

CONSULTATION PAPER

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Consultation Paper on Proposed Credit Bureau Regulatory Framework and Credit Bureau Bill

MAS

Monetary Authority of Singapore

PREFACE

1 In Singapore, credit bureaus recognised under the Banking Act (Cap 19) are permitted to collect and disclose borrower credit information from member banks, finance companies and credit card companies to facilitate members' credit assessments and loan underwriting decisions. As the credit bureaus collect increasing and more detailed borrower credit information, it would be prudent to subject them to more formal supervisory oversight by the Monetary Authority of Singapore ("MAS") to ensure that they take adequate measures to safeguard the confidentiality, security and integrity of sensitive borrower credit information and protect consumers' interests.

2 MAS proposes to enact a Credit Bureau Act ("CBA"). This consultation paper outlines the obligations of licensed credit bureaus ("LCB") and their members, as well as MAS' supervisory powers under the proposed CBA.

3 MAS invites comments on the proposals outlined in this consultation paper and the proposed draft Bill. Electronic submission is encouraged. Please email your comments to creditbureau@mas.gov.sg by 12 September 2014. Alternatively, you may wish to submit your comments by post to:

Payments & Infrastructure Division
Specialist Risk Department
Monetary Authority of Singapore
10 Shenton Way
MAS Building
Singapore 079117

4 Please note that all submissions may be made public unless confidentiality is specifically requested.

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1 BACKGROUND

1.1 Credit bureaus are organisations that collect, use and disclose information relevant to the credit worthiness of borrowers (“credit data”). Members of the credit bureaus are usually lenders, such as banks, who use the credit data to facilitate their credit assessments and loan underwriting decisions.

1.2 In Singapore, there are currently two credit bureaus, namely Credit Bureau (Singapore) Pte Ltd and DP Credit Bureau Pte Ltd, that are recognised by MAS under section 47 and the Third Schedule of the Banking Act (Cap. 19) to collect and disclose credit data to their members, which consist of banks, finance companies and credit card companies. The credit bureaus may supplement credit data contributed by their members with information from other sources, such as insolvency and bankruptcy data from the Insolvency & Public Trustees Office.

1.3 The credit bureaus are permitted to collect, use and disclose credit data only for the purpose of facilitating credit assessments by their members.

1.4 As a condition for recognition, credit bureaus undertake to safeguard the confidentiality, security and integrity of the credit data, and to seek MAS’ prior approval for any changes to their corporate and shareholding structures, scope of business and credit reporting systems.

2 RATIONALE FOR CREDIT BUREAU ACT AND PROPOSED SUPERVISORY REGIME

2.1 RATIONALE FOR CREDIT BUREAU ACT

2.1.1 The credit bureaus are collecting increasing and more detailed credit data to facilitate more comprehensive credit assessments by their members. Given the large amount of sensitive personal information collected by the credit bureaus, it is necessary to subject them to more formal oversight by MAS to ensure that they safeguard the credit data and consumers' interests. MAS therefore proposes to enact a new Credit Bureau Act ("CBA").

2.1.2 The CBA will cover the following areas:

- (a) **Licensing of Credit Bureaus** – MAS will license credit bureaus, and be empowered to renew, suspend and revoke such licences.
- (b) **Supervision of LCBs and their Members** – MAS will exercise supervisory oversight of LCBs and have powers to issue regulations to LCB members and investigate the latter for breaches.
- (c) **Obligations of LCBs and their Members** – The CBA will formalise existing and new operating requirements for LCBs and their members.
- (d) **Consumer Rights** – The CBA will reinforce consumers' rights to access, review and rectify credit records.

2.2 LICENSING OF CREDIT BUREAUS

2.2.1 The proposed CBA will allow MAS to establish a licensing framework to issue, renew, suspend and revoke licences of credit bureaus in Singapore. Each licence will be valid for a period of 5 years. The licensing regime will allow MAS to set admission criteria for LCBs, as well as ongoing requirements (see sections 2.4 and 2.5 below) that must be met for LCBs to continue to be licenced.¹ The licensing regime will enable MAS to improve the standards for fair credit reporting among LCBs and strengthen the protection of confidential credit data and consumers' rights in Singapore.

¹ MAS will consult on regulations and notices of specific requirements such as admission criteria at a later stage.

2.2.2 Existing credit bureaus recognised by MAS will be given a transition period of 6 months to comply with the new requirements.

Questions:

Q1 Should credit bureaus be regulated under a licensing regime?

Q2 Are the above licensing and transition periods appropriate?

2.3 SUPERVISORY POWERS OVER LCBs AND THEIR MEMBERS

2.3.1 To help ensure that LCBs adhere to the requirements set out in the CBA (see sections 2.4 and 2.5 below), MAS must supervise and have enforcement powers over LCBs. Under the proposed CBA, MAS' supervisory powers over LCBs will include, amongst others, the ability to gather information, inspect, investigate, issue directions, impose financial penalties, and compound offences.

2.3.2 MAS may also investigate members of the LCBs if there is a suspected breach of MAS' regulatory requirements. To facilitate this, MAS will be empowered to gather information from members of LCBs and to investigate their activities.

Question:

Q3 Are the above supervisory powers appropriate for the proper supervision of credit bureaus?

2.4 FORMALISE OBLIGATIONS OF LCBs AND MEMBERS OF LCBs

2.4.1 MAS will require LCBs to manage their business and operational risks appropriately. In particular, LCBs will be required to have a good governance framework, a comprehensive risk management framework, sound financials, operational reliability and resilience, and proper due diligence of outsourcing arrangements. A key focus of these requirements would be to ensure data confidentiality, security and integrity. Similar requirements on maintaining data confidentiality, security and integrity will also apply to members of LCBs.

Ensuring Data Confidentiality and Security

2.4.2 Given the sensitive nature of credit data, LCBs which are authorised to collect, use and share bank credit data and their members should be held to high standards of data confidentiality and security. The obligations on LCBs and members of LCBs to safeguard data confidentiality and security will be formalised in the proposed CBA.

Ensuring Data Integrity

2.4.3 Lenders rely on information in the credit reports issued by credit bureaus to conduct credit assessments of potential borrowers. The integrity and accuracy of the credit data is thus essential in ensuring robust credit assessments and a fair outcome for borrowers.

2.4.4 Members of LCBs would be required to contribute accurate and complete data to the LCBs in a timely manner. LCBs should ensure that they maintain and disclose similarly accurate, complete and timely credit data to their members.

Ensuring Prompt Rectification of Erroneous Data

2.4.5 A proper data error rectification process can play an important role in ensuring the accuracy and completeness of data in credit bureaus. When data errors are brought to the attention of the LCBs or their members, they should investigate and correct the data error. The proposed CBA will also impose a legal obligation on LCBs and their members to adopt clear and effective procedures to facilitate investigation and rectification of credit data when consumers dispute the accuracy of their credit data held with the LCBs.

Ensuring Proper Governance and Management

2.4.6 As part of good governance, an LCB will be subject to annual audits by an MAS-approved auditor and will need to seek MAS' approval for changes to its substantial shareholders, board of directors and chief executive officer.

Question:

Q4 Are the above obligations of LCB and their members appropriate with respect to the confidentiality, security and integrity of data and operations of an LCB?

2.5 REINFORCE CONSUMERS' RIGHTS TO ACCESS, REVIEW AND DISPUTE CREDIT RECORDS

2.5.1 MAS recognises consumers' fundamental right to access, review and dispute their credit data. Consumers can also play an integral role in ensuring that credit data maintained by the LCBs are accurate and complete. LCBs will be required to ensure that any consumer who wishes to purchase a copy of his credit report can do so within a specified timeframe from the date of his request. MAS proposes to formalise these rights in the CBA.

2.5.2 MAS further recognises that there are certain situations where consumers may have a greater need to access and verify the accuracy of credit reports issued by the LCBs. One such situation is when a loan application is rejected. To protect consumers' interests in such situations, MAS proposes to require LCB members that have approved or rejected a credit application by a consumer, to furnish to that consumer his credit report, free of charge, within a specified period from the date of credit approval or rejection upon the consumer's request. Establishing such rights for consumers in the law is in line with good international practice.

Question:

Q5 Are the above requirements appropriate in facilitating consumer data access, review and dispute?

3 KEY PROPOSALS

3.1.1 Details of the proposed CBA are set out in the draft Credit Bureau Bill (“the Bill”) found in the Annex. The key provisions are summarised below.

S/N	Key Provisions	Section in Draft Bill
PART II – Licensing of Credit Bureau		
1	<p><u>Licensing of Credit Bureau</u></p> <p>MAS will license credit bureaus and have the following powers:</p> <ul style="list-style-type: none"> (a) Power over the issuance, renewal, suspension and revocation of LCB licences; (b) Power to impose licensing criteria and conditions; (c) Power to add, vary or revoke licensing conditions; and (d) Power to collect licensing and application processing fees. 	Sections 6 to 11
PART III – Obligations of Licensed Credit Bureau		
2	<p><u>Obligation to Maintain Data Confidentiality</u></p> <p>LCBs will be obligated to maintain the confidentiality of data contributed by their members.</p> <p>To this end, LCBs may collect, use and disclose credit data only for the purposes of credit assessment and other purposes authorised under the Bill. The existing restrictions in section 47 and the Third Schedule of the Banking Act on the extent and restriction of the collection, usage and disclosure of credit data will also be replicated in the CBA.</p> <p>LCBs will be allowed to disclose the credit report of a data subject to a third party when the LCB has obtained written consent from the data subject to do so.</p>	Sections 12 and 13

S/N	Key Provisions	Section in Draft Bill
3	<p><u>Obligation to Maintain Data Security and Integrity</u></p> <p>LCBs will be required to protect all data from unintended access or leakage during the full data processing life cycle, including the following:</p> <ul style="list-style-type: none"> (a) collecting or recording; (b) holding; (c) organising, combining, adapting or altering; (d) using; (e) retrieving or transmitting; (f) disclosing or reporting; or (g) erasing or destroying. <p>To maintain data integrity, LCBs will be required to ensure that all data processed are accurate and complete. Further guidance on data accuracy and completeness (e.g. classification of credit facilities, definitions of outstanding balances and credit limits) will be issued in regulations.</p> <p>Having considered the importance of accuracy and completeness of data provided by non-members of LCBs, MAS will make it a statutory requirement for LCBs to provide for contractual safeguards on the integrity of data provided by non-members of LCBs, where applicable. Bankruptcy and litigation records are examples of supplementary data, reflected in credit reports, currently provided by commercial entities which are not members.</p>	Sections 14 and 15
4	<p><u>Obligation to Maintain Ease of Access to Data</u></p> <p>To ensure that consumers have access to their own credit data, LCBs will be required to provide credit reports to consumers within a reasonable timeframe upon request. Credit reports may be provided in hardcopy or electronic form.</p>	Section 16

S/N	Key Provisions	Section in Draft Bill
5	<p><u>Obligation to Maintain Proper Data Dispute and Rectification Process</u></p> <p>LCBs will be required to maintain proper data dispute and rectification processes to facilitate timely investigation and correction of erroneous data, upon such requests by consumers. Specifically, LCBs will be required to:</p> <ul style="list-style-type: none"> (a) Perform the necessary investigation and correct any errors found as soon as practicable; and (b) Send the corrected data within a prescribed timeframe to every member of the LCB who had previously accessed the erroneous data. 	Section 17

S/N	Key Provisions	Section in Draft Bill
6	<p><u>Obligation to Furnish Information to Authority</u></p> <p>To facilitate effective supervision of LCBs, MAS will require LCBs to provide timely updates of certain events.</p> <p>(a) LCBs will be required to inform MAS as soon as practicable after the occurrence of any of the following events:</p> <ul style="list-style-type: none"> (i) Any event that compromises the confidentiality, security or integrity of data; (ii) Any civil or criminal legal proceeding instituted against the LCB, whether in Singapore or elsewhere; (iii) Any event or irregularity that impedes or prevents access to, or impairs the usual operations of, the LCB; (iv) the LCB is becoming, or likely to become, insolvent or unable to meet its financial, statutory, contractual or other obligations; or (v) Any other event specified by MAS. <p>(b) LCBs will be required to inform MAS within 14 calendar days after the following events:</p> <ul style="list-style-type: none"> (i) Any change in the senior management (other than a director or chief executive officer which requires MAS' approval) of the LCB; or (ii) Any other event specified by MAS. <p>(c) MAS will also be empowered to require LCBs to inform MAS 14 calendar days prior to a specified event. MAS will specify such events in regulations.</p>	Section 18

S/N	Key Provisions	Section in Draft Bill
PART IV – Audit of Licensed Credit Bureaus		
7	<p><u>Audit Requirements and Powers Over Auditors</u></p> <p>As part of good governance and to evaluate and improve the effectiveness of risk management, control and governance processes within LCBs, LCBs will be required to conduct annual statutory and operational audits using MAS approved audit firm(s). MAS will have the power to revoke the appointment of the auditor and vary the scope of audit, where necessary.</p> <p>In view of the likelihood of auditors gaining exposure to confidential credit data in the course of auditing LCBs, MAS will make it a statutory requirement for any employee of an auditor not to disclose any information which may come to his knowledge or possession in the course of auditing LCBs, except to the Authority or the auditor.</p>	Sections 21 to 24
PART V – Obligations of Members of Licensed Credit Bureau		
8	<p><u>Obligation to Maintain Confidentiality, Security and Integrity of Data</u></p> <p>Similar to LCBs, members of LCBs will be required to maintain the confidentiality, security and integrity of data. The requirements for members of LCBs will be similar to those for LCBs in PART III above.</p>	Sections 25 and 26

S/N	Key Provisions	Section in Draft Bill
9	<p><u>Obligation to Facilitate the Correction of Data</u></p> <p>Members of LCBs will be required to facilitate the correction of data errors as part of the data rectification and dispute process for LCBs. Such requirements include the obligation to:</p> <ul style="list-style-type: none"> (a) Conduct and complete necessary investigations to confirm the accuracy and completeness of the data stored with the member of LCB; and (b) Inform the LCB in writing to rectify the data inaccuracy, where applicable. 	Section 27
10	<p><u>Obligation to Submit Data to an LCB in a Timely Manner</u></p> <p>MAS recognises the importance of timely submission of data by members of LCBs and that consumers may be unfairly penalised when being assessed for loan applications if their credit data with the LCBs are not kept up to date. Hence, members of LCBs will be required to submit data in a timely manner.</p>	Section 28

S/N	Key Provisions	Section in Draft Bill
11	<p><u>Member's Obligation to Furnish Information to Authority</u></p> <p>Members of LCBs will be required to provide the following information to facilitate MAS' supervisory efforts.</p> <p>(a) Information about their internal processes relating to data provided to an LCB, including the confidentiality, security and integrity of such data; and</p> <p>(b) Such other information required by MAS for the purposes of administering the CBA.</p>	Section 29
12	<p><u>Obligation to Provide A Free-of-Charge Credit Report to Consumers Under Certain Circumstances</u></p> <p>A member of an LCB will be required, upon the request of a consumer, to provide within a credit report free-of-charge to the consumer within a specified timeframe after approving or rejecting that consumer's credit application. This will better facilitate consumers' ability to verify the accuracy and completeness of their credit data.</p>	Section 30

S/N	Key Provisions	Section in Draft Bill
PART VI – Powers of Control Over Licensed Credit Bureau		
13	<p><u>Control Over Shareholding Changes</u></p> <p>To ensure proper corporate governance in the LCBs, LCBs will have to seek MAS' approval prior to any shareholder establishing substantial shareholding or effective control over an LCB.</p> <p>In reviewing the application to acquire effective control, MAS will consider whether the applicant is fit and proper and whether the applicant will have any adverse impact on the LCB's ability to conduct its credit reporting business prudently and comply with all obligations under the Bill.</p>	Sections 31 to 40
14	<p><u>Control Over Appointment and Removal of Board of Directors and Chief Executive Officers</u></p> <p>To ensure sound corporate governance, it is important that the board of directors and the chief executive officer of an LCB have the relevant experience and are fit and proper for their appointed roles. MAS will be empowered to approve the appointment and removal of the board directors and chief executive officer of an LCB.</p>	Sections 41 and 42

S/N	Key Provisions	Section in Draft Bill
15	<p><u>Inspection and Investigation Powers</u></p> <p>To ensure compliance with regulatory requirements and adherence to good credit reporting practices, MAS will have the power to:</p> <ul style="list-style-type: none"> (a) Conduct inspections or investigations of LCBs or to appoint a third party to conduct special audits or investigations of LCBs. (b) Conduct investigations of members of LCBs or to appoint a third party to conduct special audits or investigations of members of LCBs. <p>For special audits or investigations conducted by third parties, MAS will have the powers to determine the scope of such audit or investigation. Remuneration and expenses of any third party appointed to conduct the special audit or investigation will be paid by the LCB or their members, respectively. The appointed third party and MAS officers conducting the special audit or investigation will be required to maintain confidentiality of the special audits or investigation reports and all information acquired during the course of the special audit or investigation.</p>	Sections 21 and 43 to 47

S/N	Key Provisions	Section in Draft Bill
16	<p><u>Emergency Powers</u></p> <p>To maintain stability and continuity of the credit reporting operations within LCBs during times of insolvency or potential insolvency, or where the Authority considers it is in the interest of public to do so, MAS will have the powers to appoint one or more persons as statutory manager(s) or advisor(s) to assume control and manage the operations of the LCB.</p> <p>Statutory managers or advisors will be protected against any legal suits in the course of their appointment as long as they have acted with reasonable care and in good faith. The remuneration of the statutory managers or advisors will be determined by MAS. MAS will also be empowered to revoke any appointment of a statutory manager or advisor.</p>	Sections 48 to 53

S/N	Key Provisions	Section in Draft Bill
17	<p data-bbox="352 365 954 398"><u>Control Over Specific Operational Matters</u></p> <p data-bbox="352 454 1185 618">To enable MAS to supervise LCBs on important aspects of credit reporting operations, LCBs will be required to seek MAS' approval prior to the following operational decisions:</p> <ul style="list-style-type: none"> <li data-bbox="379 674 1185 745">(a) Any change in business nature by the LCB other than the business of operating a credit bureau; <li data-bbox="379 786 1185 857">(b) Any change in Memorandum and Articles of Association, or equivalent, of the LCB; <li data-bbox="379 898 1007 931">(c) Any change in shareholding of the LCB; <li data-bbox="379 981 1042 1014">(d) Any change in the membership of an LCB; <li data-bbox="379 1064 1185 1171">(e) Any change in the reciprocity arrangement or equivalent operating rules between an LCB and any of its members; <li data-bbox="379 1220 1185 1292">(f) Any change in credit report format and specifications of data elements; <li data-bbox="379 1341 1185 1449">(g) Any change in scope, definition, classification, retention period of credit data elements collected, used or disclosed by the LCB; <li data-bbox="379 1498 1185 1606">(h) Any change in credit scoring methodology, credit scoring model validation method, analysis and reporting; or <li data-bbox="379 1655 1185 1727">(i) Any change in product or services offered by the LCB. 	Section 54

4 ANNEX – DRAFT CREDIT BUREAU BILL

DISCLAIMER: THIS VERSION OF THE BILL IS IN DRAFT FORM AND IS SUBJECT TO CHANGE

Credit Bureau Bill

Bill No. /2015.

Read the first time on .

CREDIT BUREAU ACT 2015

(No. of 2015)

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1. Definitions

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1. Specific provisions

A BILL

i n t i t u l e d

An Act to provide for the licensing and regulation of credit bureaus, and for matters connected therewith.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I
PRELIMINARY

Short title and commencement

1. This Act may be cited as the Credit Bureau Act 2015 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

2.—(1) In this Act, unless the context otherwise requires —

“accurate” in relation to data means the data is correct and not misleading;

“Authority” means the Monetary Authority of Singapore established under the Monetary Authority of Singapore Act (Cap. 186);

“advocate and solicitor” means an advocate and solicitor of the Supreme Court or a foreign lawyer as defined in section 2(1) of the Legal Profession Act (Cap. 161);

“bank” has the same meaning as in the Banking Act (Cap.19);

“bank in Singapore” has the same meaning as in the Banking Act (Cap.19);

“book” includes any record, register, document or other record of information and any account or accounting record, however compiled, recorded or stored, whether in written, printed form or on microfilm or by electronic process or otherwise;

“chief executive officer”, in relation to a company, means any person, by whatever name described, who —

(a) is in the direct employment of, or acting for or by arrangement with, the company; and

(b) is principally responsible for the management and conduct of any type of business of the company;

“credit bureau” means an entity which carries on credit reporting business;

“credit facilities” has the same meaning as in the Banking Act;

“credit report” has the meaning given to it in the First Schedule;

- “credit reporting business” has the meaning given to it in the First Schedule;
- “company” has the same meaning as in section 4(1) of the Companies Act (Cap 50);
- “co-operative society” means a co-operative society registered under the Co-operative Societies Act (Cap. 62);
- “corporation” —
- (a) has the same meaning as in section 4(1) of the Companies Act; but
 - (b) includes a co-operative society;
- “customer”, in relation to a member of a licensed credit bureau, includes the Authority or any monetary authority or central bank of any other country or territory, but does not include any company which carries on banking business or such other financial institution as may be designated by the Authority by notice in writing;
- “customer information”, in relation to a member of a licensed credit bureau, means —
- (a) any information relating to, or any particulars of, an account of a customer of the member, whether the account is in respect of a loan, investment or any other type of transaction, but does not include any information that is not referable to any named customer or group of named customers; or
 - (b) deposit information;
- “data” has the meaning given to it in the First Schedule;
- “data provider” in relation to a licensed credit bureau, means any person who is obliged under any contract or arrangement to provide data to a licensed credit bureau;
- “data subject” means the person who is the subject of the data or credit report, as the case may be;
- “deposit information”, in relation to a member of licensed credit bureau, means any information relating to —
- (a) any deposit of a customer of the member;
 - (b) funds of a customer under management by the member; or
 - (c) any safe deposit box maintained by, or any safe custody arrangements made by, a customer with the member,

but does not include any information that is not referable to any named person or group of named persons;

“director” includes any person occupying the position of director of a corporation by whatever name called and includes a person in accordance with whose directions or instructions the directors of a corporation are accustomed to act and an alternate or substitute director;

“employee” includes an individual seconded or temporarily transferred from another employer;

“entity” means any body corporate or unincorporate, whether incorporated, formed or established in or outside Singapore;

“executive officer”, in relation to a company, means any person, by whatever name described, who —

- (a) is in the direct employment of, or acting for or by arrangement with, the company; and
- (b) is concerned with or takes part in the management of the company on a day-to-day basis;

“foreign company” has the same meaning as in section 4(1) of the Companies Act;

“funds of a customer under management” means any funds or assets of a customer (whether of a member of a licensed credit bureau or any financial institution) placed with that member for the purpose of management or investment;

“integrity”, in relation to data, means the data is accurate and complete;

“licence” or “credit bureau licence” means a licence granted or held under section 6 of this Act;

“licensed credit bureau” means a credit bureau which is for the time being licensed under section 6 of this Act;

“limited liability partnership” has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“member” in relation to a licensed credit bureau, means an entity or an entity belonging to a class of entities, recognised by the Authority, by notification published in the *Gazette* as authorised to be a member of a licensed credit bureau, subject to such conditions as may be specified in a notice issued by the Authority;

“merchant bank” means a merchant bank approved as a financial institution under section 28 of the Monetary Authority of Singapore Act;

“officer”, has the same meaning as in section 4(1) of the Companies Act;

“person” includes a corporation;

“processed”, in relation to data, means the carrying out of any operation or set of operations in relation to the data, and includes one or more of the following:

- (a) collecting or recording;
- (b) holding;
- (c) organising, combining, adapting or altering;
- (d) retrieving or transmitting;
- (e) using;
- (f) disclosing or reporting;
- (g) erasing or destroying;

“public agency” includes —

- (a) the Government, including any ministry, department, agency, or organ of State;
- (b) any tribunal appointed under any written law; or
- (c) any statutory body;

“related corporation”, in relation to a corporation, means a corporation that is deemed to be related to the first-mentioned corporation under section 6 of the Companies Act;

“share” has the same meaning as in section 4(1) of the Companies Act and includes an interest in a share;

“substantial shareholder” has the same meaning as in section 81 of the Companies Act;

“total number of issued shares”, in relation to a company, does not include treasury shares;

“treasury share” has the same meaning as in section 4(1) of the Companies Act;

“written direction” means a written direction issued under section 69;

Purpose of Act

3. An Act for the regulation of credit bureaus and members of licensed credit bureaus, and for other purposes relating thereto or connected therewith.

Application of Act

4. This Act shall not apply to any public agency unless the Minister prescribes by order in the *Gazette* that the public agency is a public agency to which this Act applies.

Appointment of assistant

5.—(1) Subject to subsection (2), the Authority may appoint any person to exercise any of its powers or perform any of its functions or duties under this Act, either generally or in any particular case, except the power to make subsidiary legislation.

(2) The Authority may, by notification in the *Gazette*, appoint one or more of its officers to exercise the power to grant an exemption to any person (not being an exemption granted to a class of persons) under a provision of this Act specified in the Second Schedule, or to revoke any such exemption.

(3) Any person appointed by the Authority under subsection (1) shall be deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

PART II

LICENSING OF CREDIT BUREAU

Licensing of credit bureau

6.—(1) A person who desires to set up a credit bureau in Singapore shall —

(a) apply in writing to the Authority for a licence under this section; and

(b) furnish such information as the Authority may require.

(2) Upon receiving an application under subsection (1), the Authority shall consider the application and may grant a licence to the applicant with or without conditions or refuse to grant a licence.

(3) The Authority shall not grant a licence to any person unless —

(a) the applicant is a company;

(b) the applicant satisfies such financial and operational requirements as may be prescribed; and

(c) the application is accompanied by a non-refundable application fee of a prescribed amount, which shall be paid in the manner specified by the Authority.

(4) The Authority shall cause notice of the grant of any licence or change of name of a licensed credit bureau to be published in the *Gazette*.

(5) Any applicant which is aggrieved by the refusal of the Authority to grant it a licence under this section may, within 30 days after being informed of the decision of the Authority, appeal to the Minister in writing.

(6) The Authority may at any time add to, vary or revoke any of the existing conditions of the licence of a licensed credit bureau or impose any condition thereto.

(7) A licensed credit bureau shall, at all times during the currency of its licence, satisfy such financial and operating requirements as may be prescribed under subsection (3)(b).

(8) Any licensed credit bureau which fails to comply with any condition imposed by the Authority under subsection (2) or (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(9) Any licensed credit bureau which contravenes subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

Holding out as licensed credit bureau

7.—(1) No person shall act as or hold himself out to be, a credit bureau unless he is licensed to do so.

(2) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

Annual fees of licensed credit bureau

8.—(1) Every licensed credit bureau shall pay to the Authority such annual fees as may be prescribed.

(2) The Authority may, where it considers appropriate in a particular case, waive, refund or remit the whole or any part of any annual fee paid or payable to it.

Other application fees payable

9.—(1) An application for approval by a licensed credit bureau under section 50(1) shall be accompanied by a non-refundable application fee of such amount as may be prescribed, which shall be paid in the manner specified by the Authority.

(2) The Authority may, where it considers appropriate in a particular case, waive the whole or any part of any fee paid or payable to it.

Suspension and revocation of licence

10.—(1) The Authority may revoke a licence if —

(a) there exists a ground on which the Authority may refuse an application under section 6(3);

(b) the licensed credit bureau fails to satisfy the Authority that all of its officers, employees and substantial shareholders are fit and proper persons;

(c) the Authority is not satisfied as to —

(i) the financial standing of the licensed credit bureau; or

(ii) the manner in which the licensed credit bureau's business is to be conducted;

(d) the licensed credit bureau has contravened any provision of this Act, or any condition or restriction imposed or any written direction issued by the Authority under this Act;

(e) it appears to the Authority that the licensed credit bureau has failed to satisfy any of its obligations under or arising from —

(i) this Act; or

(ii) any written direction issued by the Authority under this Act;

(f) the licensed credit bureau has furnished any information or document to the Authority that is false or misleading;

(g) the Authority has reason to believe that the licensed credit bureau, or any of its officers or employees, has not performed its or his duties honestly or fairly;

(h) the Authority is of the opinion that it would be contrary to the public interest for the licensed credit bureau to continue its operation;

(i) the licensed credit bureau fails to pay the licence fee referred to in section 8; or

(j) the licensed credit bureau fails or ceases to carry on any credit reporting business.

(2) The Authority may, if it considers it desirable to do so —

(a) suspend a licence for a specific period instead of revoking it under subsection (1); and

(b) at any time extend or revoke the suspension.

(3) Subject to subsection (4), the Authority shall not revoke or suspend a licence under subsection (1) or (2) without giving the licensed credit bureau an opportunity to be heard.

(4) The Authority may revoke or suspend a licence without giving the licensed credit bureau an opportunity to be heard on any of the following grounds:

(a) the licensed credit bureau is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(b) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, for or in respect of any property of the licensed credit bureau;

(c) the licensed credit bureau has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

(5) A person whose licence is revoked or suspended shall cease to act as a licensed credit bureau from the date on which the revocation or suspension takes effect.

(6) Where the Authority has revoked or suspended licence, the licensed credit bureau shall —

(a) in the case of a revocation of its licence —

(i) immediately inform all its members by notice in writing of such revocation, and the members who are so informed shall cease to be members of that licensed credit bureau;

(ii) within a prescribed period from the date of revocation of the licence, at the direction of the Authority, destroy all books containing any data and expunge all books containing data which are not in written form from its system; and

(iii) within a prescribed period from the date of the revocation of the licence or such other period as the Authority may approve, submit to the Authority, a report from its auditor confirming that the licensed creditor has complied with sub-paragraph (a)(i) and (a)(ii),

(b) in the case of a suspension of its licence, immediately inform all its members by notice in writing of such suspension.

(7) Where the licence of a licensed credit bureau is revoked under this section, the Authority shall publish a notice of the revocation, as the case may be, in the *Gazette*.

(8) Notwithstanding the revocation of the licence of a licensed credit bureau, sections 12, 14, 21, 45, 46, 49 shall, unless the Authority otherwise directs, continue to apply in relation to the licensed credit bureau in respect of matters that occurred before the revocation as if the licence had not been revoked.

(9) Any person who continues to act as a licensed credit bureau in contravention of subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(10) Any licensed credit bureau which contravenes subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

Right of appeal

11.—(1) Any person who is aggrieved —

(a) by the refusal of the Authority to grant a licence to it, or to vary its licence; or

(b) by the revocation or suspension of its licence by the Authority,

may, within 30 days of the refusal, revocation or suspension, appeal in writing to the Minister.

PART III

OBLIGATIONS OF LICENSED CREDIT BUREAU

Obligation to maintain confidentiality of customer information

12.—(1) A licensed credit bureau or any of its officers shall not collect from any of its members, the customer information of its members, except where the collection of customer information is —

(a) strictly necessary for the collation, synthesis or processing of customer information by the licensed credit bureau for the purposes

of the assessment of credit worthiness of the customers of its members;

(b) for the assessment, by other members of the licensed credit bureau mentioned in subsection (1)(a), of the credit worthiness of the customers of these other members of the licensed credit bureau; or

(c) permitted by the Authority, by way of a written notice.

(2) A licensed credit bureau or any of its officers shall not, use customer information of its members, except where the use of customer information is —

(a) strictly necessary for the collation, synthesis or processing of customer information by the licensed credit bureau for the purposes of the assessment of credit worthiness of the customers of its members;

(b) for the assessment, by other members of the licensed credit bureau mentioned in subsection (2)(a), of the credit worthiness of the customers of these other members of the licensed credit bureau; or

(c) permitted by the Authority, by way of a written notice.

(3) A licensed credit bureau or any of its officers, employees or agents shall not, disclose any customer information of its members to any other person except where the disclosure is —

(a) to any member of the licensed credit bureau and is —

(i) strictly necessary for the collation, synthesis or processing of customer information, by that member, for the purposes of the assessment of credit worthiness of the customers of any member of the licensed credit bureau; or

(ii) strictly necessary for the assessment of the credit worthiness, by that member, of the customers of any member of the licensed credit bureau; or

(b) to any third party, as permitted by the Authority by way of a written notice.

(4) Notwithstanding subsections (1), (2) and (3), a licensed credit bureau shall not collect, use or disclose to any person, deposit information of its members.

(5) Notwithstanding subsection (3), a licensed credit bureau, and any of its officers, employees and agents may disclose customer information to each other and to the data subject, provided that such disclosure is —

(a) solely in the course of the licensed credit bureau carrying on credit reporting business; and

(b) in the case of an officer, employee or agent of the licensed credit bureau, solely in connection with his performance of duties as an officer, employee or agent, as the case may be, of the licensed credit bureau.

(6) For the purposes of subsections (1), (2) and (3), the collection, use or disclosure of customer information may be subject to any condition that the Authority may specify by notice in writing.

(7) Any person who contravenes subsection (1), (2), (3), (4) or (6) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$250,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$500,000.

(8) In this section, unless the context otherwise requires —

(a) where disclosure of customer information is authorised under subsection (3) to be made to any person which is a body corporate, customer information may be disclosed to such officers of the body corporate as may be necessary for the purpose for which the disclosure is authorised under in subsection (3); and

(b) the obligation of any officer or other person who receives customer information referred to in subsection (3) shall continue after the termination or cessation of his appointment, employment, engagement or other capacity or office in which he had received the customer information.

Written consent obtained by a licensed credit bureau

13.—(1) Notwithstanding section 12, a licensed credit bureau may disclose the credit report of a data subject to —

(a) the data subject himself; or

(b) a third party where the licensed credit bureau has obtained written consent from the data subject to disclose his credit report to the third party.

Obligation to maintain security and integrity of data

14.—(1) A licensed credit bureau shall —

(a) ensure the integrity of data processed by the licensed credit bureau, except during data destruction or erasure, if the data is likely to be used to make a decision that affects the data subject; or

(b) protect data in its possession or under its control by making security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500,000 and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part thereof during which the offence continues after conviction.

Obligation to safeguard integrity of data in respect of data providers who are not members

15. A licensed credit bureau shall ensure that any contractual arrangement it has with any data provider which is not a member of the licensed credit bureau includes an obligation for such data provider to provide data with integrity to the licensed credit bureau.

Obligation to maintain ease of access to data

16.—(1) Upon the request of a data subject, a licensed credit bureau shall within a timeframe specified by the Authority, provide the data subject with a copy of his credit report.

(2) The licensed credit bureau may charge the data subject a fee each time it provides the data subject with his credit report pursuant to a request.

(3) The licensed credit bureau shall provide a copy of the credit report referred to in subsection (1), in one of the following forms at the option of the data subject —

- (a) a printed copy of credit report to be physically collected by the data subject at the registered office of the licensed credit bureau;
- (b) a printed copy of credit report sent via registered post to an address specified by the data subject; or
- (c) an electronic copy sent via electronic mail to an electronic mail address specified by the data subject.

(4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

Obligation to maintain proper process to allow for the correction of data

17.—(1) A data subject may request a licensed credit bureau to correct an error or omission in the data of the data subject that is in the possession or under the control of the licensed credit bureau.

(2) Where a request to correct an error or omission is made to the licensed credit bureau by the data subject under subsection (1), the licensed credit bureau shall —

- (a) within such period as the Authority may prescribe after receiving such request, conduct and complete an investigation to ascertain the integrity of the disputed data; and
- (b) where it is satisfied on reasonable grounds that a correction should be made, the licensed credit bureau shall —
 - (i) within such period as the Authority may prescribe correct the data; and
 - (ii) within such period as the Authority may prescribe send the corrected data to every member of the licensed credit bureau to which the data was disclosed by the licensed credit bureau.

(3) Any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500,000 and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part thereof during which the offence continues after conviction.

Obligation to notify Authority of certain events

18.—(1) A licensed credit bureau shall, notify the Authority as soon as practicable after the occurrence of any of the following events:

- (a) an event that resulted in a compromise of the confidentiality, security or integrity of data;
- (b) any civil or criminal legal proceeding instituted against the licensed credit bureau, whether in Singapore or elsewhere;
- (c) an event or irregularity that impedes or prevents access to, or impairs the usual operations of the licensed credit bureau;
- (d) the licensed credit bureau is becoming, or likely to become, insolvent or unable to meet its financial, statutory, contractual or other obligations; or
- (e) any other event that the Authority may prescribe or specify by notice in writing from time to time.

(2) Subject to subsection (1), a licensed credit bureau shall notify the Authority within 14 calendar days, after the occurrence of any of the following events:

- (a) any change in its executive officers other than a director or the chief executive officer of the licensed credit bureau; or
- (b) any other event that the Authority may prescribe or specify by notice in writing from time to time.

(3) A licensed credit bureau shall notify the Authority at least 14 calendar days prior to any event that the Authority may prescribe or specify by notice in writing from time to time.

(4) A licensed credit bureau which contravenes subsections (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

Licensed credit bureau’s obligation to furnish information to Authority

19.—(1) The Authority may, in such form and manner as may be prescribed, require any licensed credit bureau or any person acting on behalf of a licensed credit bureau to provide to the Authority, within a reasonable period specified in the notice, all such information relating to the licensed credit bureau as may be required by the Authority.

(2) Without prejudice to the generality of subsection (1), the Authority may in a notice issued under that subsection require any person referred to in subsection (1) to provide, whether in the form of a return to be provided on a periodic basis or otherwise –

- (a) information relating to the operations of the licensed credit bureau; and
- (b) such other information as the Authority may require for the purposes of this Act.

(3) Subject to subsection (5), any person to whom a notice is issued under subsection (1) shall comply with the notice.

(4) Any person who fails to comply with a notice issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(5) A person to whom a notice is issued under subsection (1) shall not be obliged to disclose any information where he is prohibited by any written law from disclosing such information.

Obligation to submit periodic reports

20.—(1) A licensed credit bureau shall submit to the Authority such reports in such form, manner and frequency as the Authority may prescribe.

(2) Any licensed credit bureau which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

PART IV

AUDIT OF LICENSED CREDIT BUREAU

Auditing

21.—(1) Notwithstanding the provisions of the Companies Act (Cap. 50), a licensed credit bureau —

- (a) shall, on an annual basis, appoint and obtain the approval of the Authority for the appointment of an auditor; and
- (b) where for any reason, the auditor ceases to act for the licensed credit bureau, shall as soon as practicable thereafter, appoint another auditor approved by the Authority.

(2) An auditor shall not be approved by the Authority as an auditor for a licensed credit bureau unless the auditor is able to comply with such conditions in relation to the discharge of his duties as may be determined by the Authority.

(3) The Authority may appoint an auditor —

- (a) if the licensed credit bureau fails to appoint an auditor; or
- (b) if it considers it desirable that another auditor should act with the auditor appointed under subsection (1),

and may at any time fix the remuneration to be paid by the licensed credit bureau to that auditor.

(4) The duties of an auditor appointed under subsections (1) and (3) shall be —

- (a) to carry out, for the year in respect of which he is appointed, an audit of the accounts of the licensed credit bureau; and
- (b) to make a report in accordance with section 207 of the Companies Act upon the annual balance-sheet and profit and loss account showing the assets and liabilities and profit or loss arising out of the licensed credit bureau's operations; and

(5) The Authority may, by notice in writing, impose all or any of the following duties on an auditor in addition to those provided under subsection (4) —

- (a) a duty to submit such additional information in relation to his audit as the Authority considers necessary;
- (b) a duty to enlarge or extend the scope of his audit of the business and affairs of the licensed credit bureau;
- (c) a duty to carry out any other examination or establish any procedure in any particular case;
- (d) a duty to submit a report on any of the matters referred to in paragraphs (b) and (c).

(6) An auditor to whom a notice is given under subsection (5) shall comply with such direction or directions as may be specified in the notice.

(7) The licensed credit bureau shall remunerate the auditor in respect of the discharge by him of all or any of the additional duties mentioned in subsection (5).

(8) Notwithstanding any other provision of this Act or the provisions of the Companies Act, the Authority may, if it is not satisfied with the performance of duties by an auditor of a licensed credit bureau —

- (a) at any time direct the licensed credit bureau to remove the auditor or remove the auditor of the bank; and
- (b) direct the licensed credit bureau, as soon as practicable thereafter, to appoint another auditor,

and the licensed credit bureau shall comply with such direction.

(9) The auditor's report made under subsection (4) shall be attached to the balance-sheet and the profit and loss account and a copy thereof together with any report submitted under subsection (5) shall be transmitted in writing to the Authority.

(10) If an auditor, in the course of the performance of his duties as an auditor of a licensed credit bureau, is satisfied that —

- (a) there has been a serious breach or non-observance of the provisions of this Act or that otherwise a criminal offence involving fraud or dishonesty has been committed;
- (b) losses have been incurred which reduce the capital of the licensed credit bureau;
- (c) serious irregularities have occurred, including irregularities that compromise the confidentiality, security or integrity of

data collected, used or disclosed by the licensed credit bureau; or

- (d) he is unable to confirm that the claims of creditors of the licensed credit bureau are still covered by the assets,

he shall immediately report the matter to the Authority.

(11) Where an auditor or an employee of the auditor discloses in good faith to the Authority —

- (a) his knowledge or suspicion of any of the matters referred to in subsection (10); or
- (b) any information or other matter on which that knowledge or suspicion is based,

the disclosure shall not be treated as a breach of any restriction upon the disclosure imposed by law, contract or rules of professional conduct and the auditor shall not be liable for any loss arising out of the disclosure or any act or omission in consequence of the disclosure.

(12) Any licensed credit bureau who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(13) Any licensed credit bureau which fails to comply with a direction under subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(14) Any auditor who contravenes subsection (4), (6) or (10) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

Powers of auditor appointed by Authority

22.—(1) An auditor appointed by the Authority under section 21 may, for the purpose of carrying out an examination and audit —

- (a) examine, on oath or affirmation, any officer or employee of the licensed credit bureau, or any other auditor for the licensed credit bureau appointed under this Act;
- (b) require any officer or employee of the licensed credit bureau, or any other auditor for the licensed credit bureau appointed under this Act, to produce any of the books held by or on

behalf of the licensed credit bureau relating to its business, or to make copies of or take extracts from, or retain possession of, such books for such period as may be necessary to enable them to be inspected;

- (c) employ such persons as he considers necessary to assist him in carrying out the examination and audit; and
- (d) authorise in writing any person employed by him to do, in relation to the examination and audit, any act or thing that he could do as an auditor under this subsection, other than the examination of a person on oath or affirmation.

(2) Any person who, without reasonable excuse, refuses or fails to answer any question put to him, or fails to comply with any request made to him, by an auditor appointed under section 21 or a person authorised under subsection (1)(d) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both.

Restriction on auditor's and employee's right to communicate certain matters

23.—(1) Except as may be necessary for the carrying into effect of the provisions of this Act or so far as may be required for the purposes of any legal proceedings, whether civil or criminal, an auditor appointed under section 21(3) or an auditor carrying out any duty imposed under section 21(4) and any employee of such auditor, shall not disclose any information which may come to his knowledge or possession in the course of performing his duties as such auditor or employee, as the case may be, to any person other than —

- (a) the Authority; and
- (b) in the case of an employee of such auditor, the auditor.

(2) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an auditor, to a fine not exceeding \$50,000; or
- (b) in the case of an employee of an auditor, to a fine not exceeding \$25,000.

Offence to destroy, conceal, alter, etc., records

24.—(1) Any person who, with intent to prevent, delay or obstruct the carrying out of any examination or audit under section 21 —

- (a) destroys, conceals or alters any book relating to the business of a licensed credit bureau; or

- (b) sends, or conspires with any other person to send, out of Singapore, any book or asset of any description belonging to, in the possession of or under the control of the licensed credit bureau,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$75,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) If, in any proceedings for an offence under subsection (1), it is proved that the person charged with the offence —

- (a) destroyed, concealed or altered any book referred to in subsection (1)(a); or
- (b) sent, or conspired to send, out of Singapore, any book or asset referred to in subsection (1)(b),

the onus of proving that, in so doing, he did not act with intent to prevent, delay or obstruct the carrying out of an examination and audit under section 21 shall lie on him.

PART V

OBLIGATIONS OF MEMBER OF LICENSED CREDIT BUREAU

Obligation to maintain confidentiality of customer information

25.—(1) A member of a licensed credit bureau or any of its officers shall not, use customer information of any other member received from the licensed credit bureau, except where the use of customer information is —

- (a) strictly necessary for the assessment of the credit worthiness of the customers of any member of the licensed credit bureau; or
- (b) as permitted by the Authority, by way of a written notice.

(2) A member of a licensed credit bureau —

- (a) which is a bank in Singapore or a merchant bank or any of its officers shall not, disclose any customer information which it or he has in its possession or control except where the disclosure is —
 - (i) to the data subject;
 - (ii) in the case of an officer of such a member of a licensed credit bureau, to that member;

- (iii) to that licensed credit bureau, where it is
 - (A) strictly necessary for the collation, synthesis or processing of customer information by the licensed credit bureau, for the purposes of the assessment of credit worthiness of the customers of the members; or
 - (B) strictly necessary for the processing of customer information by any member of the licensed credit bureau, for the purposes of the assessment of credit worthiness of the customers of any member of the licensed credit bureau; or
 - (iv) to any third party, as permitted by the Authority by way of a written notice.
- (b) shall not disclose any customer information of another member which it or he has received from the licensed credit bureau, to any other person except where the disclosure is —
- (i) to the data subject;
 - (ii) in the case of an officer of such a member of a licensed credit bureau, to that member;
 - (iii) to that licensed credit bureau, where it is —
 - (A) strictly necessary for the collation, synthesis or processing of customer information by the licensed credit bureau, for the purposes of the assessment of credit worthiness of the customers of the members; or
 - (B) strictly necessary for the processing of customer information by any member of the licensed credit bureau, for the purposes of the assessment of credit worthiness of the customers of any member of the licensed credit bureau; or
 - (iv) to any third party, as permitted by the Authority by way of a written notice.
- (3) Notwithstanding subsections (1) and (2), a member of a licensed credit bureau which is a bank in Singapore or a merchant bank, shall not disclose any deposit information.
- (4) Any person who contravenes subsection (1), (2), or (3) shall be guilty of an offence and shall be liable on conviction —
- (a) in the case of an individual, to a fine not exceeding \$250,000 or to imprisonment for a term not exceeding 3 years or to both; or
 - (b) in any other case, to a fine not exceeding \$500,000.

- (5) In this section, unless the context otherwise requires —
- (a) where disclosure of customer information is authorised under subsection (2) to be made to any person which is a body corporate, customer information may be disclosed to such officers of the body corporate as may be necessary for the purpose for which the disclosure is authorised under in subsection (2); and
 - (b) the obligation of any officer or other person who receives customer information referred to in subsection (2) shall continue after the termination or cessation of his appointment, employment, engagement or other capacity or office in which he had received the customer information.

Obligation to maintain security and integrity of data

26.—(1) A member of a licensed credit bureau shall —

- (a) ensure the integrity of data provided to the licensed credit bureau;
- (b) protect data received from the licensed credit bureau in its possession or under its control by making security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks; and
- (c) dispose of data received from the licensed credit bureau, if
 - (i) the purpose for which that data was collected is no longer being served by retention of the data; and
 - (ii) retention is no longer necessary for legal or business purposes.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500,000 and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part thereof during which the offence continues after conviction.

Obligation to facilitate the correction of data

27.—(1) A data subject may request a member of that licensed credit bureau correct an error or omission in the data of the data subject that is in the possession or under the control of the member of the licensed credit bureau.

(2) Where a request to correct an error or omission is made under subsection (1), the member of the licensed credit bureau shall —

- (a) within such period as the Authority may prescribe after receiving such request, conduct and complete an

investigation to ascertain the integrity of the disputed data;
and

- (b) where it is satisfied on reasonable grounds that a correction should be made, the licensed credit bureau shall —
 - (i) within such period as the Authority may prescribe, correct the data; and
 - (ii) within such period as the Authority may prescribe, inform the licensed credit bureau in writing of its assessment that a correction should be made.

(3) When a member of a licensed credit bureau is notified under subsection 2(b)(ii) of the need to correct the data, the licensed credit bureau shall —

- (a) within such period as the Authority may prescribe, correct the data; and
- (b) within such period as the Authority may prescribe, send the corrected data to every member of the licensed credit bureau to which the data was disclosed by the licensed credit bureau.

(4) Any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500,000 and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part thereof during which the offence continues after conviction.

Obligation to submit data to licensed credit bureau in a timely manner

28.—(1) The Authority may require a member of a licensed bureau to provide data to that licensed credit bureau within such period and in such manner as may be prescribed by the Authority.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

Member's obligation to furnish information to Authority

29.—(1) The Authority may, by notice in writing require any member of a licensed credit bureau to provide to the Authority, within such period as may be specified by the Authority, all such information relating to its membership with a licensed credit bureau and related matters as may be required by the Authority.

(2) Without prejudice to the generality of subsection (1), the Authority may in a notice issued under that subsection require any

person referred to in subsection (1) to provide, whether in the form of a return to be provided on a periodic basis or otherwise —

- (a) information relating to the involvement as a member of the licensed credit bureau;
- (b) information relating to the confidentiality, security or integrity of data provided to a licensed credit bureau; and
- (c) such other information as the Authority may require for the purposes of this Act.

(3) Subject to subsection (5), any person to whom a notice is issued under subsection (1) shall comply with the notice.

(4) Any person who fails to comply with a notice issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(5) A person to whom a notice is issued under subsection (1) shall not be obliged to disclose any information where he is prohibited by any written law from disclosing such information.

Obligation to provide data subject with a free-of-charge copy of credit report under certain situations

30.—(1) Upon the request of a data subject, a member of a credit bureau which has approved or rejected an application for a credit facility from the data subject, shall within a timeframe specified by the Authority, provide the data subject with a copy of his credit report at no cost to the data subject.

(2) The member of the licensed credit bureau shall provide a copy of the credit report referred to in subsection (1) in one of the following forms at the option of the data subject —

- (a) a printed copy of credit report to be physically collected by the data subject at the registered office designated by the member;
- (b) a printed copy of credit report sent via registered post to an address specified by the data subject; or
- (c) an electronic copy sent via electronic mail to an electronic mail address specified by the data subject.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a

further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

PART VI

POWERS OF CONTROL OVER LICENSED CREDIT BUREAU

Application and interpretation of sections 32 to 40

31.—(1) This section and sections 32 to 40 shall apply to, and in relation to, all individuals whether resident in Singapore or not and whether citizens of Singapore or not, and to all bodies corporate or unincorporated, whether incorporated or carrying on business in Singapore or not.

(2) In sections 32 to 40, unless the context otherwise requires –

“arrangement” includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;

“voting share” has the same meaning as in section 4(1) of the Companies Act (Cap. 50)

Control of shareholding in licensed credit bureau

32.—(1) No person shall, on or after *XX XXX 2015**, become a substantial shareholder of a licensed credit bureau without first obtaining the approval of the Authority.

* *Date of commencement of the Credit Bureau Act 2015 (Act XX of 2015).*

(2) Subject to section 34(5), no person who, immediately before *XX XXX 2015*, is a substantial shareholder of a licensed credit bureau shall continue to be such a shareholder unless he has, within 6 months after *XX XXX 2015* or such longer period as the Authority may allow, applied to the Authority for approval to continue to be such a shareholder.

(3) No person shall, on or after *XX XXX 2015*, enter into any agreement or arrangement, whether oral or in writing and whether express or implied, to act together with any person with respect to the acquisition, holding or disposal of, or the exercise of rights in relation to, their interests in voting shares of an aggregate of 5% or more of the total votes attached to all voting shares in a licensed credit bureau, without first obtaining the approval of the Authority.

(4) Subject to section 34(5), no person who, at any time before *XX XXX 2015*, has entered into any agreement or arrangement

referred to in subsection (3) shall continue to be a party to such an agreement or arrangement unless he has, within 6 months after *XX XXX 2015* or such longer period as the Authority may allow, applied to the Authority for approval to continue to be a party to such an agreement or arrangement.

(5) For the purposes of this section, a person has an interest in any share if —

- (a) he is deemed to have an interest in that share under section 7 of the Companies Act (Cap. 50); or
- (b) he otherwise has a legal or an equitable interest in that share except for such interest as is to be disregarded under section 7 of the Companies Act.

Control of shareholding in licensed credit bureau

33.—(1) No person shall, on or after *XX XXX 2015*, become —

- (a) a 12% controller;
- (b) a 20% controller; or
- (c) an indirect controller,

of a licensed credit bureau without first obtaining the approval of the Authority.

(2) Subject to section 34(5), no person who, immediately before *XX XXX 2015*, is -

- (a) a 12% controller;
- (b) a 20% controller; or
- (c) an indirect controller,

of a licensed credit bureau shall continue to be such a controller unless he has, within 6 months after *XX XXX 2015* or such longer period as the Authority may allow, applied to the Authority for approval to continue to be such a controller.

(3) In subsections (1)(a) and (b) and (2)(a) and (b) —

“12% controller” means a person, not being a 20% controller, who alone or together with his associates —

- (a) holds not less than 12% of the total number of issued shares in the licensed credit bureau; or
- (b) is in a position to control voting power of not less than 12% in the licensed credit bureau;

“20% controller” means a person who, alone or together with his associates —

- (a) holds not less than 20% of the total number of issued shares in the licensed credit bureau; or
 - (b) is in a position to control voting power of not less than 20% in the licensed credit bureau.
- (4) For the purposes of subsection (3) —
- (a) a person holds a share if —
 - (i) he is deemed to have an interest in that share under section 7(6) to (10) of the Companies Act (Cap. 50); or
 - (ii) he otherwise has a legal or an equitable interest in that share except for such interest as is to be disregarded under section 7(6) to (10) of the Companies Act;
 - (b) a reference to the control of a percentage of the voting power in a licensed credit bureau is a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the licensed credit bureau; and
 - (c) a person, A, is an associate of another person, B, if —
 - (i) A is the spouse or a parent, remoter lineal ancestor or step-parent or a son, daughter, remoter issue, step-son or step-daughter or a brother or sister, of B;
 - (ii) A is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of B, or where B is a corporation, of the directors of B;
 - (iii) B is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of A, or where A is a corporation, of the directors of A;
 - (iv) A is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of B;
 - (v) B is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of A;
 - (vi) A is a related corporation of B;
 - (vii) A is a corporation in which B, alone or together with other associates of B as described in paragraphs (ii) to

(vi), is in a position to control not less than 20% of the voting power in A;

(viii) B is a corporation in which A, alone or together with other associates of A as described in paragraphs (ii) to (vi), is in a position to control not less than 20% of the voting power in B; or

(ix) A is a person with whom B has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their voting power in relation to, the licensed credit bureau.

(5) In subsections (1)(c) and (2)(c), “indirect controller” means any person, whether acting alone or together with any other person, and whether with or without holding shares or controlling voting power in a licensed credit bureau —

(a) in accordance with whose directions, instructions or wishes the directors of the licensed credit bureau are accustomed or under an obligation, whether formal or informal, to act; or

(b) who is in a position to determine the policy of the licensed credit bureau,

but does not include any person —

(i) who is a director or other officer of the licensed credit bureau whose appointment has been approved by the Authority; or

(ii) in accordance with whose directions, instructions or wishes the directors of the licensed credit bureau are accustomed to act by reason only that they act on advice given by him in his professional capacity.

Approval of applications

34.—(1) The Authority may approve an application made by any person under section 32 or 33 if —

(a) the Authority is satisfied that —

(i) the person is a fit and proper person; and

(ii) having regard to the likely influence of the person, the licensed credit bureau will or will continue to conduct its business prudently and comply with the provisions of this Act; and

(b) the Authority is satisfied that it is in the public interest to do so.

(2) Any approval under this section may be granted to any person subject to such conditions as the Authority may specify, including but not limited to any condition —

- (a) restricting the person's disposal or further acquisition of shares or voting power in the licensed credit bureau; or
- (b) restricting the person's exercise of voting power in the licensed credit bureau.

(3) The Authority may at any time add to, vary or revoke any condition imposed under subsection (2).

(4) Any condition imposed under subsection (2) shall have effect notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the licensed credit bureau.

(5) Where the Authority disapproves an application made by any person under section 32(2) or (4) or 33(2), the person shall, within such time as the Authority may specify, take such steps as are necessary —

- (a) in the case of section 32(2), to cease to be a substantial shareholder;
- (b) in the case of section 32(4), to cease to be a party to the agreement or arrangement; or
- (c) in the case of section 33(2), to cease to be —
 - (i) a 12% controller;
 - (ii) a 20% controller; or
 - (iii) an indirect controller,

as the case may be.

Power to exempt and make further transitional provisions

35.—(1) The Authority may, by order published in the *Gazette* —

- (a) exempt —
 - (i) any person or class of persons; or
 - (ii) any class or description of shares or interests in shares,from section 32 or 33, subject to such terms and conditions as may be specified in the order; and
- (b) make such further transitional provisions as the Authority considers necessary or expedient for the purposes of section 32, 33 or 34.

Objection to existing control of licensed credit bureaus

36.—(1) The Authority may serve a written notice of objection on any person referred to in section 32 or 33 if the Authority is satisfied that —

- (a) any condition of approval imposed on the person under section 34 has not been complied with;
- (b) it is no longer in the public interest to allow the person to continue to be a party to the agreement or arrangement described in section 32(3) or (4), or to continue to be a substantial shareholder, a 12% controller, a 20% controller or an indirect controller, as the case may be;
- (c) the person has furnished any false or misleading information or document in connection with an application under section 32 or 33; or
- (d) the Authority would not have granted its approval under section 34 had it been aware, at that time, of circumstances relevant to the person's application for such approval; or
- (e) the person ceases to be a fit and proper person;
- (f) having regard to the likely influence of the person, the licensed credit bureau is no longer likely to conduct its business prudently or to comply with the provisions of this Act; or
- (g) it would not have been satisfied as to any of the matters specified in section 34(1)(a) had it been aware, at that time, of circumstances relevant to the person's application under section 32 or 33.

(2) Before the service of a written notice of objection, the Authority shall, unless the Authority decides that it is not practicable or desirable to do so, cause to be given to the person concerned notice in writing of the Authority's intention to serve the written notice of objection, specifying a date by which the person may make written representations with regard to the proposed written notice of objection.

(3) Upon receipt of any written representations, the Authority shall consider them for the purpose of determining whether to issue a written notice of objection.

(4) The Authority shall, in any written notice of objection, specify a reasonable period within which the person to be served the written notice of objection shall —

- (a) take such steps as are necessary to ensure that the person ceases to be a party to the agreement or arrangement described in section 32(3) or (4), or ceases to be a substantial shareholder, a 12% controller, a 20% controller or an

indirect controller as defined in section 33(3) and (5), as the case may be; or

(b) comply with such direction or directions as the Authority may make under section 37.

(5) Any person served with a written notice of objection under this section shall comply with the notice.

Power to make directions

37.—(1) Without prejudice to section 40, if the Authority is satisfied that any person has contravened section 32, 33, 34(5) or 36(5) or has failed to comply with any condition imposed under section 34(2), or if the Authority has served a written notice of objection under section 36, the Authority may, by notice in writing

(a) direct the transfer or disposal of all or any of the shares in the licensed credit bureau held by the person or any of his associates (referred to in this section as the specified shares) within such time or subject to such conditions as the Authority considers appropriate;

(b) restrict the transfer or disposal of the specified shares; or

(c) make such other direction as the Authority considers appropriate.

(2) Any person to whom a notice is given under subsection (1) shall comply with such direction or directions as may be specified in the notice.

(3) In the case of any direction made under subsection (1)(a) or (b), until a transfer or disposal is effected in accordance with the direction or until the restriction on the transfer or disposal is removed, as the case may be, notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the licensed credit bureau

(a) no voting rights shall be exercisable in respect of the specified shares unless the Authority expressly permits such rights to be exercised;

(b) no shares of the licensed credit bureau shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified shares unless the Authority expressly permits such issue or offer; and

(c) except in a liquidation of the licensed credit bureau, no payment shall be made by the licensed credit bureau of any amount (whether by way of dividends or otherwise) in

respect of the specified shares unless the Authority expressly authorises such payment.

(4) In this section, “associate” has the same meaning as in section 33(4)(c).

Appeals

38. Any person who is aggrieved by a decision of the Authority under section 33, 34, 35, 36 or 37 may, within 30 days after being informed of the decision of the Authority, appeal to the Minister in writing in accordance with Part VIII.

Power of the Authority to obtain information

39.—(1) The Authority may, by notice in writing, direct any licensed credit bureau to obtain from any of its shareholders and to transmit to the Authority any information relating to its shareholders which the Authority may require for the purpose of ascertaining or investigating into the control of shareholding or voting power in the licensed credit bureau, or exercising any power or function under sections 32 to 40, including information —

- (a) as to whether that shareholder holds any share in the licensed credit bureau as beneficial owner or as trustee; and
- (b) if that shareholder holds the share as trustee, to indicate as far as that shareholder can, the person for whom that shareholder holds the share (either by name or by other particulars sufficient to enable that person to be identified) and the nature of his interest, and the licensed credit bureau shall comply with that direction within such time as may be specified in the notice.

(2) The Authority may, by notice in writing, require any shareholder of a licensed credit bureau, or any person who appears from information provided to the Authority under subsection (1) or this subsection to have an interest in any share in a licensed credit bureau, to provide to the Authority any information relating to the shareholder or the person, as the case may be, which the Authority may require for the purpose of ascertaining or investigating into the control of shareholding or voting power in the licensed credit bureau, or exercising any power or function under sections 33 to 39, including —

- (a) whether the shareholder holds that interest as beneficial owner or as trustee, and if he holds the interest as trustee, to indicate as far as he can, the person for whom he holds the interest (either by name or by other particulars sufficient to enable that person to be identified) and the nature of his interest; or

(b) whether any share or any voting right attached to the share is the subject of an agreement or arrangement described in section 32(3) or (4) or 33(4)(c)(ix), and if so, to give particulars of the agreement or arrangement and the parties to it, and the shareholder or the person shall comply with that notice within such time as may be specified therein.

(3) Any person who —

(a) fails to comply with a notice under this section; or

(b) in purported compliance of the notice, knowingly or recklessly furnishes any information or document that is false or misleading in a material particular, shall be guilty of an offence.

(4) Any person convicted of an offence under this section shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

Offences, penalties and defences

40.—(1) Any person who contravenes section 32, 33(1)(a) or (2)(a) or 34(5)(a), (b) or (c)(i) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

(2) Any person who contravenes section 33(1)(b) or (c), (2)(b) or (c), 34(5)(c)(ii) or (iii), 36(5) or 37(2), or who fails to comply with any condition imposed under section 34(2), shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to

both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

(3) Where a person is charged with an offence in respect of a contravention of section 32 or 33, it shall be a defence for the person to prove that —

(a) he was not aware that he had contravened section 32 or 33, as the case may be; and

(b) he has, within 14 days of becoming aware that he had contravened section 32 or 33, as the case may be, notified the Authority of the contravention and, within such time as determined by the Authority, taken such actions in relation to his shareholding or control of the voting power in the licensed credit bureau as the Authority may direct.

(4) Where a person is charged with an offence in respect of a contravention of section 33(1), it shall also be a defence for the person to prove that, even though he was aware of the contravention —

(a) the contravention occurred as a result of an increase in the shareholding as described in section 33(4)(a) of, or in the voting power controlled by, any of his associates described in section 33(4)(c)(i);

(b) he has no agreement or arrangement, whether oral or in writing and whether express or implied, with that associate with respect to the acquisition, holding or disposal of shares or other interests in, or under which they act together in exercising their voting power in relation to, the licensed credit bureau; and

(c) he has, within 14 days of the date of the contravention, notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such action in relation to his shareholding or control of the voting power in the licensed credit bureau as the Authority may direct.

(5) Except as provided in subsections (3) and (4), it shall not be a defence for a person charged with an offence in respect of a contravention of section 32 or 33 to prove that he did not intend to or did not knowingly contravene section 32 or 33, as the case may be.

Approval of chief executive officer and directors of licensed credit bureau

41.—(1) Subject to subsection (3), no licensed credit bureau shall

- (a) appoint a person as its chief executive officer or director; or
- (b) change the nature of the appointment of a person as a director from one that is non-executive to one that is executive,

unless it has obtained the approval of the Authority.

(2) Where a licensed credit bureau has obtained the approval of the Authority to appoint a person as its chief executive officer or director under subsection (1)(a), the person may be re-appointed as chief executive officer or director, as the case may be, of the licensed credit bureau immediately upon the expiry of the earlier term without the approval of the Authority.

(3) Subsection (1) shall not apply to the appointment of a person as a director of a foreign company, or the change in the nature of the appointment of a person as a director of a foreign company if, at the time of the appointment or change, the person —

- (a) does not reside in Singapore; and
- (b) is not directly responsible for its business in Singapore or any part thereof.

(4) In subsection (3), “foreign company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50).

(5) Without prejudice to any other matter that the Authority may consider relevant, the Authority may, in determining whether to grant its approval under subsection (1), have regard to such criteria as may be prescribed or as may be specified in written directions.

(6) Subject to subsection (7), the Authority shall not refuse an application for approval under subsection (1) without giving the licensed credit bureau an opportunity to be heard.

(7) The Authority may refuse an application for approval under subsection (1) on any of the following grounds without giving the licensed credit bureau an opportunity to be heard:

- (a) the person is an undischarged bankrupt, whether in Singapore or elsewhere;
- (b) the person has been convicted, whether in Singapore or elsewhere, of an offence —

- (i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and
- (ii) punishable with imprisonment for a term of 3 months or more.

(8) Where the Authority refuses an application for approval under subsection (1), the Authority need not give the person who was proposed to be appointed an opportunity to be heard.

(9) Any licensed credit bureau which is aggrieved by the decision of the Authority under subsection (1) may, within 30 days of the decision of the Authority, appeal in writing to the Minister.

(10) Any licensed credit bureau which, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000.

(11) Without prejudice to the Authority's power to impose conditions or restrictions under section 6, the Authority may at any time, by notice in writing to a licensed credit bureau, impose on it a condition requiring it to notify the Authority of a change to any specified attribute (such as residence and nature of appointment) of its chief executive officer or director, and vary any such condition.

(12) Any person who contravenes any condition or restriction imposed under subsection (11) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000.

Disqualification or removal of director or executive officer of licensed credit bureau

42.—(1) Notwithstanding the provisions of any other written law, a licensed credit bureau shall not, without the prior written consent of the Authority, permit a person to act as its executive officer or its director, if the person —

- (a) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of of this Act, being an offence —
 - (i) involving fraud or dishonesty;
 - (ii) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or
 - (iii) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);
- (b) is an undischarged bankrupt, whether in Singapore or elsewhere;
- (c) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;

- (d) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;
- (e) has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A of the Securities and Futures Act (Cap. 289) made against him that remains in force; or
- (f) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —
 - (i) which is being or has been wound up by a court; or
 - (ii) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory.

(2) Notwithstanding the provisions of any other written law, where the Authority is satisfied that a director or an executive officer of a licensed credit bureau is not a fit and proper person to hold the office or employment, the Authority may, by notice in writing to the licensed credit bureau, direct the licensed credit bureau to remove the director or executive officer, as the case may be, from his office or employment within such period as may be specified by the Authority in the notice, and the bank shall comply with the notice.

(3) In assessing whether to direct a licensed credit bureau to remove a director or executive officer from his office or employment under subsection (2), without prejudice to any other matter that the Authority may deem relevant, the Authority may consider whether:

- (a) he has wilfully contravened or wilfully caused the licensed credit bureau to contravene any provision of this Act;
- (b) he has, without reasonable excuse, failed to secure the compliance of the licensed credit bureau with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act;
- (c) he has failed to discharge any of the duties of his office; or
- (d) his removal is necessary in the public interest.

(4) Before directing a licensed credit bureau to remove a person from his office or employment under subsection (2), the Authority

shall give the licensed credit bureau and the person, an opportunity to be heard;

(5) Any licensed credit bureau in Singapore which, or any director or executive officer of a bank in Singapore who, is aggrieved by a direction of the Authority under subsection (2) may, within 30 days after receiving the direction, appeal in writing to the Minister, whose decision shall be final.

(6) Any licensed credit bureau which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000.

(7) No criminal or civil liability shall be incurred by a licensed credit bureau, or any person acting on behalf of the licensed credit bureau, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of its obligations under this section.

(8) In this section, unless the context otherwise requires —

“regulated financial institution” means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, would be regulated or authorised by the Authority;

“regulatory authority”, in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any function that corresponds to a regulatory function of the Authority under this Act, the Monetary Authority of Singapore Act or any of the written laws set out in the Schedule to that Act.

PART VII

INSPECTIONS AND INVESTIGATIONS

Self Incrimination

43.—(1) A person is not excused from disclosing information to the Authority, pursuant to a requirement made of him under this Part, on the ground that the disclosure of the information might tend to incriminate him.

(2) Where a person claims, before making a statement disclosing information that he is required to disclose by a requirement made of him under this Part, that the statement might tend to incriminate him, that statement shall not be admissible in evidence against him in criminal proceedings.

Savings for advocates and solicitors

44.—(1) Nothing in this Part shall —

- (a) compel an advocate and solicitor to disclose or produce a privileged communication, or a document or other material containing a privileged communication, made by or to him in that capacity; or
- (b) authorise the taking of any such document or other material which is in his possession.

(2) An advocate and solicitor who refuses to disclose the information or produce the document or other material referred to in subsection (1) shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom, or by or on behalf of whom, that privileged communication was made.

(3) Any advocate and solicitor who contravenes subsection (2) shall be guilty of an offence.

Inspection by Authority

45.—(1) The Authority may from time to time inspect, under conditions of secrecy, the books of a licensed credit bureau.

(2) For the purposes of an inspection under this section —

- (a) a licensed credit bureau and any person who is in possession of the books, shall produce such books to the Authority and give such information or facilities as may be required by the Authority;
- (b) a licensed credit bureau shall procure that any person who is in possession of its books produce the books to the Authority and give such information or facilities as may be required by the Authority; and
- (c) the Authority may —
 - (i) make copies of, or take possession of, any of such books;
 - (ii) use, or permit the use of, any of such books for the purposes of any proceedings under this Act; and
 - (iii) retain possession of any of such books for so long as is necessary —
 - (A) for the purposes of exercising a power conferred by this section (other than subsection (4));
 - (B) for a decision to be made on whether or not proceedings should be commenced under this Act in relation to such books; or

(C) for such proceedings to be commenced and carried on.

(3) No person shall be entitled, as against the Authority, to claim a lien on any of the books, but such a lien is not otherwise prejudiced.

(4) While the books are in the possession of the Authority, the Authority —

- (a) shall permit another person to inspect at all reasonable times such (if any) of the books as the other person would be entitled to inspect if they were not in the possession of the Authority; and
- (b) may permit another person to inspect any of the books.

(5) The Authority may require a person who produced any book to the Authority to explain, to the best of his knowledge and belief, any matter about the compilation of the book or to which the book relates.

(6) Any person who fails, without reasonable excuse, to comply with subsection (2) or a requirement of the Authority under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

Investigation by Authority

46.—(1) The Authority may conduct such investigation as it considers necessary or expedient for any of the following purposes:

- (a) to perform any of the Authority's functions under this Act;
- (b) to ensure compliance with this Act or any written direction issued under this Act; or
- (c) to investigate an alleged or suspected contravention of any provision of this Act.

(2) The Authority may exercise any of its powers for the purposes of conducting an investigation under this section notwithstanding the provisions of any prescribed written law or any requirement imposed thereunder or any rule of law.

(3) A requirement imposed by the Authority in the exercise of its powers under this section shall have effect notwithstanding any obligation as to secrecy or other restrictions upon the disclosure of information imposed by any prescribed written law or any

requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

(4) Any person who complies with a requirement imposed by the Authority in the exercise of its powers under this section shall not be treated as being in breach of any restriction upon the disclosure of information or thing imposed by any prescribed written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

(5) No civil or criminal action, shall lie against any person for —

- (a) providing information or producing books to the Authority if he had provided the information or produced the books in good faith in compliance with a requirement imposed by the Authority under this section; or
- (b) doing or omitting to do any act, if he had done or omitted to do the act in good faith and as a result of complying with a requirement imposed by the Authority under this section.

Confidentiality of inspection and investigation reports

47.—(1) Where a written report or any part thereof (referred to in this section as the report) has been produced by the Authority —

- (a) upon an inspection under section 45; or
- (b) in respect of any investigation under section 46,

the report shall not be disclosed by the licensed credit bureau or any of its officers or auditors to any other person except in the circumstances provided under subsection (2).

(2) Disclosure of the report referred to in subsection (1) may be made —

- (a) by licensed credit bureau to any officer or auditor of that licensed credit bureau solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that licensed credit bureau;
- (b) by any officer or auditor of the licensed credit bureau to any other officer or auditor of that licensed credit bureau, solely in connection with the performance of their duties in that licensed credit bureau; or
- (c) to such other person as the Authority may approve in writing.

(3) In granting written approval for any disclosure under subsection (2)(c), the Authority may impose such conditions or restrictions as it thinks fit on the licensed credit bureau, any of its officers or auditors or the person to whom disclosure is approved, and that person shall comply with such conditions or restrictions.

(4) The obligation on an officer or auditor referred to in subsection (1) shall continue after the termination or cessation of his employment or appointment by the licensed credit bureau.

(5) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both.

(6) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to him in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both, unless he proves that —

- (a) the disclosure was made contrary to his desire;
- (b) where the disclosure was made in any written form, he had as soon as practicable after receiving the report surrendered or taken all reasonable steps to surrender the report and all copies thereof to the Authority; and
- (c) where the disclosure was made in an electronic form, he had as soon as practicable after receiving the report taken all reasonable steps to ensure that all electronic copies of the report had been deleted and that the report and all copies thereof in other forms had been surrendered to the Authority.

Interpretation of sections 49 to 53

48.—(1) In sections 49 to 53, unless the context otherwise requires —

“business” includes affairs and property;

“office-holder”, in relation to a licensed credit bureau, means any person acting in relation to the licensed credit bureau as its liquidator, provisional liquidator, receiver, receiver and manager or an equivalent person;

“relevant business” means any business of a licensed credit bureau —

- (a) which the Authority has assumed control of under section 45; or
- (b) in relation to which a statutory adviser or a statutory manager has been appointed under section 49;

“statutory adviser” means a statutory adviser appointed under section 49;

“statutory manager” means a statutory manager appointed under section 49.

Action by Authority if licensed credit bureau is unable to meet obligations, etc

49.—(1) Where —

- (a) a licensed credit bureau informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;
- (b) a licensed credit bureau becomes unable to meet its obligations, or is insolvent, or suspends payments;
- (c) the Authority is of the opinion that the licensed credit bureau —
 - (i) is carrying on its business in a manner likely to be detrimental to the confidentiality, security or integrity of the data held by the licensed credit bureau;
 - (ii) is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it is about to suspend payments;
 - (iii) has contravened any of the provisions of this Act; or
 - (iv) has failed to comply with any condition attached to its licence; or
- (d) the Authority considers it in the public interest to do so, the Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary.

(2) Subject to subsection (1), the Authority may —

- (a) require the licensed credit bureau concerned immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;
 - (b) appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the licensed credit bureau on the proper management of such of the business of the licensed credit bureau as the Authority may determine; or
 - (c) assume control of and manage such of the business of the licensed credit bureau as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.
- (3) Where the Authority appoints two or more persons as statutory manager of a licensed credit bureau, it shall specify in the

terms and conditions of the appointment which of the duties, functions and powers of the statutory manager —

- (a) may be discharged or exercised by such persons jointly and severally;
- (b) shall be discharged or exercised by such persons jointly; and
- (c) shall be discharged or exercised by a specified person of such persons.

(4) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 10, do one or more of the following:

- (a) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;
- (b) exercise any of the powers under subsection (2);
- (c) add to, vary or revoke any term or condition specified by the Authority under this section.

(5) No action, suit or other legal proceedings shall lie against —

- (a) a statutory manager; or
- (b) a statutory adviser,

for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

- (i) the exercise or purported exercise of any power under this Act;
- (ii) the performance or purported performance of any function or duty under this Act; or
- (iii) the compliance or purported compliance with this Act.

Effective of assumption of control under section 49

50.—(1) Upon assuming control of the relevant business of a licensed credit bureau, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of a licensed credit bureau, the Authority or statutory manager shall manage the relevant business of the licensed credit bureau in the name of and on behalf of the licensed credit bureau and shall be deemed to be an agent of the licensed credit bureau.

(3) In managing the relevant business of a licensed credit bureau, the Authority or statutory manager —

- (a) shall ensure that the operations of the licensed credit bureau are conducted without compromising the confidentiality, security or integrity of the data held by the licensed credit bureau; and
- (b) shall have all the duties, powers and functions of the members of the board of directors of the licensed credit bureau (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the licensed credit bureau, including powers of delegation, in relation to the relevant business of the licensed credit bureau; but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the licensed credit bureau under the Companies Act or the constitution of the licensed credit bureau.

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of a licensed credit bureau by the Authority or statutory manager, any appointment of a person as chief executive officer or director of the licensed credit bureau which was in force immediately before the assumption of control, shall be deemed to be revoked unless the Authority gives its approval, by notice in writing to the person and the licensed credit bureau, for the person to remain in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of a licensed credit bureau, no person shall be appointed where the licensed credit bureau is incorporated in Singapore, as chief executive officer or director of the licensed credit bureau, except with the approval of the Authority.

(6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, chief executive officer or director of a licensed credit bureau, the Authority may at any time, by notice in writing to the person, revoke its approval and such appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person whose appointment as chief executive officer or director of a licensed credit bureau is revoked under subsection (4) or (6) acts or purports to act after the revocation, as chief executive officer or director of the licensed credit bureau during the period when the Authority or statutory manager is in control of the relevant business of the licensed credit bureau —

- (a) the act or purported act of the person shall be invalid and of no effect; and

(b) the person shall be guilty of an offence.

(8) Notwithstanding any written law or rule of law, if any person who is appointed as chief executive officer or director of a licensed credit bureau in contravention of subsection (5) acts or purports to act, as chief executive officer or director of the licensed credit bureau during the period when the Authority or statutory manager is in control of the relevant business of the licensed credit bureau —

(a) the act or purported act of the person shall be invalid and of no effect; and

(b) the person shall be guilty of an offence.

(9) During the period when the Authority or statutory manager is in control of the relevant business of a licensed credit bureau —

(a) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the licensed credit bureau, or any trustee for the licensed credit bureau,

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

(b) no person shall exercise any voting or other right attached to any share in the licensed credit bureau in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction.

(11) In this section, “constitution of a licensed credit bureau” means the memorandum of association and articles of association of the licensed credit bureau.

Duration of control

51.—(1) The Authority shall cease to be in control of the relevant business of a licensed credit bureau when the Authority is satisfied that the reasons for its assumption of control of the relevant business have ceased to exist.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of a licensed credit bureau on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of a licensed credit bureau may be revoked by the Authority at any time —

- (a) if the Authority is satisfied that the reasons for the appointment have ceased to exist;
- (b) if the confidentiality, security or integrity of data is compromised; or
- (c) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the licensed credit bureau.

(4) The Authority shall publish in the *Gazette* the date, and such other particulars as it thinks fit, of —

- (a) its assumption of control of the relevant business of a licensed credit bureau;
- (b) the cessation of its control of the relevant business of a licensed credit bureau;
- (c) the appointment of a statutory manager in relation to the relevant business of a licensed credit bureau; and
- (d) the revocation of a statutory manager's appointment in relation to the relevant business of a licensed credit bureau.

Responsibilities of directors, officers etc of licensed credit bureau

52.—(1) During the period when the Authority or statutory manager is in control of the relevant business of a licensed credit bureau —

- (a) the High Court may, on an application of the Authority or statutory manager, direct any person who has ceased to be or who is still a chief executive officer, director, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, the licensed credit bureau to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the licensed credit bureau which is comprised in, forms part of or relates to the relevant business

of the licensed credit bureau, and which is in his possession or control; and

- (b) any person who has ceased to be or who is still a chief executive officer, director, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, the licensed credit bureau shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of its or his duties or functions, or the exercise of its or his powers, in relation to the licensed credit bureau, within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

- (a) without reasonable excuse, fails to comply with subsection (1)(b); or
- (b) in purported compliance with subsection (1)(b), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction.

Remuneration and expenses of Authority and others in certain cases

53.—(1) The Authority may at any time fix the remuneration and expenses to be paid by a licensed credit bureau —

- (a) to a statutory adviser or statutory manager appointed in relation to the licensed credit bureau, whether or not the appointment has been revoked; and
- (b) where the Authority has assumed control of the relevant business of the licensed credit bureau, to the Authority and any person employed or authorised by the Authority under section 5 in relation to its assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

Operational matters of a licensed credit bureau that require the approval by the Authority

54.—(1) A licensed credit bureau shall apply in writing to seek approval from the Authority prior to —

- (a) the carrying on of any business by the licensed credit bureau other than the business of operating a credit bureau;
- (b) any change in Memorandum and Articles of Association, or equivalent, of the licensed credit bureau;
- (c) any change in shareholding of the licensed credit bureau;
- (d) any addition, removal or amendment to the membership of a licensed credit bureau;
- (e) any change in the reciprocity arrangement or equivalent operating rules between a licensed credit bureau and any of its members;
- (f) any change in credit report format and specifications of data elements;
- (g) any change in scope, definition, classification, retention period of credit data elements collected, used or disclosed by the licensed credit bureau;
- (h) any change in credit scoring methodology, credit scoring model validation method, analysis and reporting;
- (i) any change in products or services offered by the licensed credit bureau other than those specified in paragraph (a) to (h); or
- (j) any change that may impact or potentially impact the confidentiality, security or integrity of data held by the licensed credit bureau.

(2) The Authority may —

- (a) grant its approval, with or without conditions, and
- (b) at any time vary or revoke any condition of approval in paragraph (a), or impose conditions thereto.

(3) Any person who contravenes subsection (1) or any condition issued by the Authority under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

PART VIII

OFFENCES

Corporate offenders and unincorporated associations

55.—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate, the officer as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner or manager of the limited liability partnership, the partner or manager (as the case may be) as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the association or a member of its governing body, the officer or member as well as the association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) In this section —

“body corporate” and “partnership” exclude a limited liability partnership within the meaning of the Limited Liability Partnerships Act (Cap. 163A);

“officer” —

- (a) in relation to a body corporate, means a director, member of the committee of management, chief executive officer, manager, secretary or other similar officer of the body, and includes a person purporting to act in any such capacity; or
- (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary or a member of the committee of the association or a person holding a position analogous to that of president, secretary or member

of a committee, and includes a person purporting to act in any such capacity;

“partner”, in relation to a partnership, includes a person purporting to act as a partner.

(7) Without prejudice to the generality of section 71, the Authority may make regulations to provide for the application of any provision of this section, with such modifications as the Authority considers appropriate, to a body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

Corporate offenders and unincorporated associations

56.—(1) Any officer of a licensed credit bureau who fails to take all reasonable steps to secure —

- (a) compliance with any provision of this Act; or
- (b) the accuracy and correctness of any statement submitted to the Authority or such other person as may be required under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$75,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) In any proceedings against an officer under subsection (1), it shall be a defence for the officer to prove that he had reasonable grounds for believing that another person was charged with the duty of securing compliance with the requirements of this Act, or with the duty of ensuring that those statements were accurate, as the case may be, and that that person was competent, and in a position, to discharge that duty.

(3) An officer shall not be sentenced to imprisonment for any offence under subsection (1) unless, in the opinion of the court, he committed the offence wilfully.

Falsification of records by officers etc.

57.—(1) Any officer, auditor, employee or agent of a licensed credit bureau who —

- (a) wilfully makes, or causes to be made, a false entry in any book, or in any report, slip, document or statement of the business, affairs, transactions, conditions or assets of that licensed credit bureau;
- (b) wilfully omits to make an entry in any book, or in any report, slip, document or statement of the business, affairs, transactions, conditions or assets of that licensed credit bureau, or wilfully causes any such entry to be omitted; or

- (c) wilfully alters, extracts, conceals or destroys an entry in any book, or in any report, slip, document or statement of the business, affairs, transactions, conditions or assets of that licensed credit bureau, or wilfully causes any such entry to be altered, extracted, concealed or destroyed,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) In subsection (1), “officer” includes a person purporting to act in the capacity of an officer.

Duty not to furnish false information to Authority

58.—(1) Any person who furnishes the Authority with any information under or for the purposes of any provision of this Act shall use due care to ensure that the information is not false or misleading in any material particular.

(2) Subsection (1) shall apply only to a requirement in relation to which no other provision of this Act creates an offence in connection with the furnishing of information.

(3) Any person who —

- (a) signs any document lodged with the Authority; or
- (b) lodges with the Authority any document by electronic means using any identification or identifying code, password or other authentication method or procedure assigned to him by the Authority,

shall use due care to ensure that the document is not false or misleading in any material particular.

(4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

General Penalty

59. Any person guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$50,000.

Composition of offences

60.—(1) The Authority may, in its discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence.

(2) The Authority may, in its discretion, compound any offence under this Act (including an offence under a provision which has been repealed) which —

(a) was compoundable under this section at the time the offence was committed; but

(b) has ceased to be so compoundable,

by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence at the time it was committed.

(3) On payment of the sum of money referred to in subsection (1) or (2), no further proceedings shall be taken against that person in respect of the offence.

(4) The Authority may make regulations to prescribe the offences which may be compounded.

(5) All sums collected by the Authority under subsection (1) or (2) shall be paid into the Consolidated Fund.

PART IX

OFFENCES

Appeals to Minister

61.—(1) Where an appeal is made to the Minister under this Act, the Minister may confirm, vary or reverse the decision of the Authority on appeal, or give such directions in the matter as he thinks fit, and the decision of the Minister shall be final.

(2) Where an appeal is made to the Minister under this Act, the Minister shall, within 28 days of his receipt of the appeal, constitute an Appeal Advisory Committee comprising not less than 3 members of the Appeal Advisory Panel and refer that appeal to the Appeal Advisory Committee.

(3) The Appeal Advisory Committee shall submit to the Minister a written report on the appeal referred to it under subsection (2) and may make such recommendations as it thinks fit.

(4) The Minister shall consider the report submitted under subsection (3) in making his decision under subsection (1) but he shall not be bound by the recommendations in the report.

Appeal Advisory Committee

62.—(1) For the purpose of enabling Appeal Advisory Committees to be constituted under section 61, the Minister shall appoint a panel (referred to in this Part as the Appeal Advisory Panel) comprising such members from the financial services industry, and the public and private sectors, as the Minister may appoint.

(2) A member of the Appeal Advisory Panel shall be appointed for a term of not more than 2 years and shall be eligible for re-appointment.

(3) An Appeal Advisory Committee shall have the power, in the exercise of its functions, to inquire into any matter or thing related to the financial services industry and, for this purpose, may summon any person to give evidence on oath or affirmation or produce any document or material necessary for the purpose of the inquiry.

(4) Nothing in subsection (3) shall compel the production by an advocate and solicitor of a document or other material containing any privileged communication made by or to him in that capacity or authorise the taking of any such document or other material which is in his possession.

(5) An advocate and solicitor who refuses to produce any document or other material referred to in subsection (4) shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom, or by or on behalf of whom, the privileged communication was made.

(6) For the purposes of this Act, every member of an Appeal Advisory Committee —

- (a) shall be deemed to be a public servant for the purposes of the Penal Code (Cap. 224); and
- (b) in case of any suit or other legal proceedings brought against him for any act done or omitted to be done in the execution of his duty under this Part, shall have the like protection and privileges as are by law given to a Judge in the execution of his office.

(7) Every Appeal Advisory Committee shall have regard to the public interest, the protection of investors and policy owners and the safeguarding of sources of information.

(8) Subject to the provisions of this Part, an Appeal Advisory Committee may regulate its own procedure and shall not be bound by the rules of evidence.

Disclosure of information

63. Nothing in this Act shall require the Minister or any public servant to disclose facts which he considers to be against the public interest to disclose.

Regulations for the purpose of this Part

64.—(1) The Minister may make regulations for the purposes and provisions of this Part and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to —

- (a) the appointment of members to, and procedures of, the Appeal Advisory Panel and Appeal Advisory Committees;
- (b) the form and manner in which an appeal to the Minister under this Act shall be made;
- (c) the fees to be paid in respect of any appeal made to the Minister under this Act, including the refund or remission, whether in whole or in part, of such fees;
- (d) the remuneration of the members of the Appeal Advisory Panel and Appeal Advisory Committees; and
- (e) all matters and things which by this Part are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to any provision of this Part.

PART X

MISCELLANEOUS

Criminal jurisdiction of District Court

65. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of any offence under this Act.

Opportunity to be heard

66. Where this Act provides for a person to be given an opportunity to be heard by the Authority, the Authority may prescribe the manner in which the person shall be given an opportunity to be heard.

Power of court to make certain orders

67.—(1) Where, on the application of the Authority, it appears to the court that a person —

- (a) has committed an offence under this Act; or
- (b) is about to do an act that, if done, would be an offence under this Act,

the court may, without prejudice to any order it would be entitled to make otherwise than under this section, make one or more of the following orders:

- (i) in the case of a persistent or continuing contravention of this Act, an order restraining a person from acting as a licensed credit bureau, or from holding himself out as so acting;
- (ii) for the purpose of securing compliance with any other order made under this section, an order directing a person to do or refrain from doing any specified act;
- (iii) any ancillary order considered to be desirable in consequence of the making of any other order under this section.

(2) The court may, before making an order under subsection (1), direct that notice of the application be given to such person as it thinks fit or that notice of the application be published in such manner as it thinks fit, or both.

(3) Any person who, without reasonable excuse, contravenes an order made under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$75,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) Subsection (3) shall not affect the powers of the court in relation to the punishment of contempt of court.

(5) The court may rescind, vary or discharge an order made by it under this section or suspend the operation of such an order.

General exemption

68.—(1) The Authority may, by regulations, exempt any person or any class of persons from all or any of the provisions of this Act, subject to such terms or conditions as may be prescribed.

(2) The Authority may, on the application of any person, exempt the person from all or any of the provisions of this Act or the requirements specified in any written direction, by notice in writing, if the Authority considers it appropriate to do so in the circumstances of the case.

(3) An exemption under subsection (2) —

- (a) may be granted subject to such terms or conditions as the Authority may specify by notice in writing;
 - (b) need not be published in the *Gazette*; and
 - (c) may be withdrawn at anytime by the Authority.
- (4) The Authority may at any time add to, vary or revoke any term or condition imposed under this section.
- (5) Any person who contravenes any term or condition prescribed under subsection (1) or specified by the Authority under subsection (3)(a), including any term or condition added or varied under subsection (4), shall be guilty of an offence.

Power of Authority to issue written directions

69.—(1) The Authority may, if it thinks it necessary for all matters related to the —

- (a) risk management, financial management, information technology management, operations of a licensed credit bureau or for the protection of the confidentiality, security or integrity of data, issue written directions, either of a general or specific nature, to any licensed credit bureau; or
- (b) protection of the confidentiality, security or integrity of data provided to a licensed credit bureau, issue written directions, either of a general or specific nature, to any member of a licensed credit bureau;

to comply with such requirements as the Authority may specify in the written directions, or for any other purpose.

(2) Without prejudice to the generality of subsection (1), written directions may be issued —

- (a) with respect to —
 - (i) the restrictions on any activities that may be carried out by the licensed credit bureau, in relation to its business, as the case may be;
 - (ii) the restrictions to any activities that may be carried out the member of a licensed credit bureau, in relation to its membership with that licensed credit bureau, as the case may be;
 - (iii) the framework, policies and procedures for prudent management of risks for a licensed credit bureau;
 - (iv) the financial soundness and stability of a licensed credit bureau;
 - (v) the standards, framework, policies and procedures for prudent management of information technology risks

and the protection of the confidentiality, security and integrity of data;

- (vi) the membership and reciprocity arrangements, internal controls and operations of a licensed credit bureau;
 - (vii) the standards to be maintained by a licensed credit bureau in the conduct of his business;
 - (viii) the outsourcing arrangement and conditions that will apply if any function of the licensed credit bureau is outsourced; or
 - (ix) the type, form, manner and frequency of returns and other information to be submitted to the Authority;
- (b) where any person is contravening, is likely to contravene or has contravened, any provision of this Act, to require the person —
- (i) to comply with that provision or to cease contravention of that provision;
 - (ii) to take such action necessary to enable him to conduct his business in accordance with sound principles; or
 - (iii) where the person is a corporation, to remove any of its directors; or
- (c) for any other purpose specified in this Act.

(3) It shall not be necessary to publish any written direction issued under subsection (1) in the *Gazette*.

(4) The Authority may at any time vary, rescind or revoke any written direction issued under subsection (1).

(5) Any person who fails to comply with any requirement specified in a written direction issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(6) In this section, “written direction” includes a circular or notice.

Codes, guidelines, etc., by Authority

70.—(1) The Authority may issue, and in its discretion publish by notification in the *Gazette* or in any other manner it considers appropriate, such codes, guidelines, policy statements, practice notes and no-action letters as it considers appropriate for providing guidance —

- (a) in furtherance of its regulatory objectives;

- (b) in relation to any matter relating to any of the functions of the Authority under this Act; or
- (c) in relation to the operation of any of the provisions of this Act.

(2) The Authority may, at any time, amend or revoke the whole or any part of any code, guideline, policy statement, practice note or no-action letter issued under this section.

(3) Where amendments are made under subsection (2) —

- (a) the other provisions of this section shall apply, with the necessary modifications, to such amendments as they apply to the code, guideline, policy statement, practice note or no-action letter; and
- (b) any reference in this Act or any other written law to the code, guideline, policy statement, practice note or no-action letter, however expressed, shall, unless the context otherwise requires, be a reference to the code, guideline, policy statement, practice note or no-action letter as so amended.

(4) Any person who fails to comply with any of the provisions of a code, guideline, policy statement or practice note issued under this section that applies to him shall not of itself render that person liable to criminal proceedings, but any such failure may, in any proceedings, whether civil or criminal, be relied upon by any party to the proceedings as tending to establish or negate any liability which is in question in the proceedings.

(5) The issue by the Authority of a no-action letter shall not of itself prevent the institution of any proceedings against any person for the contravention of any provision of this Act.

(6) Any code, guideline, policy statement or practice note issued under this section may be of general or specific application, and may specify that different provisions thereof apply to different circumstances or provide for different cases or classes of cases.

(7) For the avoidance of doubt, any code, guideline, policy statement, practice note or no action letter issued under this section shall be deemed not to be subsidiary legislation.

(8) In this section, a no-action letter means a letter written by the Authority to a person to the effect that, if the facts are as represented by the person, the Authority will not institute proceedings against the person in respect of a particular state of affairs or particular conduct.

Regulations

71.—(1) The Authority may make regulations for carrying out the purposes and provisions of this Act and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Authority may make regulations for or with respect to —

- (a) applications for the grant of credit bureau licences, and matters incidental thereto;
- (b) the fees to be paid in respect of any matter or thing required for the purposes of this Act, and the refund and remission, whether in whole or in part, of such fees;
- (c) the preparation and publication of reports on the performance of a licensed credit bureau;
- (d) standards to be maintained by licensed credit bureau or a member of licensed credit bureau in relation to the confidentiality, security or integrity of data, as the case may be;
- (e) the remuneration of an auditor appointed under this Act and the costs of an audit carried out under this Act;
- (f) the manner in which a licensed credit bureau conducts his operations, as the case may be;
- (g) the forms for the purposes of this Act;
- (h) the collection, from any licensed credit bureau, by or on behalf of the Authority at such intervals or on such occasions as may be prescribed of information in relation to the conduct of credit reporting business; and
- (i) all matters and things which are required or permitted to be prescribed by this Act, or which may be necessary or expedient to be prescribed to give effect to this Act.

(3) Except as otherwise expressly provided in this Act, regulations made under this Act —

- (a) may be of general or specific application;
- (b) may contain provisions of a savings or transitional nature;
- (c) may provide that a contravention of any specified provision thereof shall be an offence; and
- (d) may provide for penalties not exceeding a fine of \$150,000 or imprisonment for a term not exceeding 2 years or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of \$15,000 for every day or part thereof during which the offence continues after conviction.

Service of Documents

72.—(1) Any notice, order or document required or authorised by this Act to be served on any person may be served —

- (a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or business in an envelope addressed to the person;
- (c) by sending it by registered post addressed to the person at his usual or last known place of residence or business; or
- (d) in the case of a body corporate, firm or body of persons —
 - (i) by delivering it to the secretary or other like officer of the body corporate, firm or body of persons at its registered office or principal place of business; or
 - (ii) by sending it by registered post addressed to the body corporate, firm or body of persons at its registered office or principal place of business.

(2) Any notice, order or document sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order or document, as the case may be, would in the ordinary course of post be delivered.

(3) When proving service of the notice, order or document referred to in subsection (2), it shall be sufficient to prove that the envelope containing the notice, order or document, as the case may be, was properly addressed, stamped and posted by registered post.

Electronic Service

73.—(1) The Authority may provide an electronic service for the service of any document that is required or authorised by this Act to be served on any person.

(2) For the purposes of the electronic service, the Authority may assign to any person —

- (a) an authentication code; and
- (b) an account with the electronic service.

(3) Notwithstanding section 72, where any person has given his consent for any document to be served on him through the electronic service, the Authority may serve the document on that person by transmitting an electronic record of the document to that person's account with the electronic service.

(4) Where a person has given his consent for a document to be served on him through the electronic service, the document shall be deemed to have been served at the time when an electronic record of the document enters his account with the electronic service.

(5) Notwithstanding any other written law, in any proceedings under this Act —

(a) an electronic record of any document that was served through the electronic service; or

(b) any copy or print-out of that electronic record,

shall be admissible as evidence of the facts stated or contained therein if that electronic record, copy or print-out —

(i) is certified by the Authority to contain all or any information served through the electronic service in accordance with this section; and

(ii) is duly authenticated in the manner specified in subsection (7) or is otherwise authenticated in the manner provided in the Evidence Act (Cap. 97) for the authentication of computer output.

(6) For the avoidance of doubt —

(a) an electronic record of any document that was served through the electronic service; or

(b) any copy or print-out of that electronic record,

shall not be inadmissible in evidence merely because the document was served without the delivery of any equivalent document or counterpart in paper form.

(7) For the purposes of this section, a certificate —

(a) giving the particulars of —

(i) any person whose authentication code was used to serve the document; and

(ii) any person or device involved in the production or transmission of the electronic record of the document, or the copy or print-out thereof;

(b) identifying the nature of the electronic record or copy or print-out thereof; and

(c) purporting to be signed by the Authority or by a person occupying a responsible position in relation to the operation of the electronic service at the relevant time,

shall be sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

(8) Where the electronic record of any document, or a copy or print-out of that electronic record, is admissible under subsection (5), it shall be presumed, until the contrary is proved, that the electronic record, copy or print-out accurately reproduces the contents of that document.

(9) The Authority may make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations prescribing the procedure for the use of the electronic service, including the procedure in circumstances where there is a breakdown or interruption of the electronic service.

(10) In this section —

“account with the electronic service”, in relation to any person, means a computer account within the electronic service which is assigned by the Authority to that person for the storage and retrieval of electronic records relating to that person;

“authentication code”, in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure which is assigned to that person for the purposes of identifying and authenticating the access to and use of the electronic service by that person;

“document” includes notice and order;

“electronic record” has the same meaning as in section 2 of the Electronic Transactions Act (Cap. 88).

Amendment of Schedules

74.—(1) The Minister may from time to time, by order published in the *Gazette*, amend, add to or vary the First or Second Schedule.

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

(3) Any order made under subsection (1) shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Transition and savings provisions

75.—(1) Any person who, immediately before the appointed day, is recognised as a credit bureau by the Authority by notification in the *Gazette* for the purposes of the Third Schedule to the Banking Act (Cap 19), shall be deemed to hold a credit bureau licence (referred to in this section as a deemed licence) under the Act —

- (a) until *[date which is six months after the Act comes into effect]*; or
- (b) where an application for a credit bureau licence under the Act is made by the person on or before *[date which is six months after the Act comes into effect]*, until the date on which the credit bureau licence is granted to that person or the application is refused or withdrawn,

whichever is the later.

(2) Any condition to which the recognition of the person as a credit bureau in subsection (1) is subject immediately before the appointed day shall, to the extent that it is consistent with the provisions of the Act, be deemed to be a condition to which the deemed licence is subject.

(3) Any person (“first-mentioned person”) who, immediately before the appointed day, is a member of a person (“second-mentioned person”) referred to in subsection (1) shall be deemed to be member of a licensed credit bureau under the Act —

- (a) until *[date which is six months after the Act comes into effect]*;
- (b) where an application for a credit bureau licence under the Act is made by the second-mentioned person on or before *[date which is six months after the Act comes into effect]*, until the date on which the credit bureau licence is granted to that second-mentioned person or the application is refused or withdrawn,

whichever is the later.

(4) Any individual who, immediately before the appointed day is a chief executive officer or director of a person referred to in subsection (1) shall be deemed to have been so appointed with the approval of the Authority under section 41 of the Act.

(5) The Authority may, by regulations, prescribe such transitional, savings and other consequential provisions as it may consider necessary or expedient.

(6) In this section, “appointed day” means the date of commencement of this Act.

FIRST SCHEDULE

INTERPRETATIONS

Definitions

In this Act—

“credit reporting business” means,

- (a) the business of preparing, providing or maintaining, for profit or gain, credit reports that include information on a person’s:
 - (i) eligibility to be provided with credit;
 - (ii) history in relation to credit;
 - (iii) capacity to repay credit; or
 - (iv) any other information relating to the person’s credit worthiness;
- (b) the business of providing credit reports on a routine, non-profit basis as an ancillary part of a business carried on for profit or gain; or
- (c) such other business as the Authority may prescribe for the purposes of the Act;

“credit report” means a communication, whether in written, oral or other form prepared by any person using data provided by at least one bank, used to assess the creditworthiness of a person or for any other purposes;

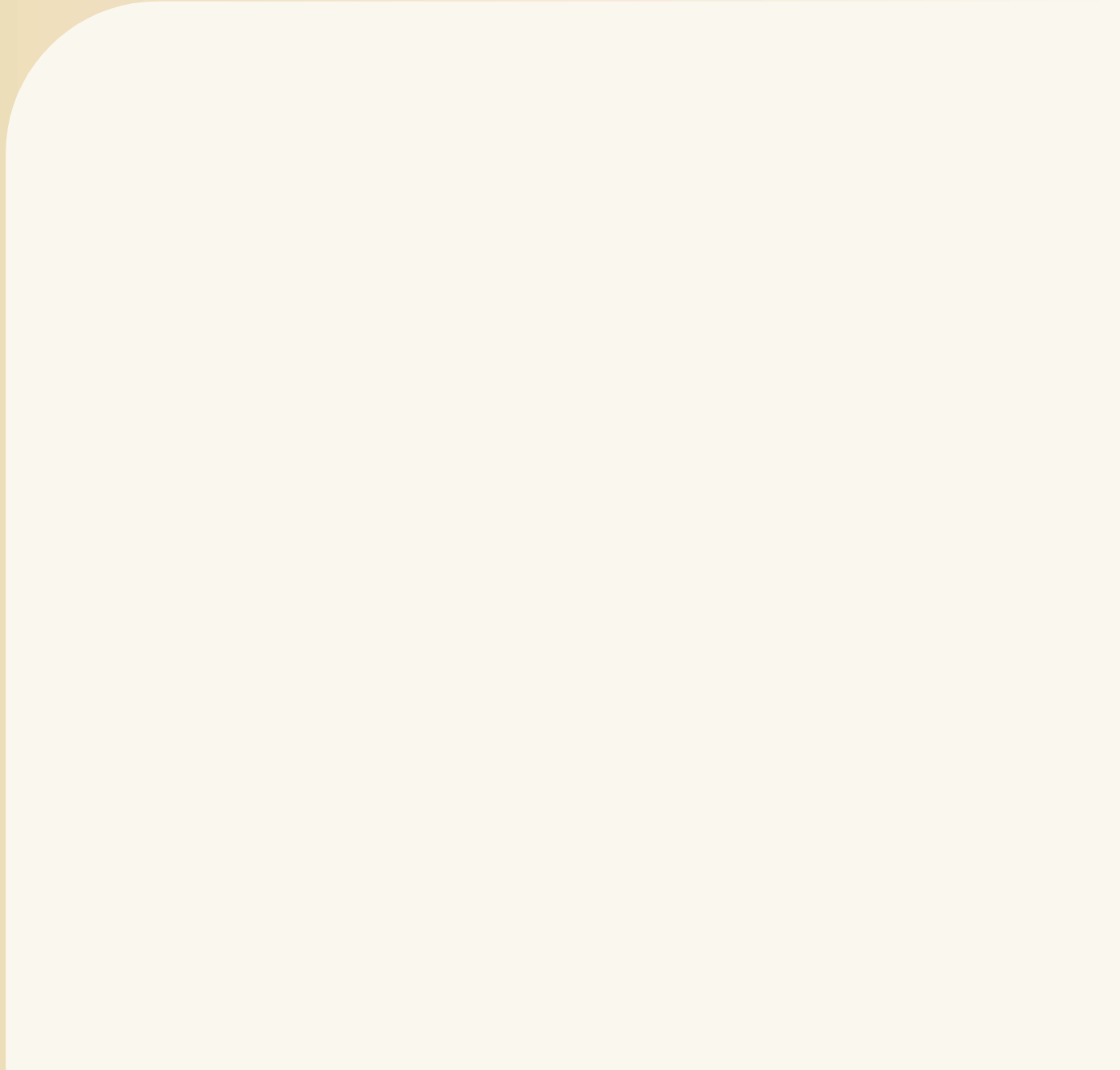
“data”, means any record that contains information, relating to a person, in the course of carrying on a credit reporting business.

SECOND SCHEDULE

SPECIFIED PROVISIONS

Specific provisions

Section 63 — General exemption



Monetary Authority of Singapore