, the FCA has recently conducted a public consultation on assessing creditworthiness. That consultation, which was open for comments between July and October of this year, focused on:

- the distinction between affordability and credit risk;
- the factors that should be used when deciding the proportionality of assessments;
- the role of income and expenditure information; and
- consumer expectations around firms' policies and procedures.¹⁵

Once the responses have been considered, the FCA is due to issue a policy statement in the second quarter of 2018.¹⁶

Further Information

- Financial Conduct Authority, [Consumer Credit Sourcebook](#), accessed 12 November 2017; and [Consultation Paper: Assessing Creditworthiness in Consumer Credit—Proposed Changes to Our Rules and Guidance](#), July 2017
- Big Issue Invest, [‘The Rental Exchange’](#), accessed 13 November 2017; and Experian, [The Rental Exchange](#), accessed 13 November 2017
- Financial Inclusion Commission, [‘A New Approach to Improving Access to Low Cost Credit’](#), 30 November 2016
- House of Lords Financial Exclusion Committee, [Tackling Financial Exclusion: A Country that Works for Everyone?](#), 25 March 2017, HL Paper 132 of 2016–17
- House of Commons Library, [High Cost Consumer Credit: The New Regulatory Regime](#), 31 July 2017

¹ Text supplied by Lord Bird to the House of Lords Library.

² [Creditworthiness Assessment Bill 2017–19](#).

³ Financial Conduct Authority, [Consumer Credit Sourcebook](#), accessed 12 November 2017.

⁴ Big Issue Invest, [‘The Rental Exchange’](#), accessed 13 November 2017.

⁵ Experian, [The Rental Exchange](#), accessed 13 November 2017.

⁶ Big Issue Invest, [The Rental Exchange](#), accessed 13 November 2017.

⁷ Residential Landlords Association, [‘Briefing for Westminster Hall Debate on Including Rent as a Standard Feature of Credit Scores’](#), 23 October 2017.

⁸ [HC Hansard, 23 October 2017, cols 3–4WH](#).

⁹ *ibid*, col 18WH.

¹⁰ *ibid*, col 16WH.

¹¹ *ibid*, col 20WH.

¹² *ibid*, col 22WH.

¹³ *ibid*, col 23WH.

¹⁴ *ibid*, col 24WH.

¹⁵ Financial Conduct Authority, [‘CP17/27: Assessing Creditworthiness in Consumer Credit’](#), accessed 14 November 2017.

¹⁶ *ibid*

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Creditworthiness Assessment Bill [HL]

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A
B I L L

TO

Require certain matters to be taken into account when assessing a borrower's creditworthiness.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Assessing the affordability of a borrower's creditworthiness

(1) The Financial Services and Markets Act 2000 is amended as follows.

(2) In section 64A, after subsection (1), insert—

“(1A) The FCA must, in making rules under this section, ensure that firms carrying on credit-related regulated activities and connected activities and those entering into or varying a regulated mortgage contract or home purchase plan take into account rental payment history and council tax payment history when assessing a borrower's creditworthiness.”

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2 Extent, commencement and short title

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(1) This Act extends to England and Wales, Scotland and Northern Ireland.

(2) This Act comes into force on the day on which it is passed.

(3) This Act may be cited as the Creditworthiness Assessment Act 2018.

Creditworthiness Assessment Bill [HL]

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B I L L

To require certain matters to be taken into account when assessing a borrower's creditworthiness.

Brought from the Lords, 19 July 2018.

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be printed, 12 September 2018.*

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Bill 269

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