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Credit Bureau Bill

Bill No. 27/2016.

Read the first time on 10 October 2016.

CREDIT BUREAU ACT 2016

(No. of 2016)

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A BILL

intituled

An Act to provide for the regulation of certain credit bureaus, the credit reporting business, and certain members of these credit bureaus to whom the credit bureaus provide customer information, and for matters connected with any of these, and to make related and consequential amendments to certain other Acts.

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

PART 1
PRELIMINARY

Short title and commencement

1. This Act is the Credit Bureau Act 2016 and comes into operation
5 on a date that the Minister appoints by notification in the *Gazette*.

Interpretation

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

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

“approved member”, in relation to a licensed credit bureau,
means a member of the licensed credit bureau that is —

(a) deemed to be an approved member of the licensed
credit bureau under section 29(1); or

15 (b) approved by the Authority under section 29(6)(a);

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

“bank”, “bank in Singapore” and “banking business” have the
20 same meanings as in section 2(1) of the Banking Act
(Cap. 19);

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

“card issuer” means a person that is granted a licence under
section 57B of the Banking Act;

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

30 (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 the business of the company;

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

“consumer credit reporting business” means a credit reporting business concerning credit reports of individuals in their personal capacity; 5

“corporate credit reporting business” means a credit reporting business that is not a consumer credit reporting business;

“credit bureau” means an entity that carries on a credit reporting business; 10

“credit facility” means —

(a) an advance, a loan or other facility that gives a person access to funds or financial guarantees; or

(b) the incurring by a person of other liabilities on behalf of another; 15

“credit report” means a communication, whether in written, oral or other form —

(a) prepared using customer information provided by at least one bank or merchant bank that is a member of a credit bureau, to assess the creditworthiness of a person, including — 20

(i) information about the person’s eligibility to be provided with credit;

(ii) information about the person’s history in relation to credit; 25

(iii) information about the person’s capacity to repay credit provided to the person; or

(iv) any other information relating to the person’s creditworthiness; or 30

(b) prepared by a licensed credit bureau for such other purpose as may be prescribed;

“credit reporting business” means —

- (a) a business in Singapore (whether routine or recurrent) that involves preparing, providing or maintaining, for profit or gain, credit reports regardless of whether the primary function of the business is connected with credit reports;
- (b) the business of preparing, providing or maintaining 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 may be prescribed;

“customer”, in relation to a member of a credit bureau, includes —

- (a) a person having an account with, or an applicant for a credit facility from, the member; and
- (b) the Authority or any monetary authority or central bank of any other country or territory,

but excludes any company that carries on banking business, or such other financial institution as may be prescribed;

“customer information”, in relation to a member of a credit bureau, means —

- (a) any information relating to, or any particulars of —
 - (i) 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 excludes any information that is not referable to any named customer or group of named customers; or
 - (ii) an application for a credit facility from the member by a customer of the member; or
- (b) the member’s deposit information;

“data” means —

- (a) information relating to a person’s creditworthiness, including (to avoid doubt) customer information of a member of a licensed credit bureau; or
- (b) information relating to a person that is processed by a licensed credit bureau in the course of its credit reporting business,

as the case may be;

“data provider”, in relation to a licensed credit bureau, means any person (including a member of the licensed credit bureau) that is obliged under any contract or arrangement with the licensed credit bureau, to provide to the licensed credit bureau for the purposes of the licensed credit bureau’s credit reporting business, any information relating to a person’s creditworthiness, including (to avoid doubt) customer information of a member of the licensed credit bureau;

“data subject” means the person that is the subject of any data or credit report, as the case may be;

“deposit information”, in relation to a member of a credit bureau, means any information relating to —

- (a) any deposit of a customer of the member with the member;
- (b) funds of a customer of the member under management by the member; or
- (c) any safe deposit box maintained by, or any safe custody arrangements made by, a customer of the member with the member,

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

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

“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 individual, by whatever name described, who —

5 (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;

10 “Guidelines on Fit and Proper Criteria” means the document by that title issued by the Authority and published on its website, as revised from time to time;

“integrity”, in relation to data, means the data is accurate, complete, current and not misleading;

15 “licence” means a licence granted under section 7 or renewed under section 8;

“licensed credit bureau” means a credit bureau that is for the time being licensed;

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

25 “member”, in relation to a licensed credit bureau, means an entity that is obliged under any contract or arrangement with the licensed credit bureau to provide data to the licensed credit bureau, and is entitled under such contract or arrangement to —

 (a) receive or request data from the licensed credit bureau;

 (b) use data received from the licensed credit bureau; and

 (c) disclose data received from the licensed credit bureau;

30 “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;

“process”, in relation to data, means to carry out any operation or set of operations in relation to the data, and includes one or more of the following: 5

(a) to collect or record the data;

(b) to hold the data;

(c) to organise, combine, adapt or alter the data;

(d) to retrieve or transmit the data;

(e) to use the data; 10

(f) to disclose or report the data;

(g) to erase or destroy the data;

“public authority” means —

(a) the Government, including any ministry, department and agency of the Government, or an organ of State; 15

(b) any tribunal appointed under any written law; or

(c) any statutory body;

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

Purpose of Act 20

3. The purpose of this Act is to regulate —

(a) licensed credit bureaus;

(b) approved members of any licensed credit bureau in relation to —

(i) their providing data to the credit bureau for the purpose of the credit bureau’s credit reporting business; and 25

(ii) their using and disclosing data received from the credit bureau in the course of the credit bureau’s credit reporting business; and 30

(c) matters relating to or connected with the above.

Application of Act

4.—(1) Subject to subsection (2), this Act does not apply to any public authority.

5 (2) The Minister may by order declare that a public authority is one to which this Act applies.

(3) The provisions in Parts 3 and 6 of the Act are in addition to, and do not derogate from, anything in the Personal Data Protection Act 2012 (Act 26 of 2012).

10 **Appointment of assistants**

5.—(1) Subject to subsection (2), the Authority may appoint any of its officers 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 —

15 (a) of appointment conferred by this subsection; and

(b) to make subsidiary legislation.

(2) The Authority may, by notification in the *Gazette*, appoint one or more of its officers to exercise the power under a provision of this Act specified in the Second Schedule to grant an exemption to a particular person, or to revoke any such exemption.

(3) Any officer appointed by the Authority under subsection (1) or (2) is deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

PART 2

25 LICENSING OF CREDIT BUREAUS

Licensing of credit bureaus

6.—(1) Subject to the provisions of this Act, a person must not carry on any type of credit reporting business unless the person is licensed by the Authority under this Act in respect of that type of credit reporting business.

30

(2) Any person that contravenes this section 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 of a day 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 of a day during which the offence continues after conviction.

Application for licence

7.—(1) A person that desires to carry on a credit reporting business must apply in writing to the Authority for a licence under this section.

(2) Subject to subsection (3), the person in subsection (1) may apply for a licence to carry on —

(a) a consumer credit reporting business;

(b) a corporate credit reporting business; or

(c) both a consumer credit reporting business and a corporate credit reporting business.

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

(4) The Authority must not grant a licence to an applicant unless —

(a) the applicant is a company;

(b) the applicant satisfies the financial and operational requirements specified by the Authority; and

(c) the application is accompanied by —

(i) such information as the Authority may require; and

- (ii) a non-refundable application fee of a prescribed amount that is paid in the manner the Authority specifies.

5 (5) A licence granted under this section is valid for 5 years or such shorter period as the Authority may specify, and is renewable in accordance with section 8.

(6) The Authority must not grant a licence to an applicant to carry on —

- (a) a corporate credit reporting business; or
- 10 (b) both a corporate credit reporting business and a consumer credit reporting business,

when another person holds a licence for that business.

(7) The Authority must publish the grant of any licence or change of name of a licensed credit bureau in the *Gazette*.

15 (8) The Authority may at any time add to, vary or revoke any of the existing conditions of the licence of a credit bureau.

(9) A licensed credit bureau must, at all times during the currency of its licence, satisfy such financial and operational requirements as the Authority may specify by notice in writing under section 75(1).

20 (10) Any licensed credit bureau that without reasonable cause fails to comply with subsection (9) or any condition imposed by the Authority under subsection (3) or (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding
25 \$10,000 for every day or part of a day during which the offence continues after conviction.

Renewal of licence

8.—(1) An application by a licensed credit bureau to renew its licence must be —

- 30 (a) made to the Authority in writing at least 6 months before the date the licence expires;

- (b) accompanied by such information as the Authority may require; and
- (c) accompanied by the non-refundable prescribed application fee that is paid in the manner specified by the Authority.

(2) If an application to renew a licence is submitted to the Authority less than 6 months before the date of expiry of the licence, the application must, in addition to the renewal fee, be accompanied by the prescribed late application fee. 5

(3) Section 7(3) and (4)(a) and (b) applies, with the necessary modifications, to an application to renew a licence under this section as it applies to an application for a licence under section 7. 10

(4) Section 7(5) and (7) to (10) applies, with the necessary modifications, to a licence that is renewed under this section as it applies to a licence that is granted under section 7.

Holding out as licensed credit bureau 15

9.—(1) A person that is not a licensed credit bureau must not hold itself out as a licensed credit bureau.

(2) Any person that contravenes this section 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 of a day during which the offence continues after conviction; or 20
- (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 of a day during which the offence continues after conviction. 25

Annual fees of licensed credit bureau 30

10.—(1) A licensed credit bureau must pay to the Authority such prescribed annual fee in the manner that the Authority specifies.

(2) The Authority may prescribe different annual fees for different licensed credit bureaus depending on the type of credit reporting business they are licensed to carry on.

5 (3) 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.

Lapsing, revocation and suspension of licence

11.—(1) A licence lapses —

- 10 (a) if the licensed credit bureau is wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) if the licence is not renewed on or before the expiry of the licence; or
- (c) upon the occurrence of such event as may be prescribed.

15 (2) The Authority may revoke a licence of a licensed credit bureau if —

- 20 (a) it appears to the Authority that any of the following persons of the licensed credit bureau are not fit and proper persons in accordance with the Guidelines on Fit and Proper Criteria:
- (i) its officers and employees;
- (ii) its substantial shareholders, 12% controllers, 20% controllers and indirect controllers, as defined in section 39(2);
- (b) it appears to the Authority that —
- 25 (i) the financial standing of the licensed credit bureau; or
- (ii) the manner in which the licensed credit bureau's business is being conducted,
- is not satisfactory;
- 30 (c) the licensed credit bureau is contravening or has contravened any provision of this Act, or any condition or restriction imposed or any notice issued by the Authority under this Act;

- (d) it appears to the Authority that the licensed credit bureau is failing or has failed to satisfy any of its obligations under or arising from —
- (i) this Act; or
 - (ii) any notice issued by the Authority under this Act; 5
- (e) the licensed credit bureau has provided to the Authority any information or document required under this Act that is false or misleading;
- (f) it appears to the Authority that the licensed credit bureau, or any of its officers or employees, has not performed its or his or her duties under this Act honestly or fairly; 10
- (g) it appears to the Authority that it would be contrary to the public interest for the licensed credit bureau to continue its operations;
- (h) the licensed credit bureau fails to pay the annual fee mentioned in section 10(1); or 15
- (i) the licensed credit bureau fails or ceases to carry on any credit reporting business for which it is licensed.
- (3) The Authority may, if it considers it desirable to do so —
- (a) suspend the licence of a licensed credit bureau for a specified period instead of revoking the licence under subsection (2); and 20
 - (b) at any time —
 - (i) extend the suspension for a specified period; or
 - (ii) revoke the suspension. 25
- (4) Subject to subsection (5), the Authority must not revoke a licence under subsection (2) or suspend a licence under subsection (3) without giving the licensed credit bureau an opportunity to be heard.
- (5) The Authority may, without giving the licensed credit bureau an opportunity to be heard, revoke or suspend a licence of a licensed credit bureau in any of the following circumstances: 30

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

5 (b) a receiver, a receiver and manager, a judicial 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 —

(i) whether in Singapore or elsewhere; and

10 (ii) whether before, on or after the date of commencement of this Act,

of an offence involving fraud or dishonesty, or the conviction involved a finding that the licensed credit bureau had acted fraudulently or dishonestly.

15 (6) A licensed credit bureau whose licence has lapsed, or is revoked or suspended, must cease to carry on any credit reporting business from the date it lapses, or the date the revocation or suspension takes effect.

20 (7) Where the licence of a licensed credit bureau lapses or is revoked under this section, the former licensed credit bureau concerned must —

(a) immediately inform all its members by notice in writing of such lapse or revocation;

25 (b) if directed by the Authority by a notice in writing, within the period specified in the notice —

(i) destroy the part of any book in its possession that contains any data and expunge all data from its information technology system, in such manner as may be specified in the notice;

30 (ii) transfer all books containing any data, and data from its information technology system, to any third party appointed by the Authority, and expunge all data from its information technology system after the transfer; or

(iii) transfer all books containing any data, and data from its information technology system, to any third party appointed by the Authority; and

(c) within 3 months after the date the licence lapses or is revoked, or such other period as the Authority may approve for any particular case, submit to the Authority a report from its auditor confirming that the former licensed credit bureau has complied with paragraph (b).

(8) Where —

(a) the licence of a licensed credit bureau is suspended under subsection (3)(a); or

(b) the suspension of the licence of the licensed credit bureau is extended under subsection (3)(b)(i),

the licensed credit bureau must immediately inform all its members by notice in writing of the suspension, or the extension of the suspension, as the case may be.

(9) Where a licence —

(a) lapses;

(b) is revoked; or

(c) is suspended,

the Authority must publish a notice of this in the *Gazette*.

(10) Despite the lapse or revocation of the licence, and unless the Authority otherwise directs, sections 21, 23, 48, 49 and 50 continue to apply in relation to the former licensed credit bureau and its approved members in respect of matters that occurred before the lapse or revocation as if it had not occurred.

(11) Any person that contravenes subsection (6), (7) or (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(12) In this section, “information technology system”, in relation to a licensed credit bureau, means computer servers and network

equipment operated, maintained or used by the licensed credit bureau, and any other electronic device that contains data.

Right of appeal

12. Any company that is aggrieved —

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

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

10 may, within 30 days after having been informed of the refusal, revocation or suspension, appeal in writing to the Minister.

PART 3

DUTIES OF LICENSED CREDIT BUREAUS

Duties relating to customer information

15 13.—(1) A licensed credit bureau and any of its officers must not use any of its members' customer information received from any of its members except —

(a) where it is strictly necessary to create a credit report; or

(b) for such other purpose as the Authority may permit by notice in writing to the licensed credit bureau.

20 (2) Without affecting section 16, a licensed credit bureau and any of its officers must not disclose any of its members' customer information (including a credit report of a member's customer that contains such information) received from any of its members to any person except —

25 (a) to an approved member of the licensed credit bureau where the disclosure is strictly necessary to enable the approved member to assess the creditworthiness of its customer; or

30 (b) to any other person if it is permitted by the Authority by notice in writing to the licensed credit bureau and in accordance with such conditions as may be specified in the notice.

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

(4) Despite any provision in this Act, a licensed credit bureau and any of its officers must not collect from its members —

(a) customer information concerning a customer that is — 5

(i) a public authority;

(ii) a monetary authority or central bank of any country or territory; or

(iii) a sovereign wealth fund; or

(b) their deposit information. 10

(5) Despite subsection (2), a licensed credit bureau and any of its officers must not use or disclose to any person —

(a) any of its members' customer information received from the member where the customer is —

(i) a public authority; 15

(ii) a monetary authority or central bank of any country or territory; or

(iii) a sovereign wealth fund; or

(b) any of its members' deposit information received from the member. 20

(6) Despite subsection (2), a licensed credit bureau that holds a licence under section 7(2)(b) or (c) and any of its officers must not —

(a) collect from its members customer information; or

(b) use or disclose any customer information received from any of its members, 25

concerning a customer that is a prescribed entity.

(7) Despite anything in this section —

(a) a licensed credit bureau may disclose its members' customer information received from any of its members to any of its officers if the disclosure is solely for the 30

purpose of carrying on the licensed credit bureau's credit reporting business; and

(b) an officer of a licensed credit bureau may disclose customer information of a member of the licensed credit bureau received from any of its members to —

- (i) another officer of the licensed credit bureau; or
- (ii) the licensed credit bureau,

if the disclosure is solely in connection with the performance of the duties of such officer.

(8) Any person that contravenes subsection (1), (2), (4), (5) 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 \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

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

(a) where customer information of a member of a licensed credit bureau may be disclosed under subsection (2) to any person that is a body corporate, the 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 subsection (2); and

(b) the obligation of any officer of the licensed credit bureau not to disclose any customer information of a member of the licensed credit bureau mentioned in subsection (2), (5) and (6) continues after the termination or cessation of his or her appointment, employment, engagement or other capacity or office with the licensed credit bureau.

(10) In this section —

“officer” has the same meaning as in section 2(1) of the Banking Act (Cap. 19);

“sovereign wealth fund” means the central government of a country or territory, or an entity wholly and beneficially

owned by such government, whose funds (which may include the reserves of that government and any pension or provident fund of that country) are managed by a government-owned entity.

(11) This section applies to any data received by a licensed credit bureau in a request under section 18(1) or (2) as it applies to customer information of any member of the licensed credit bureau. 5

(12) This section does not affect the duty of a licensed credit bureau or any of its officers to provide any customer information of any of its members to the Authority or any other person under any other provision of the Act. 10

Duty to maintain security and integrity of data

14.—(1) A licensed credit bureau must, in respect of any data that it collects from a data provider —

(a) ensure the integrity of the data that the licensed credit bureau processes (except when erasing or destroying such data); and 15

(b) protect the data by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks. 20

(2) For the purposes of subsection (1)(a), the integrity of the data collected by a licensed credit bureau from a data provider is assumed unless the licensed credit bureau is required to correct the data under section 18(3)(b)(i), 19(1) or 35(3)(a). 25

(3) Any person that contravenes subsection (1) 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 of a day during which the offence continues after conviction. 30

Duty to safeguard integrity of data through contracts with data providers

5 **15.** A licensed credit bureau must ensure that any contract or arrangement it enters into, or renews, with a data provider on or after the date of commencement of this Act (whether or not the data provider is a member of the licensed credit bureau) to receive data from the data provider includes an obligation that the data provider makes a reasonable effort to ensure that the data provider provides data with integrity to the licensed credit bureau.

10 Disclosure of credit report to data subject or with data subject's written consent

16.—(1) Despite section 13, a licensed credit bureau and any of its officers may disclose to any of the persons mentioned in subsection (2) —

15 (a) any of its members' customer information received from a member; or

 (b) a credit report prepared by the licensed credit bureau.

(2) The persons mentioned in subsection (1) are —

20 (a) the data subject of the customer information or credit report; or

 (b) a third party if the licensed credit bureau has the written consent of the data subject for the disclosure.

25 (3) This section applies to any data received by a licensed credit bureau in a request under section 18(1) or (2) as it applies to customer information of any member of the licensed credit bureau.

Duty to provide access to data

30 **17.—**(1) Upon a data subject's request, a licensed credit bureau must, within 5 business days after the request or such shorter period as the Authority may specify by notice in writing, provide the data subject with a copy of the credit report of the data subject.

(2) Subject to subsection (3), the licensed credit bureau may charge the data subject a fee each time it provides the data subject with a copy of the credit report under subsection (1).

(3) Despite subsection (2), where —

(a) a data subject (who is an individual) applies for a credit facility from an approved member of a licensed credit bureau; and 5

(b) the individual requests, within 30 days after the approved member has approved or rejected the application for the credit facility, a credit report about the individual from the licensed credit bureau in relation to the individual's application, 10

the licensed credit bureau must, within 5 business days after the request in paragraph (b) or such shorter period as the Authority may specify by notice in writing, provide the individual with a copy of the credit report free of charge. 15

(4) The licensed credit bureau must provide a copy of the credit report mentioned in subsection (1), in one of the following forms at the data subject's option:

(a) a printed copy to be collected by the data subject at the registered office of the licensed credit bureau; 20

(b) a printed copy sent by registered post to an address specified by the data subject;

(c) an electronic copy;

(d) an electronic copy sent by electronic mail to an electronic mail address specified by the data subject. 25

(5) Any person that contravenes subsection (1), (3) or (4) 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 of a day during which the offence continues after conviction. 30

Correction of data on request

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

5 (2) A data provider may request a licensed credit bureau to correct an error or omission in any data provided by the data provider to the licensed credit bureau.

(3) Upon receiving a request under subsection (1) or (2), the licensed credit bureau must —

10 (a) within such period as the Authority may specify by notice in writing after receiving such request, conduct and complete an investigation to ascertain the integrity of the data; and

15 (b) unless it is satisfied on reasonable grounds that a correction should not be made, within such period as the Authority may specify by notice in writing —

(i) correct the data in its possession or under its control; and

20 (ii) send the corrected data to every approved member of the licensed credit bureau to which the licensed credit bureau disclosed the data within a year before the date the correction was made.

25 (4) Any person that contravenes subsection (3) 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 of a day during which the offence continues after conviction.

Correction of data on licensed credit bureau's initiative

30 19.—(1) Subject to subsection (2), a licensed credit bureau must correct an error or omission in the data of a data subject that is in its possession or under its control if it is satisfied that there is evidence of a conflict between the data and other information relating to the data subject —

- (a) in its possession or under its control; or
- (b) obtained from such public authority as may be prescribed.

(2) Except under prescribed circumstances, before the licensed credit bureau corrects any data under subsection (1), the licensed credit bureau must —

5

- (a) inform the data provider that provided the data to the licensed credit bureau of the proposed correction; and
- (b) subject to subsection (3), obtain consent from that data provider to the proposed correction.

(3) The licensed credit bureau need not obtain the consent in subsection (2)(b) if it is satisfied that any refusal of consent is frivolous or vexatious.

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(4) Any person that contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000, and in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

15

Obligation to notify Authority of certain events

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

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- (a) an event that results in a compromise of the confidentiality or security of any data in the possession or under the control of the licensed credit bureau;
- (b) any civil or criminal proceeding instituted against the licensed credit bureau, whether in Singapore or elsewhere;
- (c) any event (including an irregularity in any operations of the licensed credit bureau) that impedes or impairs the operations of the licensed credit bureau;
- (d) the licensed credit bureau is becoming, or is likely to become, insolvent or unable to meet any of its financial, statutory, contractual or other obligations;

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30

(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 must notify the Authority within 14 days after the occurrence of any of the following events:

(a) any change of any of its executive officers other than a director or the chief executive officer of the licensed credit bureau;

(b) any other event that the Authority may prescribe or specify by notice in writing from time to time.

(3) Any person that contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

Obligation to provide information to Authority

21.—(1) Subject to subsection (4), the Authority may, by notice in writing, require any licensed credit bureau, or any person acting on behalf of a licensed credit bureau, to provide to the Authority all such information relating to the credit reporting business of the licensed credit bureau within such period as the Authority may specify in the notice.

(2) Without affecting the generality of subsection (1), the Authority may in the notice issued under that subsection require any person mentioned in subsection (1) to provide —

(a) information relating to the operations of the licensed credit bureau;

(b) customer information of any member of the licensed credit bureau that is in the possession or under the control of the licensed credit bureau; and

(c) such other information as the Authority may require for the purposes of this Act.

(3) Subject to subsection (4) —

(a) a requirement imposed by the Authority under this section has effect despite any obligation as to secrecy or other

restrictions upon the disclosure of information imposed by any rule of law or contract; and

- (b) a person that complies with a requirement imposed by the Authority under this section is not to be treated as being in breach of any restriction on the disclosure of the information imposed by any rule of law or contract. 5

(4) Nothing in this section requires a person to disclose any information subject to legal privilege.

(5) Any person that fails to comply with a notice issued under subsection (1) shall be guilty of an offence and shall be liable on conviction — 10

- (a) in the case of an individual, to a fine not exceeding \$50,000 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 \$5,000 for every day or part of a day during which the offence continues after conviction; or 15

- (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction. 20

Obligation to submit periodic reports

22.—(1) A licensed credit bureau must submit to the Authority such reports or returns relating to its credit reporting business in such form, manner and frequency as the Authority may specify by notice in writing. 25

(2) Any person that contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction. 30

PART 4

AUDIT OF LICENSED CREDIT BUREAUS

Auditing

5 **23.—**(1) Despite the provisions of the Companies Act (Cap. 50), a licensed credit bureau —

(a) must, on an annual basis, appoint, and obtain the approval of the Authority for the appointment of, an auditor; and

10 (b) if for any reason its auditor ceases to be its auditor, appoint another auditor with the approval of the Authority as soon as practicable after such cessation.

(2) The Authority must not approve an auditor for a licensed credit bureau unless the auditor is able to comply with such conditions in relation to the discharge of the auditor's duties as the Authority may determine.

15 (3) The Authority may appoint an auditor —

(a) if the licensed credit bureau fails to appoint an auditor; or

(b) if the Authority considers it desirable that another auditor should act with the auditor appointed under subsection (1),

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

(4) The duties of an auditor appointed under subsection (1) or (3) are to —

25 (a) carry out, for the year in respect of which the auditor is appointed, an audit of the licensed credit bureau's accounts; and

(b) make a report on the licensed credit bureau's financial statements or consolidated financial statements in accordance with section 207 of the Companies Act.

30 (5) The Authority may, by notice in writing to an auditor, impose all or any of the following duties on the auditor in addition to those provided under subsection (4), and the auditor must carry out the duties so imposed:

- (a) a duty to submit such additional information in relation to the audit as the Authority considers necessary;
 - (b) a duty to enlarge or extend the scope of the audit of the licensed credit bureau's business and affairs;
 - (c) a duty to carry out any other examination, or establish any procedure, in relation to the audit in any particular case;
 - (d) a duty to submit a report on any of the matters mentioned in paragraphs (b) and (c).
- (6) The licensed credit bureau must remunerate the auditor in respect of —
- (a) such remuneration the Authority has fixed under subsection (3); and
 - (b) the discharge of all or any of the additional duties of the auditor imposed under subsection (5).
- (7) Despite any other provision of this Act or the provisions of the Companies Act, the Authority may at any time direct the licensed credit bureau to —
- (a) remove the auditor of the licensed credit bureau; and
 - (b) appoint another auditor,
- if the Authority is not satisfied with the performance of any duty by the auditor.
- (8) The auditor's report made under subsection (4)(b) must be attached to the licensed credit bureau's financial statements or consolidated financial statements, and a copy of the report, together with any report submitted under subsection (5), must be submitted in writing to the Authority.
- (9) If an auditor, in the course of performing the auditor's duties, is satisfied that —
- (a) there has been a serious breach or non-observance of the provisions of this Act;
 - (b) a criminal offence involving fraud or dishonesty has been committed;

- (c) losses have been incurred that reduce the capital of the licensed credit bureau by 50% or more;
- (d) serious irregularities have occurred, including irregularities that compromise the confidentiality, security or integrity of any data collected, used or disclosed by the licensed credit bureau; or
- (e) the auditor is unable to confirm that the claims of creditors of the licensed credit bureau are still covered by the assets of the licensed credit bureau,

10 the auditor must immediately report the matter to the Authority.

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

- (a) the auditor’s or employee’s knowledge or suspicion of any of the matters mentioned in subsection (9); or
- (b) any information or other matter on which that knowledge or suspicion is based,

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

25 (11) Any licensed credit bureau that contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

30 (12) Any auditor that contravenes subsection (5) or (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(13) In this section, “consolidated financial statements” and “financial statements” have the same meanings as in section 209A of the Companies Act.

Powers of auditor appointed by Authority

24.—(1) An auditor appointed by the Authority under section 23(3) may, for the purpose of carrying out an examination or audit —

- (a) examine, on oath or affirmation, any officer or employee of the licensed credit bureau, or any other auditor of the licensed credit bureau; 5
- (b) require any officer or employee of the licensed credit bureau, or any other auditor of the licensed credit bureau, to produce any books held by or on behalf of the licensed credit bureau relating to its business; 10
- (c) make copies of or take extracts from, or retain possession of, any books mentioned in paragraph (b) for such period as may be necessary to enable them to be inspected;
- (d) employ such persons as the auditor considers necessary to assist the auditor in carrying out the examination or audit; and 15
- (e) authorise in writing any person employed by the auditor to do, in relation to the examination or audit, any act or thing that the auditor could do as an auditor under this subsection, other than the examination of a person on oath or affirmation. 20

(2) Any individual who, without reasonable excuse —

- (a) refuses or fails to answer any question put to him or her; or
- (b) fails to comply with any request made to him or her,

by an auditor appointed under section 23(3) or a person authorised under subsection (1)(e) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$12,500 or to imprisonment for a term not exceeding 12 months or to both. 25

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

25.—(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 — 30

- (a) an auditor appointed under section 23(1) or (3); or
- (b) any employee of such auditor,

must not disclose any information that comes to the auditor's or employee's knowledge in the course of performing the auditor's or employee's duties, to any person other than the Authority, or in the case of an employee of such auditor, the auditor.

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

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

- (b) in the case of the employee, to a fine not exceeding \$12,500.

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

26.—(1) Any individual who, with intent to prevent, delay or obstruct the carrying out of any examination or audit under section 23 or 24 —

- (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 \$50,000 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 individual charged with the offence —

- (a) destroyed, concealed or altered any book mentioned in subsection (1)(a); or

- (b) sent, or conspired to send, out of Singapore, any book or asset mentioned in subsection (1)(b),

the onus of proving that, in so doing, the individual did not act with intent to prevent, delay or obstruct the carrying out of an examination or audit under section 23 or 24 lies on him or her.

PART 5

APPROVAL OF APPROVED MEMBERS

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Rights of approved member

27. Subject to this Act, only an approved member of a licensed credit bureau may receive from the licensed credit bureau customer information of any member of the licensed credit bureau (including a credit report about a member's customer).

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Holding out as approved member

28.—(1) A person that is not an approved member of a licensed credit bureau must not hold itself out as such an approved member.

(2) Any person that contravenes subsection (1) 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 of a day during which the offence continues after conviction.

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Deemed approval and actual approval

29.—(1) A member of a licensed credit bureau that comes within any class of persons specified in the First Schedule is deemed to be an approved member of the licensed credit bureau, until that approval is cancelled or revoked under this Part.

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(2) The deemed approval of a member of a licensed credit bureau under subsection (1) is subject to such conditions as the Authority may specify by notice in writing.

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(3) A licensed credit bureau may apply to the Authority for any of its members or a class of its members (including any member in subsection (1) the deemed approval of which has been cancelled or revoked under this Part) to be approved as an approved member or approved members, as the case may be, of the licensed credit bureau.

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(4) An application made under subsection (3) must be made in such form and manner as the Authority may specify by notice in writing.

(5) The Authority may require the licensed credit bureau, or the member to which the application relates, to provide the Authority with such information or documents as the Authority considers necessary to consider the application.

(6) Upon receiving an application under subsection (3), the Authority must consider the application and may —

(a) approve, with or without conditions, the member as an approved member or the class of members as approved members of the licensed credit bureau; or

(b) refuse the application.

(7) The Authority may at any time add to, vary or revoke any of the conditions of the approval or deemed approval of an approved member or class of members.

(8) A licensed credit bureau must, within 14 days after the date it becomes a licensed credit bureau, publish a list of its approved members (including those that are deemed approved members under subsection (1)) on its website.

(9) A licensed credit bureau must publish an updated list of its approved members on its website within 14 days after —

(a) the date the First Schedule is amended where the amendment results in any of its members becoming an approved member;

(b) the date any of its members becomes one of the persons specified in the First Schedule; or

(c) the date any of its members or class of its members is approved as an approved member or approved members under subsection (6)(a).

(10) Any approved member of a licensed credit bureau that fails to comply with any condition imposed by the Authority under subsection (2), (6)(a) or (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000

for every day or part of a day during which the offence continues after conviction.

(11) Any licensed credit bureau that contravenes subsection (8) shall be guilty of an offence.

Cancellation of approval or deemed approval

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30.—(1) An approved member of a licensed credit bureau may apply to the Authority to cancel its approval or deemed approval if the approved member intends to cease any of the following activities:

(a) providing to the licensed credit bureau any customer information of that or any other approved member of the licensed credit bureau;

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(b) requesting from the licensed credit bureau any customer information (including a credit report about the member's customer) of that or any other approved member of the licensed credit bureau;

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(c) using any customer information (including any such information in a credit report) of that or any other approved member of the licensed credit bureau that the approved member has received from the licensed credit bureau.

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(2) The Authority may upon considering the application, cancel the approval or deemed approval of an approved member of a licensed credit bureau if the Authority is satisfied that the approved member has ceased any of the activities mentioned in subsection (1).

(3) An approved member of a licensed credit bureau whose approval or deemed approval is cancelled ceases to be an approved member of the licensed credit bureau from the date on which the cancellation takes effect.

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(4) Where the approval or deemed approval of an approved member of a licensed credit bureau is cancelled, the former approved member —

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(a) must not use or disclose any customer information of that or any other approved member of the licensed credit bureau that the former approved member received from the

licensed credit bureau, except as permitted by any other written law; and

(b) must immediately inform the licensed credit bureau by notice in writing of such cancellation.

5 (5) The Authority must publish a notice in the *Gazette* whenever it cancels the approval or deemed approval of an approved member of a licensed credit bureau.

10 (6) Where the approval or deemed approval of an approved member of a licensed credit bureau is cancelled under subsection (2), the licensed credit bureau must, within 14 days after receiving the notice of such cancellation under subsection (4)(b), remove the former approved member from the list of its approved members on its website.

15 (7) Despite the cancellation of the approval or deemed approval of an approved member of a licensed credit bureau, and unless the Authority otherwise directs, sections 37, 49 and 50 continue to apply in relation to the former approved member in respect of matters that the former approved member received or that occurred before the cancellation as if the approval or deemed approval had not been cancelled.

20 (8) Any former approved member of a licensed credit bureau that contravenes subsection (4) 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 of a day during which the offence continues after conviction.

(9) Any licensed credit bureau that contravenes subsection (6) shall be guilty of an offence.

30 (10) This section applies to corrected data received by a licensed credit bureau's approved member or former approved member under section 18(3)(b)(ii) as it applies to customer information of any approved member of the licensed credit bureau received by the approved member or former approved member.

Revocation of approval or deemed approval

31.—(1) The Authority may revoke the approval or deemed approval of an approved member of a licensed credit bureau if —

- (a) it appears to the Authority that the approved member is contravening or has contravened — 5
 - (i) any provision of this Act; or
 - (ii) any notice in writing issued by the Authority under this Act;
- (b) the approved member has provided under this Act any information or document to the Authority that is false or misleading; 10
- (c) it appears to the Authority that the approved member, or any of its officers or employees, has not performed its duties, or his or her duties, under this Act honestly or fairly;
- (d) the approved member fails to carry on or ceases any of the activities specified in section 30(1); or 15
- (e) it appears to the Authority that it would be contrary to the public interest for the approved member to continue being such an approved member.

(2) Subject to subsection (3), the Authority must not revoke the approval or deemed approval of an approved member of a licensed credit bureau under subsection (1) without giving the approved member an opportunity to be heard. 20

(3) The Authority may revoke the approval or deemed approval of an approved member of a licensed credit bureau without giving the approved member an opportunity to be heard on any of the following grounds: 25

- (a) the approved member is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) a receiver, a receiver and manager, a judicial manager or an equivalent person has been appointed, whether in Singapore or elsewhere, for or in respect of any property of the approved member; 30

(c) the approved member has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty, or the conviction involved a finding that the approved member had acted fraudulently or dishonestly.

5 (4) An approved member of a licensed credit bureau whose approval or deemed approval is revoked ceases to be an approved member of the licensed credit bureau from the date on which the revocation takes effect.

10 (5) Where the approval or deemed approval of an approved member of a licensed credit bureau is revoked, the former approved member —

15 (a) must not use or disclose any customer information of that or any other approved member of the licensed credit bureau that the former approved member received from the licensed credit bureau, except as permitted by any other written law; and

(b) must immediately inform the licensed credit bureau by notice in writing of such revocation.

20 (6) The Authority must publish a notice in the *Gazette* whenever it revokes the approval or deemed approval of an approved member of a licensed credit bureau.

25 (7) Where the approval or deemed approval of an approved member of a licensed credit bureau is revoked under subsection (1), the licensed credit bureau must, within 14 days after receiving the notice of such revocation under subsection (5)(b), remove the approved member from the list of its approved members on its website.

30 (8) Despite the revocation of the approval or deemed approval of an approved member of a licensed credit bureau, and unless the Authority otherwise directs, sections 37, 49 and 50 continue to apply in relation to the former approved member in respect of matters that the former approved member received or that occurred before the revocation as if the approval or deemed approval had not been revoked.

35 (9) Any former approved member of a licensed credit bureau that contravenes subsection (5) 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 of a day during which the offence continues after conviction.

(10) Any licensed credit bureau that contravenes subsection (7) shall be guilty of an offence. 5

(11) This section applies to corrected data received by a licensed credit bureau's approved member or former approved member under section 18(3)(b)(ii) as it applies to customer information of any approved member of the licensed credit bureau received by the approved member or former approved member. 10

Right of appeal in respect of refusal of approval or revocation of approved members

32.—(1) A licensed credit bureau that is aggrieved —

(a) by the refusal of the Authority to approve any of the licensed credit bureau's members as an approved member or a class of its members as approved members of the licensed credit bureau; or 15

(b) by the revocation by the Authority of its approval or deemed approval of an approved member of the licensed credit bureau, 20

may, within 30 days after the refusal or the date on which the revocation takes effect, appeal in writing to the Minister.

(2) A member of a licensed credit bureau that is aggrieved by the refusal of the Authority to approve it as an approved member of the licensed credit bureau may, within 30 days after the refusal, appeal in writing to the Minister. 25

(3) A former approved member of a licensed credit bureau that is aggrieved by the revocation by the Authority of its approval or deemed approval as an approved member of the licensed credit bureau may, within 30 days after the revocation, appeal in writing to the Minister. 30

PART 6

DUTIES OF APPROVED MEMBERS OF
LICENSED CREDIT BUREAUS**Duty to maintain confidentiality of customer information**

5 **33.**—(1) Except for a purpose mentioned in subsection (2), an approved member of a licensed credit bureau and any of the member's officers must not —

10 (a) request from the licensed credit bureau, any customer information (including a credit report of the member's customer) of that or any other approved member of the licensed credit bureau; or

15 (b) use any customer information (including any such information in a credit report) of that or any other approved member of the licensed credit bureau received from the licensed credit bureau.

(2) The purposes mentioned in subsection (1) are —

20 (a) where the customer information is strictly necessary to assess the creditworthiness of a customer of the approved member; or

 (b) such other purpose as the Authority may permit, by notice in writing.

25 (3) An approved member of a licensed credit bureau, and any of the member's officers, must not disclose to the licensed credit bureau, any customer information of that or any other approved member of the licensed credit bureau except —

 (a) where the customer information is strictly necessary to create a credit report;

 (b) to enable the licensed credit bureau to make a disclosure under section 13(2)(b);

30 (c) to enable the licensed credit bureau to make a disclosure under section 16; or

(d) for such other purpose as the Authority may permit by notice in writing and in accordance with such conditions as may be specified in the notice.

(4) An approved member of a licensed credit bureau, and any of the member's officers, must not disclose to any other person customer information of any other approved member of the licensed credit bureau that the firstmentioned approved member has received from the licensed credit bureau except — 5

(a) to the customer to which the information relates;

(b) where the disclosure is by any of the approved member's officers, such disclosure is to the approved member; 10

(c) to that licensed credit bureau; or

(d) to any other person if the disclosure is permitted by the Authority by notice in writing and in accordance with such conditions as may be specified in the notice. 15

(5) Despite subsections (3) and (4)(c), an approved member of a licensed credit bureau, and the approved member's officers, must not disclose to the licensed credit bureau, any customer information of that or any other approved member of the licensed credit bureau, if the licensed credit bureau's licence — 20

(a) has lapsed;

(b) is revoked; or

(c) is suspended.

(6) The Authority may at any time add to, vary or revoke any condition imposed under this section. 25

(7) Despite subsections (3) and (4)(c), an approved member of a licensed credit bureau and the approved member's officers must not disclose any of its deposit information to the licensed credit bureau.

(8) To avoid doubt, subsections (3), (4), (5) and (7) do not affect the rights of disclosure that the approved member or any of its officers has under any other written law, including the Banking Act (Cap. 19). 30

(9) Any person that contravenes subsection (1), (3), (4), (5), (7) or any condition imposed under subsection (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 \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

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

(a) where customer information of an approved member of a licensed credit bureau may be disclosed under subsection (3) or (4) to any person that is a body corporate, the 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 that subsection; and

(b) the obligation of any officer of the approved member not to disclose any customer information of any approved member of the licensed credit bureau mentioned in subsection (3), (4), (5) and (7) continues after the termination or cessation of his or her appointment, employment, engagement or other capacity or office in which he or she has been provided the customer information.

(11) In this section, “officer” has the same meaning as in section 2(1) of the Banking Act.

(12) This section applies to corrected data received by the approved member from the licensed credit bureau under section 18(3)(b)(ii) as it applies to customer information of any approved member of the licensed credit bureau received by the approved member from the licensed credit bureau.

Duty to maintain security and integrity of data

34.—(1) An approved member of a licensed credit bureau must —

(a) ensure the integrity of any data it provides to the licensed credit bureau;

- (b) protect any data received from the licensed credit bureau by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks; and
- (c) dispose of any data received from the licensed credit bureau if —
 - (i) the purpose for which that data was provided is no longer being served by retention of the data; and
 - (ii) retention is no longer necessary for the approved member's legal or business purposes.

(2) Any person that contravenes subsection (1) 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 of a day during which the offence continues after conviction.

Duty to correct data

35.—(1) A data subject may request an approved member of a licensed credit bureau to correct an error or omission in any data of the data subject that —

- (a) has been processed by the licensed credit bureau; and
- (b) is in the possession or under the control of the approved member.

(2) Upon receiving a request under subsection (1), the approved member must —

- (a) as soon as practicable after receiving the request, inform the licensed credit bureau of the request;
- (b) within such period as the Authority may specify by notice in writing to the approved member or the class of approved members to which that member belongs, conduct and complete an investigation to ascertain the integrity of the data; and
- (c) unless the approved member is satisfied on reasonable grounds that a correction should not be made, within such

period as the Authority may specify by notice in writing to it —

(i) correct the data in its possession or under its control; and

(ii) inform the licensed credit bureau in writing of its assessment that a correction to the data should be made.

(3) Where a licensed credit bureau has been informed by its approved member under subsection (2)(c)(ii) that a correction to the data should be made, the licensed credit bureau must, within such period as the Authority may specify by notice in writing to it —

(a) correct the data that is in the possession or under the control of the licensed credit bureau; and

(b) send the corrected data to every approved member of the licensed credit bureau to which the licensed credit bureau disclosed the data within a year before the date the correction was made.

(4) Any person that contravenes subsection (2) or (3) 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 of a day during which the offence continues after conviction.

Duty to submit data to licensed credit bureau

36.—(1) The Authority may, by notice in writing, require an approved member of a licensed credit bureau to provide to the licensed credit bureau, such data relating to the licensed credit bureau's credit reporting business within such period and in such manner as the Authority may specify in the notice.

(2) Any person that contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

Duty to provide information to Authority

37.—(1) Subject to subsection (4), the Authority may, by notice in writing, require an approved member of a licensed credit bureau, or any person acting on behalf of the approved member, to provide to the Authority, information relating to — 5

(a) the approved member’s membership of the licensed credit bureau; and

(b) the approved member’s activities as an approved member of the licensed credit bureau,

within such period as the Authority may specify in the notice. 10

(2) Without affecting the generality of subsection (1), the Authority may in the notice require the approved member to provide, whether in the form of a return to be provided on a periodic basis or otherwise —

(a) information relating to its involvement as an approved member of the licensed credit bureau; 15

(b) information relating to the confidentiality, security or integrity of any data provided to the licensed credit bureau; and

(c) such other information as the Authority may require for the purposes of this Act. 20

(3) Subject to subsection (4) —

(a) a requirement imposed by the Authority under this section has effect despite any obligation as to secrecy or other restrictions upon the disclosure of information imposed by any rule of law or contract; and 25

(b) a person that complies with a requirement imposed by the Authority under this section is not to be treated as being in breach of any restriction on the disclosure of the information imposed by any rule of law or contract.

(4) Nothing in this section requires a person to disclose any information subject to legal privilege. 30

(5) Any person that fails to comply with a notice issued under subsection (1) shall be guilty of an offence and shall be liable on conviction —

5 (a) in the case of an individual, to a fine not exceeding \$50,000 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 \$5,000 for every day or part of a day during which the offence continues after conviction; or

10 (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

Duty to provide information in credit facility document

15 **38.**—(1) The Authority may, by notice in writing to an approved member or a class of approved members of a licensed credit bureau, require the approved member or the member within that class to include any information specified by the Authority in any credit facility document that the approved member provides to its customer.

20 (2) Without affecting the generality of subsection (1), the notice in subsection (1) may require the approved member to specify in the credit facility document that the customer is entitled, if the customer is the data subject of a credit report by the licensed credit bureau, to —

 (a) request a copy of the credit report from the licensed credit bureau; and

25 (b) receive the copy of the credit report from the licensed credit bureau free of charge to the customer if the customer is an individual, but subject to the requirements of section 17(3).

30 (3) Any person that fails to comply with a notice given under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.

 (4) In this section, “credit facility document” means any application form, approval letter, rejection letter or any other document in relation to an application for a credit facility.

PART 7

CONTROL OF SUBSTANTIAL SHAREHOLDERS,
 CONTROLLERS AND OFFICERS OF LICENSED CREDIT
 BUREAUS

Application and interpretation of sections 40 to 45 5

39.—(1) This section and sections 40 to 45 apply to —

- (a) all individuals whether resident in Singapore or not and whether citizens of Singapore or not; and
- (b) all entities.

(2) In sections 40 to 45, unless the context otherwise requires — 10

“12% controller”, in relation to a licensed credit bureau, means a person, not being a 20% controller, that alone or together with the person’s associates —

- (a) has an interest in 12% or more of the shares in the licensed credit bureau; or 15
- (b) is in a position to control 12% or more of the votes in the licensed credit bureau;

“20% controller”, in relation to a licensed credit bureau, means a person that, alone or together with the person’s associates —

- (a) has an interest in 20% or more of the shares in the licensed credit bureau; or 20
- (b) is in a position to control 20% or more of the votes in the licensed credit bureau;

“arrangement” includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied; 25

“indirect controller”, in relation to a licensed credit bureau, 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 — 30

- (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) that is in a position to determine the policy of the licensed credit bureau,

5 but excludes any person —

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

10 (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 the person in the person's professional capacity;

15 “substantial shareholder” has the same meaning as in section 81 of the Companies Act (Cap. 50);

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

(3) In this section and sections 40 to 45 —

(a) a person has an interest in a share if —

20 (i) the person has or is treated to have an interest in that share under section 7(1A), (1B), (2), (6), (7) to (10) of the Companies Act; or

25 (ii) the person otherwise has a legal or equitable interest in that share, except an interest disregarded under section 7(9) of the Companies Act;

30 (b) a reference to the control of a percentage of the votes 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, a parent, remoter lineal ancestor or step-parent, a son, daughter, remoter issue, stepson or stepdaughter or a brother or sister of *B*;
 - (ii) *A* is a body corporate that is, or a majority of the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;
 - (iii) *A* is a person that is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;
 - (iv) *A* is a subsidiary of *B*;
 - (v) *A* is a body corporate in which *B*, whether alone or together with other associates of *B* as described in sub-paragraphs (ii), (iii) and (iv), is in a position to control 20% or more of the votes in *A*; or
 - (vi) *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 votes in relation to, the licensed credit bureau.

Control of shareholding in licensed credit bureau

40.—(1) A person must not become —

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

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

(2) Subject to subsection (8), a person that, immediately before the date of commencement of this Act, is —

(a) a substantial shareholder;

(b) a 12% controller;

5 (c) a 20% controller; or

(d) an indirect controller,

of a licensed credit bureau must not continue to be such a shareholder or controller unless the person has, within 6 months after that date or such longer period as the Authority may allow, applied to the Authority for approval to continue to be such a shareholder or controller.

(3) A person must not enter into any agreement or arrangement, whether oral or in writing and whether express or implied, to act together with any other 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 applying for and obtaining the approval of the Authority.

(4) Subject to subsection (8), a person that, at any time before the date of commencement of this Act, has entered into any agreement or arrangement mentioned in subsection (3) must not continue to be a party to such an agreement or arrangement unless the person has, within 6 months after that date 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) The Authority may approve an application made by any person under subsection (1), (2), (3) or (4) if the Authority is satisfied that —

(a) 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;

(b) the person is, in accordance with the Guidelines on Fit and Proper Criteria, a fit and proper person to be a substantial

shareholder, a 12% controller, a 20% controller or an indirect controller of the licensed credit bureau; and

(c) it is in the public interest to do so.

(6) Any approval under subsection (5) may be granted to any person subject to such conditions as the Authority may impose, 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,

and the Authority may at any time add to, vary or revoke any condition imposed under this subsection.

(7) Any condition imposed under subsection (6) has effect despite any provision of the Companies Act (Cap. 50) or anything contained in the licensed credit bureau's constitution.

(8) Where the Authority refuses an application made by any person under subsection (1), (2), (3) or (4), the person must, within such time as the Authority may specify, take such steps (as soon as practicable after the refusal) that are necessary —

(a) in the case of subsection (1) or (2), to cease to be —

(i) a substantial shareholder;

(ii) a 12% controller;

(iii) a 20% controller; or

(iv) an indirect controller,

of the licensed credit bureau, as the case may be; or

(b) in the case of subsection (3) or (4), to cease to be a party to the agreement or arrangement.

Objection to existing control of licensed credit bureau

41.—(1) The Authority may serve a written notice of objection on any person mentioned in section 40(1), (2), (3) or (4) if the Authority is satisfied that —

(a) any condition of approval imposed on the person under section 40(6) has not been complied with;

(b) it is no longer in the public interest to allow the person to continue to be —

5 (i) a party to the agreement or arrangement described in section 40(3) or (4);

(ii) a substantial shareholder of the licensed credit bureau;

(iii) a 12% controller of the licensed credit bureau;

10 (iv) a 20% controller of the licensed credit bureau; or

(v) an indirect controller of the licensed credit bureau, as the case may be;

15 (c) the person has provided any false or misleading information or document in connection with an application under section 40(1), (2), (3) or (4);

(d) the person is no longer a fit and proper person in accordance with the Guidelines on Fit and Proper Criteria;

20 (e) 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

25 (f) it would not have been satisfied as to any of the matters specified in section 40(5) had it been aware, at that time, of circumstances relevant to the person's application under section 40(1), (2), (3) or (4).

(2) Before serving a written notice of objection under subsection (1), the Authority must, unless the Authority decides that it is not practicable or desirable to do so, give the person —

30 (a) a notice in writing of the Authority's intention to serve the written notice of objection; and

- (b) specify a date by which the person may make written representations with regard to the proposed written notice of objection.

(3) The Authority must consider any written representations it receives before the date mentioned in subsection (2)(b) for the purpose of determining whether to issue a written notice of objection. 5

(4) The Authority must, in any written notice of objection, specify a reasonable period within which the person that has been served the written notice of objection must —

- (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 40(3) or (4), as the case may be; 10

(b) cease to be —

- (i) a substantial shareholder;
- (ii) a 12% controller; 15
- (iii) a 20% controller; or
- (iv) an indirect controller,

of the licensed credit bureau, as the case may be; or

- (c) comply with such direction as the Authority may make under section 42, 20

and the person must comply with that notice.

Power to make directions

42.—(1) If the Authority is satisfied that a person has contravened section 40(1), (2), (3), (4) or (8) or has failed to comply with any condition imposed under section 40(6), or if the Authority has served a written notice of objection under section 41, the Authority may, by notice in writing — 25

- (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 the person's associates (called in this section the specified shares) within such time or subject to such conditions as the Authority considers appropriate; 30

- (b) restrict the transfer or disposal of the specified shares; or
- (c) make such other direction as the Authority considers appropriate.

(2) In the case of any direction made under subsection (1)(a) or restriction made under subsection (1)(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 —

- (a) no voting rights may be exercised in respect of the specified shares unless the Authority expressly permits such rights to be exercised;
- (b) no shares of the licensed credit bureau may 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 may 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.

(3) Subsection (2) has effect despite any provision of the Companies Act (Cap. 50) or anything contained in the licensed credit bureau's constitution.

Power of Authority to obtain information

43.—(1) The Authority may, by notice in writing, direct a licensed credit bureau to obtain from any of its shareholders, and to provide to the Authority, any information relating to the shareholder that the Authority may require for the purpose of —

- (a) ascertaining or investigating into the control of shareholding or voting power in the licensed credit bureau; or
- (b) exercising any power or function under section 40, 41, 42, 44 or 45.

(2) Without affecting the generality of subsection (1), the notice in subsection (1) may require the licensed credit bureau to obtain and provide the following information:

- (a) whether the shareholder has an interest in any share in the licensed credit bureau as beneficial owner or as trustee; 5
- (b) if the shareholder holds the interest in the share as trustee, to indicate as far as that shareholder is able to —
 - (i) the person for whom that shareholder holds the interest (either by name or by other particulars sufficient to enable that person to be identified); and 10
 - (ii) the nature of that person's interest.

(3) The Authority may, by notice in writing, require any shareholder (*X*) of a licensed credit bureau, or any person (*Y*) that appears from information provided to the Authority under subsection (1) or this subsection to have an interest in any share in the licensed credit bureau, to provide to the Authority any information relating to *X* or *Y*, as the case may be, that the Authority may require for the purpose of — 15

- (a) ascertaining or investigating into the control of shareholding or voting power in the licensed credit bureau; or 20
- (b) exercising any power or function under section 40, 41, 42, 44 or 45.

(4) Without affecting the generality of subsection (3), the notice in subsection (3) may require *X* or *Y* to provide the following information: 25

- (a) whether *X* or *Y* holds that interest as beneficial owner or as trustee;
- (b) if *X* or *Y* holds the interest as trustee, to indicate as far as *X* or *Y* can — 30
 - (i) the person (*Z*) for whom *X* or *Y* holds the interest (either by name or by other particulars sufficient to enable that person to be identified); and

(ii) the nature of Z's interest;

(c) whether any share or any voting right attached to the share is the subject of an agreement or arrangement described in section 39(3)(c)(vi) or 40(3) or (4), and if so, to give particulars of the agreement or arrangement and the parties to it.

Power to exempt

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

(a) any person or class of persons; or

(b) any class or description of shares or interests in shares, from section 40, subject to such conditions as may be specified in the order.

(2) Without affecting the generality of subsection (1), the conditions may include —

(a) restricting the person's or class of persons' disposal or further acquisition of shares or voting power in the licensed credit bureau; or

(b) restricting the person's or class of persons' exercise of voting power in the licensed credit bureau,

and the Authority may at any time add to, vary or revoke any condition imposed under this section.

Offences, penalties and defences

45.—(1) Any person that contravenes section 40(1)(a) or (b), (2)(a) or (b), (3), (4), (8)(a)(i) or (ii), or (b) 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 (if applicable), to a further fine not exceeding \$12,500 for every day or part of a day 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 (if applicable), to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

(2) Any person that — 5

- (a) contravenes section 40(1)(c) or (d), (2)(c) or (d), (8)(a)(iii) or (iv) or 42(2);

(b) fails to comply with —

- (i) any notice given under section 41(4), 42(1) or 43; or

- (ii) any condition imposed under section 40(6); or 10

- (c) in purported compliance with a notice under section 43, knowingly or recklessly provides any information or document that is false or misleading in a material particular,

shall be guilty of an offence.

(3) Any person convicted of an offence under subsection (2) shall be liable on conviction — 15

- (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 (if applicable), to a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction; or 20

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

(4) Where a person is charged with an offence in respect of a contravention of section 40(1), (2), (3), (4) or (8), it is a defence for the person to prove that —

- (a) the person was not aware that the person had contravened section 40(1), (2), (3), (4) or (8), as the case may be; and 30

- (b) within 14 days after becoming aware of the contravention, the person —

- (i) notified the Authority of the contravention; and
- (ii) within such time as may be determined by the Authority, took such action in relation to the person's shareholding or control of the voting power in the licensed credit bureau as the Authority may direct.

(5) Where a person is charged with an offence in respect of a contravention of section 40(1), it is also a defence for the person to prove that, even though the person was aware of the contravention —

(a) the contravention occurred as a result of an increase in the shareholding as described in section 39(3)(a) of, or in the voting power controlled by, any of the person's associates described in section 39(3)(c)(i);

(b) the person had 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) within 14 days after the date of the contravention, the person —

- (i) notified the Authority of the contravention; and
- (ii) within such time as may be determined by the Authority, took such action in relation to the person's shareholding or control of the voting power in the licensed credit bureau as the Authority may direct.

(6) Except as provided in subsections (4) and (5), it is not a defence for a person charged with an offence in respect of a contravention of section 40(1), (2), (3), (4) or (8) to prove that the person did not intend to or did not knowingly contravene that provision.

Approval and removal of chief executive officer and directors of licensed credit bureau

46.—(1) Subject to subsection (3), a licensed credit bureau must not appoint an individual as its chief executive officer or director unless it has applied for and obtained the approval of the Authority.

(2) Without affecting any other matter that the Authority may consider relevant, the Authority may —

(a) in determining whether to grant its approval under paragraph (b), have regard to such criteria as may be specified by notice in writing to the licensed credit bureau; and

(b) approve or refuse the application.

(3) Where a licensed credit bureau has obtained the approval of the Authority to appoint an individual as its chief executive officer or director under subsection (2)(b), the person may, without the approval of the Authority, 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 individual's term of appointment.

(4) Subject to subsection (5), the Authority must not refuse an application for approval of an individual under subsection (1) without giving the licensed credit bureau an opportunity to be heard.

(5) The Authority may refuse an application for approval of an individual under subsection (1) without giving the licensed credit bureau an opportunity to be heard in any of the following circumstances:

(a) if the individual has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of this Act, being an offence —

(i) involving fraud or dishonesty;

(ii) the conviction for which involved a finding that he or she had acted fraudulently or dishonestly; or

(iii) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);

(b) if the individual is an undischarged bankrupt, whether in Singapore or elsewhere;

(c) if the individual has had execution against him or her in respect of a judgment debt returned unsatisfied in whole or in part;

(d) if the individual has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his or her creditors, being a compromise or scheme of arrangement that is still in operation;

5 (e) if the individual 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 or her that is still in force;

10 (f) if the individual has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —

(i) that is being or has been wound up by a court; or

15 (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.

20 (6) Where the Authority refuses an application for approval under subsection (2)(b), the Authority need not give the individual who was proposed to be appointed an opportunity to be heard.

25 (7) Despite the provisions of any other written law, where the Authority is satisfied that a chief executive officer or director of a licensed credit bureau is not a fit and proper person to act as such chief executive officer or director, the Authority may, by notice in writing, direct the licensed credit bureau to remove —

(a) the chief executive officer from employment with the licensed credit bureau; or

30 (b) the director as a director of the licensed credit bureau, within such period as the Authority may specify in the notice.

(8) Without affecting any other matter that the Authority may deem relevant, in assessing whether to direct a licensed credit bureau to remove its chief executive officer or director under subsection (7), the

Authority may consider whether the chief executive officer or director —

- (a) has wilfully contravened or wilfully caused the licensed credit bureau to contravene any provision of this Act;
- (b) 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) has failed to discharge any of the duties of his or her office or employment; or
- (d) needs to be removed in the public interest.

(9) Before directing a licensed credit bureau to remove its chief executive officer or director under subsection (7), the Authority must give the licensed credit bureau and the individual concerned an opportunity to be heard.

(10) Without affecting the Authority’s power to impose conditions under section 7, the Authority may at any time, by notice in writing to a licensed credit bureau, impose a condition requiring the licensed credit bureau 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.

(11) Any licensed credit bureau that, without reasonable excuse —

- (a) contravenes subsection (1);
- (b) fails to comply with a direction under subsection (7); or
- (c) contravenes any condition imposed under subsection (10),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

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

“regulated financial institution” means a person that 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 (Cap. 186) or any of the written laws set out in the Schedule to that Act.

Appeals

47.—(1) Any person that is aggrieved by a decision of the Authority under section 40, 41 or 42 may, within 30 days after receiving the decision of the Authority, appeal in writing to the Minister.

(2) A licensed credit bureau that is aggrieved by the decision of the Authority under section 46(2)(b) may, within 30 days after receiving the decision of the Authority, appeal in writing to the Minister.

(3) A licensed credit bureau, or any chief executive officer or director of the licensed credit bureau, that is aggrieved by a direction of the Authority under section 46(7) may, within 30 days after receiving the direction, appeal in writing to the Minister.

PART 8

INSPECTIONS AND INVESTIGATIONS

Inspection by Authority

48.—(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 in possession of its books must produce such books to the Authority and give such information or facilities as the Authority may require;

(b) a licensed credit bureau must procure any person that is in possession of its books to produce the books to the Authority and give such information or facilities as the Authority may require; and

(c) the Authority may —

- (i) make copies of, or take possession of, any such books;
- (ii) use, or permit the use of, any such books for the purposes of any proceedings under this Act; and 5
- (iii) subject to subsection (4), retain possession of any such books for so long as is necessary —
 - (A) for the purposes of exercising a power conferred by this section;
 - (B) for a decision to be made on whether or not proceedings should be commenced under this Act in relation to such books; or 10
 - (C) for such proceedings to be commenced and carried on.

(3) A person is not entitled, as against the Authority, to claim a lien on any of the books, but such a lien is not otherwise prejudiced. 15

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

- (a) must 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 20

(b) may permit another person to inspect any of the books.

(5) The Authority may require a person that produced any book to the Authority to explain, to the best of the person's knowledge and belief, any matter about the compilation of the book or to which the book relates. 25

(6) Any person that fails, without reasonable excuse, to comply with subsection (2)(a) or (b) or a requirement of the Authority under subsection (5) shall be guilty of an offence and shall be liable on conviction — 30

- (a) in the case of an individual, to a fine not exceeding \$50,000 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 \$5,000 for every day or part of a day during which the offence continues after conviction; or

- 5 (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

Investigation by Authority

10 **49.**—(1) The Authority may conduct such investigation as it considers necessary or expedient for any of the following purposes:

- (a) to determine whether —

15 (i) a licensed credit bureau is carrying on its business in a manner likely to be detrimental to the interests of its approved members or customers of its approved members;

(ii) a licensed credit bureau is conducting its credit reporting business in a proper manner; or

20 (iii) an approved member of a licensed credit bureau is conducting its activities as an approved member in a proper manner;

- (b) to investigate an alleged or suspected offence or contravention of any provision of this Act;

(c) to ensure compliance with this Act or any notice in writing issued by the Authority under this Act.

- 25 (2) For the purposes of subsection (1), the Authority may —

(a) by notice in writing, require any person to provide information or to produce books relating to any matter under investigation, and such person must immediately comply with that requirement;

30 (b) make copies of, or take possession of, any such books;

(c) use, or permit the use of, any such books for the purposes of any proceedings under this Act; and

(d) subject to subsection (4), retain possession of any such books for so long as is necessary —

- (i) for the purposes of exercising a power conferred by this section;
- (ii) for a decision to be made on whether or not proceedings should be commenced under this Act in relation to such books; or
- (iii) for such proceedings to be commenced and carried on.

(3) A person is not entitled, as against the Authority, to claim a lien on any of the books, but such a lien is not otherwise prejudiced. 10

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

- (a) must 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 15

(b) may permit another person to inspect any of the books.

(5) The Authority may require a person that produced any book to the Authority to explain, to the best of the person's knowledge and belief, any matter about the compilation of the book or to which the book relates. 20

(6) The Authority may exercise any of its powers for the purposes of conducting an investigation under this section despite the provisions of any prescribed written law (or any requirement imposed under the prescribed written law) or any rule of law. 25

(7) A requirement imposed by the Authority in the exercise of its powers under this section has effect despite any obligation as to secrecy or other restrictions upon the disclosure of information imposed by any prescribed written law (or any requirement imposed under the prescribed written law), rule of law, contract or rule of professional conduct. 30

(8) Any person that complies with a requirement imposed by the Authority in the exercise of its powers under this section is not to be

treated as being in breach of any restriction on the disclosure of the information imposed by any prescribed written law (or any requirement imposed under the prescribed written law), rule of law, contract or rule of professional conduct.

5 (9) No civil or criminal action lies against any person for —

(a) providing information or producing books to the Authority if the person provided the information or produced the books in good faith in compliance with a requirement imposed by the Authority under this section; or

10 (b) doing or omitting to do any act, if the person did 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.

(10) Any person that fails, without reasonable excuse, to comply with subsection (2)(a) or a requirement of the Authority under
15 subsection (5) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further
20 fine not exceeding \$5,000 for every day or part of a day during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during
25 which the offence continues after conviction.

(11) In this section, “prescribed written law” means this Act, or any of the following written laws and any subsidiary legislation made under this Act or those written laws:

(a) Banking Act (Cap. 19);

30 (b) Deposit Insurance and Policy Owners’ Protection Schemes Act (Cap. 77B);

(c) Finance Companies Act (Cap. 108);

(d) Financial Advisers Act (Cap. 110);

- (e) Insurance Act (Cap. 142);
- (f) Monetary Authority of Singapore Act (Cap. 186);
- (g) Money-changing and Remittance Businesses Act (Cap. 187);
- (h) Payment Systems (Oversight) Act (Cap. 222A); 5
- (i) Securities and Futures Act (Cap. 289);
- (j) Trust Companies Act (Cap. 336);
- (k) such other written law as the Authority may prescribe.

Confidentiality of inspection and investigation reports

50.—(1) Subject to subsection (2), where the Authority has — 10

- (a) produced a written report —
 - (i) upon an inspection under section 48 in respect of a licensed credit bureau; or
 - (ii) in respect of any investigation under section 49; and
- (b) provided the report to the licensed credit bureau or the 15
person under investigation (called in this section the bureau or person, as the case may be),

the bureau or person, or any of the bureau's or person's officers or auditors, must not disclose the report to any other person.

(2) The report mentioned in subsection (1) may be disclosed — 20

- (a) by the bureau or person to the bureau's or person's officer or auditor solely in connection with the performance of the duties of the officer or auditor in the bureau or person;
- (b) by any officer or auditor of the bureau or person to any 25
other officer or auditor of the bureau or person, solely in connection with the performance of their duties in the bureau or person; 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 the Authority thinks fit on the bureau or person, any of the bureau's or person's officers or auditors, or the person to whom disclosure is approved, and the bureau or person, officer, auditor or the person to whom disclosure is approved must comply with the condition or restriction.

(4) The obligations of an officer or auditor mentioned in subsections (1) and (3) continue after the termination or cessation of the person's employment with or appointment by the bureau or person.

(5) Any person that contravenes subsection (1) 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 \$50,000 or to imprisonment for a term not exceeding 2 years or to both; or

(b) in any other case, to a fine not exceeding \$100,000.

(6) Any person to whom the report is disclosed and that knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to the person in contravention of subsection (1) shall be guilty of an offence unless the person proves that —

(a) the disclosure was made contrary to the person's desire;

(b) where the disclosure was made in any written form, the person has, as soon as practicable after receiving the report, surrendered or taken all reasonable steps to surrender the report and all copies of the report to the Authority; and

(c) where the disclosure was made in an electronic form, the person has, as soon as practicable after receiving the report, taken all reasonable steps to ensure that all electronic copies of the report have been deleted and that the report and all copies of the report in other forms have been surrendered to the Authority.

(7) Any person convicted of an offence under subsection (6) shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; or

5

(b) in any other case, to a fine not exceeding \$100,000.

Self-incrimination

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

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(2) Where a person claims, before making a statement disclosing information that the person is required to disclose by such requirement, that the statement might tend to incriminate the person, that statement is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence under section 64(1) or (2).

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Savings for advocates and solicitors

52.—(1) Nothing in this Part —

(a) compels an advocate and solicitor to disclose or produce privileged communication, or a document or other material containing privileged communication, made by or to him or her in that capacity; or

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(b) authorises the taking of any such document or other material that is in his or her possession.

25

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

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

PART 9

AUTHORITY'S CONTROL OVER LICENSED
CREDIT BUREAUS**Interpretation of this Part**

5 **53.** In this Part, unless the context otherwise requires —

“business” includes affairs and property;

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

“relevant business”, in relation to a licensed credit bureau, means any of its business —

(a) in relation to which a statutory adviser has been appointed under section 54(2)(b);

15 (b) in relation to which a statutory manager has been appointed under section 54(2)(c); or

(c) that the Authority has assumed control of under section 54(2)(c);

20 “statutory adviser” means a statutory adviser appointed under section 54(2)(b);

“statutory manager” means a statutory manager appointed under section 54(2)(c).

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

25 **54.—**(1) The Authority may exercise one or more of the powers specified in subsection (2) as appears to it to be necessary, 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;

30 (b) a licensed credit bureau is insolvent, becomes unable to meet its obligations, 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 any data held by the licensed credit bureau; 5

(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 has suspended or 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 10

(d) the Authority considers it in the public interest to do so.

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

(a) require the licensed credit bureau to immediately take any action or to do or not to do any act in relation to its business as the Authority may consider necessary; 15

(b) appoint one or more persons as statutory adviser, on such terms as the Authority may specify, to advise the licensed credit bureau on the proper management of such of the licensed credit bureau's business as the Authority may determine; or 20

(c) assume control of and manage such of the licensed credit bureau's business as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms as the Authority may specify. 25

(3) Where the Authority appoints 2 or more persons as statutory manager of a licensed credit bureau, the Authority must specify, in the terms 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; 30

(b) must be discharged or exercised by such persons jointly; and

(c) must 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 affecting its powers under section 11(2) or (3), 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 under subsection (2) in the exercise of such power, on such terms as it may specify;

(b) exercise any of the powers under subsection (2);

(c) add to, vary or revoke any term the Authority has specified under this section.

(5) A statutory manager or a statutory adviser incurs no liability 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 —

(a) the exercise or purported exercise of any power under this Act;

(b) the performance or purported performance of any function or duty under this Act; or

(c) the compliance or purported compliance with this Act.

Assumption of control

55.—(1) Upon assuming control of any business of a licensed credit bureau under section 54(2)(c), the Authority or statutory manager, as the case may be, must take custody or control of the relevant business.

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

(a) must manage the relevant business in the name of and on behalf of the licensed credit bureau; and

(b) is treated as an agent of the licensed credit bureau.

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

(a) must ensure that the operations of the licensed credit bureau are conducted without compromising the confidentiality, security or integrity of any data held by the licensed credit bureau; and 5

(b) has all the duties, powers and functions of the members of the board of directors of the licensed credit bureau (collectively and individually) under —

(i) this Act; 10

(ii) the Companies Act (Cap. 50); and

(iii) the licensed credit bureau's constitution,

including powers of delegation, in relation to the relevant business.

(4) Despite subsection (3), the Authority or statutory manager is not required to call any meeting of the licensed credit bureau under the Companies Act or the licensed credit bureau's constitution. 15

(5) Despite any written law or rule of law —

(a) upon the Authority or statutory manager assuming control of any business of a licensed credit bureau under section 54(2)(c), any appointment of an individual as chief executive officer or director of the licensed credit bureau that was in force immediately before the assumption of control is treated as revoked, unless the Authority gives its approval, by notice in writing to the individual and the licensed credit bureau, for the individual to remain in the appointment; and 20

(b) during the period when the Authority or statutory manager is in control of the licensed credit bureau's relevant business, an individual must not be appointed as chief executive officer or director of the licensed credit bureau, except with the approval of the Authority. 25 30

(6) Where the Authority has given its approval under subsection (5) for an individual 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 individual, revoke its approval and such appointment is treated as revoked on the date specified in the notice.

5 (7) Despite any written law or rule of law, if any individual whose appointment as chief executive officer or director of a licensed credit bureau is revoked under subsection (5) 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
10 statutory manager is in control of the licensed credit bureau's relevant business under section 54(2)(c) —

(a) the act or purported act of the individual is invalid and of no effect; and

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

15 (8) Despite any written law or rule of law, if any individual 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
20 licensed credit bureau's relevant business under section 54(2)(c) —

(a) the act or purported act of the individual is invalid and of no effect; and

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

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

(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 given to a person or body of persons mentioned in
30 sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent, office-holder, or the board of

directors, of the licensed credit bureau, or any trustee for the licensed credit bureau,

the direction or decision mentioned in sub-paragraph (i) prevails over the direction or decision mentioned in sub-paragraph (ii) to the extent of the conflict or inconsistency; and

- (b) a person must not 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, power or function of the Authority or statutory manager, and any such act or purported act is invalid and of no effect.

(10) Any individual 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 of a day during which the offence continues after conviction.

Other provisions concerning control

56.—(1) The Authority must cease to be in control of a licensed credit bureau's relevant business 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 is treated to have assumed control of a licensed credit bureau's relevant business on the date of the statutory manager's appointment as a statutory manager.

(3) Without affecting the generality of section 54(4)(a), the Authority may at any time revoke the appointment of a statutory manager in relation to a licensed credit bureau's relevant business —

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

(4) The statutory manager must cease to be in control of the relevant business upon revocation of its appointment under subsection (3) or section 54(4)(a).

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

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

Responsibilities of directors, officers, etc., of licensed credit bureau

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

- (a) the High Court may, on an application of the Authority or statutory manager, direct any former or current relevant person of 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 that —
 - (i) forms part of or relates to the business of the licensed credit bureau; and
 - (ii) is in the person's possession or control; and
- (b) any former or current relevant person of the licensed credit bureau must provide the Authority or statutory manager such information as the Authority or statutory manager may require to —
 - (i) discharge its duties or functions; or
 - (ii) exercise its powers,

in relation to the licensed credit bureau, within such time and in such manner as the Authority or statutory manager may specify.

(2) Any person who —

(a) without reasonable excuse, fails to comply with subsection (1)(b); or 5

(b) in purported compliance with subsection (1)(b), knowingly or recklessly provides 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 (if applicable), to a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction. 10

(3) In this section, “relevant person”, in relation to a licensed credit bureau, means a chief executive officer, director, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, the licensed credit bureau. 15

Remuneration and expenses of Authority and others in certain cases 20

58. 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 25

(b) where the Authority has assumed control of any business of a licensed credit bureau under section 54(2)(c), to the Authority and any person appointed by the Authority under section 5 in relation to its assumption of control of such business, whether or not the Authority has ceased to be in control of such business. 30

Matters requiring approval of Authority

59.—(1) A licensed credit bureau must apply in writing for approval from the Authority before —

5 (a) carrying on any business other than credit reporting business;

(b) any change in —

(i) the licensed credit bureau's name;

(ii) the licensed credit bureau's constitution;

(iii) the licensed credit bureau's shareholding;

10 (iv) the reciprocity arrangement or equivalent operating rules between the licensed credit bureau and any of its approved members;

(v) the format of a credit report and specifications of the data to be processed;

15 (vi) the scope, definition, classification and retention period of data collected, used or disclosed by the licensed credit bureau;

(vii) the credit scoring methodology, credit scoring model validation method, analysis and reporting of credit scoring used by the licensed credit bureau;

20 (viii) any other products or services offered by the licensed credit bureau; or

(ix) any matter that may impact or potentially impact the confidentiality, security or integrity of any data held by the licensed credit bureau; or

25 (c) any addition to, removal of or amendment to the terms or rules of membership of the licensed credit bureau.

(2) The Authority may —

(a) grant its approval, with or without conditions; and

30 (b) at any time vary or revoke any condition of approval in paragraph (a), or impose conditions or additional

conditions in respect of any approval granted under paragraph (a).

(3) Any person that contravenes subsection (1) or any condition imposed by the Authority under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

PART 10 OFFENCES

Offences by corporations

60.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his or her actual or apparent authority; and

(b) the officer, employee or agent had that state of mind,

is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

(a) who is —

(i) an officer of the corporation, or a member of a corporation whose affairs are managed by its members; or

(ii) an individual who is involved in the management of the corporation and is in a position to influence the conduct of the corporation in relation to the commission of the offence; and

(b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

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(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

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(iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall (if this is not already an offence under section 62(1)) be guilty of the same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

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(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

20

(a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

25

(5) To avoid doubt, subsection (1) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

(6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

30

“officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

(a) any person purporting to act in any such capacity; and

- (b) for a corporation whose affairs are managed by its members, any of those members as if the member was a director of the corporation;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and 5
- (b) the person’s reasons for the intention, opinion, belief or purpose.

Offences by unincorporated associations or partnerships

61.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that — 10

- (a) an employee or agent of the unincorporated association of the partnership engaged in that conduct within the scope of his or her actual or apparent authority; and 15
- (b) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person — 20

- (a) who is —
 - (i) an officer of the unincorporated association or a member of its governing body;
 - (ii) a partner in the partnership; or
 - (iii) an individual who is involved in the management of the unincorporated association or partnership and is in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and 25
- 30

(b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or

(iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

(a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (1) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

(b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.

Offences by officers

62.—(1) Any officer of a licensed credit bureau whose duty is or includes ensuring that the licensed credit bureau complies with a provision of this Act, who fails to take all reasonable steps to secure such compliance, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) Any officer of a licensed credit bureau whose duty is or includes submitting information to the Authority or any other person under this Act, who fails to take all reasonable steps to ensure the accuracy and correctness of any information so submitted, shall (if such failure is not already an offence under section 64(1) or (2)) be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

(3) In any proceedings against an officer under subsection (1) or (2), it is a defence for the officer to prove that he or she had reasonable grounds for believing that —

(a) another individual was charged with the duty of —

(i) securing compliance with the requirements of this Act; or

(ii) ensuring that the information submitted was accurate, as the case may be; and

(b) that individual was competent, and in a position, to discharge that duty.

5 (4) An officer is not to be sentenced to imprisonment for any offence under subsection (1) or (2) unless, in the opinion of the court, he or she committed the offence wilfully.

Falsification of records by officers, etc.

10 **63.**—(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;

15 (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

20 (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,

25 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 to use reasonable care not to provide false information to Authority

30 **64.**—(1) Any individual who provides the Authority with any information under or for the purposes of any provision of this Act

must use reasonable care to ensure that the information is not false or misleading in any material particular.

(2) Any individual 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 or her by the Authority,

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

(3) Any individual who contravenes subsection (1) or (2) shall (if the provision of such information, or the signing or lodging of such document, that is false or misleading in a material particular is not already an offence under any other provision of this Act) 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

65. Any person guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$50,000; or

(b) in any other case, to a fine not exceeding \$100,000.

Composition of offences

66.—(1) The Authority may, in its discretion, compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding 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 that has been repealed) that —

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

(b) has ceased to be so compoundable,

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

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

(4) All sums collected by the Authority under subsection (1) or (2) are to be paid into the Consolidated Fund.

PART 11

APPEALS

15 **Appeals to Minister**

67.—(1) Where an appeal is made to the Minister under this Act, the Minister may —

(a) confirm, vary or reverse the decision of the Authority on appeal; and

20 (b) give such directions in the matter as the Minister thinks fit, and the decision of the Minister is final.

(2) Where an appeal is made to the Minister under this Act, the Minister must, within 28 days after receiving the appeal —

25 (a) constitute an Appeal Advisory Committee comprising at least 3 members of the Appeal Advisory Panel; and

(b) refer the appeal to the Appeal Advisory Committee.

(3) The Appeal Advisory Committee must 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 must consider the report submitted under subsection (3) in making his or her decision under subsection (1) but he or she is not bound by the recommendations in the report.

Appeal Advisory Committee

68.—(1) For the purpose of enabling an Appeal Advisory Committee to be constituted under section 67, the Minister must appoint a panel (called in this Part the Appeal Advisory Panel) comprising such members from the financial services industry, and the public and private sectors, as the Minister may appoint. 5

(2) A member of the Appeal Advisory Panel is to be appointed for a term of up to 2 years and is eligible for re-appointment. 10

(3) An Appeal Advisory Committee has 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 purposes of the inquiry. 15

(4) Nothing in subsection (3) —

(a) compels an advocate and solicitor to disclose or produce privileged communication, or a document or other material containing privileged communication, made by or to him or her in that capacity; or 20

(b) authorises the taking of any such document or other material that is in his or her possession.

(5) An advocate and solicitor who refuses to produce any document or other material mentioned in subsection (4) must nevertheless give the name and address (if he or she knows them) of the person to whom, or by or on behalf of whom, the privileged communication was made. 25

(6) For the purposes of this Act, every member of an Appeal Advisory Committee — 30

(a) is 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 or her for any act done or omitted to be done in the execution of his or her duty under this Part, has the same protection and privileges as are by law given to a Judge in the execution of his or her office.

(7) Every Appeal Advisory Committee must have regard to the public interest, the protection of data subjects 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 is not bound by the rules of evidence.

Disclosure of information

69. Nothing in this Act requires the Minister or any public servant (including a member of an Appeal Advisory Committee deemed to be a public servant under section 68(6)(a)) to disclose facts that he or she considers to be contrary to the public interest to disclose.

Regulations for purposes of this Part

70.—(1) The Minister may make regulations prescribing matters required or permitted by this Part to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) Without affecting 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 is to be made;

(c) the fees to be paid in respect of any appeal made to the Minister under this Act;

(d) the remuneration of the members of the Appeal Advisory Panel and Appeal Advisory Committees; and

- (e) all matters and things that by this Part are required or permitted to be prescribed or that are necessary or expedient to be prescribed to give effect to any provision of this Part.

PART 12

5

MISCELLANEOUS

Jurisdiction of District Court

71. Despite any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court has —

- (a) jurisdiction to try any offence under this Act; and 10
- (b) power to impose the full penalty or punishment in respect of any offence under this Act.

Opportunity to be heard

72. 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 is to be given such opportunity to be heard. 15

Power of court to make certain orders

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

- (a) has committed an offence under this Act; or 20
- (b) is about to do an act that, if done, would be an offence under this Act,

the court may (without prejudice to any other order it may make) make one or more of the orders under subsection (2).

(2) The orders mentioned in subsection (1) are — 25

- (a) in the case of a persistent or continuing contravention of a provision of this Act, an order restraining a person from —
- (i) carrying on a credit reporting business under section 6; or

(ii) holding itself out as a licensed credit bureau under section 9;

(b) for the purpose of securing compliance with any order made under this section, an order directing a person to do or refrain from doing any specified act; or

(c) any ancillary order the court considers to be desirable as a result of making any other order under this section.

(3) The court may, before making an order under subsection (2), 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.

(4) Any person that, without reasonable excuse, contravenes an order made under subsection (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 \$50,000 or to imprisonment for a term not exceeding 2 years or to both; or

(b) in any other case, to a fine not exceeding \$100,000.

(5) Subject to subsection (6), subsection (4) does not affect the powers of the court in relation to the punishment of contempt of court.

(6) Where a person is convicted of an offence under subsection (4) in respect of any contravention of an order made under subsection (2), such contravention is not punishable as a contempt of court.

(7) A person cannot be convicted of an offence under subsection (4) in respect of any contravention of an order made under subsection (2) that has been punished as a contempt of court.

(8) 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

74.—(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 conditions as may be prescribed.

(2) The Authority may, on the application of any person, exempt the person from —

(a) all or any of the provisions of this Act; or

(b) the requirements specified in any notice in writing,

if the Authority considers it appropriate to do so in the circumstances of the case. 5

(3) An exemption under subsection (2) —

(a) may be granted by notice in writing subject to such conditions as the Authority may specify in the notice;

(b) need not be published in the *Gazette*; and 10

(c) may be withdrawn at any time 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 that contravenes any condition —

(a) prescribed under subsection (1); 15

(b) specified by the Authority under subsection (3)(a); or

(c) added or varied under subsection (4),

shall be guilty of an offence.

Power of Authority to issue notice in writing

75.—(1) The Authority may, if it thinks it necessary or expedient in the interest of the public or a section of the public, or for the protection of data subjects, issue a notice in writing, either of a general or a specific nature, to — 20

(a) any licensed credit bureau;

(b) any class of licensed credit bureaux; 25

(c) any approved member of a licensed credit bureau; or

(d) any class of approved members of a licensed credit bureau,

to comply with such requirements as the Authority may specify in the notice.

(2) Without affecting the generality of subsection (1), a notice may be issued —

(a) with respect to —

(i) the activities that may be carried out by —

5 (A) the licensed credit bureau in relation to its business; or

(B) the approved member of a licensed credit bureau in relation to its membership of that licensed credit bureau;

10 (ii) the standards, framework, policies and procedures for —

(A) the prudent management of risks (including information technology risks); and

15 (B) the protection of the confidentiality, security and integrity of any data held by the licensed credit bureau;

(iii) the financial soundness, financial management and stability of the licensed credit bureau;

20 (iv) the membership and reciprocity arrangements, internal controls and operations of the licensed credit bureau;

(v) the standards to be maintained by the licensed credit bureau in the conduct of its business;

25 (vi) the arrangement and conditions that are to apply if the licensed credit bureau appoints any person as an independent contractor to carry out any of the licensed credit bureau's functions and duties;

(vii) the type, form, manner and frequency of returns and other information to be submitted to the Authority;

30 (viii) the preparation and publication of reports on the performance of the licensed credit bureau;

- (ix) the remuneration of an auditor appointed under this Act and the costs of an audit carried out under this Act;
 - (x) the manner in which the licensed credit bureau conducts its operations, including —
 - (A) the scope, definition, classification and retention period of any data collected, used or disclosed by the licensed credit bureau; and
 - (B) the credit scoring methodology, credit scoring model validation method, analysis and reporting of credit scoring to be used by the licensed credit bureau; and
 - (xi) the collection by or on behalf of the Authority of information from the licensed credit bureau in relation to the conduct of the licensed credit bureau's credit reporting business at such intervals or on such occasions as may be set out in the notice;
- (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 contravening that provision;
 - (ii) to take any action necessary to enable the person to conduct the person's business in accordance with sound principles; and
 - (iii) where the person is a company, to remove any of its directors; and
- (c) for any other purpose specified in this Act.
- (3) It is not necessary to publish any notice in writing issued under subsection (1) in the *Gazette*.
- (4) The Authority may at any time vary, rescind or revoke any notice issued under subsection (1).

(5) Any person that fails to comply with any requirement specified in a notice issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

Codes, guidelines, etc., by Authority

76.—(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 its functions 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 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, is (unless the context otherwise requires) a reference to the code, guideline, policy statement, practice note or no-action letter as so amended.

(4) Any failure by a person to comply with any provision of a code, guideline, policy statement or practice note issued under this section to the person does 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 that is in question in the proceedings.

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

(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 of such code, guideline, policy statement or practice note apply to different circumstances or provide for different cases or classes of cases. 10

(7) To avoid doubt, any code, guideline, policy statement, practice note or no-action letter issued under this section is not to be treated as subsidiary legislation.

(8) In this section, “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. 15

Regulations

77.—(1) The Authority may make regulations prescribing matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act. 20

(2) Without affecting the generality of subsection (1), the Authority may make regulations for or with respect to — 25

(a) the fees to be paid in respect of any matter or thing required for the purposes of this Act;

(b) the corporate governance of licensed credit bureaus;

(c) prescribing the offences that may be compounded; and

(d) prescribing the procedure — 30

(i) for the use of the electronic service mentioned in section 79; and

(ii) in circumstances where there is a breakdown or interruption of the electronic service.

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

5 (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 of the regulations shall be an offence; and

(d) may provide —

10 (i) in the case of an individual, for penalties not exceeding a fine of \$50,000 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 \$5,000 for every day or part of a day during which the offence continues after conviction; and

15 (ii) in any other case, for penalties not exceeding a fine of \$100,000 and, in the case of a continuing offence, a further penalty not exceeding a fine of \$10,000 for every day or part of a day during which the offence continues after conviction.

Service of documents

78.—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

25 (2) A document permitted or required by this Act to be served on an individual may be served —

(a) by giving it to the individual personally;

30 (b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual's residential address or business address;

- (c) by leaving it at the individual's residential address with an adult apparently resident there, or at the individual's business address with an adult apparently employed there;
 - (d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address; 5
or
 - (e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual.
- (3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served — 10
- (a) by giving it to any partner or other like officer of the partnership;
 - (b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address; or 15
 - (c) by sending it by fax to the fax number used at the partnership's business address.
- (4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served — 20
- (a) by giving it to the secretary or other similar officer of the body corporate or the unincorporated association, or the limited liability partnership's manager;
 - (b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's or unincorporated association's registered office or principal office; or 25
 - (c) by sending it by fax to the fax number used at the body corporate's or unincorporated association's registered office or principal office. 30
- (5) Service of a document under subsection (2), (3) or (4) takes effect —

(a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission; and

(b) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered).

(6) This section does not apply to documents to be served in proceedings in court.

(7) In this section —

“business address” means —

(a) in the case of an individual, the individual’s usual or last known place of business in Singapore; or

(b) in the case of a partnership (other than a limited liability partnership), the partnership’s principal or last known place of business in Singapore;

“document” includes a notice permitted or required by this Act to be served;

“residential address” means an individual’s usual or last known place of residence in Singapore.

Electronic service

79.—(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) Despite section 78, where a person has given consent for any document to be served on the person through the electronic service —

(a) 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; and

(b) the document is treated as having been served at the time when an electronic record of the document enters the person's account with the electronic service.

(4) In this section —

“account with the electronic service”, in relation to any person, means a computer account within the electronic service that is assigned by the Authority to the person for the storage and retrieval of electronic records relating to the person; 5

“authentication code”, in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure that is assigned to the person for the purposes of identifying and authenticating the access to and use of the electronic service by the person; 10

“document” includes a notice and order;

“electronic record” has the same meaning as in section 2(1) of the Electronic Transactions Act (Cap. 88). 15

Amendment of Schedules

80.—(1) The Minister may from time to time, by order published in the *Gazette*, amend, add to or vary the First 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. 20

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

Related amendments to Banking Act

81. The Third Schedule to the Banking Act (Cap. 19, 2008 Ed.) is amended — 25

(a) by deleting item 7 of Part II and substituting the following items:

“

<p>7. Disclosure is strictly necessary to —</p> <p>(a) create a credit report by a licensed credit bureau of which the bank is an approved member; or</p> <p>(b) enable a licensed credit bureau of which the bank is an approved member to make a disclosure under —</p> <p>(i) section 13(2)(b) of the Credit Bureau Act 2016; or</p> <p>(ii) section 16 of the Credit Bureau Act 2016.</p>	<p>(a) The licensed credit bureau;</p> <p>(b) Any —</p> <p>(i) approved member of the licensed credit bureau;</p> <p>(ii) person the disclosure to whom is permitted by notice under section 13(2)(b) of the Credit Bureau Act 2016; or</p> <p>(iii) third party under section 16(2)(b) of the Credit Bureau Act 2016,</p> <p>where the member, person or third party receives such information from the licensed credit bureau.</p>	<p>(a) Deposit information must not be disclosed.</p> <p>(b) The disclosure by the licensed credit bureau to —</p> <p>(i) the member mentioned in paragraph (b)(i) of the second column is strictly necessary to enable the member to assess the creditworthiness of a customer of the member;</p> <p>(ii) the person mentioned in paragraph (b)(ii) of the second column is in accordance with the conditions specified in the notice; or</p> <p>(iii) the third party mentioned in paragraph(b)(iii) of the second column is made with the written consent of the data subject.</p>
<p>7A. Disclosure is for a purpose permitted in a notice in writing by the Authority under section 33(3)(d) of the Credit Bureau Act 2016.</p>	<p>A licensed credit bureau of which the bank is an approved member.</p>	<p>(a) Deposit information must not be disclosed.</p> <p>(b) The disclosure is in accordance with the conditions specified in the notice.</p>

”;

(b) by deleting the definition of “credit bureau” in Part III and substituting the following definitions:

“ “approved member” has the same meaning as in section 2 of the Credit Bureau Act 2016;

“credit report” has the same meaning as in section 2 of the Credit Bureau Act 2016;” and

(c) by inserting, immediately after the definition of “lawyer” in Part III, the following definition:

“ “licensed credit bureau” has the same meaning as in section 2 of the Credit Bureau Act 2016;”.

5

Related amendment to Companies Act

82. Section 145(6) of the Companies Act (Cap. 50, 2006 Ed.) is amended by inserting, immediately after the words “Banking Act (Cap. 19)” in paragraph (b), the words “, section 46(7) of the Credit Bureau Act 2016”.

10

Related amendment to Monetary Authority of Singapore Act

83. The Schedule to the Monetary Authority of Singapore Act (Cap. 186, 1999 Ed.) is amended by inserting, immediately after item 4, the following item:

15

“4A. Credit Bureau Act 2016”.

Saving and transitional provisions

84.—(1) Any person (*Y*) that, 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), is treated as having been granted a licence under section 7(3) of this Act to carry on consumer credit reporting business (called in this section a transitional licence) until —

20

(a) 6 months after the appointed day; or

(b) where *Y* applies for a licence on or before the end of the period in paragraph (a), the date on which the licence is granted to *Y* or the application is refused or withdrawn.

25

(2) Any condition to which *Y* is subject as a recognised credit bureau in subsection (1) immediately before the appointed day is, to the extent that it is consistent with the provisions of this Act, treated as a condition to which *Y* is subject under its transitional licence.

30

(3) Subject to subsection (4), any person (*X*) (not being a person set out in the First Schedule) that immediately before the appointed day is a member of *Y*, is treated as having been approved under section 29(6) of this Act as an approved member of *Y* until —

- 5 (a) 6 months after the appointed day; or
- (b) where an application is made for *X* to be an approved member on or before the end of the period in paragraph (a), the date on which the Authority approves *X* as an approved member or the application is refused or withdrawn.

10 (4) Any individual who, immediately before the appointed day, is a chief executive officer or director of *Y*, is treated as having been appointed as a chief executive officer or director of the licensed credit bureau with the approval of the Authority under section 46(2)(b) of this Act.

15 (5) For a period of 2 years after the appointed day, the Minister may, by regulations, prescribe such further saving, transitional and other consequential provisions as the Minister may consider necessary or expedient.

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

FIRST SCHEDULE

Sections 29(1) and (9) and 80

MEMBERS OF LICENSED CREDIT BUREAU DEEMED AS APPROVED MEMBERS

- 25 1. A bank
2. A merchant bank
3. A finance company licensed under the Finance Companies Act (Cap. 108)
4. A card issuer

SECOND SCHEDULE

Section 5(2)

SPECIFIED PROVISIONS

1. Section 74

EXPLANATORY STATEMENT

This Bill seeks to empower the Monetary Authority of Singapore (the Authority) to regulate certain credit bureaus that operate a credit reporting business. These are credit bureaus that prepare credit reports using customer information provided by at least one of their members that is a bank holding a licence to carry on banking business in Singapore, or a merchant bank that the Authority has approved as a financial institution (licensed credit bureaus). Moreover, the Bill seeks to ensure that licensed credit bureaus safeguard the confidentiality, security and integrity of any data they collect, restrict the use and disclosure of their members' customer information, and satisfy such financial and operational requirements as the Authority may specify.

In addition, the Bill also seeks to regulate certain members of these licensed credit bureaus (approved members), namely banks, merchant banks, finance companies and card issuers. This includes stating when approved members may request customer information (including credit reports) from the licensed credit bureau, as well as the use and disclosure of customer information they receive from the licensed credit bureau. The Bill also requires approved members to ensure the integrity of any data they provide to the licensed credit bureau, and to ensure the confidentiality, security and integrity of any data they receive from the licensed credit bureau.

This Bill also makes related amendments to the Banking Act (Cap. 19), the Companies Act (Cap. 50) and the Monetary Authority of Singapore Act (Cap. 186).

PART 1**PRELIMINARY**

Part 1 (comprising clauses 1 to 5) contains the preliminary provisions of the Bill.

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

Clause 3 sets out the purpose of the Bill.

Clause 4 provides that the Bill does not apply to public authorities. However, the Minister may by order declare that a public authority is one to which the Bill applies. The clause also provides that the provisions in Parts 3 and 6 of the Bill are in addition to, and do not derogate from, anything in the Personal Data Protection Act 2012 (Act 26 of 2012) (PDPA). This is because the PDPA also governs the collection, use and disclosure of personal data.

Clause 5 empowers the Authority to appoint any of its officers to exercise any of the Authority's powers or perform any of its functions or duties under the Bill, subject to certain restrictions.

PART 2

LICENSING OF CREDIT BUREAUS

Part 2 (comprising clauses 6 to 12) relates to the licensing of credit bureaus.

Clause 6 prohibits a person from carrying on a credit reporting business without a licence.

Clause 7 sets out 2 different types of credit reporting businesses and matters related to an application for a licence. Only one credit bureau may be licensed at any one time to carry on a corporate credit reporting business.

Clause 8 sets out the requirements for the renewal of a licence.

Clause 9 prohibits a person that is not a licensed credit bureau from holding itself out as a licensed credit bureau.

Clause 10 requires a licensed credit bureau to pay a prescribed annual fee to the Authority. The clause empowers the Authority to prescribe different annual fees depending on the type of credit reporting business a licensed credit bureau is licensed to carry on.

Clause 11 sets out the circumstances under which a licensed credit bureau's licence lapses or may be revoked by the Authority. The Authority may suspend a licence instead of revoking it, and may extend or revoke the suspension. The clause further sets out the obligations of the licensed credit bureau and the Authority on the lapsing, revocation or suspension of a licence.

Clause 12 provides a company with a right of appeal to the Minister against certain decisions of the Authority under this Part of the Bill.

PART 3

DUTIES OF LICENSED CREDIT BUREAUS

Part 3 (comprising clauses 13 to 22) relates to the duties of licensed credit bureaus.

Clause 13 sets out the conditions under which a licensed credit bureau may use or disclose —

- (a) customer information received from its members; and
- (b) data received from a data subject or data provider under clause 18.

The clause also prohibits a licensed credit bureau from collecting, using or disclosing customer information of certain entities.

Clause 14 requires a licensed credit bureau that collects data from a data provider to ensure the integrity of the data it processes as well as to protect the data.

Clause 15 requires a licensed credit bureau to include an obligation in any contract or arrangement it has with a data provider to receive data from the data provider, that the data provider makes a reasonable effort to ensure that it provides data with integrity to the licensed credit bureau.

Clause 16 permits a licensed credit bureau to disclose its members' customer information, a credit report the licensed credit bureau has prepared or data received from a data subject or data provider under clause 18 to —

- (a) the data subject of the customer information, credit report or data received; or
- (b) a third party if it has the data subject's written consent.

Clause 17 requires a licensed credit bureau to provide a data subject with a copy of the data subject's credit report upon the data subject's request. The clause also requires a licensed credit bureau to provide a data subject who is an individual with a copy of his or her credit report free of charge in certain circumstances.

Clause 18 requires a licensed credit bureau to investigate errors or omissions in any data in its possession or under its control upon a request by a data subject or data provider. Unless the licensed credit bureau is satisfied on reasonable grounds that a correction should not be made, it must correct the data and send the corrected data to all its approved members to which it had disclosed the pre-corrected data within a year before the correction.

Clause 19 requires a licensed credit bureau to correct any error or omission in any data in its possession or under its control on its own initiative if there is a conflict between the data and other information it possesses, or which it obtains from a prescribed public authority.

Clause 20 requires a licensed credit bureau to notify the Authority about the occurrence of certain events such as an event that results in a compromise of the confidentiality or security of any of its data, or any civil or criminal proceedings that have been instituted against the licensed credit bureau.

Clause 21 empowers the Authority to require a licensed credit bureau to provide information relating to its credit reporting business to the Authority. This is to facilitate the Authority's regulatory functions.

Clause 22 empowers the Authority to require a licensed credit bureau to submit periodic reports relating to its credit reporting business to the Authority. This is also to facilitate the Authority's regulatory functions.

PART 4

AUDIT OF LICENSED CREDIT BUREAUS

Part 4 (comprising clauses 23 to 26) relates to the audit of licensed credit bureaus.

Clause 23 requires a licensed credit bureau to appoint an auditor annually and obtain the Authority's approval for the appointment. The clause also, among other things, empowers the Authority to —

- (a) impose additional duties on the auditor;
- (b) require the licensed credit bureau to replace its auditor if the Authority is not satisfied with the auditor's performance of any duty; and
- (c) appoint an auditor for a licensed credit bureau in certain circumstances.

Clause 24 sets out the powers of an auditor appointed by the Authority for the purpose of carrying out an examination or audit.

Clause 25 prohibits the auditor or the auditor's employee from disclosing information that may come to the auditor's or employee's knowledge in the course of performing the auditor's or employee's duties, except in certain cases.

Clause 26 criminalises various acts done with the intention to prevent, delay or obstruct the carrying out of an examination or audit.

PART 5

APPROVAL OF APPROVED MEMBERS

Part 5 (comprising clauses 27 to 32) relates to the approval of approved members.

Clause 27 permits only an approved member of a licensed credit bureau to receive customer information of any member of a licensed credit bureau from the licensed credit bureau (unless otherwise provided by the Bill).

Clause 28 prohibits a person that is not an approved member of a licensed credit bureau from holding itself out as such.

Clause 29 provides that a member of a licensed credit bureau that comes within any class of persons specified in the First Schedule (namely banks, merchant banks, finance companies and card issuers) is deemed to be an approved member of the licensed credit bureau. The clause also empowers the Authority, upon a licensed credit bureau's application, to approve any of the licensed credit bureau's members or class of members (including former deemed approved members whose deemed approval has been cancelled or revoked) as the licensed credit bureau's approved members.

Clause 30 allows an approved member of a licensed credit bureau to apply to the Authority to cancel its approval or deemed approval as an approved member of the licensed credit bureau if the approved member intends to cease certain activities. The clause also imposes obligations on the former approved member, the licensed credit bureau and the Authority after the Authority has cancelled the approval or deemed approval.

Clause 31 empowers the Authority to revoke the approval or deemed approval of an approved member of a licensed credit bureau under various circumstances. The clause also imposes certain obligations on the former approved member, the licensed credit bureau and the Authority after the Authority has revoked the approval or deemed approval.

Clause 32 provides a licensed credit bureau, its member or former approved member with a right of appeal to the Minister against certain decisions of the Authority under this Part of the Bill.

PART 6

DUTIES OF APPROVED MEMBERS OF LICENSED CREDIT BUREAUS

Part 6 (comprising clauses 33 to 38) sets out the duties of approved members of licensed credit bureaus.

Clause 33 sets out, among other things, the circumstances under which an approved member of a licensed credit bureau may —

- (a) request customer information of the licensed credit bureau's approved members from the licensed credit bureau;
- (b) use or disclose such customer information it has received from the licensed credit bureau;
- (c) disclose customer information (whether its own or that of any other approved member) to the licensed credit bureau; or

- (d) use and disclose corrected data it receives from the licensed credit bureau under clause 18.

The clause further provides that if a licensed credit bureau's licence has lapsed, is revoked or is suspended, its approved members must not disclose to the licensed credit bureau any customer information of any of the licensed credit bureau's approved members.

Clause 34 requires an approved member of a licensed credit bureau to ensure the integrity of any data it provides to the licensed credit bureau, protect any data it receives from the licensed credit bureau, and dispose of data received from the licensed credit bureau in certain circumstances.

Clause 35 requires an approved member of a licensed credit bureau, upon a data subject's request, to investigate errors or omissions in any data in its possession or under its control and which has been processed by the licensed credit bureau. Unless the approved member is satisfied on reasonable grounds that a correction should not be made, it must correct the data and also inform the licensed credit bureau that a correction to the data should be made. The licensed credit bureau, in turn, must correct such data in its possession or under its control and send the corrected data to all its approved members to which it had disclosed the pre-corrected data within a year before the correction.

Clause 36 empowers the Authority to require an approved member of a licensed credit bureau to provide data relating to the licensed credit bureau's credit reporting business to the licensed credit bureau. This is to facilitate the licensed credit bureau's credit reporting business.

Clause 37 empowers the Authority to require an approved member of a licensed credit bureau to provide to the Authority, information relating to —

- (a) the approved member's membership of the licensed credit bureau; and
- (b) the approved member's activities as an approved member of the licensed credit bureau.

This is to facilitate the Authority's regulatory functions.

Clause 38 empowers the Authority to require an approved member of a licensed credit bureau to include any information specified by the Authority in any credit facility document that the approved member provides to its customer. This is to ensure the approved member's customer gets such information in relation to the credit facility that the Authority believes is useful to the customer.

PART 7

CONTROL OF SUBSTANTIAL SHAREHOLDERS, CONTROLLERS AND OFFICERS OF LICENSED CREDIT BUREAUS

Part 7 (comprising clauses 39 to 47) sets out the powers of the Authority in relation to the control of substantial shareholders, certain controllers and officers of licensed credit bureaus.

Clause 39 defines certain terms that are used in this Part of the Bill.

Clause 40 requires persons who have or may attain certain types of control of or interests in a licensed credit bureau (including shareholdings of or above certain defined thresholds) to apply for the Authority's approval to have or continue to have such types of control of or interests in the licensed credit bureau.

Clause 41 sets out the circumstances in which the Authority is empowered to object to a person who, among other things, has or has attained a certain type of control of or interest in a licensed credit bureau (including shareholdings of or above certain defined thresholds) to continue having such type of control of or interest in the licensed credit bureau.

Clause 42 empowers the Authority, in a case where a person has contravened clause 40 or where the Authority has served a notice of objection under clause 41 to —

- (a) direct the transfer or dispose of all or any of the person's shares in the licensed credit bureau; or
- (b) restrict the transfer or disposal of all or any such shares.

Clause 43 empowers the Authority to direct a licensed credit bureau to provide to the Authority any information relating to any of the licensed credit bureau's shareholders that the Authority may require for various regulatory purposes of the Authority.

Clause 44 empowers the Authority to exempt any person, class of persons, or class or description of shares or interests in shares from the requirements in clause 40, subject to conditions the Authority may impose.

Clause 45 sets out the offences, penalties and defences applicable to this Part of the Bill.

Clause 46 requires a licensed credit bureau to obtain the Authority's prior approval for the appointment of its chief executive officer or director. The clause also empowers the Authority to direct the licensed credit bureau to remove its chief executive officer or director on various grounds.

Clause 47 provides a right for certain persons aggrieved by certain decisions of the Authority under this Part of the Bill to appeal to the Minister.

PART 8

INSPECTIONS AND INVESTIGATIONS

Part 8 (comprising clauses 48 to 52) relates to the Authority's powers of inspection and investigation.

Clause 48 confers power on the Authority to inspect, under conditions of secrecy, the books of a licensed credit bureau. The clause sets out certain obligations of the licensed credit bureau and the Authority and certain powers of the Authority in relation to inspections carried out by the Authority.

Clause 49 empowers the Authority to conduct an investigation for certain purposes. The clause sets out certain obligations of the licensed credit bureau and the Authority and certain powers of the Authority in relation to investigations carried out by the Authority.

Clause 50 relates to the confidentiality and restrictions on disclosure of the Authority's report following an inspection or investigation by the Authority under clause 48 or 49, respectively.

Clause 51 provides that a person is not excused from disclosing information to the Authority under this Part of the Bill on the grounds that the disclosure of the information might tend to incriminate the person. However, if before making a statement disclosing information the person is required to disclose, the person claims the statement might tend to incriminate the person, that statement is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence under clause 64(1) or (2).

Clause 52 makes it clear that this Part of the Bill does not require an advocate and solicitor to disclose privileged communications made by or to him or her in that capacity. However, the advocate and solicitor is nevertheless obliged to give the name and address (if he or she knows them) of the person to whom, or by or on behalf of whom, that privileged communication was made.

PART 9

AUTHORITY'S CONTROL OVER LICENSED CREDIT BUREAUS

Part 9 (comprising clauses 53 to 59) relates to the Authority's powers of control over licensed credit bureaus in certain situations.

Clause 53 defines certain terms that are used in this Part of the Bill.

Clause 54 empowers the Authority to exercise one or more of the following powers with respect to a licensed credit bureau in certain circumstances:

- (a) require the licensed credit bureau to take any action or to do or not to do any act in relation to its business;

- (b) appoint a statutory adviser to advise the licensed credit bureau on the proper management of some or all of its business;
- (c) assume control of and manage some or all the licensed credit bureau's business, or appoint a statutory manager to do so.

Clause 55 sets out the powers and obligations of the Authority or a statutory manager upon assuming control of a licensed credit bureau's relevant business. The clause also specifies the effects of such assumption of control on any appointment of the licensed credit bureau's chief executive officer or director.

Clause 56 specifies when a statutory manager is treated as having assumed control of a licensed credit bureau's relevant business. The clause also specifies the circumstances under which the Authority or the statutory manager must cease to be in control of such relevant business, and under which the appointment of a statutory manager may be revoked.

Clause 57 sets out the obligations of certain persons of a licensed credit bureau (such as a current or former chief executive officer, director, executive officer, employee, agent or auditor) during the period when the Authority or a statutory manager is in control of the licensed credit bureau's relevant business.

Clause 58 empowers the Authority to fix the remuneration and expenses a licensed credit bureau has to pay the Authority and any person appointed by the Authority (where the Authority has assumed control of any of the licensed credit bureau's business), a statutory adviser or a statutory manager.

Clause 59 imposes a requirement on a licensed credit bureau to seek the Authority's approval prior to making changes to certain of its business and operation matters.

PART 10

OFFENCES

Part 10 (comprising clauses 60 to 66) contains provisions dealing with offences under the Bill.

Clause 60 provides the circumstances under which certain persons of a corporation assume liability for an offence that the corporation commits under the Bill. However, these persons are only liable under this clause if their act or omission is not already an offence under clause 62(1) of the Bill.

Clause 61 provides the circumstances under which certain persons of an unincorporated association or a partnership assume liability for an offence that the unincorporated association or partnership commits under the Bill.

Clause 62 specifies that an officer of a licensed credit bureau, whose duty is or includes —

- (a) ensuring the licensed credit bureau complies with a provision of the Bill; or
- (b) submitting information to the Authority or any other person under the Bill,

commits an offence if he or she fails to take all reasonable steps to ensure such compliance or that the information submitted is accurate and correct. However, the officer is only liable for failing to take reasonable steps to ensure the accuracy and correctness of information submitted to the Authority if such failure is not already any offence under clause 64(1) or (2) of the Bill.

Clause 63 makes it an offence for a licensed credit bureau's officer, auditor, employee or agent to wilfully falsify any book or other document of the licensed credit bureau, wilfully omit to make an entry in any book or other document of the licensed credit bureau, or wilfully alter, extract, conceal or destroy an entry in any book or other document of the licensed credit bureau.

Clause 64 requires an individual who provides the Authority with any information under the Bill, or signs or lodges any document with the Authority, to use reasonable care to ensure that the information or document is not false or misleading in any material particular. An act is not an offence under this clause if the provision of information or the signing or lodgment of the document that is false or misleading is an offence under any other provision of the Bill.

Clause 65 prescribes the penalties for offences under the Bill where no penalty is expressly provided.

Clause 66 empowers the Authority to compound any offence under the Bill that is prescribed as a compoundable offence.

PART 11

APPEALS

Part 11 (comprising clauses 67 to 70) relates to the procedures for appeals made to the Minister under the Bill.

Clause 67 provides that where an appeal is made to the Minister under the Bill, the Minister may confirm, vary or reverse the decision of the Authority, or give such directions as he or she thinks fit. The Minister must refer every appeal that he or she receives to an Appeal Advisory Committee. However, the Minister is not bound by the recommendations of the Committee. The Minister's decision on any appeal is final.

Clause 68 requires the Minister to appoint an Appeal Advisory Panel for the purposes of constituting an Appeal Advisory Committee. It sets out the powers of an Appeal Advisory Committee as well as the protection conferred on every member of the Appeal Advisory Committee.

Clause 69 provides that the Bill does not require the Minister or any public servant (including a member of an Appeal Advisory Committee deemed to be a public servant under clause 68 of the Bill) to disclose any facts that he or she considers to be contrary to the public interest to disclose.

Clause 70 empowers the Minister to make regulations to, among other things, prescribe matters required or permitted to be prescribed under this Part of the Bill.

PART 12

MISCELLANEOUS

Part 12 (comprising clauses 71 to 84) contains miscellaneous provisions.

Clause 71 empowers a District Court to try any offence under the Bill and to impose the full penalty or punishment in respect of such offence despite the Criminal Procedure Code (Cap. 68).

Clause 72 empowers the Authority to prescribe the manner in which a person is to be given an opportunity to be heard where the Bill provides such opportunity.

Clause 73 empowers the court, on the application of the Authority, to make certain orders against a person who has committed or is about to commit an offence under the Bill. A person that contravenes an order made by the court without reasonable excuse may be punished either under this provision or for contempt of court. The provision further makes it clear that if a person is punished under this provision, the person cannot be punished again for contempt of court and vice versa. This is to ensure that a person is not punished twice for the same contravention.

Clause 74 empowers the Authority on its own initiative to exempt any person from all or any of the provisions of the Bill by regulations (subject to conditions). The Authority may also grant certain exemptions by notice in writing upon a person's application.

Clause 75 empowers the Authority to impose requirements on any licensed credit bureau, any class of licensed credit bureaus, or any licensed credit bureau's approved member or class of approved members by notice in writing with respect to certain matters and in certain circumstances.

Clause 76 empowers the Authority to issue codes, guidelines, policy statements, practice notes and no-action letters as it considers necessary for providing guidance on certain matters. These instruments are not subsidiary legislation.

Clause 77 empowers the Authority to make regulations to, among other things, prescribe matters required or permitted to be prescribed by the Bill.

Clause 78 makes provision for the service of documents under the Bill.

Clause 79 provides for the electronic service of documents on any person under the Bill where the person has consented to be served documents through the Authority's electronic service.

Clause 80 empowers the Minister to amend the First Schedule of the Bill (which relates to classes of persons that are deemed as approved members of a licensed credit bureau) and to make such incidental, consequential or supplementary provisions as may be necessary or expedient.

Clause 81 makes related and consequential amendments to the Banking Act.

Clause 82 makes related and consequential amendments to the Companies Act.

Clause 83 makes related and consequential amendments to the Monetary Authority of Singapore Act.

Clause 84 contains savings and transitional provisions, and empowers the Minister to prescribe further savings, transitional and other consequential provisions as he or she considers necessary or expedient for a limited time.

The First Schedule to the Bill sets out the members of a licensed credit bureau deemed to be approved members of the licensed credit bureau under clause 29(1).

The Second Schedule to the Bill sets out the provisions of the Bill under which an Authority's officer appointed by the Authority may grant an exemption to a particular person, or to revoke such exemption.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

TABLE OF DERIVATIONS

This Table of Derivatives is provided for the convenience of users of the Act. It is not part of the Act.

<i>Credit Bureau Bill 2016</i>		<i>Derivations</i>			
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