

Processing of person in charge data in Suomen Asiakastieto Oy's services

The Credit Information Act (527/2007) contains several provisions for the processing of data on a company's persons in charge in credit data activities.

Some provisions concerning the matter in the Credit Information Act

The concept of a company's person in charge has been defined in paragraph 3 of Section 3 in the Act.

- a company's person in charge refers to a person, who is entered in an authority's public register as partner, general partner, managing director, member or deputy member of the Board of Directors, or a person entitled to sign for the firm or holding the rights of procuration.

As data on a person's participation in companies it is allowed to register, in which company the person is or has been a person in charge (Section 12, paragraph 2).

In connection with the company's data it is also allowed to process person in charge data (Section 21, paragraph 3).

The Act contains a general provision, which allows connecting the data of the company's person in charge to the company's data (Section 26).

The Act contains provisions on when it is allowed to use the data of the company's persons in charge when rating the company (Section 27).

COMPANY'S PAYMENT DEFAULTS – impact on the person's data

The payment defaults that the company has are not as such shown in the personal payment defaults of the person in charge.

If the right to a claim also concerns the person in charge, a payment default entry can also be entered for the person in charge. The right to a claim may be directed to the person, for example, because of a guaranty given, or due to the corporate position (person in charge), or company form (sole trader).

A credit grantor has the right to use also the company's data when granting credit to the person in charge. A payment default of such a company, in which the person is in a position of person in charge, can also have an impact on the person obtaining a personal credit.

CORPORATE LINK OF PERSON IN CHARGE (PARTICIPATION IN COMPANIES)

Credit data tells in which companies the person is in a position of person in charge. In this connection it can also be indicated if the companies in question have payment defaults.

Credit grantors can in their own credit policy also pay attention to the person's participation in companies, even though the person has no personal payment defaults, and consider the position as person in charge in a company with payment defaults an obstruction for credit granting.

When a person resigns from the position of the company's person in charge, the data on the participation in the company is removed within a year from the date when the data on the resignation was entered in the Trade Register. If the company has a payment default at the moment of resignation, or the company obtains a payment default within the next 12 months, the participation in the company will not be removed until the payment default in question expires.

Resigning from the position as person in charge, for example, just before a bankruptcy does not prevent the processing of the person's data further in connection with the company's data.

Owning or founding a company without a position of person in charge does not generate a participation in companies, and the data has no significance for credit data activities.

PERSON IN CHARGE'S PAYMENT DEFAULTS – impact on the company's data

A person in charge's payment default data can be requested and processed also when the actual subject for acquiring the credit data is a company. Requesting the personal payment defaults of persons in charge is allowed more extensively than requesting the data of a person in position of a consumer.

According to Section 19 of the Credit Information Act, data of a company's persons in charge may be requested because of their position:

- for granting a contribution given by an authority for business activities, if the data subject is a person in charge in the company applying for the contribution
- when assessing a company's and its person in charge's ability to meet their engagements as a contractual party and when selecting a person as the company's person in charge.

It has to be noted that the phrase “assess a company's ability to meet their engagements” comprises more situations and cases than the mere assessment in the credit granting situation. Such an assessment can also be the assessment of potential co-operation partners and even competitor analysis. The company's person in charge does not enjoy as wide privacy protection as an ordinary consumer.

The personal payment defaults of a company's person in charge often have an impact on the company's credits and making of other agreements even though the company did not have any payment defaults.

COMPANY'S RATINGS – use of person in charge data

An enterprise assessing a company's creditworthiness (e.g. Suomen Asiakastieto Oy) is allowed to use the data of the company's person in charge in the company's ratings according to the provisions in the Credit Information Act (Section 27).

Data of the person in charge can always be used (without the temporal restriction relating to the company's age) when assessing

- a natural person engaging in business activities
- a general partnership or limited partnership
- a “small” limited liability company (a company, which according to the Auditing Act is not obligated to appoint an auditor)

With other limited liability companies (“big ltd” = a company for which an auditor has to be appointed), data may be used only for a time period stated in the Act when starting the activities or, for example, when the persons in charge change.

Personal credit data of persons in charge is only significant for the company's rating together with other data. The data is made significant through the investigation made by the party preparing the rating.