

CREDIT INFORMATION BUSINESS OPERATION ACT

B.E. 2545 (2002)\*\*

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**Bhumibol Adulyadej, Rex.**

Given on this 8<sup>th</sup> day of November B.E. 2545 (2002)  
Being the 57<sup>th</sup> Year of the Present Reign

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to promulgate a law governing credit information business operation.

This Act contains certain provisions in relation to the restriction of rights and liberties of a person, in respect of which Section 29 in conjunction with Section 35, Section 48 and Section 50 of the Constitution of the Kingdom of Thailand so permitted by the virtue of law.

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the National Assembly, as follows:

**Section 1.** This Act is called the "Credit Information Business Operation Act B.E. 2545 (2002)".

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\* Translated by Chandler and Thong'ek Law Office Limited, and reviewed by Prof. Phijaisakdi Horayangkura under contract for the Office of the Council of State of Thailand's Law for ASEAN project. .-Initial Version – pending review and approval by the Office of the Council of State.

\*\* As amended until Credit Information Business Operation Act (No. 3) B.E. 2551 (2008)

**Section 2.** This Act shall come into force after the expiration of one hundred and twenty days from the day following the date of its publication in the Government Gazette.

**Section 3.** In this Act:

"information"<sup>1</sup> means thing that conveys the meaning of facts of credit information or credit mark, regardless of whether the said conveyance can be made by the condition of such thing or through any mean, and whether it is made in a form of a document, file, report, letter, diagram, map, drawing, photograph, film, picture or sound recording, recording by computer, or any other method which causes the matter recorded to appear.

"information processing"<sup>2</sup> means any operation on information, such as gathering, recording, compilation, storage, amendment, retrieval, usage, disclosure, printing, accessibility, deletion, or destruction of information, including a preparation and disclosure of credit mark and statistical report.

"credit mark"<sup>3</sup> means an indicator of the probability in making debt repayment by applying statistical method in information processing by a credit information company.

"information controller" means any natural person, group of persons or juristic person in the private sector, whether solely or jointly with another entity, undertaking responsibility for controlling or, by itself, carrying on information processing.

"information processor" means an information controller or any person who processes information on behalf of an information controller or credit information company.

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<sup>1</sup> Amended by Section 3 of the Credit Information Business Operation Act (No. 3) B.E. 2551 (2008)

<sup>2</sup> Amended by Section 3 of the Credit Information Business Operation Act (No. 3) B.E. 2551 (2008)

<sup>3</sup> Added by Section 4 of the Credit Information Business Operation Act (No. 3) B.E. 2551 (2008)

"credit information" means facts concerning a customer applying for credit, as follows:

(1) Facts that indicate the identity and qualifications of the customer applying for credit:

(a) In the case of a natural person, it means name, address, date of birth, status, marriage, occupation, citizen identification card number or state official identification card number or passport number, and taxpayer identification number (if any).

(b) In the case of a juristic person, it means name, location, juristic person registration number or taxpayer identification number.

(2) History of application for and approval of credit, as well as repayment of credit of the customer applying for credit, including history of payment for goods or services by credit card.

"prohibited information" means information of a natural person that is not related to receipt of services, application for credit, or that affects the feelings of, or may cause damage to, or that clearly affects the rights and liberties of, the information subject, as follows:

- (1) disability description;
- (2) genetic description;
- (3) information of a person who is under investigation or criminal case trial;
- (4) any other information prescribed in the notification of the Committee.

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"credit"<sup>4</sup> means a provision of loan or credit line for lending, or a lending of securities, sale by hire-purchase, sale by leasing, guaranty, aval, acceptance of bill, buying, discounting or rediscounting of bill, a state of being creditor due to having paid or ordered for payment of money for the benefit of his client, or a state of being creditor due to having paid money under the obligations under a letter of credit or other obligations, an acceptance as a customer for trading of securities and any other transactions prescribed in the notification of the Committee.

"credit card" means a card or any other thing that a business operator has issued to its customer for payment for goods, services, or any other charges in lieu of payment by cash, or for withdrawal of cash, whereby the customer must pay a fee, service charge, interest, or any other charge, but excluding a card under which payment for goods, services or any other charges has already been made in advance.

"credit information business"<sup>5</sup> means a business concerning control or processing of credit information so as to provide information to its members or service 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 information company" means a company licensed to operate credit information business.

"license" means a license to operate credit information business.

"information subject" means any natural person or juristic person who is the subject of information or who is the subject of history of a customer applying for use of services from a member, whether it be an application for credit or any other service.

"financial institution" means a juristic person licensed to operate or carry out a business in the Kingdom, as follows:

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<sup>4</sup> Amended by Section 3 of the Credit Information Business Operation Act (No. 2) B.E. 2549 (2006)

<sup>5</sup> Amended by Section 3 of the Credit Information Business Operation Act (No. 3) B.E. 2551 (2008)

- (1) commercial bank;
  - (2) finance company;
  - (3) securities company;
  - (4) credit foncier company;
  - (5)<sup>6</sup> insurance against loss company;
  - (6) life assurance company;
  - (7) juristic person rendering credit card services;
  - (8) juristic person established as financial operations under specific law;
- and
- (9) any other juristic person operating credit-granting business as a normal trade practice prescribed in the Notification of the Committee.

"member" means a financial institution that a credit information company has admitted as its member.

"service user" means a member or juristic person operating lawful business by granting credit as an ordinary course of business .

"source of information" means a natural person, group of persons or juristic person who provides information to a credit information company.

"Committee" means the Credit Information Protection Committee.

"competent official" means a person appointed by the Minister according to the recommendation of the Committee to carry out the authority under this Act.

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<sup>6</sup> Amended by Section 4 of the Credit Information Business Operation Act (No. 2) B.E. 2549 (2006)

"Minister" means the Minister in charge of the enforcement of this Act.

**Section 4.** This Act shall not apply to processing of personal information, information of any group of persons or juristic person, specifically for the internal benefits of the said group of persons or juristic person, or for use in a business prescribed in the notification of the Minister.

**Section 5.** The Minister of Finance shall be in charge of the enforcement of this Act, and shall be empowered to issue notifications for implementation of this Act.

Such a notification shall be in force upon its publication in the Government Gazette.

## CHAPTER 1

### Establishment of Company and Application for License

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**Section 6.** Credit information business operation can only be carried out when established in the form of a company and a license thereof has been obtained from the Minister.

Establishment of a company for the business operation under paragraph one can only be made upon approval from the Minister.

Application for and granting of approval, application for and issuance of a license shall be in accordance with the rules, procedures and conditions, and subject to fees, prescribed in the notification of the Minister.

**Section 7.** A credit information company must have Thai nationals holding shares by more than one-half of the registered capital of the limited company or of the paid-up capital of the public limited company, as the case may be, and there must be directors who are Thai nationals by more than one-half of the total number of directors.

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A credit information company's Articles of Association must not provide power to foreigners to propose for appointment of a majority of its executive directors, or power to manage such juristic person by any other means.

**Section 8.** A credit information company's name must have "credit information company" as its prefix and "limited" or "public limited", as the case may be, as its suffix.

## CHAPTER 2

### Credit Information Business Operation

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**Section 9.** No one other than a credit information company shall operate credit information business.

**Section 10.** No credit information company, information controller and information processor shall store prohibited information.

**Section 11.** No one other than a credit information company shall use the prefix of its name or words showing the name in business as "credit information company" or any other words of the same meaning.

**Section 12.** No credit information company or information controller or information processor carrying out or operating business in the Kingdom shall operate, control or process information outside the Kingdom.

**Section 13.** No credit information company, information controller or information processor shall process information that is older than that prescribed in the notification of the Committee.

**Section 14.** No one shall announce or advertise that he can revise information to be different from that stored by a credit information company.

**Section 15.** No person or juristic person shall enter into an agreement or do any act which obstructs or impedes the provision of credit information to, or the use of

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information by any credit information company, or monopolize the credit information business operation, without the approval of the Committee.

### CHAPTER 3

#### Rights and Duties of Credit Information Company, Member and Service User

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**Section 16.** A credit information company must process information from the members or from reliable sources of information in accordance with the rules, procedures and conditions prescribed in the notification of the Committee.

**Section 17.** In processing information, a credit information company or a person assigned by it to process information on its behalf shall set up at least the following systems and requirements:

- (1) Stored information classification system;
- (2) Information revision system to ensure that it is accurate, complete and up-to-date at all times;
- (3) Information confidentiality and security system, to prevent abuse of information and to prevent an unauthorized person from accessing information, and a system which prevents information from being revised, damaged, or destroyed improperly or without permission;
- (4) Information use request system and regular information reporting system;
- (5) Information examination and correction by the information subject system;
- (6) System of recording and reporting the result of every access to the information, which must be kept for at least two years from the date of recording of the access to the information, so that it may be inspected by the information subject;
- (7) System of destroying information that is older than that prescribed by the Committee;

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(8) Any other systems or requirements prescribed in the notification of the Committee.

The setting up of the systems and requirements under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the notification of the Committee.

**Section 18.**<sup>7</sup> For the purpose of controlling and processing information by a credit information company, a member shall send the information of its customers to the credit information company of which it is a member, and shall notify its customers of the information sent in writing or by other method agreed upon, within thirty days from the date of sending the information to the credit information company. If the member is unable to do so within the said timeframe, it may apply for an extension of time to the Committee for not more than fifteen days, in accordance with the rules, procedures and conditions prescribed by the Committee.

In sending to the credit information company additional information in respect of history of credit repayment and history of payment for goods or services by credit card, the member shall notify its customers of the sending in accordance with the rules, procedures, conditions and period prescribed by the Committee.

**Section 19.** A member has the following duties:

(1) To report and send the information under Section 18 to the credit information company, and notify its customers of the sending of the said information without discrimination;

(2) To send correct and up-to-date information. If it knows that any information is incorrect, it must make a correction and send the correct information to the credit information company;

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<sup>7</sup> Amended by Section 5 of the Credit Information Business Operation Act (No. 2) B.E. 2549 (2006)

(3) In case the member receives a report from the credit information company that an information subject is of the opinion that his or her information is incorrect, the member shall proceed to:

(a) Verify the facts according to the request for correction;

(b) Report the result of verification to the credit information company without delay;

(c) If the said information is incomplete or incorrect, the member shall correct it and report the correct information to every credit information company that receives the information from it;

(d) The consideration of a request for correction under (a) must be completed within thirty days from the date of receipt of the request from the information subject. In the event that the information subject sends additional information within thirty days, the period for consideration by the credit information company shall be extended by not more than thirty days each time from the date of the last receipt of the information;

(e) During consideration of the request for correction under (d), the credit information company shall store the said request for correction within the information system of the information subject;

(4) If there is an objection against information and no agreement can be reached, the member shall report the same to the credit information company for recording the objection within the information system of the information subject; and

(5) Upon a default of debt payment, the member shall report to the credit information company the date of commencement of the default.

Reporting or recording of objection under paragraph one shall be made in accordance with the rules and procedures prescribed in the notification of the Committee.

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**Section 20.** <sup>8</sup>A credit information company shall disclose or provide information to its member or the service user who wishes to use the information for the purposes of credit analysis and issuance of credit card. In disclosing or providing such information, the prior consent must be obtained from the information subject every time, unless the information subject has already otherwise given consent, in accordance with the rules, procedures and conditions prescribed by the Committee.

Other than disclosure or provision of information to the member or service user under paragraph one, the credit information company may disclose or provide information in the following cases without the prior written consent from the information subject:

(1) Upon a court order or writ, or it is the information concerning litigation open to the public;

(2) Upon receipt of a letter from the inquiring official for the purposes of inquiry of a criminal offence relating to financial business and the said inquiring official is in charge of such investigation;

(3) Upon receipt of a letter from the Ministry of Finance, the Bank of Thailand, the Securities and Exchange Commission, for the purposes of supervision or examination of a financial institution under the relevant laws;

(4) Upon receipt of a letter from the Secondary Mortgage Corporation under the law governing secondary mortgage corporation, or from a special purpose vehicle for securitization under the law governing special purpose vehicle for securitization, for the purposes of assessment of assets brought for securitization under the relevant laws, as necessary in the circumstances; or

(5) Upon receipt of a letter from the Thai Asset Management Corporation under the law governing Thai Asset Management Corporation, a financial institution's asset management corporation under the law governing financial institution's asset management corporations, or an asset management company

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<sup>8</sup> Paragraph one of Section 20 amended by Section 6 of the Credit Information Business Operation Act (No. 2) B.E. 2549 (2006)

under the law governing asset management companies, for the purposes of price assessment of assets purchased or transferred under the relevant laws, as necessary in the circumstances.

The disclosure or provision of information under (4) or (5) requires the approval from the Committee.

Upon having disclosed or provided information under paragraph two, the credit information company shall notify the information subject in writing thereof within thirty days from the date of disclosure or provision of information. In case it is overall information of any financial institution, the said financial institution shall be informed accordingly.

**Section 21.** A service user of the same category is entitled to receive information equally from the credit information company.

**Section 22.** A service user shall have the following duties:

- (1) To only use information according to the objectives prescribed under Section 20;
- (2) Not to disclose or disseminate information to others who are not entitled to know the information.

**Section 23.** The person who has obtained the information under paragraph two of Section 20 shall use the said information for such purposes specifically, and shall maintain the confidentiality of the said information by keeping it in a safe place so as to prevent others from reaching such information.

**Section 24.** Subject to the provisions of Section 20, the following persons shall be prohibited from disclosing the information:

- (1) A credit information company, information controller, information processor, member or service user;

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(2) A person who knows the information from working or carrying out duties in (1);

(3) A person who knows the information from a person under (1) or (2).

## CHAPTER 4

### Protection for Information Subject

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**Section 25.** For the purposes of protection and fairness for an information subject, the information subject shall have the following rights:

(1) The right to know which of his or her information is kept by the credit information company;

(2) The right to examine his or her information;

(3) The right to request for correction of incorrect information;

(4) The right to oppose when learning that his or her information is incorrect;

(5) The right to be notified of the result of examination of his or her information within the period prescribed;

(6) The right to know the reason of rejection of credit or service application from the financial institution, in case the financial institution has used the information of the credit information company as a ground to reject the credit or service application;

(7) The right to lodge an appeal to the Committee under Section 27.

The information subject may pay a fee for an examination of information as prescribed in the notification of the Committee, provided that it shall not exceed two hundred baht.

**Section 26.** Upon the information subject having exercised the right to examine or to request for correction of his or her information kept with a credit information company or a member, the credit information company or the member shall promptly consider the request and check the said information, and shall notify the result of examination or correction of the information, together with reasons thereof, to the information subject within thirty days from the date of receipt of the request.

In case the credit information company or the member is of the opinion that the information is incorrect for any reason, the credit information company or the member shall promptly correct the information, and shall notify the corrected information to the source of information, the members or the service users concerned, so that they can also correct the information accordingly.

**Section 27.** In case there is a disagreement between the information subject and the credit information company concerning the accuracy of the information, and no agreement can be reached, the credit information company shall record the disagreement, together with supporting evidence of the information subject, within the information system of the information subject. In preparing a report of information for servicing its members or service users, the credit information company shall specify in the said report the matters of disagreement of the information subject. In this respect, the information subject may lodge an appeal about the disagreement to the Committee for a decision.

If there arises a disagreement between a financial institution, a member, or a service user and the credit information company, or and the information subject, and no agreement can be reached, the credit information company, the financial institution, the member, or the service user shall record such disagreement in the information system of the said information subject, and shall also notify the persons concerned of the same. In this respect, the information subject may lodge an appeal about the disagreement to the Committee for a decision.

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Lodging of an appeal about the disagreement to the Committee under paragraph one and paragraph two shall be in accordance with the rules and procedures prescribed in the notification of the Committee.

Upon a decision by the Committee under paragraph one and paragraph two, the credit information company, the financial institution, the member and the service user shall comply with the said decision.

**Section 28.** In case the financial institution, member, or service user rejects credit granting or takes any other action that causes an increase of service charge to a customer by reason of learning the information of the said customer, the financial institution, member or service user must state the reasons for its rejection of credit granting or increase of service charge, including the source of information, to the said customer in writing. The customer who is the information subject shall then have the right to examine the accuracy of the said information without paying a fee, provided he or she exercises the said right within thirty days from the date of receipt of the rejection of credit application or the date of taking of such other proceeding.

In case the information subject considers that the said information under paragraph one is not correct according to fact, the information subject may submit a request, together with supporting evidence, to the financial institution, member, or service user under paragraph one for reconsideration of credit granting or other actions.

The provisions of Section 26 and Section 27 shall apply *mutatis mutandis*.

## CHAPTER 5

### Supervision of Credit Information Company

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**Section 29.**<sup>9</sup> There shall be a committee called the "Credit Information Protection Committee", comprising Governor of the Bank of Thailand as Chairperson, Permanent Secretary for Finance as Deputy Chairperson, Permanent Secretary for the Office of the Prime Minister, Permanent Secretary for Justice, Secretary-General of the Council of

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<sup>9</sup> Amended by Section 5 of the Credit Information Business Operation Act (No. 3) B.E. 2551 (2008)

State, Secretary-General of the Insurance Commission, Director-General of the Local Administration Department, Director-General of the Department of Business Development, Director-General of the Department of Agricultural Cooperatives, Secretary-General of the Consumers Protection Board, Director-General of the Fiscal Policy Office, Secretary-General of the Office of the Securities and Exchange Commission, Director of the National Electronics and Computer Technology Center, Secretary-General of the Thai Bankers' Association, and five qualified committee members, as committee members.

The Council of Ministers shall appoint the qualified committee members, two of whom must have knowledge and expertise in consumers protection, one of whom in finance and banking, one of whom in computer, and the other who is a representative of the private sector business operators. The qualified committee members shall hold office for a period of two years for each term, and they may be re-appointed. However, they shall not hold office for more than two consecutive terms.

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

**Section 30.** The Committee shall have the powers and duties on supervision of credit information business operation. Such powers and duties shall include:

- (1) To issue notifications or orders for implementation of this Act;
- (2) To issue notifications prescribing rules, procedures and conditions of business operation of credit information companies, information controllers and information processors including prescribing of fees and any other charge related to business operation of credit information companies and the said persons;
- (3) To order a credit information company to submit a report concerning its business operation generally or specifically. Such report shall contain particulars and be submitted within the time prescribed;
- (4) To order a credit information company to make a clarification for explaining or elaborating the report prepared under (3);

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- (5) To consider an appeal under this Act;
- (6) To appoint sub-committees;
- (7) To perform any other acts prescribed by law or a resolution of the Council of Ministers as being within the powers and duties of the Committee.

In carrying out duties under this Section, the Committee may assign a sub-committee or the Bank of Thailand to do so or to propose its opinions to the Committee for consideration and further action.

**Section 31.** Other than vacating office by completing his or her term under Section 29, a committee member appointed by the Council of Ministers shall vacate office upon:

- (1) Death;
- (2) Resignation;
- (3) Removal by the Council of Ministers;
- (4) Being bankrupt;
- (5) Being incompetent or quasi-incompetent person;
- (6) Having been imprisoned by a final court judgement, except offences committed through negligence or petty offences; or
- (7) Holding a position or having duties or related interest in a credit information company or information controller or information processor.

In case where a committee member vacates office before the expiration of the term, the Council of Ministers may appoint any other person as replacement, and the person so appointed to replace the vacated member shall be in office according to the remaining term of the committee member whom he or she has replaced.

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In case the Council of Ministers appoints additional committee members while the term of the committee members already appointed has not expired, the persons appointed as additional committee members shall hold office according to the remaining term of the committee members already appointed.

**Section 32.** At a meeting of the Committee, if the Chairperson or the Deputy Chairperson does not attend the meeting or is not present, the committee members present at the meeting shall elect one among themselves to preside over the meeting.

At every meeting of the Committee, the presence of not less than one-half of the total committee members is required to form a quorum.

A decision of the meeting shall be made by a majority of votes. Each committee member shall have one vote. In the case of an equality of vote, the presiding member shall have an additional vote as the casting vote.

**Section 33.** A sub-committee shall comprise not less than three but not more than five sub-committee members who are qualified in the subjects concerned as appointed by the Committee.

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

Section 32 shall apply to the meetings of sub-committees *mutatis mutandis*.

**Section 34.** The Committee shall have power to order any person to submit documents or information relating to the subject on which a person has lodged a complaint, or any other subjects related to protection of information of an information subject, for consideration. In this regard, the Committee may also summon any person concerned to make a clarification.

**Section 35.** In carrying out the duties under this Act, the Committee or sub-committee must provide an opportunity to the person accused or suspected of having

violated the right of the information subject to make a clarification of facts and to express his or her opinions as the case may require, except in the case of necessity and urgency.

In prescribing or issuing an order on any matter under this Act, the Committee or sub-committee shall take into account the damage that may occur to the information subject, credit information company, financial institution, service user, or any other person concerned, and in case it is deemed appropriate, the Committee or sub-committee may prescribe rules, procedures and conditions temporarily for enforcement in accordance with the order so prescribed or issued.

**Section 36.** In implementing this Act, the Bank of Thailand shall have the following powers and duties:

(1) To receive a complaint from an information subject who suffers trouble or damage arising from the act of a business operator, for proposing it to the Committee or sub-committee, as the case may be;

(2) To supervise the performance of the credit information company, information processor, or person who does any act that constitutes a violation of the rights of the information subject, and order an examination of the information as deemed proper and necessary for the protection of the information subject, and report the same to the Committee;

(3) To coordinate with government agencies or state organizations which have the powers and duties to supervise or examine financial institutions, service users or any other persons;

(4) To take legal action relating to a violation of the rights of information subject as deemed appropriate by the Committee, or upon a request under this Act;

(5) To perform any other act assigned by the Committee or sub-committee.

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**Section 37.** In implementing this Act, the competent official shall have the following powers and duties:

(1) To enter the place of business of the credit information company or the place of information processing of the credit information company;

(2) To enter any place when there is reason to suspect that an offence under Section 9 is committed, or when there are evidences or documents concerning the commission of an offence under the said Section, between sunrise and sunset or during the business hours of the said place, for inspection;

(3) To seize or attach property, documents, or articles relating to the commission of offences under this Act for the purposes of examination or legal action;

(4) To perform any other act assigned by the Committee or sub-committee.

**Section 38.** The Committee, sub-committees and competent officials carrying out duties under this Act shall be an official under the Penal Code.

In carrying out duties, the competent official must produce his or her identity card to the persons concerned every time.

**CHAPTER 6**  
**Suspension and Revocation of License**

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**Section 39.** The Minister shall, with the recommendation of the Committee, have the power to suspend or revoke the license to operate credit information business of a credit information company, when it appears that the credit information company:

- (1) dishonestly operates business or may cause damage to the public.
- (2) deliberately omits to do any act, or violates a prohibition, prescribed by laws.
- (3) deliberately violates or fails to comply with the rules, procedures or conditions prescribed by the Minister or the Committee under this Act.

**Section 40.** When the Minister have revoked the license to operate credit information business of any credit information company, the Committee shall have the power to prescribe in its notification the rules, procedures and conditions concerning management of information of the said credit information company.

**CHAPTER 7**  
**Civil Liability**

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**Section 41.** If any credit information company or information controller or information processor deliberately or negligently discloses incorrect information to others, or discloses correct information but it is not in accordance with the objectives provided herein and thereby causing damage to a member, service user or information subject, the said credit information company shall be liable to pay compensation thereof.

**CHAPTER 8**  
**Penal Provisions**

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**Section 42.** Any credit information company which fails to comply with Section 7, Section 8 or Section 16 shall be liable to a fine not exceeding three hundred thousand baht, and to additional fine at a daily rate not exceeding ten thousand baht throughout the period of violation or until due compliance.

**Section 43.** Whoever violates Section 9, Section 14, or Section 15 shall be liable to imprisonment for a term of five to ten years, or to a fine not exceeding five hundred thousand baht, or to both.

**Section 44.** Any credit information company, information controller or information processor that violates Section 10 or Section 12 shall be liable to imprisonment for a term of five to ten years, or to a fine not exceeding five hundred thousand baht, or to both.

**Section 45.** Whoever violates Section 11 shall be liable to imprisonment for a term of not exceeding one year, or to a fine not exceeding one hundred thousand baht, or to both.

**Section 46.** Any credit information company, information controller, or information processor that violates Section 13 shall be liable to a fine not exceeding three hundred thousand baht, and to additional fine at a daily rate not exceeding ten thousand baht throughout the period of violation or until due compliance.

**Section 47.** Any credit information company or information processor that fails to comply with paragraph one of Section 17 or fails to comply with the rules, procedures and conditions prescribed by the Committee under paragraph two of Section 17 shall be liable to a fine not exceeding three hundred thousand baht, and to additional fine at a daily rate not exceeding ten thousand baht throughout the period of violation or until due compliance.

**Section 48.**<sup>10</sup> Any member that fails to send information of its customers to the credit information company of which it is a member shall be liable to a fine not exceeding five hundred thousand baht, and to additional fine at a daily rate not exceeding ten thousand baht throughout the period of violation or until due compliance.

Any member that fails to notify its customers of the information sent to the credit information company, or fails to notify within the prescribed period under Section 18, or fails to comply with the rules, procedures and conditions prescribed by the Committee under Section 18 shall be liable to imprisonment for a term of not exceeding one year, or to a fine not exceeding one hundred thousand baht, or to both.

**Section 49.** Any member that conceals or gives incorrect information of its customer to the credit information company shall be liable to a fine not exceeding three hundred thousand baht, and to additional fine at a daily rate not exceeding ten thousand baht throughout the period of violation or until due compliance.

**Section 50.** Any member that fails to comply with Section 19 (2), (3), (4) or (5) or violates or fails to comply with the rules and procedures prescribed by the Committee under paragraph two of Section 19 shall be liable to a fine not exceeding three hundred thousand baht, and to additional fine at a daily rate not exceeding ten thousand baht throughout the period of violation or until due compliance.

**Section 51.**<sup>11</sup> Any credit information company or information processor that discloses or gives information to its members or the service users for other purposes, or discloses or gives information to persons, other than those provided in Section 20 shall be liable to imprisonment for a term of not exceeding three years, or to a fine not exceeding three hundred thousand baht, or to both.

**Section 52.** Any service user that violates or fails to comply with Section 22 shall be liable to imprisonment for a term of five to ten years, or to a fine not exceeding five hundred thousand baht, or to both.

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<sup>10</sup> Amended by Section 8 of the Credit Information Business Operation Act (No. 2) B.E. 2549 (2006)

<sup>11</sup> Amended by Section 9 of the Credit Information Business Operation Act (No. 2) B.E. 2549 (2006)

**Section 53.** If any person or committee member or sub-committee member, by learning information of any person as provided in Section 23 or from performing duties under this Act, discloses such information to others, such person shall be liable to imprisonment for a term of five to ten years, or to a fine not exceeding five hundred thousand baht, or to both.

The provisions of paragraph one shall not apply to a disclosure in the following cases:

- (1) Disclosure under one's duties;
- (2) Disclosure for the sake of investigation or court trial;
- (3) Disclosure concerning a commission of offence under this Act;
- (4) Disclosure for the sake of rectification of operations of a credit information company;
- (5) Disclosure to the authorities or local agencies whose duties are to supervise financial institutions or other juristic persons under the relevant specific law;
- (6) Disclosure upon written approval from the information subject at each time;
- (7) Disclosure of information concerning litigation that is open to the public.

**Section 54.** Any credit information company, information controller, information processor, member or service user or any person who violates Section 24 shall be liable to imprisonment for a term of five to ten years, or to a fine not exceeding five hundred thousand baht, or to both.

**Section 55.** Any credit information company or member that fails to comply with Section 26 shall be liable to a fine not exceeding three hundred thousand

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baht, and to additional fine at a daily rate not exceeding ten thousand baht throughout the period of violation or until due compliance.

**Section 56.** Any credit information company, financial institution, member or service user that fails to comply with Section 27 shall be liable to a fine not exceeding three hundred thousand baht, and to additional fine at a daily rate not exceeding ten thousand baht throughout the period of violation or until due compliance.

**Section 57.** Any financial institution, member or service user that fails to comply with Section 28 shall be liable to a fine not exceeding three hundred thousand baht, and to additional fine at a daily rate not exceeding ten thousand baht throughout the period of violation or until due compliance.

**Section 58.** Whoever fails to comply with a notification or order of the Committee under Section 30 (1), (2), (3) or (4) or Section 34 shall be liable to imprisonment for a term of not exceeding one month, or to a fine not exceeding ten thousand baht, or to both.

**Section 59.** Any credit information company that violates or fails to comply with the rules, procedures and conditions prescribed by the Committee under Section 40 shall be liable to a fine not exceeding three hundred thousand baht, and to additional fine at a daily rate not exceeding ten thousand baht throughout the period of violation or until due compliance.

**Section 60.** Whoever tampers with the information in the memory system of the computer of a credit information company, member, service user or information subject, or gathers, changes, discloses, deletes, or destroys the information in the memory system of such computer illegally, or without permission from the authorized person concerned, shall be liable to imprisonment for a term of five to ten years, or to a fine not exceeding five hundred thousand baht, or to both.

**Section 61.** Any committee member, manager, employee, or person who is responsible for the operations of a credit information company or information controller or information processor and who acts or omits to act so as to seek undue benefit under the law for oneself or others, which causes damage to others or the information subject,

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shall be liable to imprisonment for a term of five to ten years, or to a fine not exceeding five hundred thousand baht, or to both.

**Section 62.** If there appears a commission of any offence under this Act, it shall be regarded that the Bank of Thailand is an injured person under the Criminal Procedure Code, and, in such criminal case, the public prosecutor shall have the power to claim property or price or compensation for damage on behalf of the information subject or the actual injured person. In this instance, the provisions governing filing of civil cases in connection with an offence under the Criminal Procedure Code shall apply *mutatis mutandis*.

The provisions of this Section shall not prejudice the right of the information subject or the actual injured person to file a lawsuit or to take any legal action against the offender.

**Section 63.** <sup>12</sup>For the 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 Settlement Committee appointed by the Minister shall have the power to settle them in accordance with the rules prescribed by the Committee.

The Settlement Committee appointed by the Minister under paragraph one shall comprise three members, one of whom must be an inquiry official under the Criminal Procedure Code.

Upon the Settlement Committee having imposed a fine on any case, and the accused has duly paid the fine so imposed within the period fixed by the Settlement Committee, the case shall be commuted, and the Settlement Committee shall promptly notify the Committee of the same.

**Section 64.** In case the offender who must be liable to a punishment under this Act is a juristic person, the managing director, the managing partner, or the representative of the said juristic person shall also be liable to the punishment provided for such offence, unless it can be proved that he or she had no knowledge thereof or did not

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<sup>12</sup> Paragraph one of Section 63 amended by Section 10 of the Credit Information Business Operation Act (No. 2) B.E. 2549 (2006)

give consent thereto, or he or she had carried out appropriate actions to prevent the occurrence of commission of such offence.

## CHAPTER 9 Transitory Provisions

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**Section 65.** Whoever has operated credit information business or other business of the same nature before the effective date of this Act shall submit an application under Section 6 within sixty days from the effective date of this Act. During the period of consideration of such application, such person may continue his or her business operation until the Minister issues an order otherwise.

**Section 66.** A person who uses the name or word denoting name in business as "credit information company" or any other word of the same meaning on the effective date of this Act, which is prohibited under Section 11, shall cease using the said name or word within one hundred and eighty days from the effective date of this Act.

**Countersigned:**

*Police Lieutenant Colonel Thaksin Shinawatra*  
Prime Minister

*(Ref: Government Gazette, Volume 119, Part 114 Kor, of 13<sup>th</sup> day of November B.E. 2545 (2002))*

**Remarks:** This Act is promulgated because in granting loan or credit by a financial institution, there is a need to have adequate information concerning the financial status and history of debt repayment by a customer as to his or her records and as to how much debts he or she owes to other financial institutions. In the past, extension of loan or credit by a financial institution has been made without adequate information, thereby causing a growing volume of non-performing loans, which brings about problem in stability of such financial institution and the financial institution system as a whole. In addition, in the present credit information business operation, there is no law governing prescription of rules,

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procedures and conditions of credit information transactions, and no specific law protecting people who are information subjects. It is therefore necessary to enact this Act.

*Office of the Council of State*

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