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Moneylenders (Amendment) Bill

Bill No. 48/2017.

Read the first time on 6 November 2017.

A BILL

intituled

An Act to amend the Moneylenders Act (Chapter 188 of the 2010 Revised Edition).

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

Short title and commencement

1. This Act is the Moneylenders (Amendment) Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Repeal and re-enactment of long title

2. The long title to the Moneylenders Act is repealed and the following long title substituted therefor:

10 “An Act for the regulation of moneylending, the designation and control of a credit bureau, the collection, use and disclosure of borrower information and data, and for connected matters.”.

Amendment of section 2

3.—(1) Section 2 of the Moneylenders Act is amended —

(a) by inserting, immediately before the definition of “Authority”, the following definition:

15 “ “assistant”, in relation to an applicant for a licence or a licensee —

(a) means any person employed or engaged, or proposed to be employed or engaged, by the applicant or the licensee for the purposes of the applicant’s or the licensee’s business of moneylending, other than to manage the applicant’s or the licensee’s business of moneylending; and

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(b) includes a person who is employed or engaged, or proposed to be employed or engaged, by the applicant or licensee to collect any debt on behalf of the applicant or licensee;”;

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(b) by inserting, immediately after the definition of “body corporate”, the following definition:

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

5

(c) by deleting the definition of “company” and substituting the following definition:

“ “company” means a company limited by shares under the Companies Act (Cap. 50);”.

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(2) Section 2 of the Moneylenders Act is amended by deleting the definition of “firm”.

Amendment of section 5

4.—(1) Section 5(5) of the Moneylenders Act is amended —

(a) by deleting the words “section 7” and substituting the words “sections 6A and 7”; and

15

(b) by deleting “\$20,000” in paragraph (c) and substituting the words “such amount as the Minister may prescribe,”.

(2) Section 5 of the Moneylenders Act is amended by deleting subsection (8).

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Amendment of section 6

5. Section 6(4) of the Moneylenders Act is amended —

(a) by deleting the words “section 7” and substituting the words “sections 6A and 7”; and

(b) by deleting “\$20,000” in paragraph (c) and substituting the words “such amount as the Minister may prescribe,”.

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New section 6A

6. The Moneylenders Act is amended by inserting, immediately after section 6, the following section:

“Licensees to be companies

6A.—(1) On and after the appointed day —

(a) no person other than a company with a paid-up capital that is equal to or greater than the prescribed amount may hold a licence; and

(b) the Registrar must not issue or renew a licence unless the applicant is a company with a paid-up capital that is equal to or greater than the prescribed amount.

(2) A licence that is granted to a person that is not a company with a paid-up capital that is equal to or greater than the prescribed amount, and that is in force immediately before the appointed day, is deemed to be revoked as from the appointed day.

(3) The revocation of a licence under subsection (2) does not affect any moneylending transaction entered into before the appointed day.

(4) In this section, “appointed day” means the date of commencement of section 6 of the Moneylenders (Amendment) Act 2018.”.

Amendment of section 7

7.—(1) Section 7(1) of the Moneylenders Act is amended by deleting the full-stop at the end of paragraph (g) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

“(h) if any assistant employed or engaged, or proposed to be employed or engaged, by the applicant has, whether before, on or after the date of commencement of section 7 of the Moneylenders (Amendment) Act 2018 —

(i) been convicted of any offence involving dishonesty or moral turpitude;

- (ii) been convicted of any offence under sections 43 to 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), the Terrorism (Suppression of Financing) Act (Cap. 325) or any regulation made under the United Nations Act (Cap. 339); 5
 - (iii) contravened or is contravening any provision of this Act or any corresponding previous written law;
 - (iv) been convicted of any offence under this Act or any corresponding previous written law; or 10
 - (v) carried on any business of moneylending in Singapore or any foreign country or territory —
 - (A) for which the licence has been revoked or suspended under this Act or any corresponding previous written law; or 15
 - (B) the approval, authorisation, registration or licence of or for which has been withdrawn, cancelled or revoked by a regulatory authority in that foreign country or territory; 20
 - (i) if the Registrar is not satisfied that any assistant employed or engaged, or proposed to be employed or engaged, by the applicant is of good character and is a fit and proper person.”. 25
- (2) Section 7 of the Moneylenders Act is amended —
- (a) by deleting sub-paragraph (i) of subsection (1)(a);
 - (b) by deleting the words “the applicant, any director or partner of the applicant,” in subsection (1)(b) and substituting the words “any director of the applicant”; 30
 - (c) by deleting the word “, partner” in subsection (1)(d);
 - (d) by deleting the words “the applicant, or” in subsection (1)(e);

(e) by deleting the words “the applicant, any director, partner or substantial shareholder of the applicant,” in subsection (1)(f) and substituting the words “any director or substantial shareholder of the applicant”;

5 (f) by deleting the word “, partner” in subsections (1)(g) and (2)(a) and (c); and

(g) by deleting the words “the principal, any director, partner” in subsection (2)(b) and substituting the words “any director”.

10 **Amendment of section 9**

8. Section 9(1) of the Moneylenders Act is amended by inserting, immediately after sub-paragraph (i) of paragraph (a), the following sub-paragraph:

15 “(ia) has not carried on the business of moneylending within 6 months, or such longer period as the Registrar may approve in writing, after the issue of the licence;”.

Amendment of section 10

20 **9.—**(1) Section 10(3) of the Moneylenders Act is amended by deleting “\$20,000” in paragraph (c) and substituting the words “such amount as the Minister may prescribe,”.

(2) Section 10 of the Moneylenders Act is amended by deleting subsection (5).

New sections 11A to 11D

25 **10.—**(1) The Moneylenders Act is amended by inserting, immediately after section 11, the following sections:

“Approval before employing or engaging assistant, etc.

11A.—(1) A licensee must not, without the written approval of the Registrar, employ or engage any assistant.

30 (2) An application for the Registrar’s approval mentioned in subsection (1) must be made in such form and manner as the Registrar may specify.

(3) On an application by a licensee for the Registrar's approval mentioned in subsection (1), the Registrar may —

- (a) grant the approval applied for; or
- (b) refuse to grant the approval applied for.

(4) The Registrar must refuse to grant an approval under subsection (3)(b) if the Registrar is not satisfied that the person in respect of whom the approval is sought is of good character and is a fit and proper person. 5

(5) Without limiting subsection (4), the Registrar may refuse to approve as an assistant any person who, whether before, on or after the date of commencement of section 10(1) of the Moneylenders (Amendment) Act 2018 — 10

- (a) has been convicted of any offence involving dishonesty or moral turpitude;
- (b) has been convicted of any offence under sections 43 to 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), the Terrorism (Suppression of Financing) Act (Cap. 325) or any regulation made under the United Nations Act (Cap. 339); 15 20
- (c) is contravening or has contravened any provision of this Act or any corresponding previous written law;
- (d) has been convicted of any offence under this Act or any corresponding previous written law; or
- (e) has carried on any business of moneylending in Singapore or any foreign country or territory — 25
 - (i) for which the licence has been revoked or suspended under this Act or any corresponding previous written law; or
 - (ii) the approval, authorisation, registration or licence of or for which has been withdrawn, cancelled or revoked by a regulatory authority in that foreign country or territory. 30

(6) The Registrar may cancel any approval granted under subsection (3)(a) in respect of a person if the Registrar —

(a) has reasonable grounds to believe that the approval has been obtained by fraud or misrepresentation;

5 (b) is no longer satisfied that the person is of good character; or

(c) is no longer satisfied that the person is a fit and proper person.

10 (7) The Registrar must not refuse to grant an approval under subsection (3)(b) or cancel any approval under subsection (6) without giving the licensee concerned an opportunity to be heard.

15 (8) Where an approval granted under subsection (3)(a) is cancelled under subsection (6), the Registrar must notify the licensee concerned and the person in respect of whom the approval was granted of the cancellation and the date on which the approval is cancelled.

(9) Starting on the date after the date of cancellation of approval specified in the notice under subsection (8) —

20 (a) the licensee must stop employing or engaging the person in respect of whom the approval was cancelled; and

(b) the person in respect of whom the approval was cancelled must cease to act for the licensee.

25 (10) Every licensee must submit to the Registrar, in such form and manner and at such time as the Registrar may specify, the names and particulars of every assistant who, as at the date of the submission, is employed or engaged by the licensee.

30 (11) Every licensee must notify the Registrar, in writing, when any person ceases to be employed or engaged by the licensee as an assistant, not later than 7 days after the cessation.

(12) Any person who, without reasonable excuse, contravenes subsection (1), (9), (10) or (11) shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$20,000; and
- (b) in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part of a day during which the offence continues after conviction.

(13) Where —

- (a) in fulfilment of a condition of a licence imposed under section 5(4), a licensee has obtained, before the date of commencement of section 10(1) of the Moneylenders (Amendment) Act 2018, the approval of the Registrar to employ or engage an assistant; and

- (b) the approval has not been cancelled,

the licensee is, on or after that date, treated as having been granted the written approval of the Registrar under subsection (3)(a) to employ or engage the assistant.

Approval, notification and submission of information relating to person taking part in management, etc.

11B.—(1) A licensee must not, without the written approval of the Registrar, permit any person to —

- (a) take part (whether directly or indirectly) in the management of the licensee’s business of moneylending; or

- (b) become a director or partner of the licensee.

(2) An application for the Registrar’s approval mentioned in subsection (1) must be made in such form and manner as the Registrar may specify.

(3) On an application by a licensee for the Registrar’s approval mentioned in subsection (1), the Registrar may —

- (a) grant the approval applied for; or

- (b) refuse to grant the approval applied for.

(4) The Registrar must refuse to grant an approval under subsection (3)(b) if the Registrar is not satisfied that the person in

respect of whom the approval is applied for is of good character and is a fit and proper person.

5 (5) Without limiting subsection (4), the Registrar may refuse to grant approval under subsection (3)(b) to any person who, whether before, on or after the date of commencement of section 10(1) of the Moneylenders (Amendment) Act 2018 —

(a) has been convicted of any offence involving dishonesty or moral turpitude;

10 (b) has been convicted of any offence under sections 43 to 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), the Terrorism (Suppression of Financing) Act (Cap. 325) or any regulation made under the United Nations Act (Cap. 339);

15 (c) is contravening or has contravened any provision of this Act or any corresponding previous written law;

(d) has been convicted of any offence under this Act or any corresponding previous written law; or

20 (e) has carried on any business of moneylending in Singapore or any foreign country or territory —

(i) for which the licence has been revoked or suspended under this Act or any corresponding previous written law; or

25 (ii) the approval, authorisation, registration or licence of or for which has been withdrawn, cancelled or revoked by a regulatory authority in that foreign country or territory.

(6) The Registrar may cancel any approval granted under subsection (3)(a) in respect of a person if the Registrar —

30 (a) has reasonable grounds to believe that the approval has been obtained by fraud or misrepresentation;

(b) is no longer satisfied that the person is of good character; or

(c) is no longer satisfied that the person is a fit and proper person.

(7) The Registrar must not refuse to grant an approval under subsection (3)(b) or cancel any approval under subsection (6) without giving the licensee concerned an opportunity to be heard. 5

(8) Where an approval granted under subsection (3)(a) is cancelled under subsection (6), the Registrar must notify the licensee concerned and the person in respect of whom the approval was granted of the cancellation and the date on which the approval is cancelled. 10

(9) Starting on the date after the date of cancellation of approval specified in the notice under subsection (8) —

(a) the licensee must not permit the person in respect of whom the approval was cancelled — 15

(i) to take part (whether directly or indirectly) in the management of the licensee's business of moneylending; or

(ii) to be a director or partner of the licensee; and

(b) the person in respect of whom the approval was cancelled must — 20

(i) cease to take part (whether directly or indirectly) in the management of the licensee's business of moneylending; or

(ii) cease to be a director or partner of the licensee. 25

(10) Every licensee must submit to the Registrar, in such form and manner and at such time as the Registrar may specify, the names and particulars of every person who, as at the date of the submission —

(a) is taking part (whether directly or indirectly) in the management of the licensee's business of moneylending; or 30

(b) is a director or partner of the licensee.

(11) Where any person —

(a) ceases to take part (whether directly or indirectly) in the management of a licensee's business of moneylending; or

5 (b) ceases to be a director or partner of a licensee,

the licensee must notify the Registrar in writing of the cessation not later than 7 days after becoming aware of the cessation.

(12) Any person who, without reasonable excuse, contravenes subsection (1), (9), (10) or (11) shall be guilty of an offence and shall be liable on conviction —

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(a) to a fine not exceeding \$20,000; and

(b) in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part of a day during which the offence continues after conviction.

15

(13) Where —

(a) a licensee has obtained the approval of the Registrar under section 12(1)(b) as in force immediately before the date of commencement of section 10(1) of the Moneylenders (Amendment) Act 2018 for the admission of a person who will be responsible for the management of the licensee's business of moneylending; and

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(b) the approval has not been cancelled,

the licensee is treated as having been granted the written approval of the Registrar under subsection (3)(a) to permit the person to take part (whether directly or indirectly) in the management of the licensee's business of moneylending.

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(14) Where —

(a) a licensee has obtained the approval of the Registrar under section 12(1)(c) as in force immediately before the date of commencement of section 10(1) of the Moneylenders (Amendment) Act 2018 for a person to become a director or partner of the licensee; and

30

(b) the approval has not been cancelled,
 the licensee is treated as having been granted the written approval of the Registrar under subsection (3)(a) to permit the person to become a director or partner of the licensee.

Approval of change in business name

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11C.—(1) Every licensee must obtain the written approval of the Registrar before changing the licensee’s business name.

(2) An application for the Registrar’s approval mentioned in subsection (1) must be made in such form and manner as the Registrar may specify.

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(3) On an application by a licensee for the Registrar’s approval mentioned in subsection (1), the Registrar may —

(a) grant the approval applied for; or

(b) refuse to grant the approval applied for.

(4) The Registrar must not refuse to grant an approval under subsection (3)(b) without giving the licensee concerned an opportunity to be heard.

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(5) Any licensee who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

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Notification of certain events

11D.—(1) If any of the events in subsection (3) occurs on or after the appointed day, the licensee in question must notify the Registrar in writing of the occurrence not later than 7 days after the licensee becomes aware of the event concerned.

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(2) A licensee must, within the period of 30 days after the appointed day, notify the Registrar in writing of the occurrence of any of the events in subsection (3), if the event occurred within the period of one year immediately preceding the appointed day and the licensee is aware of the occurrence.

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(3) The events mentioned in subsections (1) and (2) are the following:

5 (a) the making of an application to the High Court under the Bankruptcy Act (Cap. 20) for a bankruptcy order against the licensee, any partner, director or substantial shareholder of the licensee, or any manager of the licensee (where the licensee is a limited liability partnership);

(b) the making of an application to the High Court under the Companies Act (Cap. 50) to summon a meeting of the creditors or members of —

10 (i) the licensee;

(ii) any partner or substantial shareholder of the licensee; or

(iii) any manager of the licensee, where the licensee is a limited liability partnership;

15 (c) the making of an application to the High Court under the Companies Act for the court to approve a compromise or arrangement between —

(i) the licensee;

20 (ii) any partner or substantial shareholder of the licensee; or

(iii) any manager of the licensee, where the licensee is a limited liability partnership,

25 and the creditors of the licensee, partner, substantial shareholder or manager, as the case may be, or any class of those creditors, without any meeting of the creditors or class of creditors;

(d) the making of an application to the High Court under the Companies Act to place under judicial management —

30 (i) the licensee;

(ii) any partner or substantial shareholder of the licensee; or

- (iii) any manager of the licensee, where the licensee is a limited liability partnership;
- (e) the making of an order under the Companies Act or the Limited Liability Partnerships Act (Cap. 163A), appointing a receiver or manager, or a receiver and manager, of the property of — 5
 - (i) the licensee;
 - (ii) any partner or substantial shareholder of the licensee; or
 - (iii) any manager of the licensee, where the licensee is a limited liability partnership; 10
- (f) the passing of a resolution under the Companies Act or the Limited Liability Partnerships Act, for the voluntary winding up of —
 - (i) the licensee; 15
 - (ii) any partner or substantial shareholder of the licensee; or
 - (iii) any manager of the licensee, where the licensee is a limited liability partnership;
- (g) the making of an application to the High Court under the Companies Act or the Limited Liability Partnerships Act, for winding up by an order of the court of — 20
 - (i) the licensee;
 - (ii) any partner or substantial shareholder of the licensee; or 25
 - (iii) any manager of the licensee, where the licensee is a limited liability partnership;
- (h) the making of a statutory declaration under the Companies Act or the Limited Liability Partnerships Act, in respect of — 30
 - (i) the licensee;

(ii) any partner or substantial shareholder of the licensee; or

(iii) any manager of the licensee, where the licensee is a limited liability partnership.

5 (4) When a licensee notifies the Registrar of an event under subsection (1) or (2) —

(a) the Registrar may require the licensee to notify the Registrar of any further event in relation to that event; and

10 (b) the licensee must notify the Registrar of the further event no later than 7 days after the licensee becomes aware that the further event has occurred.

(5) Any licensee who, without reasonable excuse, contravenes subsection (1), (2) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

(6) In this section, “appointed day” means the date of commencement of section 10(1) of the Moneylenders (Amendment) Act 2018.”.

(2) Section 11B of the Moneylenders Act, as inserted by subsection (1), is amended by deleting the words “or partner” wherever they appear in the following provisions:

Subsections (1)(b), (9)(a)(ii) and (b)(ii), (10)(b) and (11)(b).

(3) Section 11D of the Moneylenders Act, as inserted by subsection (1), is amended —

25 (a) by deleting paragraph (a) of subsection (3) and substituting the following paragraph:

“(a) the making of an application to the High Court under the Bankruptcy Act (Cap. 20) for a bankruptcy order against any director or substantial shareholder of the licensee;”;

30 (b) by inserting the word “or” at the end of subsection (3)(b)(i);

(c) by deleting sub-paragraphs (ii) and (iii) of subsection (3)(b) and substituting the following sub-paragraph:

“(ii) any substantial shareholder of the licensee;”;

(d) by inserting the word “or” at the end of subsection (3)(c)(i);

(e) by deleting sub-paragraphs (ii) and (iii) of subsection (3)(c) and substituting the following sub-paragraph: 5

“(ii) any substantial shareholder of the licensee;”;

(f) by deleting the words “, partner, substantial shareholder or manager” in subsection (3)(c) and substituting the words “or substantial holder”; 10

(g) by inserting the word “or” at the end of subsection (3)(d)(i);

(h) by deleting sub-paragraphs (ii) and (iii) of subsection (3)(d) and substituting the following sub-paragraph:

“(ii) any substantial shareholder of the licensee;”;

(i) by inserting the word “or” at the end of subsection (3)(e)(i);

(j) by deleting sub-paragraphs (ii) and (iii) of subsection (3)(e) and substituting the following sub-paragraph:

“(ii) any substantial shareholder of the licensee;”;

(k) by inserting the word “or” at the end of subsection (3)(f)(i);

(l) by deleting sub-paragraphs (ii) and (iii) of subsection (3)(f) and substituting the following sub-paragraph:

“(ii) any substantial shareholder of the licensee;”;

(m) by inserting the word “or” at the end of subsection (3)(g)(i);

(n) by deleting sub-paragraphs (ii) and (iii) of subsection (3)(g) and substituting the following sub-paragraph:

“(ii) any substantial shareholder of the licensee;”;

(o) by inserting the word “or” at the end of subsection (3)(h)(i);
and

(p) by deleting sub-paragraphs (ii) and (iii) of subsection (3)(h)
and substituting the following sub-paragraph:

5 “(ii) any substantial shareholder of the
licensee.”.

Repeal and re-enactment of section 12

11. Section 12 of the Moneylenders Act is repealed and the
following section substituted therefor:

10 **“Approval concerning substantial shareholding**

12.—(1) No person may become a substantial shareholder of a
licensee without the written approval of the Registrar.

(2) No substantial shareholder of a licensee may increase his
substantial shareholding in a licensee without the written
15 approval of the Registrar.

(3) Subsections (1) and (2) do not apply in relation to any
licensee that has been admitted to the official list of a securities
exchange in Singapore and has not been removed from that list.

(4) An application for the Registrar’s approval mentioned in
subsection (1) or (2) must be made in such form and manner as
20 the Registrar may specify.

(5) On an application by a licensee for the Registrar’s approval
mentioned in subsection (1) or (2), the Registrar may —

(a) grant the approval applied for; or

25 (b) refuse to grant the approval applied for.

(6) The Registrar must refuse to grant an approval under
subsection (5)(b) if the Registrar is not satisfied that the applicant
is of good character and is a fit and proper person.

(7) Without limiting subsection (6), the Registrar may refuse to
grant approval under subsection (5)(b) to any person who,
30 whether before, on or after the date of commencement of
section 11 of the Moneylenders (Amendment) Act 2018 —

- (a) has been convicted of any offence involving dishonesty or moral turpitude;
 - (b) has been convicted of any offence under sections 43 to 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), the Terrorism (Suppression of Financing) Act (Cap. 325) or any regulation made under the United Nations Act (Cap. 339); 5
 - (c) is contravening or has contravened any provision of this Act or any corresponding previous written law; 10
 - (d) has been convicted of any offence under this Act or any corresponding previous written law; or
 - (e) has carried on any business of moneylending in Singapore or any foreign country or territory —
 - (i) for which the licence has been revoked or suspended under this Act or any corresponding previous written law; or 15
 - (ii) the approval, authorisation, registration or licence of or for which has been withdrawn, cancelled or revoked by a regulatory authority in that foreign country or territory. 20
- (8) The Registrar may cancel any approval granted under subsection (5)(a) in respect of a person if the Registrar —
- (a) has reasonable grounds to believe that the approval has been obtained by fraud or misrepresentation; 25
 - (b) is no longer satisfied that the person is of good character; or
 - (c) is no longer satisfied that the person is a fit and proper person.
- (9) The Registrar must not refuse to grant an approval under subsection (5)(b) or cancel any approval under subsection (8) without giving the person applying for the approval or to whom an approval was granted an opportunity to be heard. 30

(10) Where an approval granted under subsection (5)(a) is cancelled under subsection (8), the Registrar must notify the licensee concerned and the person in respect of whom the approval was granted of the cancellation and the date on which the approval is cancelled.

(11) Starting on the date after the date of cancellation of approval specified in the notice under subsection (10) —

(a) the person in respect of whom an approval to become a substantial shareholder of the licensee was cancelled must cease to be a substantial shareholder of the licensee; or

(b) the substantial shareholder in respect of whom the approval to increase his substantial shareholding in the licensee was cancelled must reduce his substantial shareholding in the licensee to a level required by the Registrar in the notice.

(12) The Registrar must not require any substantial shareholder mentioned in subsection (11)(b) to reduce his substantial shareholding to a level that is lower than his substantial shareholding prior to the increase for which the approval was cancelled.

(13) Every licensee must submit to the Registrar, in such form and manner and at such time as the Registrar may specify, the names and particulars of every person who, as at the date of the submission, is a substantial shareholder of the licensee.

(14) Where any person ceases to be a substantial shareholder of a licensee, the licensee must notify the Registrar in writing of the cessation not later than 7 days after becoming aware of the cessation.

(15) Any person who, without reasonable excuse, contravenes subsection (1), (2), (11), (13) or (14) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$20,000; and

- (b) in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part of a day during which the offence continues after conviction.

(16) Where —

- (a) a person has obtained the approval of the Registrar under section 12(1)(d)(i) as in force immediately before the date of commencement of section 11 of the Moneylenders (Amendment) Act 2018 for the person to become a substantial shareholder of a licensee; and

- (b) the approval has not been cancelled,

the person is treated as having been granted the written approval of the Registrar under subsection (5)(a) to become a substantial shareholder.

(17) Where —

- (a) a substantial shareholder has obtained the approval of the Registrar under section 12(1)(d)(ii) as in force immediately before the date of commencement of section 11 of the Moneylenders (Amendment) Act 2018 for the substantial shareholder to increase his substantial shareholding in the licensee; and

- (b) the approval has not been cancelled,

the substantial shareholder is treated as having been granted the written approval of the Registrar under subsection (5)(a) to increase his substantial shareholding.”.

Amendment of section 20

12. Section 20 of the Moneylenders Act is amended by deleting subsection (2) and substituting the following subsections:

“(2) A licensee shall be guilty of an offence if the licensee —

- (a) knowingly or recklessly makes or causes to be made any note of a contract for a loan in which the principal, the rate of interest or late interest or any permitted fee payable, is not truly stated; or

(b) makes or causes to be made any note of a contract for a loan in which the principal, the rate of interest or late interest or any permitted fee payable, is not stated.

5 (2A) A licensee who is guilty of an offence under subsection (2) shall be liable on conviction —

(a) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both; or

10 (b) if the licensee is a repeat offender, to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 12 months or to both.

(2B) In subsection (2A), a licensee is a repeat offender if the licensee has been convicted on at least one other earlier occasion of —

15 (a) an offence under subsection (2A) for contravening subsection (2); or

(b) an offence under subsection (2) as in force immediately before the date of commencement of section 12 of the Moneylenders (Amendment) Act 2018, whether the conviction was before, on or after that date.”.

20

Amendment of section 22

13. Section 22 of the Moneylenders Act is amended —

(a) by inserting, immediately after subsection (1), the following subsection:

25 “(1A) For the purposes of subsection (1), the Minister may prescribe different types or amounts of costs, charges and expenses that a licensee may impose —

30 (a) on different classes or descriptions of borrowers; and

(b) in relation to different classes or descriptions of loans.”; and

(b) by inserting, immediately after subsection (2), the following subsections:

“(3) A licensee shall be guilty of an offence if the licensee enters into a contract for a loan under which the borrower is required to pay any sum (not being a sum for or on account of stamp duties or fees payable by or under this Act or any other written law) on account of costs, charges or expenses other than or in excess of the permitted fees.

(4) A licensee who is guilty of an offence under subsection (3) shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.”.

New section 22A

14. The Moneylenders Act is amended by inserting, immediately after section 22, the following section:

“Maximum rate of interest and late interest

22A.—(1) A licensee must not enter into a contract for a loan under which the interest or late interest charged exceeds such maximum rate of interest or late interest as the Minister may prescribe.

(2) For the purposes of subsection (1), the Minister may prescribe different maximum rates of interest or late interest for different classes or descriptions of borrowers or loans.

(3) Where any contract for a loan has been entered into by a licensee in contravention of subsection (1) —

(a) the contract is unenforceable against the borrower or any surety;

(b) the licensee is not entitled to enforce any guarantee or security given for the loan; and

(c) any money paid by or on behalf of the licensee under the contract is not recoverable in any court of law.

(4) Any licensee who charges interest or late interest at a rate exceeding the maximum rate of interest or late interest that is prescribed for the loan shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.”.

Amendment of section 23

15 **15.** Section 23 of the Moneylenders Act is amended by deleting subsections (6), (7) and (8).

Amendment of section 24

10 **16.** Section 24 of the Moneylenders Act is amended —

(a) by deleting subsection (1) and substituting the following subsections:

“(1) Subject to subsection (2), every licensee must keep, or cause to be kept —

15 (a) every loan application form, and a copy of every document supporting the application, received by the licensee on or after the appointed day —

20 (i) in a case where the loan application is not approved, for a period of 5 years after the date on which the form or copy is received; or

25 (ii) in a case where the loan application is approved, for a period of 5 years after the date on which the loan is fully repaid or on which the contract for the loan is otherwise terminated;

30 (b) the note of contract in the prescribed form for every loan granted to a person by the licensee on or after the appointed day, for a period of 5 years after the date on which the loan is fully repaid or on which the contract for the loan is otherwise terminated;

(c) the following documents:

(i) a cash account book, in the prescribed form, containing an entry on every sum received or paid by a licensee relating to any recent loan; 5

(ii) a loan account book, in the prescribed form, containing an entry on every amount of repayment or sum paid to the account of any recent loan;

(iii) a list of borrowers containing the prescribed particulars of every borrower who is granted a recent loan; and 10

(d) such other documents as may be prescribed, for such period as may be prescribed. 15

(1A) Subject to subsection (1B), despite the revocation or expiry of the licence of a person, the person must continue to keep or cause to be kept each document mentioned in subsection (1) until the expiry of the period for which the document is required under subsection (1) to be kept or caused to be kept. 20

(1B) Despite subsection (1A), the Registrar may specify by notice in writing to the person whose licence is revoked or has expired, the time after which any document kept or caused to be kept under subsection (1) is to be disposed of by the person.”; 25

(b) by deleting the words “any accounts” in subsection (2) and substituting the words “or cause to be kept any loan application form”;

(c) by deleting subsection (3) and substituting the following subsection: 30

“(3) Every licensee must submit to the Registrar the following statements, in such form and manner, at

such frequency and within such time as may be prescribed:

(a) a statement showing every moneylending transaction entered into by the licensee during such period as may be prescribed;

(b) a statement showing the licensee's cash and loan position for such period as may be prescribed.”;

(d) by deleting subsection (5) and substituting the following subsection:

“(5) Any person who contravenes subsection (1), (1A) or (2), or who fails to comply with the Registrar's notice under subsection (1B), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.”;

(e) by inserting, immediately after subsection (8), the following subsection:

“(9) In this section —

“recent loan”, in relation to a cash account book, loan account book or list of borrowers kept or caused to be kept by a licensee, means a loan granted by the licensee whether before, on or after the appointed day —

(a) that has not been fully repaid and the contract for the loan has not otherwise been terminated; or

(b) where the loan has been fully repaid or the contract for the loan has otherwise been terminated, the full repayment or the termination, as the case may be, occurred within the period of 5 years before the date of the last entry in the cash account

book, loan account book or list of borrowers, as the case may be;

“appointed day” means the date of commencement of section 16(a) of the Moneylenders (Amendment) Act 2018.”; and

5

(f) by inserting, immediately after the word “Accounts” in the section heading, the word “, etc.,”.

New sections 24A to 24D

17. The Moneylenders Act is amended by inserting, immediately after section 24, the following sections:

10

“Audit of licensee’s accounts

24A.—(1) Despite the provisions of the Companies Act (Cap. 50), a licensee must —

- (a) on an annual basis, appoint an auditor who is a public accountant under the Accountants Act (Cap. 2); and
- (b) if for any reason its auditor ceases to be its auditor, appoint another auditor who is a public accountant under the Accountants Act, as soon as practicable after such cessation.

15

(2) The licensee must notify the Registrar in writing of an appointment under subsection (1) as soon as practicable after the appointment.

20

(3) The Registrar may appoint an auditor —

- (a) if the licensee fails to comply with subsection (1); or
- (b) if the Registrar considers it desirable that another auditor should act with the auditor appointed by the licensee under subsection (1),

25

and may at any time fix the remuneration to be paid by the licensee to the auditor the Registrar appoints.

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

30

- (a) to carry out, for the year in respect of which the auditor is appointed, an audit of the licensee's accounts; and
- (b) to make a report on the licensee's financial statements or consolidated financial statements in accordance with section 207 of the Companies Act.

5
10 (5) The Registrar may, by notice in writing to an auditor appointed under subsection (1) or (3), impose all or any of the following duties on the auditor in addition to those provided for 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 Registrar considers necessary;
- (b) a duty to enlarge or extend the scope of the audit of the licensee'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 make a report on any of the matters mentioned in paragraphs (b) and (c).

15
20 (6) The licensee must remunerate the auditor in respect of —

- (a) such remuneration the Registrar has fixed under subsection (3); and
- (b) the discharge of all or any of the additional duties of the auditor imposed under subsection (5).

25
30 (7) Despite any other provision of this Act or the provisions of the Companies Act, the Registrar may, if the Registrar is not satisfied with the performance of any duty by the auditor of the licensee, at any time direct the licensee —

- (a) to remove the auditor; and
- (b) to appoint another auditor who is a public accountant under the Accountants Act.

(8) The licensee must submit, or cause to be submitted, the following documents to the Registrar within such time as the Registrar may specify by notice in writing:

(a) a copy of the auditor's report made under subsection (4)(b), attached to the licensee's financial statements or consolidated financial statements; 5

(b) a copy of any report made under subsection (5)(d).

(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; 10

(b) a criminal offence involving fraud or dishonesty has been committed; or

(c) serious irregularities have occurred, including irregularities that compromise the confidentiality, security or integrity of any data obtained, used or disclosed by the licensee, 15

the auditor must immediately report the matter to the Registrar.

(10) Where an auditor or employee of the auditor discloses in good faith to the Registrar — 20

(a) the auditor's or the employee's knowledge or suspicion of any of the matters in subsection (9); or

(b) any information or other matter on which that knowledge or suspicion is based,

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 licensee who contravenes subsection (1) or (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both. 30

(12) Any auditor who contravenes subsection (5) or (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

5 (13) In this section —

“consolidated financial statements” and “financial statements” have the same meanings as in section 209A of the Companies Act;

10 “data” and “integrity” have the same meanings as in section 30B.

Powers of auditor appointed by Registrar

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

15 (a) examine, on oath or affirmation, any officer or employee of the licensee, or any other auditor of the licensee appointed under section 24A or under the Companies Act (Cap. 50);

20 (b) require any officer or employee of the licensee, or any other auditor of the licensee appointed under section 24A or under the Companies Act, to produce any book held by or on behalf of the licensee relating to the licensee’s business of moneylending;

25 (c) make copies of or take extracts from, or retain possession of, any book mentioned in paragraph (b) for such period as may be necessary to enable it to be inspected;

30 (d) employ such persons as the auditor considers necessary to assist the auditor in carrying out the examination or audit; and

(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.

- (2) Any individual who, without reasonable excuse —
- (a) fails to answer any question put to that individual; or
 - (b) fails to comply with any request made to that individual,

5

by an auditor appointed under section 24A(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 \$20,000.

(3) In this section, “officer”, in relation to a licensee, means any director, member of the committee of management, chief executive, manager, secretary or other similar officer of the licensee and includes any person purporting to act in any such capacity.

10

Restriction on right to communicate certain matters relating to audit of licensee’s accounts

15

24C.—(1) Except as may be necessary for the carrying into effect of the provisions of this Act, or for the purpose of an investigation into any offence under any written law, or so far as may be required for the purposes of any legal proceedings (whether civil or criminal) —

20

- (a) an auditor appointed under section 24A; 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 Registrar, and in the case of an employee of such auditor, the auditor.

25

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

30

Offence to destroy, conceal, etc., records to prevent, delay, etc., audit of licensee's accounts

5 **24D.**—(1) Any individual who, with intent to prevent, delay or obstruct the carrying out of any examination or audit under section 24A or 24B —

(a) destroys, conceals or alters any book relating to the business of a licensee; or

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

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

15 (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

20 (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 24A or 24B lies on that individual.”.

25 **New Part IIIA**

18.—(1) The Moneylenders Act is amended by inserting, immediately after section 30A, the following Part:

“PART IIIA

COLLECTION, USE AND DISCLOSURE OF BORROWER
INFORMATION AND DATA*Division 1 — General***Interpretation of this Part**

5

30B. In this Part, unless the context otherwise requires —

“borrower information”, in relation to a licensee, means —

- (a) any information relating to a person or a loan applied for or granted to that person, that is in the possession or under the control of the licensee; 10
- (b) any information relating to a person or a loan, that is obtained by the licensee under section 30N;
- (c) the prescribed information mentioned in section 30P(1)(a) relating to the repayment of a loan granted by the licensee, or any instalment of such repayment; or 15
- (d) the prescribed information mentioned in section 30P(1)(b) relating to any writing off of any debt arising from a loan granted by the licensee, 20

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

“chief executive officer”, in relation to the designated credit bureau, means an individual, by whatever name described, who — 25

- (a) is in the direct employment of, or acting for or by arrangement with, the designated credit bureau; and
- (b) is principally responsible for the management and conduct of the business of the designated credit bureau; 30

“credit report” means a report prepared by the designated credit bureau under section 30V using borrower information provided by at least one licensee for the purposes of —

5 (a) enabling a licensee to assess the creditworthiness of a person, including —

 (i) information about the person’s history in relation to loans with one or more licensees;

10 (ii) information about the person’s capacity to repay loans granted by one or more licensees to the person; and

 (iii) any other information relating to the person’s creditworthiness; and

15 (b) enabling a licensee to comply with any restriction imposed under this Act as to the maximum amount that may be lent to a borrower or to a class or description of borrowers to which a borrower belongs;

20 “data” means —

 (a) borrower information of a licensee;

 (b) any information in a credit report;

 (c) any information in a loan information report; or

25 (d) any information relating to a person or a loan, that is processed by the designated credit bureau in the course of preparing, providing or maintaining a credit report or loan information report;

30 “designated credit bureau” means the person that is for the time being designated under section 30D(1) as the designated credit bureau;

 “employee” includes an individual seconded from another employer;

“executive officer”, in relation to the designated credit bureau, means any individual, by whatever name described, who —

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

(b) is concerned with or takes part in the management of the designated credit bureau on a day-to-day basis;

“information technology system”, in relation to the designated credit bureau, means computer servers and network equipment operated, maintained or used by the designated credit bureau in the performance of its duties under this Part, and any other electronic device that contains data;

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

“loan information report” means a report prepared by the designated credit bureau under section 30Y using borrower information provided by at least one licensee;

“officer” has the same meaning as in section 33(5);

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

(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;

(f) to disclose or report the data;

(g) to erase or destroy the data;

“public agency” means —

(a) the Government, including any ministry, department and agency of the Government;

(b) any statutory body; or

(c) any Organ of State;

“relevant business”, in relation to the designated credit bureau, means any of its business in relation to which a statutory manager has been appointed under section 30I(2)(d);

“statutory manager” means a statutory manager appointed under section 30I(2)(d);

“subsequent designated credit bureau” means a company that is designated by the Registrar under section 30D(1) in place of a designated credit bureau which designation has been cancelled under section 30F or 30G.

Application of this Part

30C. Unless otherwise provided, the provisions in Divisions 4, 5 and 6 of this Part are in addition to, and do not derogate from, anything in the Personal Data Protection Act 2012 (Act 26 of 2012).

Division 2 — Designation of designated credit bureau and cancellation of designation

Designation, etc., of designated credit bureau

30D.—(1) The Registrar may designate a company within the meaning of section 4(1) of the Companies Act (Cap. 50), with the consent of the company, to be the designated credit bureau for the purposes of this Act.

(2) Only one company may be designated under subsection (1) at any one time.

(3) The Registrar must not designate any company under subsection (1) unless the Registrar has approved a plan submitted by the company that sets out the steps to be taken by the company in the event of the impending cancellation of the designation of that company, so as to ensure continuity in the performance of the functions set out in section 30E by the subsequent designated credit bureau or a statutory manager. 5

(4) Notice of the designation must be published in the *Gazette*.

(5) A person that is not the designated credit bureau must not hold itself out as the designated credit bureau. 10

(6) Any person who contravenes 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 \$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 15

(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. 20

Functions of designated credit bureau

30E. Subject to the provisions of this Part, the functions of the designated credit bureau are as follows: 25

(a) to prepare and provide credit reports and loan information reports in accordance with the provisions of this Part;

(b) to serve as a repository of data from which the Registrar or any public agency may obtain data for the purpose of policy formulation or review. 30

Cancellation of designation by Registrar

30F.—(1) The Registrar may, by notice in writing, cancel the designation of the designated credit bureau if —

(a) the Registrar is not satisfied with —

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

(ii) the manner in which the designated credit bureau's business is being conducted;

(b) the designated credit bureau is contravening or has contravened any provision of this Part, or any direction or notice issued, or any condition imposed, by the Registrar under this Part;

(c) it appears to the Registrar that the designated credit bureau is failing or has failed to satisfy any of its obligations under or arising from this Part, or any direction or notice issued, or any condition imposed, by the Registrar under this Part;

(d) the designated credit bureau has provided to the Registrar any information or document required under this Part that is false or misleading; or

(e) the designated credit bureau, or any of its officers or employees, has not performed its or the officer's or employee's duties under this Part honestly.

(2) Subject to subsection (3), the Registrar must not cancel the designation of the designated credit bureau without giving the designated credit bureau an opportunity to be heard.

(3) The Registrar may, without giving the designated credit bureau an opportunity to be heard, cancel the designation of the designated credit bureau in any of the following circumstances:

(a) the designated credit bureau is insolvent, becomes unable to meet its obligations, or suspends payments;

(b) the designated credit bureau informs the Registrar 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;

(c) the Registrar is of the opinion that the designated 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 designated credit bureau; or

(ii) is or is likely to become insolvent, is or is likely to become unable to meet its obligations, or is about to suspend payments;

(d) the designated credit bureau is wound up or otherwise dissolved, whether in Singapore or elsewhere;

(e) it appears to the Registrar that it would be contrary to the public interest for the designated credit bureau to continue its operations.

(4) The cancellation of the designation of a designated credit bureau takes effect on such date as the Registrar may specify in the written notice mentioned in subsection (1), being a date not earlier than the date that the notice is served on the designated credit bureau.

(5) Despite subsection (4), if the Registrar is of the view that it is necessary —

(a) for the cancellation of the designation of the designated credit bureau to take effect on a later date, pending the designation of a subsequent designated credit bureau; or

(b) for the cancellation of the designation of the designated credit bureau to take effect on an earlier date so that a subsequent designated credit bureau can be designated,

the Registrar may, by a further notice in writing to the designated credit bureau, specify a different date (being a date not earlier than the date that the further notice is served on the designated

credit bureau) on which the cancellation of the designation is to take effect, and the cancellation takes effect on the date specified in the further notice.

5 (6) Notice of the cancellation of the designation must be published in the *Gazette*.

10 (7) If the designated credit bureau or former designated credit bureau is aggrieved by the decision of the Registrar under subsection (1) or (3), the designated credit bureau or former designated credit bureau may appeal in writing to the Minister within 14 days after the written notice mentioned under subsection (1) or (5) is served.

(8) Despite the lodging of an appeal under subsection (7), the cancellation of the designation takes effect —

15 (a) on the date stated in the written notice under subsection (1); or

(b) if a further notice mentioned in subsection (5) is served, on the date specified in the further notice,

20 unless the cancellation of the designation is withdrawn by the Registrar before the date mentioned in paragraph (a) or (b), whichever is applicable.

(9) The decision of the Minister on an appeal lodged under subsection (7) is final.

Application by designated credit bureau to cancel designation

25 **30G.**—(1) The designated credit bureau may apply for the cancellation of its designation upon giving prior notice, of such period as may be prescribed or such shorter period as the Registrar may allow, of its intention to do so.

30 (2) Where notice has been given under subsection (1) and has not been withdrawn, the designation is treated as cancelled upon the expiry of the notice period mentioned in that subsection.

(3) Notice of the cancellation of the designation must be published in the *Gazette*.

Division 3 — Control of designated credit bureau

Power to issue directions

30H.—(1) For the purpose of carrying out the provisions of this Part, the Registrar may give written directions, either of a general or specific nature, to the designated credit bureau. 5

(2) The Registrar may, in particular, give directions setting out —

(a) the manner in which the designated credit bureau is to perform its duties under this Part;

(b) the manner in which data is to be processed by the designated credit bureau, including the requirement to preserve metadata in the course of processing data; or 10

(c) the requirements relating to the availability or performance of any electronic online system used by the designated credit bureau for the collection, use or disclosure of borrower information or data. 15

(3) Where the designated credit bureau, without reasonable excuse, fails to comply with a direction under subsection (1), the designated credit bureau shall be guilty of an offence and shall be liable on conviction — 20

(a) to a fine not exceeding \$100,000; and

(b) 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.

Registrar’s control over designated credit bureau 25

30I.—(1) This section and sections 30J to 30M apply —

(a) after the written notice of the Registrar under section 30F(1) cancelling the designation of the designated credit bureau has been served, but before the cancellation takes effect; or 30

(b) after the application for the cancellation of the designation of the designated credit bureau is made

by the designated credit bureau under section 30G(1), but before the cancellation takes effect.

(2) The Registrar may do any one or more of the following:

5 (a) direct the designated credit bureau to transfer all data in the possession or under the control of the designated credit bureau to the subsequent designated credit bureau or a statutory manager;

10 (b) without limiting paragraph (a), require that the designated credit bureau comply with the plan submitted by the designated credit bureau and approved by the Registrar under section 30D(3);

15 (c) require the designated credit bureau to immediately take any action or to do or not to do any act as the Registrar may consider necessary to ensure continuity in the performance of the functions set out in section 30E by the subsequent designated credit bureau or a statutory manager;

20 (d) appoint one or more persons as statutory manager to assume control of and manage such of the business (including affairs and property) of the designated credit bureau under this Part on such terms as the Registrar may specify.

25 (3) Where the Registrar appoints 2 or more persons as statutory manager of the designated credit bureau, the Registrar 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.

(4) Where the Registrar has exercised any power under subsection (2), the Registrar may at any time do one or more of the following:

(a) vary or revoke any requirement of, any appointment made by, or any action taken by, the Registrar under subsection (2), on such terms as the Registrar may specify;

(b) add to, vary or revoke any term the Registrar has specified under this section. 5

(5) A statutory manager 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 — 10

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

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

(c) the compliance or purported compliance with this Part. 15

(6) Where the designated credit bureau, without reasonable excuse, fails to comply with a direction or requirement of the Registrar under subsection (2)(a), (b) or (c), the designated credit bureau shall be guilty of an offence and shall be liable on conviction — 20

(a) to a fine not exceeding \$100,000; and

(b) 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. 25

Assumption of control

30J.—(1) Upon assuming control of any business of the designated credit bureau under section 30I(2)(d), the statutory manager must take custody or control of the relevant business.

(2) During the period when the statutory manager is in control of the relevant business of the designated credit bureau, the statutory manager must manage the relevant business in the name of and on behalf of the designated credit bureau. 30

(3) In managing the relevant business of the designated credit bureau, the statutory manager —

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

(b) has all the duties, powers and functions of the members of the board of directors (collectively and individually) of the designated credit bureau, including powers of delegation, in relation to the relevant business, under —

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

(ii) the constitution of the designated credit bureau.

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

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

(a) upon the statutory manager assuming control of any business of the designated credit bureau under section 30I(2)(d), any appointment of an individual as chief executive officer or director of the designated credit bureau that was in force immediately before the assumption of control is treated as revoked, unless the Registrar gives his approval, by notice in writing to the individual and the designated credit bureau, for the individual to remain in the appointment; and

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

(6) Where the Registrar has given his approval under subsection (5) for an individual to remain in the appointment of, or to be appointed as, chief executive officer or director of the designated credit bureau, the Registrar may at any time, by notice in writing to the individual, revoke his 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 the designated 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 designated credit bureau during the period when the statutory manager is in control of the relevant business of the designated credit bureau under section 30I(2)(d) — 10 15

(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 if the individual so acts or purports to act without reasonable excuse. 20

(8) Despite any written law or rule of law, if any individual who is appointed as chief executive officer or director of the designated credit bureau in contravention of subsection (5) acts or purports to act as chief executive officer or director of the designated credit bureau during the period when the statutory manager is in control of the relevant business of the designated credit bureau under section 30I(2)(d) — 25

(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 if the individual so acts or purports to act without reasonable excuse. 30

(9) During the period when the statutory manager is in control of the relevant business of the designated credit bureau —

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

(i) a direction or decision given by the statutory manager (including a direction or decision given to a person or body of persons mentioned in 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 designated credit bureau or any trustee for the designated 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 designated credit bureau in any manner that may defeat or interfere with any duty, power or function of the 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 —

(a) to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; and

(b) 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 assumption of control

30K.—(1) A statutory manager is treated to have assumed control of the relevant business of the designated credit bureau on the date of the statutory manager's appointment as a statutory manager.

(2) Without affecting the generality of section 30I(4)(a), the Registrar may at any time revoke the appointment of a statutory

manager in relation to the relevant business of the designated credit bureau —

- (a) if the Registrar 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 designated credit bureau is compromised;
- (c) if a subsequent designated credit bureau is designated; or
- (d) on any other ground.

(3) The statutory manager must cease to be in control of the relevant business of the designated credit bureau upon revocation of its appointment under subsection (2) or section 30I(4)(a).

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

- (a) the appointment of a statutory manager in relation to the relevant business of the designated credit bureau; and
- (b) the revocation of a statutory manager's appointment in relation to the relevant business of the designated credit bureau.

Responsibilities of directors, officers, etc., of designated credit bureau during period of control

30L.—(1) During the period when the statutory manager is in control of the relevant business of the designated credit bureau —

- (a) the High Court may, on an application of the statutory manager, direct any former or current relevant person of the designated credit bureau to pay, deliver, convey, surrender or transfer to the statutory manager, within such period as the High Court may specify, any property or book of the designated credit bureau that —

(i) forms part of or relates to the relevant business of the designated credit bureau under this Part; and

(ii) is in the person's possession or control; and

5 (b) any former or current relevant person of the designated credit bureau must provide the statutory manager such information as the statutory manager may require to —

(i) discharge its duties or functions; or

10 (ii) exercise its powers,

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

(2) Any person who —

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

(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,

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

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

30 **Remuneration and expenses of statutory manager**

30M. The Registrar may at any time fix the remuneration and expenses to be paid by the designated credit bureau to a statutory

manager appointed in relation to the designated credit bureau, whether or not the appointment has been revoked.

Division 4 — Duties of licensees in relation to borrower information and data, etc.

Duties to obtain and submit borrower information, etc., before granting loan

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30N.—(1) Every licensee must, before granting any loan to an applicant for a loan, obtain from the applicant the following information in relation to the applicant and the loan:

- (a) if the applicant is an individual, the applicant’s full name (including any alias), date of birth, personal identification number (such as NRIC number, birth certificate number or passport number), nationality, residential address and telephone number; 10
- (b) if the applicant is a body corporate — 15
 - (i) its name, address of its place of business or registered office, telephone number, date and place of incorporation and incorporation number; and
 - (ii) the names, personal identification numbers (such as NRIC number, birth certificate number or passport number) and residential addresses of — 20
 - (A) in the case where the applicant is a limited liability partnership, the managers and partners of the applicant; or 25
 - (B) in any other case, the applicant’s substantial shareholders and officers;
- (c) if the applicant is a partnership or unincorporated association — 30
 - (i) its name, address of its place of business or registered office, telephone number, date and place of registration and registration number;

(ii) the names, personal identification numbers (such as NRIC number, birth certificate number or passport number) of every partner or member who is an individual and of its officers; and

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(iii) the names, places of incorporation, incorporation numbers and addresses of the places of business or registered offices of any partner which is a corporation;

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(d) any other information in relation to the applicant and the loan, that is prescribed by the Minister, having regard to the purposes of a credit report.

(2) The licensee must verify the accuracy of any information mentioned in subsection (1) that relates to the applicant, by checking the information and the identity of the applicant against genuine, complete and up-to-date documents of the applicant, before submitting the information.

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(3) The licensee must, within the prescribed time after the receipt of an application for a loan from an applicant and before granting any loan to the applicant, submit the information mentioned in subsection (1) and information about the principal of the loan, to the designated credit bureau in the prescribed manner.

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(4) Before submitting any information to the designated credit bureau under subsection (3), the licensee must inform the applicant in writing from whom the information is obtained under subsection (1) —

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(a) that the information obtained from the applicant is to be submitted to the designated credit bureau for the purpose of producing a credit report in relation to the applicant; and

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(b) that any of that information may be disclosed by the designated credit bureau to —

(i) the Registrar; and

- (ii) any public agency, if the Registrar is satisfied that the information is necessary for policy formulation or review by the public agency.

(5) No licensee may grant any loan to an applicant for a loan unless the licensee — 5

- (a) has submitted, within the prescribed time after the receipt of the loan application and in the prescribed manner, a request to the designated credit bureau for a credit report in relation to the applicant; and

- (b) has obtained a credit report in relation to the applicant within the prescribed time before the loan is granted. 10

(6) The request submitted by the licensee under subsection (5)(a) must be accompanied by —

- (a) a declaration as to whether —

- (i) the licensee is submitting the request for a purpose other than for assessing the creditworthiness of the applicant in question and for complying with any restriction imposed under this Act as to the maximum amount that may be lent to the applicant; and 15 20

- (ii) the licensee has a valid licence issued under section 5 at the time of the request; and

- (b) any other document or information that the Minister may prescribe for the purposes of this subsection.

(7) Upon obtaining a credit report in relation to an applicant for a loan, a licensee must — 25

- (a) if the licensee intends to grant the loan —

- (i) inform the designated credit bureau in the prescribed manner and before the licensee grants the loan, of any change in the information submitted under subsection (3); and 30

(ii) submit to the designated credit bureau in the prescribed manner and before the licensee grants the loan, information on the frequency of repayment of the loan, the amount of each repayment, the rate of interest and late interest (if any), and any late payment fee or any permitted fee payable under the contract for the loan; and

(b) if the licensee declines to grant the loan, inform the designated credit bureau in the prescribed manner and within the prescribed time of the reason or reasons for so declining.

(8) Any licensee who without reasonable excuse contravenes subsection (1), (2), (3), (4), (5), (6) or (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

(9) Any licensee who submits under subsection (6)(a) a declaration that is false shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

Credit report to be disposed of or kept by licensee

300.—(1) Where a licensee declines to grant a loan to an applicant for a loan, the licensee must dispose of the credit report (including any information in the credit report) obtained under section 30N(5)(b) in relation to the applicant, on the same day that the licensee informs the designated credit bureau under section 30N(7)(b) of the reason or reasons for so declining.

(2) Every licensee who enters into a contract for a loan with a borrower must —

(a) keep or cause to be kept the credit report obtained under section 30N(5)(b) for the purposes of the loan for a period of 5 years after the date on which the loan is fully repaid or on which the contract for the loan is otherwise terminated; and

(b) immediately dispose of that credit report upon the expiry of the period mentioned in paragraph (a).

(3) Any licensee who without reasonable excuse contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

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Duty to submit information of repayments and instalments

30P.—(1) A licensee must submit the following information to the designated credit bureau within such time as may be prescribed:

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(a) information relating to any repayment of a loan granted by the licensee or any instalment of a repayment of such loan;

(b) information relating to the writing off of any debt arising from a loan granted by the licensee.

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(2) Any licensee who without reasonable excuse contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

Duty to maintain confidentiality of borrower information

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30Q.—(1) A licensee and any of the licensee's officers or employees must not request from the designated credit bureau any borrower information (including a credit report relating to a person) of the licensee or any other licensee, except for the purposes of section 30N(5)(b).

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(2) A licensee and any of the licensee's officers or employees must not use any borrower information (including any such information in a credit report) of the licensee or any other licensee received from the designated credit bureau, except where —

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(a) the borrower information is strictly necessary to assess the creditworthiness of an applicant for a loan from the licensee; or

(b) the borrower information is to be used by the licensee for determining the maximum amount that the licensee may lend to an applicant for a loan from the licensee.

5 (3) A licensee and any of the licensee's officers or employees must not disclose to any other person any borrower information of the licensee or any other licensee (including any such information in a credit report) except —

10 (a) to the designated credit bureau, to the extent that the borrower information is required to be submitted under section 30N or 30P;

(b) to the person to which the borrower information relates;

15 (c) to the Registrar or any officer duly authorised by the Registrar, to the extent that the borrower information is required to be furnished under section 25;

(d) to the Registrar, to the extent that the borrower information is required to be submitted under section 30T; or

20 (e) to the licensee, where the disclosure of borrower information of the licensee is by any of the licensee's officers or employees.

25 (4) Any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

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

30 (a) where borrower information of a licensee may be disclosed under subsection (3) to any person that is a body corporate, the borrower 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 or employee of the licensee not to disclose any borrower information of any licensee mentioned in subsection (3) continues after the termination or cessation of his appointment, employment, engagement or other capacity or office in which he has been provided the borrower information.

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Duty to maintain security and integrity of borrower information, etc.

30R.—(1) A licensee must —

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- (a) ensure the integrity of any borrower information it provides to the designated credit bureau; and
- (b) protect any information in any credit report received from the designated credit bureau by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks.

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(2) Any licensee who without reasonable excuse contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

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Duty to correct borrower information

30S.—(1) A person may request a licensee to correct any error or omission in the licensee's borrower information that relates to that person.

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

- (a) inform the Registrar and the designated credit bureau of the request as soon as practicable after receiving the request;
- (b) conduct and complete an investigation to ascertain the integrity of the borrower information within such period as the Minister may prescribe; and

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(c) unless the licensee is satisfied on reasonable grounds that a correction should not be made, within such period as the Minister may prescribe —

(i) correct the borrower information in question;
and

(ii) send the corrected borrower information to the designated credit bureau.

(3) Upon receiving a request of the designated credit bureau under section 30Z(3)(b), the licensee must —

(a) inform the Registrar of the request as soon as practicable after receiving the request;

(b) conduct and complete an investigation to ascertain the integrity of the borrower information of the licensee that is the subject of the request, within such period as the Minister may prescribe; and

(c) unless the licensee is satisfied on reasonable grounds that a correction should not be made, within such period as the Minister may prescribe —

(i) correct the borrower information in question;
and

(ii) send the corrected borrower information to the designated credit bureau.

(4) Any licensee who without reasonable excuse contravenes subsection (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

Duty to submit borrower information to Registrar

30T.—(1) For the purpose of determining whether this Act has been complied with, or for the purpose of policy formulation or review by the Registrar or by any public agency, the Registrar or any officer duly authorised by the Registrar may, by notice in writing to a licensee, direct that the licensee submit to the

Registrar or the officer any borrower information of the licensee —

- (a) in relation to any person or loan specified in the notice; and
- (b) within such period and in such form and manner specified in the notice.

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(2) Any licensee who without reasonable excuse fails to comply with any notice under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

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Duties under this Part applicable in relation to persons with revoked or expired licences

30U.—(1) Where the licence of a person is revoked or has expired, the following duties continue to apply to the person in relation to moneylending transactions entered into by the person before the revocation or expiry of the licence:

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- (a) subject to subsection (2), the duties under section 30O(2) to keep or cause to be kept, and to dispose of, a credit report (including any information in a credit report);
- (b) the duties under section 30P(1) to submit information relating to the repayment of a loan or any instalment of the repayment of a loan, and information relating to the writing off of any debt arising from a loan;
- (c) the duties under section 30Q(2) and (3) concerning the use and disclosure of borrower information;
- (d) the duties under section 30R(1) to ensure the integrity of borrower information and to protect any information in any credit report;
- (e) the duties under section 30S(2) and (3) relating to the correction of borrower information;

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(f) the duty under section 30T(1) to submit borrower information to the Registrar.

(2) A person mentioned in subsection (1) must dispose of any credit report (including any information in a credit report) by such date as the Registrar may specify by notice in writing.

(3) For the purposes of section 30Q, a reference to an officer or employee of a licensee includes a reference to an officer or employee of a person whose licence has been revoked or has expired.

(4) Any person who without reasonable excuse contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

Division 5 — Duties of designated credit bureau in relation to borrower information and data, etc.

Production of credit reports and charging of fees, etc.

30V.—(1) Subject to subsections (3) and (4), upon receiving a request by a licensee for a credit report in relation to a person under section 30N(5)(a), the designated credit bureau must prepare and deliver to the licensee a credit report —

(a) containing such information in relation to that person as the Minister may prescribe, having regard to the purposes of a credit report; and

(b) within the prescribed time and in the prescribed manner.

(2) The designated credit bureau may, each time it delivers a credit report to a licensee under subsection (1), charge a fee not exceeding an amount that is approved by the Registrar.

(3) Despite subsections (1)(a) and (2), the designated credit bureau may, by agreement with a licensee making a request under section 30N(5)(a) for a credit report —

(a) deliver at the prescribed time and in the prescribed manner to that licensee a credit report containing

information in addition to that prescribed under subsection (1)(a); and

- (b) charge that licensee for the additional information, a fee in addition to that which is approved by the Registrar under subsection (2). 5

(4) The designated credit bureau must not deliver any credit report to a licensee under subsection (1) or (3) if it is not satisfied that —

- (a) the licensee has submitted the declaration mentioned in section 30N(6)(a) and any other document or information required under section 30N(6)(b); and 10

- (b) the licensee has a valid licence issued under section 5.

(5) If the designated credit bureau without reasonable excuse contravenes subsection (1) or (4), the designated credit bureau shall be guilty of an offence and shall be liable on conviction — 15

- (a) to a fine not exceeding \$250,000; and

- (b) 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.

Duties relating to borrower information 20

30W.—(1) The designated credit bureau and any of its officers or employees must not use any borrower information received from any licensee except for the purpose of —

- (a) producing and delivering a credit report under section 30V or a loan information report under section 30Y; 25

- (b) correcting the data in the possession or under the control of the designated credit bureau under section 30Z(6); or

- (c) disclosing the borrower information in such form as directed by the Registrar under section 30ZC. 30

(2) The designated credit bureau and any of its officers or employees must not disclose (whether in the form of a credit report or loan information report or otherwise) any borrower information received from any licensee to any person except —

5 (a) to a licensee, to the extent that the borrower information has been required or permitted to be disclosed under section 30V;

 (b) to the person to which the borrower information relates under section 30Y;

10 (c) to the Registrar, in accordance with section 30ZB; or

 (d) to a public agency, to the extent that the borrower information has been directed by the Registrar under section 30ZC(2)(c) to be disclosed to that public agency, and in accordance with such conditions as the
15 Registrar may specify under section 30ZC(3).

(3) Despite anything in this section, an officer or employee of the designated credit bureau may disclose borrower information received from a licensee to another officer or employee of the designated credit bureau, if the disclosure is solely in connection
20 with the performance of the duties of such officer or employee, as the case may be.

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

25 (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.

(5) This section applies to any data received by the designated credit bureau in a request under section 30Z(1) as it applies to
30 borrower information received from any licensee.

Duty to maintain security and integrity of data

30X.—(1) Subject to the provisions of this Part, the designated credit bureau must, in respect of any data that it receives from a licensee —

- (a) ensure the integrity of the data that the designated credit bureau processes (except where erasing or destroying such data); and 5
- (b) protect the data by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks. 10

(2) Without limiting subsection (1)(a), the designated credit bureau must update its information technology system or any of its books containing any data, at least once a day or at such other frequency as the Minister may prescribe. 15

(3) For the purposes of subsection (1)(a), the integrity of any data of the designated credit bureau is assumed unless the designated credit bureau is required or directed to correct the data under section 30Z(2)(a), (3)(a), (5) or (6).

(4) If the designated credit bureau without reasonable excuse contravenes subsection (1) or (2), the designated credit bureau shall be guilty of an offence and shall be liable on conviction — 20

- (a) to a fine not exceeding \$250,000; and
- (b) 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

Duty to provide loan information report

30Y.—(1) Upon the request of any person, the designated credit bureau must, within one business day after the request or such other period as the Minister may prescribe, provide the person with a loan information report — 30

- (a) that is prepared using data in the possession or under the control of the designated credit bureau; and

(b) that contains such information as the Minister may prescribe relating to —

(i) each loan granted by a licensee to that person that has not been fully repaid or in respect of which the contract for the loan has not otherwise been terminated; and

(ii) any pending application for a loan made by that person from any licensee.

(2) The designated credit bureau may charge a person a fee each time the designated credit bureau provides the person with a loan information report under subsection (1).

(3) The designated credit bureau must provide the loan information report mentioned in subsection (1) to a person, in one of the following forms at the person's option:

(a) a physical copy to be collected by the person at the registered office of the designated credit bureau;

(b) a physical copy sent by registered post to an address specified by the person;

(c) an electronic copy sent by electronic mail to an electronic mail address specified by the person.

(4) If the designated credit bureau without reasonable excuse contravenes subsection (1) or (3), the designated credit bureau shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$250,000; and

(b) 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, etc., on request

30Z.—(1) A person may request the designated credit bureau to correct an error or omission in any data —

(a) relating to that person or any loan applied for by that person; and

(b) that is in the possession or under the control of the designated credit bureau.

(2) Upon receiving a request under subsection (1), the designated credit bureau must, within such period after receiving such request as the Registrar may specify by notice in writing —

(a) correct the error or omission in the data in question if the designated credit bureau is satisfied on reasonable grounds and without an investigation, that the correction should be made; or

(b) conduct and complete an investigation to ascertain the integrity and source of the data in question.

(3) Upon completing the investigation mentioned in subsection (2)(b), unless the designated credit bureau is satisfied on reasonable grounds that a correction should not be made, the designated credit bureau must comply with the following:

(a) in a case where it is ascertained from the investigation that the error or omission in the data in question —

(i) occurred or arose out of or in the course of the processing of the data in question by the designated credit bureau; or

(ii) occurred or arose as a result of any malfunction in the information technology system used by the designated credit bureau,

the designated credit bureau must immediately correct the error or omission;

(b) in any other case, the designated credit bureau must —

(i) identify the licensee who submitted the borrower information in question to the designated credit bureau; and

(ii) immediately contact the licensee to request that the licensee conduct an investigation to

ascertain the integrity of the borrower information of the licensee.

5 (4) If the licensee mentioned in subsection (3)(b) cannot be contacted by the designated credit bureau by any of the prescribed means and within the prescribed time, the designated credit bureau must immediately notify the Registrar of this fact.

10 (5) Upon being notified by the designated credit bureau under subsection (4), the Registrar may investigate into the request made under subsection (1), and may direct the designated credit bureau to correct the error or omission in question if the Registrar is satisfied, from any document submitted by the person making the request, that the error or omission ought to be corrected despite the absence of any investigation by the licensee.

15 (6) Upon receiving any corrected borrower information from a licensee under section 30S(2)(c) or (3)(c), the designated credit bureau must immediately correct the error or omission in question in the data in the possession or under the control of the designated credit bureau by relying on the corrected borrower information.

20 (7) Unless otherwise directed by the Registrar by notice in writing, the designated credit bureau must keep or cause to be kept for a period of 5 years after the date of every request under subsection (1) or the date of receipt of any corrected borrower information sent by a licensee under section 30S(2)(c) or (3)(c), the following information:

(a) the name of the person who made the request or the licensee who sent the corrected borrower information;

30 (b) the name of the person to whom the data in question relates;

(c) the date of the request or the receipt of corrected borrower information;

(d) the data in question;

(e) whether the data in question was corrected;

(f) such other information as may be prescribed.

(8) If the designated credit bureau without reasonable excuse contravenes subsection (2), (3), (4), (6) or (7), or fails to comply with a direction of the Registrar under subsection (5), the designated credit bureau shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$250,000; and

(b) 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) This section has effect despite anything in section 22 of the Personal Data Protection Act 2012 (Act 26 of 2012).

Obligation to notify Registrar of certain events

30ZA.—(1) The designated credit bureau must notify the Registrar as soon as practicable after the occurrence of any of the following events:

(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 designated credit bureau;

(b) any civil or criminal proceeding instituted against the designated credit bureau, whether in Singapore or elsewhere;

(c) any event (including an irregularity in any operation of the designated credit bureau) that impedes or impairs the operations of the designated credit bureau;

(d) the designated credit bureau is becoming, or is likely to become, insolvent or unable to meet any of its financial, statutory, contractual or other obligations;

(e) any other event that the Minister may prescribe.

(2) Subject to subsection (1), the designated credit bureau must notify the Registrar within 7 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 designated credit bureau;

(b) any other event that the Minister may prescribe.

5 (3) If the designated credit bureau contravenes subsection (1) or (2), the designated credit bureau shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

Obligation to provide information to Registrar

10 **30ZB.**—(1) For any of the purposes mentioned in subsection (2), and subject to subsection (5), the Registrar may, by notice in writing, direct the designated credit bureau to provide to the Registrar all such information relating to the designated credit bureau's business of preparing, providing or
15 maintaining credit reports or loan information reports under this Part within such period as the Registrar may specify in the notice.

(2) The purposes mentioned in subsection (1) are the following:

20 (a) for determining whether this Act has been complied with;

(b) for policy research and formulation by the Registrar or any public agency.

25 (3) Without affecting the generality of subsections (1) and (2), the Registrar may in the notice issued under subsection (1) require the designated credit bureau to provide —

(a) any information relating to the operations of the designated credit bureau that are carried out for the purposes of its functions under section 30E;

30 (b) borrower information of any licensee that is in the possession or under the control of the designated credit bureau; and

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

(4) Subject to subsection (5) —

(a) a requirement imposed by the Registrar 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

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(b) a person who complies with a requirement imposed by the Registrar 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.

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

(6) If the designated credit bureau without reasonable excuse fails to comply with a notice issued under subsection (1), the designated credit bureau shall be guilty of an offence and shall be liable on conviction —

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(a) to a fine not exceeding \$100,000; and

(b) 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.

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Division 6 — Disclosure to public agencies

Disclosure of borrower information and data to public agencies

30ZC.—(1) A public agency may make a request to the Registrar for information relating to any borrower or class or description of borrowers, or any loan or class or description of loans, for the purpose of policy formulation or review.

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(2) Upon the receipt of a request under subsection (1), the Registrar may —

(a) exercise his power under section 30T to direct any licensee to submit any borrower information of the licensee to the Registrar, and disclose all or any of the borrower information to the public agency;

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(b) exercise his power under section 30ZB to direct the designated credit bureau to submit any data in the possession or under the control of the designated credit bureau to the Registrar, and disclose all or any of the data to the public agency; or

(c) direct the designated credit bureau, by notice in writing, to disclose to the public agency any data in the possession or under the control of the designated credit bureau in such form as the Registrar may direct.

(3) The direction under subsection (2)(c) may be made subject to such conditions as the Registrar may specify in the notice.

(4) The Registrar must not disclose any borrower information or data under subsection (2)(a) or (b), or direct the disclosure of any data under subsection (2)(c), unless the Registrar —

(a) is satisfied that the borrower information or data is necessary for policy formulation or review by the public agency; and

(b) is satisfied that the public agency is not able to obtain the borrower information or data under any other written law.

(5) Despite anything in subsection (4), the Registrar must not disclose under subsection (2)(a) or (b) any personal data, or direct the disclosure under subsection (2)(c) of any personal data, unless the Registrar is satisfied that the policy formulation or review to be conducted by the public agency in question cannot reasonably be accomplished without the personal data being provided in an individually identifiable form.

(6) In this section, “personal data” means data about an individual who can be identified from that data.

Division 7 — Audit of designated credit bureau

Audit of designated credit bureau’s accounts

30ZD.—(1) Despite the provisions of the Companies Act (Cap. 50), the designated credit bureau must —

- (a) on an annual basis, appoint an auditor who is a public accountant under the Accountants Act (Cap. 2); and
- (b) if for any reason its auditor ceases to be its auditor, appoint another auditor who is a public accountant under the Accountants Act as soon as practicable after such cessation. 5

(2) The designated credit bureau must notify the Registrar in writing of an appointment under subsection (1) as soon as practicable after the appointment.

(3) The Registrar may appoint an auditor — 10

- (a) if the designated credit bureau fails to appoint an auditor; or
- (b) if the Registrar considers it desirable that another auditor should act with the auditor appointed under subsection (1), 15

and may at any time fix the remuneration to be paid by the designated credit bureau to the auditor the Registrar appoints.

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

- (a) to carry out, for the year in respect of which the auditor is appointed, an audit of the designated credit bureau's accounts; and 20
- (b) to make a report on the designated credit bureau's financial statements or consolidated financial statements in accordance with section 207 of the Companies Act. 25

(5) The Registrar may, by notice in writing to an auditor appointed under subsection (1) or (3), 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: 30

- (a) a duty to submit such additional information in relation to the audit as the Registrar considers necessary;

(b) a duty to enlarge or extend the scope of the audit of the designated credit bureau's business and affairs under this Part;

5 (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 make a report on any of the matters mentioned in paragraphs (b) and (c).

10 (6) The designated credit bureau must remunerate the auditor in respect of —

(a) such remuneration the Registrar has fixed under subsection (3); and

(b) the discharge of all or any of the additional duties of the auditor imposed under subsection (5).

15 (7) Despite any provision of this Part or the provisions of the Companies Act, the Registrar may, if the Registrar is not satisfied with the performance of any duty by the auditor of the designated credit bureau, at any time direct the designated credit bureau —

(a) to remove the auditor; and

20 (b) to appoint another auditor who is a public accountant under the Accountants Act.

(8) The designated credit bureau must submit, or cause to be submitted, the following documents to the Registrar within such time as the Registrar may specify by notice in writing:

25 (a) a copy of the auditor's report made under subsection (4)(b), attached to the designated credit bureau's financial statements or consolidated financial statements;

(b) a copy of any report made under subsection (5)(d).

30 (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 Part;

- (b) a criminal offence involving fraud or dishonesty has been committed;
- (c) losses have been incurred that reduce the capital of the designated credit bureau by 50% or more;
- (d) serious irregularities have occurred, including irregularities that compromise the confidentiality, security or integrity of any data received, used or disclosed by the designated credit bureau; or 5
- (e) the auditor is unable to confirm that the claims of creditors of the designated credit bureau are covered by the assets of the designated credit bureau, 10

the auditor must immediately report the matter to the Registrar.

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

- (a) the auditor's or employee's knowledge or suspicion of any of the matters mentioned in subsection (9); or 15
- (b) any information or other matter on which that knowledge or suspicion is based,

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. 20

(11) If the designated credit bureau contravenes subsection (1) or (8), the designated credit bureau shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000. 25

(12) Any auditor who contravenes subsection (5) or (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000. 30

Powers of auditor appointed by Registrar

30ZE.—(1) An auditor appointed by the Registrar under section 30ZD(3) may, for the purpose of carrying out an examination or audit —

- 5 (a) examine, on oath or affirmation, any officer or employee of the designated credit bureau, or any other auditor of the designated credit bureau appointed under section 30ZD or under the Companies Act (Cap. 50);
- 10 (b) require any officer or employee of the designated credit bureau, or any other auditor of the designated credit bureau appointed under section 30ZD or under the Companies Act, to produce any book held by or on behalf of the designated credit bureau relating to its business under this Part;
- 15 (c) make copies of or take extracts from, or retain possession of, any book mentioned in paragraph (b) for such period as may be necessary to enable it to be inspected;
- 20 (d) employ such persons as the auditor considers necessary to assist the auditor in carrying out the examination or audit; and
- 25 (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.
- (2) Any individual who, without reasonable excuse —
- (a) fails to answer any question put to that individual; or

(b) fails to comply with any request made to that individual,

by an auditor appointed under section 30ZD(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.

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

30ZF.—(1) Except as may be necessary for the carrying into effect of the provisions of this Part, or for the purpose of an investigation into any offence under any written law, or so far as may be required for the purposes of any legal proceedings (whether civil or criminal) —

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(a) an auditor appointed under section 30ZD; or

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(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 Registrar, and in the case of an employee of such auditor, the auditor.

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(2) Any person who contravenes subsection (1) 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.

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

30ZG.—(1) Any individual who, with intent to prevent, delay or obstruct the carrying out of any examination or audit under section 30ZD or 30ZE —

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(a) destroys, conceals or alters any book relating to the business of the designated 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, or in the possession of or under the control of the designated credit bureau,

5 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 —

10 (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),

15 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 30ZD or 30ZE lies on that individual.”.

20 (2) Section 30B of the Moneylenders Act, as inserted by subsection (1), is amended by deleting the definition of “officer” and substituting the following definition:

25 ““officer”, in relation to a licensee or the designated credit bureau, means any director, chief executive officer, manager, secretary or other similar officer of the licensee or designated credit bureau, and includes any person purporting to act in any such capacity;”.

Amendment of section 37

19. Section 37 of the Moneylenders Act is amended —

(a) by deleting paragraph (a) of subsection (2) and substituting the following paragraphs:

30 “(a) to prescribe the maximum amount that may be lent by a moneylender to a borrower or to any borrower belonging to any class or description of borrowers;

- (aa) to prescribe the maximum aggregate amount that may be lent by all moneylenders to a borrower or to any borrower belonging to any class or descriptions of borrowers; 5
- (ab) to prohibit a moneylender from granting to a borrower a loan of an amount that would, together with any other loan granted to the borrower by the moneylender or any other moneylender that remains outstanding, exceed the prescribed maximum aggregate amount that may be lent at any one time by all moneylenders to the borrower or to a class or description of borrowers to which the borrower belongs;” 10 15
- (b) by inserting, immediately after paragraph (b) of subsection (2), the following paragraph:
- “(ba) to prescribe the circumstances under which a moneylender is prohibited or restricted from granting a loan to a borrower;” 20
- (c) by inserting, immediately after the word “moneylenders” in subsection (3)(b), the words “, borrowers or loans”;
- (d) by inserting, immediately after the word “moneylenders” in subsection (3)(c), the words “, borrowers or loans”; and
- (e) by inserting, immediately after subsection (4), the following subsections: 25
- “(5) Subsection (6) applies where rules prohibit a moneylender from granting to a borrower a loan of an amount that would, together with any other loan granted to the borrower by the moneylender or any other moneylender that remains outstanding, exceed the prescribed maximum aggregate amount that may be lent at any one time by all moneylenders to the borrower or to a class or description of borrowers to which the borrower belongs. 30 35

(6) The aggregate amount of the loans granted to a borrower by one or more moneylenders that is set out in the credit report delivered under section 30V(1) or (3) as outstanding is presumed (unless proven otherwise) to be the aggregate amount of the loans granted to a borrower by all moneylenders that is outstanding as at the date the credit report is delivered.”.

Saving and transitional provisions

20.—(1) Section 4(1)(b) does not apply in relation to any application for a licence that is made before the date of commencement of section 4(1)(b), and section 5(5)(c) of the Moneylenders Act as in force immediately before that date continues to apply in relation to such an application as if section 4(1)(b) had not been enacted.

(2) Section 5(b) does not apply in relation to any application made before the date of commencement of section 5(b) for the renewal of a licence that expires within the period of 30 days after that date, and section 6(4)(c) of the Moneylenders Act as in force immediately before that date continues to apply to such an application as if section 5(b) had not been enacted.

(3) Section 9(1) does not apply in relation to any application for approval of a place of business for moneylending that is made before the date of commencement of section 9(1), and section 10(3)(c) of the Moneylenders Act as in force immediately before that date continues to apply in relation to such an application as if section 9(1) had not been enacted.

(4) Despite section 15, section 23 of the Moneylenders Act as in force immediately before the date of commencement of section 15 continues to apply in relation to a loan or any contract for a loan granted or entered into by a licensee before that date, as if section 15 had not been enacted.

(5) Section 24(1) and (2) of the Moneylenders Act as in force immediately before the date of commencement of section 16(a) and (b), respectively, of the Moneylenders (Amendment) Act 2018

continues to apply to a licensee in respect of any accounts, note of contract for a loan or other document required to be kept or caused to be kept by a licensee before that date.

(6) Section 17 does not impose any duty on any auditor in relation to a financial year that ends on or before the date of commencement of section 17, or a financial year in which that date falls.

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(7) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

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EXPLANATORY STATEMENT

This Bill seeks to amend the Moneylenders Act (Cap. 188) for the following main purposes:

- (a) to empower the Minister to prescribe the amount of deposit required as security before the Registrar of Moneylenders (the Registrar) issues or renews a licence, or approves a new place of business for moneylending in relation to a licensee;
- (b) to require that every licensee be a company limited by shares under the Companies Act (Cap. 50) with paid-up share capital that is equal to or greater than the prescribed amount;
- (c) to empower the Registrar to refuse to issue or renew a licence, or to revoke or suspend a licence, if any assistant employed or engaged, or proposed to be employed or engaged, by a licensee does not meet certain criteria;
- (d) to empower the Registrar to revoke or suspend a licence if the licensee does not carry on the business of moneylending within an applicable period after the issue of the licence;
- (e) to require every licensee to obtain the written approval of the Registrar before —
 - (i) employing or engaging any assistant;
 - (ii) permitting any person to take part (whether directly or indirectly) in the management of the licensee's business;

- (iii) permitting any person to become a director or partner of the licensee; or
- (iv) changing the business name of the licensee;
- (f) to require every licensee to notify the Registrar of certain events in relation to the licensee;
- (g) to require a person to obtain the written approval of the Registrar before becoming a substantial shareholder of a licensee or increasing that person's substantial shareholding in a licensee;
- (h) to penalise certain practices by a licensee, such as —
 - (i) the making of any note of contract for a loan in which the principal, rate of interest or late interest or any permitted fee payable, is not stated or truly stated;
 - (ii) the charging under a contract for a loan of any sum other than or in excess of the permitted fees; and
 - (iii) the charging under a contract for a loan of any interest or late interest that exceeds the maximum rate that may be prescribed, such contract being unenforceable;
- (i) to impose document retention and annual auditing requirements on every licensee;
- (j) to insert a new Part IIIA —
 - (i) to empower the Registrar to designate a company as the designated credit bureau;
 - (ii) to set out the obligations and duties of the designated credit bureau and every licensee in the collection, use or disclosure of borrower information and data; and
 - (iii) to allow the Registrar to disclose to a public agency any borrower information obtained from a licensee or any data obtained from the designated credit bureau, or to direct the disclosure of data by the designated credit bureau to a public agency, for the purpose of policy formulation or review by that public agency;
- (k) to empower the Minister to make rules —
 - (i) to prescribe the maximum aggregate amount that may be lent by all moneylenders to a borrower or a class or description of borrowers, and to prohibit a moneylender from granting a loan of an amount that will cause the aggregate amount of loans

granted by all moneylenders to the borrower to exceed the prescribed maximum; and

(ii) to prescribe the circumstances in which a moneylender is prohibited or restricted from granting a loan to a borrower;

(l) to provide for the legal effect of a credit report produced by the designated credit bureau in proving the outstanding aggregate amount of loans granted by all moneylenders to a borrower;

(m) to make consequential amendments to the Act.

Clause 1 relates to the short title and commencement.

Clause 2 repeals and re-enacts the long title of the Moneylenders Act to encompass the additional matters that are to be regulated.

Clause 3(1) amends section 2 —

(a) to insert new definitions of “assistant” and “book”; and

(b) to replace the definition of “company” with a new definition with a narrower scope.

Clause 4(1) amends section 5(5) —

(a) to insert a reference to the new section 6A which affects the Registrar’s power to issue a licence; and

(b) to empower the Minister to prescribe the amount of deposit required under paragraph (c) as security.

Clause 5 amends section 6(4) —

(a) to insert a reference to the new section 6A which affects the Registrar’s power to renew a licence; and

(b) to empower the Minister to prescribe the amount of deposit required under paragraph (c) as security.

Clause 6 inserts a new section 6A —

(a) to provide that no person may hold a licence on or after the date of commencement of the clause (appointed day) unless the person is a company with a paid-up share capital that is equal to or greater than the prescribed amount;

(b) to provide that the Registrar may only issue or renew a licence on or after the appointed day where the applicant is a company with a paid-up share capital that is equal to or greater than the prescribed amount;

(c) to provide for the revocation of a licence that is issued before the appointed day to a person other than a company with a paid-up share

capital equal to or greater than the prescribed amount, and that is still in force; and

- (d) to preserve the validity of any moneylending transaction entered into before the appointed day.

Clause 7(1) amends section 7(1) to empower the Registrar to refuse to issue or renew a licence, or to revoke or suspend a licence, if any assistant engaged or employed, or proposed to be engaged or employed, by an applicant for the issue or renewal of a licence —

- (a) has been convicted of any of the specified offences;
- (b) has contravened any provision of any of the specified written laws;
- (c) has carried on any business of moneylending in Singapore or elsewhere, for which the licence, approval, authorisation or registration has been revoked, suspended, withdrawn or cancelled; or
- (d) is not of good character or is not a fit and proper person.

Clause 8 amends section 9(1) to empower the Registrar to revoke or suspend a licence if the licensee has not carried on the business of moneylending within 6 months (or such longer period as the Registrar may approve) after the issue of the licence.

Clause 9(1) amends section 10(3) to empower the Minister to prescribe the amount of deposit required as security before the Registrar approves a new place of business for moneylending in relation to a licensee.

Clause 10(1) inserts new sections 11A to 11D.

The new section 11A relates to the employment or engagement of any assistant by a licensee.

Subsection (1) prohibits any licensee from employing or engaging any assistant without the written approval of the Registrar. Under subsection (2), the application for the Registrar's approval must be made in such form and manner as the Registrar may specify. Subsections (4) and (5) relate to the circumstances under which the Registrar must refuse to grant an approval.

Subsection (6) sets out the grounds upon which the Registrar may cancel an approval that was granted. Subsection (7) requires the Registrar to give to the licensee an opportunity to be heard before refusing to grant an approval or cancelling an approval. Subsection (8) requires the Registrar to notify the licensee and the person in respect of whom the approval was granted of the cancellation. Subsection (9) sets out the action that the licensee and the person must take when an approval is cancelled.

Subsection (10) requires every licensee to submit to the Registrar the names and particulars of every person who is employed or engaged as an assistant by the

licensee. Subsection (11) requires every licensee to notify the Registrar when any person ceases to be employed or engaged by the licensee as an assistant.

Under subsection (13), where, in fulfilment of a condition of a licence imposed under section 5(4), an approval has been obtained by a licensee before the date of commencement of clause 10(1) for a person to be employed or engaged as an assistant, the licensee is, on or after that date, treated as having been granted the written approval of the Registrar under subsection (3)(a) to employ or engage the assistant.

The new section 11B relates to persons who take part (whether directly or indirectly) in the management of a licensee's business of moneylending, and directors and partners of a licensee.

Subsection (1) prohibits any licensee from permitting any person to take part (whether directly or indirectly) in the management of the licensee's business of moneylending, or to become a director or partner of the licensee, without the Registrar's written approval. Under subsection (2), the application for the Registrar's approval must be made in such form and manner as the Registrar may specify. Subsections (4) and (5) relate to the circumstances under which the Registrar must refuse to grant an approval.

Subsection (6) sets out the grounds upon which the Registrar may cancel an approval that was granted. Subsection (7) requires the Registrar to give to the licensee an opportunity to be heard before refusing to grant an approval or cancelling an approval. Subsection (8) requires the Registrar to notify the licensee and the person in respect of whom the approval was granted of the cancellation. Subsection (9) sets out the action that the licensee and the person must take when an approval is cancelled.

Subsection (10) requires every licensee to submit to the Registrar the names and particulars of every person who is taking part (directly or indirectly) in the management of the licensee's business of moneylending, and every director or partner of the licensee. Subsection (11) requires every licensee to notify the Registrar when any person ceases to take part (whether directly or indirectly) in the management of the licensee's business of moneylending, or ceases to be a director or partner of the licensee.

Subsection (13) treats an approval obtained by a licensee under section 12(1)(b) as in force immediately before the date of commencement of clause 10(1) for the admission of a person to be responsible for the licensee's business of moneylending, as an approval granted to the licensee under subsection (3)(a) for the person to take part (whether directly or indirectly) in the management of the licensee's business of moneylending.

Subsection (14) treats an approval obtained by a licensee under section 12(1)(c) as in force immediately before the date of commencement of clause 10(1) for a person to become a director or partner of a licensee, as an approval granted to the

licensee under subsection (3)(a) for the person to become a director or partner of the licensee.

The new section 11C requires every licensee to obtain the written approval of the Registrar before changing the business name of the licensee.

The new section 11D relates to the obligation of every licensee to inform the Registrar of the occurrence of certain events relating to the licensee.

Subsections (1) and (2) require every licensee to notify the Registrar of the occurrence of any of the events (each called a specified event) set out in subsection (3). Under subsection (4), the Registrar may require the licensee to notify the Registrar of any further event in relation to a specified event.

Clause 11 repeals and re-enacts section 12. The re-enacted section 12 imposes controls on substantial shareholders of and substantial shareholdings in a licensee.

Subsections (1) and (2) prohibit any person from becoming a substantial shareholder of, or increasing his substantial shareholding in, a licensee, without the Registrar's written approval. The prohibitions in subsections (1) and (2) do not apply to any licensee that is listed on a securities exchange in Singapore. Under subsection (4), the application for the Registrar's approval must be made in such form and manner as the Registrar may specify. Subsections (6) and (7) relate to the circumstances under which the Registrar must refuse to grant an approval.

Subsection (8) sets out the grounds upon which the Registrar may cancel an approval that was granted. Subsection (9) requires the Registrar to give to a person an opportunity to be heard before refusing to grant an approval to the person or cancelling an approval that was granted to the person. Subsection (10) requires the Registrar to notify the person in respect of whom the approval was granted of the cancellation. Subsection (11) sets out the action that a person must take when an approval is cancelled. Under subsection (12), where an approval for a substantial shareholder to increase his substantial shareholding is cancelled, the Registrar must not require the substantial shareholder to reduce his substantial shareholding to a level that is lower than his substantial shareholding prior to the increase.

Subsection (13) requires every licensee to submit to the Registrar the names and particulars of every person who is a substantial shareholder of the licensee. Subsection (14) requires every licensee to notify the Registrar when any person ceases to be a substantial shareholder of the licensee.

Subsection (16) treats an approval obtained by a person under section 12(1)(d)(i) as in force immediately before the date of commencement of clause 11 to become a substantial shareholder, as an approval granted to the person under subsection (5)(a).

Subsection (17) treats an approval obtained by a person under section 12(1)(d)(ii) as in force immediately before the date of commencement of

clause 11 for a substantial shareholder to increase his substantial shareholding in a licensee, as an approval granted to the person under subsection (5)(a).

Clause 12 amends section 20 to extend the prohibition against not stating or not truly stating certain information in a note of contract for a loan, to include the rate of late interest and any permitted fee payable under the contract.

Clause 13 amends section 22 —

- (a) to empower the Minister to prescribe different types or amounts of costs, charges and expenses that a licensee may impose on different classes or descriptions of borrowers in relation to different classes or descriptions of loans; and
- (b) to make it an offence for a licensee to enter into a contract for a loan under which the borrower is required to pay any sum other than or in excess of the applicable permitted fees.

Clause 14 inserts a new section 22A —

- (a) to provide for the unenforceability of the contract for a loan under which the interest or late interest charged exceeds such maximum rate of interest or late interest as may be prescribed;
- (b) to make it an offence for a licensee to enter into such a contract; and
- (c) to empower the Minister to prescribe different maximum rates of interest or late interest for different classes or descriptions of borrowers or loans.

Clause 15 amends section 23 to delete subsections (6), (7) and (8). Currently, in any proceedings brought by a licensee to recover a loan or enforce a contract for a loan, or where a proof of debt is filed by a licensee arising from a loan granted by the licensee, there is a legal presumption that the interest or late interest charged in respect of the loan is excessive and that the transaction is unconscionable or substantially unfair, if the interest or late interest charged exceeds such maximum interest or late interest prescribed. As the new section 22A directly provides for the unenforceability of such a contract, the legal presumption in section 23 is no longer necessary.

Clause 16 amends section 24 —

- (a) to set out, in section 24(1), the documents that must be kept or caused to be kept by every licensee, and the periods for which each document must be kept or caused to be kept; and
- (b) to replace the reference to “accounts” in section 24(2) with a reference to a “loan application form” as a consequence of the amendments to section 24(1).

Clause 17 inserts new sections 24A to 24D which relate to the audit of a licensee's accounts. The audit requirements under new sections 24A to 24D are separate and in addition to those imposed under the Companies Act on a licensee that is a company.

The new section 24A requires all licensees to be audited every year, allows the Registrar to expand the scope of each audit, and allows the Registrar to remove and appoint another auditor for any licensee. The new section 24B provides a Registrar-appointed auditor with certain powers. The new section 24C restricts the disclosure by an auditor or employee of an auditor, of information that comes to the attention of the auditor or employee in the course of an audit. The new section 24D makes it an offence to destroy, conceal or alter any book relating to the business of a licensee, or to send (or conspire to send) out of Singapore any book or asset belonging to or under the possession of a licensee, with intent to prevent, delay, or obstruct an examination or audit.

Clause 18 inserts a new Part IIIA to regulate the collection, use and disclosure of borrower information and data by licensees and the designated credit bureau.

Division 1 (comprising new sections 30B and 30C) is of general application to the entire new Part. Section 30B sets out the definitions, while section 30C clarifies that the provisions in Divisions 4, 5 and 6 of the new Part are in addition to, and do not derogate from, anything in the Personal Data Protection Act 2012 (Act 26 of 2012), unless otherwise provided in any provision in the new Part.

Division 2 (comprising new sections 30D to 30G) contains provisions relating to the designation of the designated credit bureau, and cancellation of the designation.

Under section 30D, the Registrar may designate a company within the meaning of section 4(1) of the Companies Act to be the designated credit bureau. Only one company may be designated as the designated credit bureau at any one time. The Registrar may not designate any company as the designated credit bureau unless the company consents, and the Registrar has approved a plan (called the exit plan) submitted by the company that sets out steps to be taken to ensure continuity in the performance of the functions set out in section 30E by the subsequent designated credit bureau or a statutory manager.

Section 30E sets out the functions of the designated credit bureau.

Under section 30F, the Registrar may by written notice cancel the designation of the designated credit bureau on any of the grounds in subsection (1). The Registrar must not cancel the designation without giving the designated credit bureau an opportunity to be heard, except where the cancellation is made on any of the grounds in subsection (3). The cancellation takes effect on the date specified by the Registrar in the written notice, unless the Registrar specifies a different date by a further notice. The designated credit bureau or former designated credit bureau may appeal to the Minister (whose decision is final) if it is aggrieved by the decision of the Registrar to cancel the designation.

Under section 30G, the designated credit bureau may apply for the cancellation of its designation upon giving prior notice of such period as may be prescribed. The designation is treated as cancelled upon the expiry of the period of notice, unless the notice is withdrawn by the designated credit bureau.

Division 3 (comprising new sections 30H to 30M) contains the provisions relating to the controls that the Registrar has over the designated credit bureau.

Section 30H empowers the Registrar to issue written directions to the designated credit bureau for the purpose of carrying out the provisions of the new Part IIIA. The directions may be general or specific, and may be issued in respect of any of those matters set out in subsection (2).

The new sections 30I to 30M apply after the written notice of the Registrar cancelling a designation is served, or after the designated credit bureau has applied to cancel the designation, but before the cancellation takes effect.

Under section 30I, the Registrar has the following powers:

- (a) to direct the outgoing designated credit bureau to transfer data to the subsequent designated credit bureau or a statutory manager;
- (b) to require that the designated credit bureau comply with the exit plan;
- (c) to require the designated credit bureau to immediately take any action to do or not to do any act the Registrar considers necessary;
- (d) to appoint one or more persons as statutory manager to assume control of and manage the relevant business of the designated credit bureau.

Section 30J sets out the powers and obligations of the statutory manager upon assuming control of the designated credit bureau's relevant business. The provision also specifies the effects of such assumption of control on any appointment of the designated credit bureau's chief executive officer or director.

Section 30K specifies when a statutory manager is treated as having assumed control of the designated credit bureau's relevant business. The provision also specifies the circumstances under which 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.

Section 30L sets out the obligations of certain persons of the designated credit bureau (such as a current or former chief executive officer, director, executive officer, employee, agent or auditor) during the period when the statutory manager is in control of the designated credit bureau's relevant business.

Section 30M empowers the Registrar to fix the remuneration and expenses that the designated credit bureau has to pay the statutory manager.

Division 4 (comprising new sections 30N to 30U) contains provisions relating to the duties of licensees in relation to borrower information and data.

Section 30N sets out the steps that must be taken by a licensee before granting any loan to a loan applicant, and the information that must be obtained from the applicant, and the information that the licensee must submit to the designated credit bureau, before granting a loan. A licensee must not grant any loan to an applicant unless the licensee has obtained a credit report in relation to the applicant.

Section 30O relates to the disposal and keeping of credit reports by a licensee. Subsection (1) requires every licensee to dispose of a credit report in relation to an applicant for a loan within the specified time if the licensee declines to grant the loan. Subsection (2) obliges a licensee to keep the credit report obtained for the purposes of a loan that is granted, for a period of 5 years after the date on which the loan is fully repaid or on which the contract is otherwise terminated, and then, to dispose of the credit report immediately upon the expiry of that period.

Section 30P requires every licensee to submit to the designated credit bureau, certain information in relation to any repayment of a loan, any instalment of a repayment of a loan, or any writing off of any debt arising from a loan, within the prescribed time.

Section 30Q imposes duties of confidentiality of borrower information on every licensee and every officer and employee of a licensee.

Section 30R imposes duties on every licensee to ensure the integrity of any borrower information it provides to the designated credit bureau, and to maintain the security of any information in any credit report received from the designated credit bureau.

Section 30S imposes a duty on a licensee to conduct an investigation to ascertain the integrity of the borrower information of the licensee, to correct the borrower information, and to send the corrected borrower information to the designated credit bureau, in certain circumstances.

Under section 30T, the Registrar or any officer duly authorised by the Registrar may direct a licensee to submit to the Registrar or the officer any borrower information of the licensee, for the purpose of determining whether the Act has been complied with or for the purpose of policy formulation or review by the Registrar or any public agency.

Section 30U —

- (a) extends the duties of a licensee under sections 30O(2), 30P(1), 30Q(2) and (3), 30R(1), 30S(2) and (3) and 30T(1) to a person whose licence is revoked or has expired;
- (b) extends the duties of an officer or employee of a licensee under section 30Q, to an officer or employee of a person whose licence is revoked or has expired; and

- (c) provides for the power of the Registrar to direct a person whose licence is revoked or has expired, to dispose of any credit report despite the general requirement to keep the credit report for 5 years after the date on which the loan in question is fully repaid or the contract for which is otherwise terminated.

Division 5 (comprising new sections 30V to 30ZB) concerns the duties of the designated credit bureau in relation to borrower information and data.

Under section 30V, the designated credit bureau must prepare and deliver a credit report in relation to a person, within the prescribed time and in the prescribed manner, upon a request submitted by a licensee.

Section 30W imposes on the designated credit bureau and any officer or employee of the designated credit bureau duties relating to the use and disclosure of borrower information received from licensees.

Section 30X imposes duties on the designated credit bureau to ensure the integrity of the data that the designated credit bureau processes (except when erasing or destroying the data) and to maintain the security of the data.

Section 30Y imposes a duty on the designated credit bureau to produce, upon the request of a person, a loan information report in relation to any loan granted to or applied for by that person.

Section 30Z, which applies despite anything in section 22 of the Personal Data Protection Act 2012, sets out the steps that the designated credit bureau must take in relation to the correction of data when —

- (a) a person requests the designated credit bureau to correct any error or omission in any data relating to that person or any loan applied for by that person and that is in the possession or under the control of the designated credit bureau;
- (b) the designated credit bureau receives any corrected borrower information from a licensee; or
- (c) the Registrar directs the designated credit bureau to correct data.

Section 30ZA requires the designated credit bureau to notify the Registrar of 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 designated credit bureau.

Section 30ZB empowers the Registrar to require the designated credit bureau to provide to the Registrar information relating to the designated credit bureau's business of preparing, providing or maintaining credit reports or loan information reports. This is to facilitate the Registrar's regulatory functions, and for policy formulation and review by the Registrar or any public agency.

Division 6 (comprising new section 30ZC) concerns the disclosure of borrower information or data to public agencies.

Under section 30ZC, a public agency may, for the purpose of public formulation or review, make a request to the Registrar for information relating to any borrower or class or description of borrowers, or any loan or class or description of loans. Upon the receipt of such a request, the Registrar may exercise his powers under section 30T or 30ZB to obtain borrower information from a licensee or data from the designated credit bureau. Any borrower information or data so obtained by the Registrar may be disclosed to the requesting public agency by the Registrar. The Registrar may also direct (subject to any condition imposed by the Registrar) the designated credit bureau to disclose any data to the requesting public agency. Subsection (4) sets out the preconditions to the Registrar exercising his discretion to disclose borrower information or data, or to issue a direction to the designated credit bureau to disclose data. Under subsection (5), the Registrar must not disclose any borrower information or data, or direct the disclosure of any data, in an individually-identifiable form, unless the Registrar is satisfied that the policy formulation or review cannot reasonably be accomplished without the borrower information or data being provided in such a form.

Division 7 (comprising new sections 30ZD to 30ZG) relates to the audit of a licensee's accounts. The audit requirements under new sections 30ZD to 30ZG are separate and in addition to those imposed on the designated credit bureau under the Companies Act.

Section 30ZD requires the designated credit bureau to be audited every year, allows the Registrar to expand the scope of each audit, and allows the Registrar to remove and appoint another auditor for the designated credit bureau. Section 30ZE provides a Registrar-appointed auditor with certain powers. Section 30ZF restricts the disclosure by an auditor or employee of an auditor, of information that comes to the attention of the auditor or employee in the course of an audit. Section 30ZG makes it an offence to destroy, conceal or alter any book relating to the business of the designated credit bureau, or to send (or conspire to send) out of Singapore any book or asset belonging to or under the possession of the designated credit bureau, with intent to prevent, delay, or obstruct an examination or audit.

Clause 19 amends section 37 —

- (a) to expand the Minister's power to make rules —
 - (i) to prescribe the maximum aggregate amount that may be lent by all moneylenders to a borrower, and to prohibit a moneylender from granting a loan of an amount that will cause the aggregate amount of loans granted by all moneylenders to the borrower to exceed the prescribed maximum; and
 - (ii) to prescribe the circumstances under which a moneylender is prohibited or restricted from granting a loan to a borrower;

- (b) to empower the Minister to make —
 - (i) rules that relate to all or any class or description of borrowers or loans; and
 - (ii) different provisions for different classes or descriptions of borrowers or loans; and
- (c) to provide for the legal effect of a credit report produced by the designated credit bureau in proving the outstanding aggregate amount of loans granted by all moneylenders to a borrower.

Clause 20 sets out saving and transitional provisions.

Clauses 3(2), 4(2), 7(2), 9(2), 10(2) and (3) and 18(2) make consequential amendments to sections 2, 5, 7, 10, 11B and 11D (as inserted by clause 10(1)) and 30B (as inserted by clause 18(1)), to delete those provisions or parts of provisions that are inconsistent with the requirement that every licensee is to be a company.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
