

(Translation)

Unofficial Translation*

CREDIT DATA BUSINESS OPERATION ACT

B.E.2545

BHUMIBOL ADULYADEJ, REX.

Given on the 8th Day of November B.E. 2545;

Being the 57th Year of the Present Reign

His Majesty King Bhumibol Adulyadej has the Royal Proclamation to announce that:

Whereas it is expedient to have a law governing the credit data business operation.

This Act contains certain provisions relating to the limitation of individual's rights and liberties which is permitted by virtue of the provisions of laws under Section 29 together with Section 35, Section 48 and Section 50 of the Constitution of the Kingdom of Thailand.

Therefore, His Majesty the King Bhumibol Adulyadej has graciously been pleased to enact this Act, with the advice and consent of the Parliament, as follows:

Section 1 This Act shall be called the "Credit Data Business Operation Act, B.E. 2545".

Section 2¹ This Act shall come into force when a period of one hundred and twenty days as from the date following the date of its publication in the Government Gazette has been elapsed.

Section 3 In this Act:

"Data"² means thing that conveys the meaning of matters of facts of the credit data or credit scores no matter whether such conveyance of meaning is done by the nature of such thing or by any means and no matter whether it is prepared in the format of documents, files, reports, books, charts, maps, paintings, photographs, films, video and audio recording, computerized recording or any other means that can retrieve the recorded data.

¹ The Government Gazette, Volume 119 Section 114 (A) Page 1 dated 13th November 2002.

² Section 3 Definitions of "Data" as amended by the Credit Data Business Operation Act (No.3) B.E.2551.

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“Data Processing”³ means any action with the data, including gathering, recording, compiling, retaining, amending, retrieving, using, disclosing, publishing, accessing, deleting or destroying of data, including preparation and disclosure of credit scores and statistical reports.

“Credit Score”⁴ means an indicator of probability of repayment of debts by using statistical methods in the processing of data by credit data companies.

“Data Controller” means a natural person, body of persons or any juristic person in the private sector which is a single unit or in conjunction with other units responsible for supervision of data processing or conducting the data processing itself/themselves.

“Data Processor” means a data controller or any person conducting the data processing on behalf of a data controller or a credit bureau.

“Credit Data” means facts relating to customers applying for credit facilities, as follows:

(1) Facts of identity and qualifications of customers applying for credit facilities:

(a) In case of a natural person, these facts are referred to as names, addresses, dates of birth, marital statuses, occupations, ID Card No. or government official ID cards or passports and tax ID No. (if any).

(b) In case of a juristic person, these facts are referred to as names, locations, incorporation registration numbers, or tax ID No.

(2) Records of credit application and approval and payment of credit transactions of customers applying for credit facilities, including records of payment of goods or services by credit cards.

“Sensitive Data” means the data of a natural person irrelevant to the receipt of service, application for credit facilities or obviously affecting the feelings or potentially causing damage or affecting the rights and liberties of data owners, as follows:

(1) Physical disabilities

(2) Genetic characters

(3) Data of a person involved in the process of criminal investigation or proceedings

(4) Any other data as prescribed and announced by the Committee

“Credit”⁵ means the provision of loans or loan limits or lending of securities, offering of hire-purchase, leasing, guarantee, aval, acceptance of bills, purchase, discounting or rediscounting of bills, being a creditor resulting from payment or making orders of payment for the benefit of customers or being a creditor resulting from payment as per obligations under letters of credit or other obligations, acceptance as customer for trading of securities and any other transactions as prescribed and announced by the Committee.

³ Section 3 Definitions of “Data Processing” as amended by the Credit Data Business Operation Act (No.3) B.E.2551.

⁴ Section 3 Definitions of “Credit Score” as added by the Credit Data Business Operation Act (No.3) B.E.2551.

⁵ Section 3 Definitions of “Credit” as amended by the Credit Data Business Operation Act (No.2) B.E.2549.

“Credit Card” means a card or any other materials issued by business operators to their customers to be used for payment of goods, services or any other expenses in lieu of cash payment, or to be used for withdrawal of cash; provided that customers are required to pay fees, service charges, interest or any other expenses, but excluding cards used for advance payment of goods, services or any other expenses.

“Credit Data Business”⁶ means a business relating to the control or processing of credit data in order to provide data to members or users.

“Company” means a limited company under the Civil and Commercial Code or a public limited company under the law governing public limited companies.

“Credit Bureau” means a company licensed to operate the credit data business.

“License” means a license for credit data business operation.

“Data Owner” means a natural person or any juristic person who owns the data or records of customers or applicants for services from members, regardless of application for credit or any other services.

“Financial Institution” means a juristic person licensed to operate the following businesses in the Kingdom of Thailand:

- (1) Commercial bank
- (2) Finance company
- (3) Securities company
- (4) Credit foncier company
- (5)⁷ Non-life insurance company
- (6) Life insurance company
- (7) Juristic person providing credit card services
- (8) Juristic person established under special laws to operate financial activities and services
- (9) Other juristic persons operating business of credit provision in the ordinary course of business as prescribed and announced by the Committee

“Member” means a financial institution recruited as a member by the Credit Bureau.

“User” means a member or juristic person operating lawful business of credit provision in the ordinary course of business.

“Source of Data” means a natural person, body of persons or a juristic person providing data to the Credit Bureau.

“Committee” means the Credit Data Protection Committee.

“Competent Authority” means the person appointed by the Minister under the recommendations of the Committee to take actions under this Act.

⁶ Section 3 Definitions of “Credit Data Business” as amended by the Credit Data Business Operation Act (No.3) B.E.2551.

⁷ Section 3 Definitions of “Financial Institution (5)” as amended by the Credit Data Business Operation Act (No.2) B.E.2549.

“Minister” means the Minister taking charge under this Act.

Section 4 This Act shall not apply to the processing of personal data or data of body of persons or any juristic person for particular benefits within such body of persons or juristic person or for use in businesses as prescribed and announced by the Committee.

Section 5 The Minister of Finance shall take charge under this Act and shall be empowered to issue announcements for compliance with this Act.

Such announcements shall be enforced after the publication in the Government Gazette.

SECTION 1

INCORPORATION AND APPLICATION FOR LICENSES

Section 6 The credit data business operation shall be permitted after the incorporation and after having received a license from the Minister.

The incorporation for business operation under Paragraph 1 may be made after having received the Minister’s approval.

The application for approval, the granting of approval, the application for license and the issuance of license shall be in accordance with the criteria, methods and conditions and shall be subject to the fees as prescribed and announced by the Committee.

Section 7 The Credit Bureau shall have the number of shares held by Thai nationals for more than one half of the registered capital of a limited company or the paid-up capital of a public limited company, as the case may be; and shall have directors who are Thai nationals for more than one half of the total number of directors.

Foreigners shall not be empowered by the Articles of Association of the Credit Bureau to nominate the majority of executive directors or to manage businesses of such juristic person by any other methods.

Section 8 The Credit Bureau shall use its title as “Credit Bureau” and followed by the words “Limited” or “Public Limited”, as the case may be.

SECTION 2

CREDIT DATA BUSINESS OPERATION

Section 9 No person other than the Credit Bureau shall be permitted to operate the credit data business.

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Section 10 The Credit Bureau, the Data Controller and the Data Processor shall be prohibited to keep the sensitive data.

Section 11 No person other than the Credit Bureau shall be permitted to use the title or business name as “Credit Bureau” or any other words with the same meaning.

Section 12 The Credit Bureau, the Data Controller or the Data Processor operating businesses in the Kingdom of Thailand shall be prohibited to operate businesses, to supervise or to process the data outside the Kingdom of Thailand.

Section 13 The Credit Bureau, the Data Controller or the Data Processor shall be prohibited to process the data kept longer than the period of time as prescribed and announced by the Committee.

Section 14 No person shall be permitted to make announcements or advertisements that he/she is able to correct the data differently from those kept by the Credit Bureau.

Section 15 No person or juristic person shall be permitted to enter into an agreement or to take any action resulting in the hindrance or obstruction of provision of the credit data to the Credit Bureau or of the use of data of any credit bureau or causing the monopoly in the credit data business operation without the Committee’s approval.

SECTION 3

RIGHTS AND DUTIES OF THE CREDIT BUREAU, MEMBERS AND USERS

Section 16 The Credit Bureau shall process data from members or reliable sources of data as per the criteria, methods and conditions as prescribed and announced by the Committee.

Section 17 For the purpose of data processing, the Credit Bureau or its assigned person shall provide at least the following systems and requirements:

- (1) Classification system for the kept data
- (2) Data correction and updating system
- (3) Confidentiality and data safety system to prevent any misuse of the data or any unauthorized person from accessing the data, including the data security system to prevent any unlawful or unauthorized correction, damage or destruction of the data
- (4) Data application system and normal data reporting system
- (5) Data owner verification and correction system
- (6) Recording and reporting system upon each access to the data; provided that the data shall be kept for a period of not less than two years as from the date of recording of data access for the data owner’s audit
- (7) Data destruction system for data kept beyond a period prescribed by the Committee

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(8) Any other systems or requirements as prescribed and announced by the Committee

The provision of systems and requirements under Paragraph 1 shall be in accordance with the criteria, methods and conditions as prescribed and announced by the Committee.

Section 18⁸ For the purpose of controlling and processing of data of the Credit Bureau, members are required to send data of their customers to the Credit Bureau in which they are members, and to notify their customers, in writing, of the sent data or by other methods as agreed within thirty days as from the date of sending data to the Credit Bureau. In case, members failed to do so within such time limit, members may request to the Committee for extension of the time limit for not exceeding fifteen days, thus, as per the criteria, methods and conditions prescribed by the Committee.

Members shall notify their customers of the sending of additional data relating to records of repayment of loans and payment of goods or services by credit cards to the Credit Bureau, as per the criteria, methods, conditions and period prescribed by the Committee.

Section 19 Members shall have their duties, as follows:

(1) Report and send data under Section 18 to the Credit Bureau and notify their customers of such sending of data without discrimination

(2) Send correct and updated data. In case, members are aware of any incorrectness, members shall make correction and send the correct data to the Credit Bureau.

(3) In the event that members have been reported by the Credit Bureau that the data owner considered that the data obtained was incorrect, members shall take actions, as follows:

(a) Verify the matters of fact as per the application for correction

(b) Report the verification results to the Credit Bureau without delay

(c) In case, such data is incomplete or incorrect, members shall make correction thereof and shall report the correct data to all credit bureaus that have received the data from them.

(d) The consideration of the application for correction under (a) shall be complete within thirty days as from the date of receiving the application for correction from the data owner. In the event that the data owner has sent additional data within a period of thirty days, the period for consideration shall be extended for the Credit Bureau for not exceeding thirty days per each time as from the last date of receiving the data.

(e) During the consideration of the application for correction under (d), the Credit Bureau shall keep the data thereof in the data system of the data owner.

(4) In case of unresolved disputes of data, members shall report the Credit Bureau to record them as disputes in the data system of the data owner.

(5) In case of default of payment of debts, member shall report the Credit Bureau relating to the date of commencement of such default of payment of debts.

⁸ Section 18 as amended by the Credit Data Business Operation Act (No.2) B.E.2549.

The reporting or recording of disputes under Paragraph 1 shall be in accordance with the criteria and methods as prescribed and announced by the Committee.

Section 20 The Credit Bureau shall disclose or provide data to members or users who intend to use the data for the purpose of credit analysis and issuance of credit cards; provided that such disclosure or provision of data shall be consented by the data owners at all times, unless the data owners have given their consents otherwise, thus, in accordance with the criteria, methods and conditions as prescribed by the Committee.⁹

In addition to the disclosure or provision of data to members or users under Paragraph 1, the Credit Bureau shall disclose or provide data in any of the following cases without receiving a prior written consent from the data owner:

(1) When there are court orders or warrants or data relating to litigation disclosed to the general public.

(2) When there are notices from the inquiry officials for the purpose of inquiry of criminal offences relating to financial businesses under their responsibilities for inquiry of such cases.

(3) When there are notices from the Ministry of Finance, the Bank of Thailand or the Securities and Exchange Commission for the purpose of operation relating to the supervision or audit of financial institutions under the law governing the matter.

(4) When there are notices from the Secondary Mortgage Corporation under the Law Governing the Secondary Mortgage Corporation or securitization special purpose entitles under the Law Governing Securitization Special Purpose Entitles for the purpose of evaluation of status of assets for securitization under the law governing the matter as may be necessary.

(5) When there are notices from the Thai Asset Management Corporation under the Law Governing the Thai Asset Management Corporation, the Asset Management Corporation under the Law Governing the Asset Management Corporation, financial institutions or asset management companies under the Law Governing the Asset Management Companies for the purpose of evaluation of assets purchased or transferred under the law governing the matter as may be necessary.

Provided that the disclosure or provision of data under (4) or (5) shall be approved by the Committee.

Upon the disclosure or provision of data under Paragraph 2, the Credit Bureau shall give a written notice thereof to the data owner within thirty days as from the date of disclosure or provision of data. In case of overall data of any financial institution, it shall be notified to such financial institution.

⁹ Section 20 Paragraph 1 as amended by the Credit Data Business Operation Act (No.2) B.E.2549.

Section 21 Users in kind shall be entitled to equally receive data from the Credit Bureau.

Section 22 Users shall have their duties, as follows:

- (1) Use data as per the objectives prescribed under Section 20 only.
- (2) It shall be prohibited to disclose or disseminate data to other persons ineligible to perceive the data.

Section 23 Data recipients under Section 20 Paragraph 2 shall use such data for such specific purpose and shall safely keep such data confidential in order to prevent other persons from perceiving such data.

Section 24 Subject to Clause 20, the following persons shall be prohibited to disclose the data:

- (1) The Credit Bureau, data controllers, data processors, members or users
- (2) Those who perceived the data from work or performance of duties in (1)
- (3) Those who perceived the data from persons under (1) or (2)

SECTION 4 PROTECTION TO THE DATA OWNERS

Section 25 For the purpose of protection and fairness to the data owners, the data owners shall be entitled to:

- (1) Perceive that the Credit Bureau has kept any of their data
- (2) Verify their data
- (3) Rectify incorrect data
- (4) Dispute upon realization of their incorrect data
- (5) Receive notification of results of verification of their data within the prescribed period
- (6) Receive notification of reason of denial of application for loans or services from the financial institution, in case, the financial institution has cited the data of the Credit Bureau as reason of reason of denial of application for loans or services
- (7) Appeal to the Committee under Section 27

The data owners may bear the data verification fees as prescribed and announced by the Committee, thus, not exceeding two hundred Baht.

Section 26 When the data owners have exercised the rights to verify or correct their data available with the Credit Bureau or members, the Credit Bureau or such members shall consider the application and shall promptly verify such data and shall report the results of verification or correction of data, together with reasons thereof, to the data owners within thirty days as from the date of receiving the applications.

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In the event that the Credit Bureau or members considered that the data was incorrect for any reason whatsoever, the Credit Bureau or such members shall promptly correct the data and shall notify the corrected data to the sources of data, members or related users for correction of such data accordingly.

Section 27 In case of unresolved disputes between the data owners and the Credit Bureau relating to the correctness of data, the Credit Bureau shall record such disputes, together with collateral evidences of the data owners in the data system of such data owners. Regarding the preparation of reports of data for service provision to members or users, the Credit Bureau shall specify specific matters of disputes of the data owners in such reports. For this purpose, the data owners may appeal such disputes to the Committee for adjudication.

In case of unresolved disputes between financial institutions, members or users with the Credit Bureau or the data owners, the Credit Bureau, financial institutions, members or users shall record such disputes in the data system of such data owners and shall notify the same to the related parties. For this purpose, the data owners may appeal such disputes to the Committee for adjudication.

The appeal of such disputes under Paragraph 1 and Paragraph 2 to the Committee shall be in accordance with the criteria and methods as prescribed and announced by the Committee.

Upon the issuance of the Committee's adjudication under Paragraph 1 and Paragraph 2, the Credit Bureau, financial institutions, members and users shall comply with such adjudication.

Section 28 In the event that financial institutions, members or users denied the provision of loans or any other actions which caused the increase of service fees to customers due to the data perception of such customers, the financial institutions, members or users shall give a reason of such denial of provision of loans or the increase of service fees, including the sources of data to such customers in writing; and customers who are the data owners shall be entitled to verify the correctness of their data free of charges, in case, such customers have exercised their rights to verify the same within thirty days as from the date of receiving such denial of application for loan services or any other actions.

In the event that the data owners considered that such data under Paragraph 1 was actually incorrect, the data owners may resubmit applications, together with collateral evidences, to be considered by financial institutions, members or users under Paragraph 1 for provision of loans or any other actions.

Provisions contained in Section 26 and Section 27 shall apply mutatis mutandis.

SECTION 5

SUPERVISION OF THE CREDIT BUREAU

Section 29¹⁰ A committee called "The Credit Data Protection Committee" shall be

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established, consisting of the Governor of the Bank of Thailand (Chairman), the Permanent Secretary for Finance (Vice Chairman), the Permanent Secretary for the Office of the Prime Minister, the Permanent Secretary for Justice, the Secretary-General of the Office of the Council of State, the Secretary-General of the Office of Insurance Commission, the Director-General of the Department of Provincial Administration, the Director-General of the Department of Business Development, the Director-General of the Cooperative Promotion Department, the Secretary-General of the Office of the Consumer Protection Board, the Director of the Fiscal Policy Office, the Secretary-General of the Office of Securities and Exchange Commission, the Director of the National Electronics and Computer Technology Center, the Secretary-General of the Thai Bankers' Association and five specialized directors (Directors).

The Cabinet shall appoint two specialized directors with knowledge and expertise on consumer protection, one specialized director with knowledge and expertise on finance and banking, one specialized director with knowledge and expertise on computers and one representative of business operators in the private sector, with the term in office of two years each; and all specialized directors may be reappointed but they may assume the office for not exceeding two successive terms.

The Committee shall appoint the Assistant Governor of the Bank of Thailand or the Senior Director of the Bank of Thailand as the secretary.

Section 30 The Committee shall have powers and duties to supervise the credit data business operation; and such have powers and duties shall include:

- (1) Issue announcements or orders for operations in accordance with this Act
- (2) Issue announcements and prescribe the criteria, methods and conditions relating to business operation of the Credit Bureau, data controllers and data processors and fix rates of fees and any other operating costs in connection with the business operation of the Credit Bureau and such persons
- (3) Order the Credit Bureau to submit reports on general and specific business operation of the Company, with the particulars thereof and according to the prescribed period
- (4) Order the Credit Bureau to clarify or magnify the reports provided under (3)
- (5) Consider and diagnose the appeal under this Act
- (6) Appoint subcommittees
- (7) Take any other actions according to the laws or the Cabinet's Resolutions prescribing the same as powers and duties of the Committee

¹⁰ Section 29 as amended by the Credit Data Business Operation Act (No.3) B.E.2551.

Regarding the performance of duties under this Section, the Committee may assign a subcommittee or the Bank of Thailand to take actions or to give recommendations to the Committee for consideration and further actions.

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Section 31 In addition to vacating office at the end of the term under Section 29, directors appointed by the Cabinet must vacate the office upon:

- (1) Death
- (2) Resignation
- (3) Dismissal by the Cabinet
- (4) Bankruptcy
- (5) Incompetence or quasi-incompetence
- (6) Having been sentenced by a final judgment to imprisonment, except for offences committed by negligence or petty offences
- (7) Holding office or having duties or any related benefits in the Credit Bureau, data controllers or data processors

In the event that any director has vacated the office earlier, the Cabinet may appoint a substitute director to assume the office for the remaining term of the vacating director.

In the event that the Cabinet has appointed additional directors during the term of office of the appointed directors, such additional directors shall assume the office for the remaining term of the appointed directors.

Section 31/1¹¹ In the event that a director appointed by the Cabinet has vacated the office at the end of the term and a new director has not yet been appointed, such director who has vacated the office at the end of the term shall still be in office to continue the performance of duties until the newly appointed director shall assume the office but not exceeding ninety days.

In the event that such director under Paragraph 1 has vacated the office earlier, a new director shall be appointed to fill such vacancy within one hundred and twenty days, unless the remaining term in office of the director is less than ninety days, a new director may not be appointed.

During the period when a new director has not yet been appointed under this Section, it shall be regarded that the Committee consists of the total remaining directors and such committee shall continue the performance of duties; provided that the remaining directors appointed by the Cabinet to perform duties shall be no less than three people.

Section 32 In the Committee's meeting, in case, the Chairman or the Vice Chairman did not attend the meeting or was not present in the meeting, the directors attending the meeting shall elect a director as Chairman of the meeting.

At each meeting of the Committee, at least one half of the total number of directors shall attend the meeting to constitute a quorum.

Decisions of the meeting shall be made by majority votes. One director shall have one vote. In case of a tie, the Chairman of the meeting shall have a casting vote.

¹¹ Section 31/1 as added by the Credit Data Business Operation Act (No.4) B.E.2559.

Section 33 A subcommittee shall consist of 3-5 directors specialized in the related matters as appointed by the Committee.

The subcommittee shall have powers and duties as prescribed in this Act and as assigned by the Committee.

Regarding meetings of subcommittees, the provisions contained in Section 32 shall apply mutatis mutandis.

Section 34 The Committee shall be empowered to order any person to send documents or data relating to complaints or any other matters concerning the protection of data of the data owners. For this purpose, the Committee may also call the related parties for clarification.

Section 35 Regarding the performance of duties under this Act, the Committee or subcommittees shall give an opportunity to the alleged parties or those suspected to commit an infringement of rights of the data owners to clarify matters of fact and to express their opinions as may be reasonable, except in case of necessity and urgency.

Regarding the determination or issuance of orders in any matter under this Act, the Committee or subcommittees shall take account of potential damage to the data owners, the Credit Bureau, financial institutions, users or any other related parties; and in case, it is deemed expedient, the Committee or subcommittees may temporarily prescribe the criteria, methods and conditions to be enforced in accordance with the determination or issuance of such orders.

Section 36 Regarding the compliance with this Act, the Bank of Thailand shall have its powers and duties, as follows:

(1) Receive complaints from the data owners who have been troubled or damaged resulting from actions of business operators to be proposed to the Committee or subcommittees as the case may be.

(2) Supervise the work of the Credit Bureau, data processors or persons who committed infringement of rights of the data owners and the verification of data as may be expedient and necessary for protection of the data owners and report to the Committee.

(3) Liaison with government agencies or offices that have powers and duties to supervise or audit financial institutions, users or any other persons.

(4) Enter legal actions relating to the infringement of rights of the data owners as the Committee may think fit or upon requests under this Act.

(5) Take any other actions as assigned by the Committee or subcommittees.

Section 37 Regarding the compliance with this Act, the competent authorities shall have their powers and duties, as follows:

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(1) Enter business premises of the Credit Bureau or the data processing premises of the Credit Bureau.

(2) Enter any premises with grounds of reasonable suspicion that there is commission of offences under Section 9 or there are evidences or documents relating to the commission of offences under such Section for inspection between sunrise and sunset or during the operating hours of such premises.

(3) Seize or freeze assets, documents or articles in connection with the commission of offences under this Act for the purpose of audit or action.

(4) Take any other actions as assigned by the Committee or subcommittees.

Section 38 The Committee, subcommittees and the competent authorities taking actions under this Act shall be the authorities under the Criminal Code.

Regarding the performance of duties, the competent authorities shall produce their identification cards to the related parties at all times.

SECTION 6 SUSPENSION AND REVOCATION OF LICENSES

Section 39 The Minister shall, with the advice of the Committee, be empowered to order any suspension or revocation of licenses for credit data business operation of the Credit Bureau upon the occurrence of any of the following matters of fact:

(1) Operate businesses in bad faith or potentially causing damage to the general public.

(2) Willfully refrain from actions, or violate the prohibitions as provided by laws.

(3) Willfully violate or failing to comply with the criteria, methods or conditions as prescribed by the Minister or the Committee under this Act.

Section 40 When the Minister has ordered the revocation of licenses for credit data business operation of any credit bureau, the Committee shall be empowered to announce and prescribe the criteria, methods and conditions relating to the management of data of such credit bureau.

SECTION 7 CIVIL LIABILITIES

Section 41 In case, any Credit Bureau, data controllers or data processors willfully or negligently disclosed the incorrect data to others or disclosed the correct data not in accordance with the objectives prescribed in this Act and caused damage to members, users or the data owners, such Credit Bureau shall be liable to indemnify compensation for such purpose.

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SECTION 8 STIPULATED PENALTIES

Section 42 Any Credit Bureau that breached the provisions contained in Section 7, Section 8 or Section 16 of this Act shall be fined of not exceeding three hundred thousand Baht and shall be subject to fines of not exceeding ten thousand Baht per day during the period of such breach thereof or until such breach thereof has been remedied.

Section 43 Any person who breached the provisions contained in Section 9, Section 14 or Section 15 of this Act shall be punished with imprisonment of 5-10 years or fined of not exceeding five hundred thousand Baht or both.

Section 44 Any Credit Bureau, data controllers or data processors who breached the provisions contained in Section 10 or Section 12 of this Act shall be punished with imprisonment of 5-10 years or fined of not exceeding five hundred thousand Baht or both.

Section 45 Any person who breached the provisions contained in Section 11 of this Act shall be punished with imprisonment of not exceeding 1 year or fined of not exceeding one hundred thousand Baht or both.

Section 46 Any Credit Bureau, data controllers or data processors who breached the provisions contained in Section 13 of this Act shall be fined of not exceeding three hundred thousand Baht and shall be subject to fines of not exceeding ten thousand Baht per day during the period of such breach thereof or until such breach thereof has been remedied.

Section 47 Any Credit Bureau or data processors who breached the provisions contained in Section 17 Paragraph 1 of this Act or failed to comply with the criteria, methods and conditions prescribed by the Committee under Section 17 Paragraph 2 of this Act shall be fined of not exceeding three hundred thousand Baht and shall be subject to fines of not exceeding ten thousand Baht per day during the period of such breach thereof or until such breach thereof has been remedied.

Section 48¹² Any member who failed to send data of its customers to the Credit Bureau in which it was a member shall be fined of not exceeding five hundred thousand Baht and shall be subject to fines of not exceeding ten thousand Baht per day during the period of such breach thereof or until such breach thereof has been remedied.

Any member who failed to notify its customers of the data sent to the Credit Bureau or failed to do so within a period prescribed under Section 18 of this Act or failed to comply with the criteria, methods and conditions prescribed by the Committee under Section 18 of this Act shall be punished with imprisonment of not exceeding 1 year or fined of not exceeding one hundred thousand Baht or both.

¹² Section 48 as amended by the Credit Data Business Operation Act (No.2) B.E.2549.

Section 49 Any member who concealed or provided incorrect data of its customers to the Credit Bureau shall be fined of not exceeding three hundred thousand Baht and shall be subject to fines of not exceeding ten thousand Baht per day during the period of such breach thereof or until such breach thereof has been remedied.

Section 50 Any member who breached the provisions contained in Section 19(2)(3)(4) or (5) of this Act or breached or failed to comply with the criteria and methods prescribed by the Committee under Section 19 Paragraph 2 of this Act shall be fined of not exceeding three hundred thousand Baht and shall be subject to fines of not exceeding ten thousand Baht per day during the period of such breach thereof or until such breach thereof has been remedied.

Section 51¹³ Any Credit Bureau or data processors that disclosed or provided data to its members or users for other purposes or disclosed or provided data to a third party other than those prescribed in Section 20 of this Act shall be punished with imprisonment of not exceeding 3 years or fined of not exceeding three hundred thousand Baht or both.

Section 52 Any user who breached or failed to comply with the provisions contained in Section 22 of this Act shall be punished with imprisonment of 5-10 years or fined of not exceeding five hundred thousand Baht or both.

Section 53 Any person, director or subcommittee who perceived the data of any person as per the provisions contained in Section 23 of this Act or according to the performance of duties under this Act, in case, such person disclosed such data to a third party, such person, director or subcommittee shall be punished with imprisonment of 5-10 years or fined of not exceeding five hundred thousand Baht or both.

Any provisions contained in Paragraph 1 shall not apply to the disclosure of data in any of the following cases:

- (1) Dutiful disclosure of data
- (2) Disclosure of data for the purpose of inquiry or judicial proceedings
- (3) Disclosure of data relating to the commission of offences under this Act
- (4) Disclosure of data for the purpose of remedy of operations of the Credit Bureau
- (5) Disclosure of data to the authorities or domestic agencies responsible for supervision of financial institutions or other juristic persons under the special law governing the matter
- (6) Disclosure of data upon receiving a specific written approval from the data owner
- (7) Disclosure of data relating to lawsuits disclosed to the general public

Section 54 The Credit Bureau, data controllers, data processors, members, users or any person who breached the provisions contained in Section 24 of this Act shall be punished with imprisonment of 5-10 years or fined of not exceeding five hundred thousand Baht or both.

¹³ Section 51 as amended by the Credit Data Business Operation Act (No.2) B.E.2549.

Section 55 Any Credit Bureau or member who breached the provisions contained in Section 26 of this Act shall be fined of not exceeding three hundred thousand Baht and shall be subject to fines of not exceeding ten thousand Baht per day during the period of such breach thereof or until such breach thereof has been remedied.

Section 56 The Credit Bureau, financial institutions, members or users who breached the provisions contained in Section 27 of this Act shall be fined of not exceeding three hundred thousand Baht and shall be subject to fines of not exceeding ten thousand Baht per day during the period of such breach thereof or until such breach thereof has been remedied.

Section 57 Financial institutions, members or users who breached the provisions contained in Section 28 of this Act shall be fined of not exceeding three hundred thousand Baht and shall be subject to fines of not exceeding ten thousand Baht per day during the period of such breach thereof or until such breach thereof has been remedied.

Section 58 Any person who failed to comply with announcements or orders of the Committee under Section 30(1)(2)(3) or (4) or Section 34 of this Act shall be punished with imprisonment of not exceeding one month or fined of not exceeding ten thousand Baht or both.

Section 59 Any Credit Bureau that breached or failed to comply with the criteria, methods and conditions prescribed by the Committee under Section 40 of this Act shall be fined of not exceeding three hundred thousand Baht and shall be subject to fines of not exceeding ten thousand Baht per day during the period of such breach thereof or until such breach thereof has been remedied.

Section 60 Any person who treated the data in the memory system of computer of the Credit Bureau, members, users or the data owners in any manner or gathered, corrected, disclosed, deleted or destroyed the data in the memory system of such computer unlawfully or without permission from the related authorized person, shall be punished with imprisonment of 5-10 years or fined of not exceeding five hundred thousand Baht or both.

Section 61 Directors, managers, employees, or any person responsible for operations of the Credit Bureau, data controllers or data processors that acted or neglected to act for undue benefits for themselves or for others and caused damage to others or to the data owners, shall be punished with imprisonment of 5-10 years or fined of not exceeding five hundred thousand Baht or both.

Section 62 In case, it appeared that there was the commission of any offence under this Act, it shall be regarded that the Bank of Thailand shall be the damaged person under the Criminal Procedure Code; and in such a criminal case, the public prosecutor shall be empowered to claim assets, prices or compensation for such damage in lieu of the data owners or the actual damaged persons. For this purpose, the provisions governing civil action in connection with criminal offence under the Criminal Procedure Code shall apply mutatis mutandis.

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The provisions contained in this Section shall not deprive the rights of the data owners or the actual damaged persons to exercise their rights of litigation or to take any legal actions against such wrongdoers.

Section 63 For offences under Section 42, Section 45, Section 46, Section 47, Section 48, Section 49, Section 50, Section 51, Section 55, Section 56, Section 57, Section 58 or Section 59, the Fines Imposition Committee appointed by the Minister shall be empowered to impose fines as per the criteria prescribed by the Committee.¹⁴

The Fines Imposition Committee appointed by the Minister under Paragraph 1 shall consist of three members and one of those members shall be an inquiry official under the Criminal Procedure Code.

When the Fines Imposition Committee has imposed fines in any case whatsoever and the alleged offenders have settled payment of fines according to the Statements of Imposition of Fines within a period prescribed by the Fines Imposition Committee, such case shall be settled and the Fines Imposition Committee shall promptly notify the results thereto to the Committee.

Section 64 In the event that the wrongdoers who shall be punished under this Act were juristic persons, the Managing Director, Managing Partner or representatives of such juristic persons shall be punished as per the provisions for such offences, unless it was proved that such action was taken without the knowledge or consent of such persons or such persons had taken reasonable steps to prevent the occurrence of such offence.

SECTION 9 TRANSITORY PROVISIONS

Section 65 Any person who has operated the credit data business or other similar businesses prior to the date of enforcement of this Act shall submit an application under Section 6 within sixty days as from the date of enforcement of this Act during the consideration of application for continuous business operation of such person until the Minister shall issue an order otherwise.

Section 66 Any person who had already used the name or business title as “Credit Bureau” or any other words with similar meanings on the date of promulgation of this Act, which was forbidden for use under Section 11 of this Act, shall stop using such name or any other words within one hundred and eighty days as from the date of promulgation of this Act.

¹⁴ Section 63 Paragraph 1 as amended by the Credit Data Business Operation Act (No.2) B.E.2549.

Counter-Signature:

Police Lieutenant Colonel Thaksin Shinawatra

Prime Minister

Office of Justice Affairs

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Note:- Reason for promulgation of this Act: Whereas, in the provision of loans of financial institutions, it is necessary to have enough data relating to financial position and records of payment of debts of customers for consideration whether such customers have good or poor records and level of debt burdens they have with other financial institutions. In the past, financial institutions still had incomplete data for consideration of provision of loans and resulted in the increasing number of non-performing loans and causing problems of financial security to such financial institutions and the system of financial institutions as a whole. Moreover, in the credit data business operation, at present, there is no enactment of laws governing the criteria, methods and conditions of credit data transactions and there is no particular law protecting consumers who are the data owners; therefore, it is necessary to enact this Act.

The Credit Data Business Operation Act (No.2) B.E.2549.¹⁵

Section 2 This Act shall come into force as from the date following the date of its publication in the Government Gazette onwards.

Note:- Reason for promulgation of this Act: Whereas, the Credit Data Business Operation Act B.E.2545 has prescribed that the sending of data and notification to the data owners relating to the data sent to the Credit Bureau and the request for consent of the data owners relating to the disclosure or provision of data to members or users shall be made in writing and shall be carried out within a period prescribed by laws; as a result, it caused burdens to the Credit Bureau and not in conformity with the information technology which can be carried out by other methods; and the rates of criminal penalties for offences in connection with such action were unreasonably severe and it is expedient to amend the laws for more suitability to the enforcement thereof, therefore, it is necessary to enact this Act.

The Credit Data Business Operation Act (No.3) B.E.2551.¹⁶

Section 2 This Act shall come into force as from the date following the date of its publication in the Government Gazette onwards.

Section 3 The specialized directors who had performed their duties prior to the date of promulgation of this Act shall continue to do so until the end of the term; and when the term in office expired, in case, there is no appointment of the specialized directors under this Act, then, such specialized directors shall continue performing their duties for the time being.

¹⁵ Government Gazette, Volume 123, Section 18 A, Page 1 dated 23rd February 2006

¹⁶ Government Gazette, Volume 125, Section 33 A, Page 9 dated 13th February 2008

Note:- Reason for promulgation of this Act: For provision of loan services to consumers in accordance with their potentials of repayment of debts which affected the security of the financial institution system and in favor of the national economic system; therefore, it is expedient to permit the Credit Bureau to calculate credit scores and to prepare statistical reports and to correct the components of the Credit Data Protection Committee duly in accordance with the current situations; therefore, it is necessary to enact this Act.

The Credit Data Business Operation Act (No.4) B.E.2559.¹⁷

Section 2 This Act shall come into force as from the date following the date of its publication in the Government Gazette onwards.

Note:- Reason for promulgation of this Act: Whereas, the Credit Data Business Operation Act B.E.2545 had no provisions relating to the performance of duties of the Credit Data Protection Committee to continue their performance of duties in the event that the specialized directors appointed by the Cabinet have vacated the office at the end of the term or have vacated the office earlier, resulting in discontinuous performance of duties of such committee, it is expedient to amend the provisions relating to the performance of duties of the Credit Data Protection Committee in such case for continuous and more effective performance of duties and operations according to the laws; therefore, it is necessary to enact this Act.

¹⁷ Government Gazette, Volume 133, Section 7 A, Page 22 dated 19th January 2016

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