

CONSUMER CREDIT BILL 2025

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

Clause

1. Short title and commencement
2. Application
3. No contracting out and ouster of choice of law
4. Interpretation
5. Credit consumer and credit

PART II

CONSUMER CREDIT COMMISSION

Division 1

Establishment, functions and powers of Commission

6. Establishment of Commission
7. Functions of Commission
8. Powers of Commission
9. Board
10. Appointment of members of Board
11. Term of office
12. Revocation of appointment and resignation
13. Remuneration and allowances
14. Meetings of Board
15. Actions and proceedings of Board not affected by vacancy, etc.
16. Delegation of functions and powers, etc.
17. Power to engage persons to render assistance
18. Board Committees
19. Disqualification of members of Board and Board Committee

Clause

20. Disclosure of interest
21. Returns, reports, accounts and information

Division 2

Executive Chairman and Deputy Executive Chairman

22. Executive Chairman
23. Absence or inability of Executive Chairman and Deputy Executive Chairman

Division 3

Officers of Commission

24. Appointment of officers of Commission, etc.
25. Power to provide grants, loans, financing and advances to its officers, etc.

Division 4

Finance

26. Fund of Commission
27. Funding to Commission
28. Financial year
29. Annual report
30. Accounts
31. Power to borrow
32. Investment
33. Commission may establish or participate in body corporate

PART III

FUNCTIONS AND POWERS OF REGULATORY AND SUPERVISORY AUTHORITY

34. Regulatory and Supervisory Authority
35. Appointment of officers or other persons

PART IV

ADVISORY COMMITTEE

Clause

36. Establishment of Advisory Committee
37. Membership
38. Functions of Advisory Committee
39. Meetings of Advisory Committee

PART V

LICENSING AND REGISTRATION

Division 1

Licensing

40. Requirement for licence
41. Application for licence
42. Grant of licence
43. Grounds for refusal of licence
44. Minimum financial requirements for licensing
45. Fit and proper requirements of licensed credit provider
46. Directors and senior management of licensed credit provider
47. Controller of licensed credit provider
48. Acquisition of interest in shares of licensed credit provider
49. Appointment of auditor by licensed credit provider
50. Revocation or suspension of licence
51. Voluntary surrender of licence
52. Effect of revocation, suspension and surrender of licence
53. Fees payable by licensed credit provider
54. Establishment, relocation or closure of branch, etc., of licensed credit provider
55. Transfer or assignment of licence
56. Sale, disposal, leasing, etc., of credit business

Bill

Division 2

*Registration**Clause*

57. Requirement for registration
58. Application for registration
59. Registration
60. Grounds for refusal of registration
61. Minimum financial requirements for registration
62. Fit and proper requirements of registered credit service provider
63. Directors and senior management of registered credit service provider
64. Controller of registered credit service provider
65. Acquisition of interest in shares of registered credit service provider
66. Appointment of auditor by registered credit service provider
67. Deregistration or suspension of registration
68. Voluntary deregistration
69. Effect of deregistration, suspension and voluntary deregistration
70. Fees payable by registered credit service provider
71. Establishment, relocation or closure of branch, etc., of registered credit service provider
72. Transfer or assignment of registration
73. Sale, disposal, leasing, etc., of credit service business

Division 3

General matters

74. Application by aggrieved person for review on decision under this Part
75. Appeal to Minister of Housing and Local Government on decision under this Part
76. Publication of names of licensed credit providers and registered credit service providers
77. Agreements with unlicensed credit provider not enforceable
78. Presumption as to business of providing credit or credit service
79. Non-application of Part V

PART VI

ISLAMIC CREDIT BUSINESS

Clause

- 80. Application
- 81. Duty to ensure compliance with Shariah
- 82. Internal policies and procedures on Islamic credit business
- 83. Reference to Shariah Advisory Council from court or arbitrator

PART VII

BUSINESS CONDUCT FOR CREDIT CONSUMER PROTECTION

Division 1

Conduct requirements

- 84. Duty to ensure fair, responsible and professional business conduct
- 85. Compliance with regulations and standards or guidelines on business conduct
- 86. Financial hardship

Division 2

Prohibited business conduct

- 87. Prohibited business conduct

PART VIII

EXAMINATION AND INVESTIGATION

Division 1

Examination powers

- 88. Examination by Regulatory and Supervisory Authority
- 89. Duty to provide access to, and produce documents, information, etc.

Division 2

*Investigation powers**Clause*

90. Investigation by Regulatory and Supervisory Authority
91. Powers of investigating officer
92. Powers of entry, search and seizure with warrant
93. Admissibility of warrant
94. Powers of entry, search and seizure without warrant
95. List of seized property, etc.
96. Release, disposal or forfeiture of seized goods, etc.
97. Search of person
98. Obstruction to exercise of powers by investigating officer
99. Requirement to provide translation
100. Power to examine persons for investigation
101. Service of notices generally, etc.
102. Surrender of travel documents
103. Agent provocateur
104. Admissibility of documentary evidence, etc.
105. Assistance to police officer or public officer

PART IX

ENFORCEMENT

Division 1

Administrative actions

106. Power of Regulatory and Supervisory Authority to take action
107. Application for review or appeal of decision under paragraph 106(3)(b)
108. Lodgment of amount not distributed with Registrar of Unclaimed Moneys

Division 2

Civil enforcement actions

109. Civil enforcement action by Regulatory and Supervisory Authority
110. Orders by court
111. Evidence obtained in investigations may be used in civil proceedings

Division 3

Criminal offences

Clause

- 112. Offences in relation to entries in documents
- 113. Offence by any person acting in official capacity, etc.
- 114. Offence by employee, officer, agent, etc.
- 115. Attempts, abetments and conspiracies
- 116. Joinder of offences
- 117. Seizable offence
- 118. Power to compound
- 119. Institution of prosecution

Division 4

General matters

- 120. Protection in relation to disclosure of information

PART X

GENERAL PROVISIONS

- 121. Additional powers of Minister
- 122. Power to make regulations
- 123. Power to specify standards or guidelines
- 124. Provisions relating to approvals, consent, standards or guidelines, specifications, notices, requirements or directions
- 125. Power of Regulatory and Supervisory Authority to issue guidance
- 126. Power of Regulatory and Supervisory Authority to publish information
- 127. Power to exempt
- 128. Power to amend Schedules
- 129. Power to require submission of document or information
- 130. Protection against suit and legal proceedings
- 131. Opportunity to make written representations
- 132. Obligation of secrecy

Clause

133. Confidential information

134. Things done in anticipation of the enactment of this Act, etc.

135. Transitional

SCHEDULE 1

SCHEDULE 2

SCHEDULE 3

SCHEDULE 4

SCHEDULE 5

SCHEDULE 6

SCHEDULE 7

A BILL

i n t i t u l e d

An Act to provide for, the establishment of the Consumer Credit Commission, protection of the interests of credit consumers, regulation and supervision of conventional or Islamic credit business and credit service business, proper conduct and responsible lending practices in the credit industry and promotion of a fair, efficient and transparent credit industry, and to provide for related matters.

[]

ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Consumer Credit Act 2025.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different parts or different provisions of this Act.

Application

2. (1) This Act shall apply to any person carrying on a credit business or credit service business involving a credit consumer except for the credit provided by a person as set out in Schedule 1.

(2) Notwithstanding subsection (1), subsections 79(2) and (3) shall apply to any person carrying on a credit business as set out in paragraph 1 or paragraph 3 of Schedule 4 that does not involve a credit consumer.

(3) Subject to subsection (5), this Act shall be read together with the relevant written laws and the provisions of this Act shall be in addition to, and not in derogation of, the provisions of such written laws, including the following:

- (a) the Financial Services Act 2013 [Act 758];
- (b) the Islamic Financial Services Act 2013 [Act 759];
- (c) the Development Financial Institutions Act 2002 [Act 618];
- (d) the Capital Markets and Services Act 2007 [Act 671];
- (e) the Securities Commission Malaysia Act 1993 [Act 498];
- (f) the Hire-Purchase Act 1967 [Act 212];
- (g) the Consumer Protection Act 1999 [Act 599];
- (h) the Moneylenders Act 1951 [Act 400];
- (i) the Pawnbrokers Act 1972 [Act 81];
- (j) the Co-operative Societies Act 1993 [Act 502]; and
- (k) the Malaysia Co-operative Societies Commission Act 2007 [Act 665].

(4) Nothing in this Act shall remove or restrict the effect of, or prevent the reliance on—

- (a) any written law which imposes on a credit provider or credit service provider a duty stricter than that imposed under this Act;

- (b) any written law by which any term consistent with this Act is to be implied in a credit agreement; or
- (c) any term in any agreement in writing between a credit consumer with a credit provider or credit service provider, as the case may be, to the extent that the term—
 - (i) imposes a stricter duty on the credit provider or credit service provider than that imposed under this Act; or
 - (ii) provides a remedy more advantageous to the credit consumer than the remedies provided under this Act.

(5) Where there is any conflict or inconsistency in the application of the provisions of this Act in cases involving credit providers or credit service providers regulated by the Securities Commission Malaysia, such cases shall be dealt with in accordance with the securities laws and guidelines issued by the Securities Commission Malaysia and the rules of exchange as approved by the Securities Commission Malaysia.

No contracting out and ouster of choice of law

3. (1) The provisions of this Act shall have effect notwithstanding anything to the contrary in any agreement.

(2) This Act shall have effect notwithstanding any contract term which applies or purports to apply the law of another country where the term appears to the court to have been imposed wholly or mainly for the purpose of enabling the party imposing it to evade the operation of this Act.

Interpretation

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

“this Act” includes any subsidiary legislation, standard or guidelines and notification made under this Act;

“specify” means to specify in writing in any form including standards or guidelines, and a power to specify includes the power to specify differently for different persons or different classes, categories or descriptions of persons, credit businesses, credit service businesses, credit providers or credit service providers;

“prescribe” means to prescribe by subsidiary legislation published in the *Gazette*, and a power to prescribe includes the power to prescribe differently for different persons or different classes, categories or descriptions of persons, credit businesses, credit service businesses, credit providers or credit service providers;

“document” has the meaning assigned to it in section 3 of the Evidence Act 1950 [Act 56], and includes books as defined in the Companies Act 2016 [Act 777] and documents of title to assets;

“property” means—

- (a) assets of every kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible, however acquired;
- (b) legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including bank credits, traveller’s cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit; or
- (c) any right, interest, title, claim, chose in action, power or privilege, whether present or future, or whether vested or contingent, in relation to any property, or which is otherwise of value;

“individual” means a natural person;

“Board Committee” means a committee of the Board established under section 18;

“Advisory Committee” means the Advisory Committee established under section 36;

“chief executive”, in relation to a body corporate, means the principal executive officer of such body for the time being, by whatever name called and whether or not he is a director;

“computer” has the meaning assigned to it in section 3 of the Evidence Act 1950;

“co-operative society” has the meaning assigned to it in section 2 of the Co-operative Societies Act 1993;

“credit” means any arrangement, agreement or facility as set out in subsection 5(2);

“Board” means the board of directors of the Commission referred to in section 9;

“licence” means a licence granted under section 42;

“liabilities” includes debts or obligations of every kind, whether present or future, or whether vested or contingent;

“Shariah Advisory Council” means the Shariah Advisory Council established under section 51 of the Central Bank of Malaysia Act 2009 [*Act 701*] or section 31Z1 of the Securities Commission Malaysia Act 1993;

“Minister” means the Minister charged with the responsibility for finance;

“Minister of Domestic Trade and Cost of Living” means the Minister charged with the responsibility for domestic trade and cost of living;

“Minister of Housing and Local Government” means the Minister charged with the responsibility for housing and local government;

“person” includes an individual, any sole proprietorship, corporation, statutory body, local authority, society, trade union, co-operative society, partnership and any other body, organization, association or group of persons, whether corporate or unincorporate;

“computer output” means a statement or representation, whether in written, printed, pictorial, film, graphical, acoustic or other form—

(a) produced by a computer;

(b) displayed on the screen of a computer; or

- (c) accurately translated from a statement or representation so produced;

“credit provider” means a person who carries on a credit business where the person—

- (a) is licensed under Part V of this Act;
- (b) is permitted to do so under any other written law;
- (c) is subject to the Hire-Purchase Act 1967; or
- (d) is subject to the Consumer Protection Act 1999;

“Islamic credit provider” means a person who carries on an Islamic credit business where the person is authorized under this Act or other written laws;

“credit service provider” means a person who carries on a credit service business where the person—

- (a) is registered under Part V of this Act;
- (b) is registered to do so under the Capital Markets and Services Act 2007; or
- (c) is a permit holder under the Hire-Purchase Act 1967;

“Registrar” means the registrar of Islamic credit providers appointed under paragraph 35(2)(a);

“registration” means a registration made under section 59;

“director” has the meaning assigned to it in the Companies Act 2016, and includes a reference to a person occupying or acting in the position of a director of a corporation, by whatever name called and whether or not validly appointed to occupy, or duly authorized to act in, such position;

“controller” means a person as defined in subsection 47(6) or subsection 64(6), as the case may be;

“Executive Chairman” means the executive chairman of the Board appointed under section 9;

“credit consumer” means any person as set out in subsection 5(1);

“senior management” means a person appointed by a corporation to manage any part of its business or having authority and responsibility for the credit business, credit service business or business decisions of the corporation, by whatever name called and includes the chief executive and chief financial officer;

“corporation” has the meaning assigned to it in section 3 of the Companies Act 2016;

“credit agreement” means an agreement entered into between a credit provider and a credit consumer to provide credit;

“arrangement” means an arrangement whether formal or informal, oral or written, express or implied;

“credit business” means any business, whether conventional or Islamic as set out in Schedule 2;

“Islamic credit business” means any business as set out in paragraph 2 of Schedule 2;

“credit service business” means any business providing services relating to credit as set out in Schedule 3;

“body corporate” means a person incorporated by or under any written law, and includes a corporation or statutory body, public authority or other authority, incorporated by or under a written law;

“micro or small enterprise” refers to an enterprise that qualifies as a micro or small enterprise as defined based on the size of its operation, by the National Small and Medium Enterprises Development Council established under the Small and Medium Enterprises Corporation Malaysia Act 1995 [*Act 539*];

“Regulatory and Supervisory Authority” means any body as set out under subsection 34(1);

“premises” includes any land, building, structure, place or vehicle, whether permanent or temporary;

“standards or guidelines” includes any obligation or requirement as specified by the Commission or a Regulatory and Supervisory Authority under section 123;

“Commission” means the Consumer Credit Commission established under section 6;

“company” has the meaning assigned to it in subsection 2(1) of the Companies Act 2016;

“Deputy Registrar” means the deputy registrar of Islamic credit providers appointed under paragraph 35(2)(a);

“Deputy Executive Chairman” means the deputy executive chairman of the Board appointed under section 9;

“securities laws” has the meaning assigned to it in subsection 2(1) of the Securities Commission Malaysia Act 1993.

Credit consumer and credit

5. (1) A credit consumer referred to in this Act shall consist of any of the following persons:

- (a) an individual who obtains, has obtained or intends to obtain credit wholly or predominantly for personal, domestic or household purposes;
- (b) a person who is a micro or small enterprise who obtains, has obtained or intends to obtain credit, where such credit does not exceed an amount as may be prescribed by the Minister, on the recommendation of the Commission;
- (c) any other person or class, category or description of person as may be specified by the Commission; and
- (d) an individual who acts as a social guarantor, not for the purpose of making profit, to a credit consumer under paragraph (a), (b) or (c) in respect of a credit agreement to which this Act applies.

(2) A credit referred to in this Act shall consist of an arrangement, agreement or facility, in whatever form or by whatever name called, including those made in accordance with the principles of Shariah—

- (a) which results in a person being in debt or incurring a financial obligation;
- (b) which allows the payment for goods or services sold to a person to be made in instalments; or
- (c) such other arrangement, agreement or facility as may be specified by the Commission.

PART II

CONSUMER CREDIT COMMISSION

Division 1

Establishment, functions and powers of Commission

Establishment of Commission

6. (1) The Consumer Credit Commission is established.

(2) The Commission shall be a body corporate and shall have perpetual succession.

(3) The Commission may sue and be sued in its name.

(4) The Commission may, upon such terms as the Commission thinks fit and for the purposes of this Act—

- (a) enter into contracts;
- (b) acquire, purchase, take, hold and enjoy movable or immovable property of every description; and
- (c) sell, convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer, lease, let, sub-let or otherwise dispose of, or deal with any movable or immovable property or any interest in such property vested in the Commission.

Functions of Commission

7. The functions of the Commission shall be as follows:

- (a) to advise the Minister on all matters relating to consumer credit;
- (b) to advise the Government on national policy involving consumer credit;
- (c) to promote proper conduct among credit providers and credit service providers;
- (d) to promote the development of the consumer credit industry; and
- (e) to do such other things arising out of, or consequential to the functions of the Commission under this Act.

Powers of Commission

8. (1) The Commission shall have the power to do all things necessary or convenient to be done for, or in connection with the performance of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), the powers of the Commission shall include the power to—

- (a) regulate all matters relating to consumer credit;
- (b) regulate and supervise persons carrying on credit business and credit service business regulated by the Commission;
- (c) impose prescribed fees in the performance of its functions or exercise of its powers;
- (d) examine the business and affairs of a credit provider or credit service provider regulated by the Commission;
- (e) impose monetary penalty under section 106;
- (f) cause an investigation to be made and exercise all the powers of investigation on matters relating to credit business or credit service business regulated by the Commission;

- (g) specify standards or guidelines under section 123 on matters relating to consumer credit regulated by the Commission;
- (h) utilize all the movable and immovable property of the Commission in such manner as the Commission may think expedient, including the raising of funds by mortgaging such property;
- (i) establish and authorise a committee consisting of members as may be determined by the Commission for the purpose of performing any of its functions or exercising any of its powers under this Act;
- (j) appoint and remunerate such agents, experts or consultants as it deems fit to assist the Commission in the performance of its functions or exercise of its powers;
- (k) pay remuneration, allowances and other expenses of the members of the Board and Board Committees;
- (l) provide grants, loans, financing and advances to any person on such terms and conditions as determined by the Board; and
- (m) do anything incidental to any of its functions and powers.

Board

9. (1) There shall be a Board of the Commission.

(2) The Board shall consist of the following members:

- (a) an Executive Chairman who shall be the chairman of the Board;
- (b) a Deputy Executive Chairman who shall be the deputy chairman of the Board;
- (c) one member representing each of the following:
 - (i) the Ministry of Finance;
 - (ii) the Central Bank of Malaysia;
 - (iii) the Securities Commission Malaysia; and

(d) not more than four other members who shall have relevant knowledge and experience in matters relating to consumer credit or any other matter relevant to the functions of the Commission.

(3) The members of the Board including an alternate member of any member referred to in paragraph (2)(c) shall be appointed by the Minister, on the recommendation of the Board.

(4) The alternate members shall only be deemed to be members of the Board when attending meetings of the Board in place of the members referred to in paragraph (2)(c).

(5) The Board—

(a) shall be responsible for, and have oversight of the conduct of the business and affairs of the Commission;

(b) shall be responsible for policy objectives relating to the credit industry;

(c) shall be responsible for the general administration and monitoring of the overall governance of the Commission;

(d) shall be responsible for reviewing and approving the budget and strategic plan of the Commission; and

(e) shall be responsible for such other matters as may be provided under this Act.

(6) A member of the Board shall—

(a) at all times act honestly and in the best interest of the Commission and use reasonable diligence in the performance of his functions; and

(b) not make improper use of any information acquired or exercise any improper influence by virtue of his position to gain directly or indirectly an advantage for himself or for any other person.

Appointment of members of Board

10. (1) A person to be appointed as the Executive Chairman or Deputy Executive Chairman under paragraphs 9(2)(a) and (b) shall be a person of integrity and impeccable reputation with knowledge of, or experience in business, administration of companies, credit consumer protection, financial or credit products and services, law, economics or accounting.

(2) The Minister, in appointing other members of the Board under paragraph 9(2)(d), shall have regard to—

- (a) the person's probity, personal integrity, financial integrity and reputation;
- (b) the person's competence and capability, including having the relevant knowledge, skills and experience, in fulfilling his responsibilities as a member of the Board; and
- (c) the diversity of the Board members in terms of interest, knowledge, skills and experience.

Term of office

11. All members of the Board shall be appointed for a term of three years and may be eligible for reappointment for a term to be determined in the instrument of appointment which shall not exceed a maximum period of two consecutive terms.

Revocation of appointment and resignation

12. (1) The Minister may, on the recommendation of the Board, at any time, revoke the appointment of a member of the Board for any reasons including the following:

- (a) the member is absent from three consecutive meetings of the Board, in the case of the Executive Chairman, without leave of the Minister and in the case of the Deputy Executive Chairman or other members of the Board, without leave of the Executive Chairman;
- (b) the member fails to comply with his obligations under section 20; or
- (c) the member is disqualified under section 19.

(2) The revocation of appointment under subsection (1) shall be supported with a reason in writing.

(3) Any member of the Board may resign his office by giving a written notice addressed to the Minister.

Remuneration and allowances

13. (1) The Executive Chairman and Deputy Executive Chairman shall be paid such remuneration and any other allowances as determined by the Nomination and Remuneration Committee established under subsection 18(1).

(2) Non-executive members of the Board referred to in paragraphs 9(2)(c) and (d) invited to participate in any meeting including a meeting of the Board may be paid such remuneration or allowance as may be determined by the Minister.

Meetings of Board

14. (1) The Board may meet as often as necessary for the performance of its functions and shall determine its own procedure including the procedure for the Board Committees in accordance with good governance practices.

(2) The Board may invite any person not being a member of the Board to attend its meetings to advise the Board on any matter under discussion.

Actions and proceedings of Board not affected by vacancy, etc.

15. The Board may act notwithstanding any vacancy in its membership and its proceedings shall not be invalidated by—

- (a) the absence of any member;
- (b) any defect afterwards discovered in the appointment or qualification of any member or the constitution of the Board;
- (c) any omission, defect or irregularity in the convening or conduct of a meeting; or

- (d) the presence or participation of a person who is not a member of the Board.

Delegation of functions and powers, etc.

16. (1) The Commission may delegate its functions or powers under this Act to—

- (a) the Executive Chairman or Deputy Executive Chairman;
- (b) a person designated by the Board or any committee established; or
- (c) any officer of the Commission.

(2) A delegation under this section shall not prevent the concurrent performance or exercise of the functions or powers delegated by the Commission.

Power to engage persons to render assistance

17. The Commission may engage, either generally or in a particular matter, under such terms and conditions of engagement as may be determined by the Commission from time to time, any person who is not an officer of the Commission—

- (a) to render such assistance as may be required or specified by the Commission in connection with the performance of its functions or exercise of its powers under this Act; or
- (b) to perform or exercise the same referred to in paragraph (a) on behalf of and in the name of the Commission.

Board Committees

18. (1) The Board shall establish the following committees which shall only comprise non-executive members of the Board referred to in paragraphs 9(2)(c) and (d):

- (a) the Audit and Risk Committee; and
- (b) the Nomination and Remuneration Committee.

(2) The Board may establish such other committee, in any form and by whatever name called, as the Board considers fit or necessary, which may comprise any of the following persons as may be appointed by the Board:

- (a) any Board member; and
- (b) any other person.

(3) In appointing a person under paragraph (2)(b), the Board shall have regard to the person's probity, personal integrity, financial integrity, reputation, knowledge, skills and experience, which will enable him to perform his functions as a member of the Board Committee.

(4) The functions of the Audit and Risk Committee established pursuant to paragraph (1)(a) shall include to assist the Board in its oversight of—

- (a) the integrity of the accounts and financial statements of the Commission;
- (b) the effectiveness of the internal control system of the Commission;
- (c) the performance of the internal audit function of the Commission;
- (d) the compliance by the Commission with legal and regulatory requirements;
- (e) the review and management of the enterprise risks of the Commission; and
- (f) any other matters as may be determined by the Board.

(5) The functions of the Nomination and Remuneration Committee established pursuant to paragraph (1)(b) shall include—

- (a) to recommend members of the Board for the purposes of subsection 9(3); and
- (b) to be responsible for any other matters as may be determined by the Board.

(6) The functions of any Board Committee established pursuant to subsection (2) shall be determined by the Board.

(7) The person referred to under paragraph (2)(b) shall—

(a) at all times act honestly and in the best interest of the Commission and use reasonable diligence in the performance of his functions; and

(b) not make improper use of any information acquired or exercise any improper influence by virtue of his position to gain directly or indirectly an advantage for himself or for any other person.

(8) The Board may revoke the appointment of the person referred to under paragraph (2)(b) for any reasons including the following:

(a) the person is absent from three consecutive meetings of the Board Committee without leave of the Executive Chairman;

(b) the person fails to comply with his obligations under section 20; or

(c) the person is disqualified under section 19.

(9) The revocation of appointment under subsection (8) shall be supported with a reason in writing.

(10) Any person referred to under paragraph (2)(b) may resign his office by giving a written notice addressed to the Board.

Disqualification of members of Board and Board Committee

19. No person shall be appointed, or shall remain, as a member of the Board or Board Committee if—

(a) he is or becomes a member of the Senate or House of Representatives or any Legislative Assembly;

(b) he is or becomes an officer, director or partner, of a credit provider or credit service provider;

(c) he is or becomes an office bearer of, or he holds any similar office or position in a political party;

- (d) there has been proven against him, or he has been convicted on, a charge in respect of—
 - (i) an offence involving fraud, dishonesty, violence or moral turpitude;
 - (ii) an offence under any law relating to corruption; or
 - (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;
- (e) his conduct, whether in connection with his functions as a member of the Board or otherwise, has been such as to bring discredit on or disrepute to the Commission;
- (f) he is or becomes a bankrupt, or suspends payment or compounds with his creditors;
- (g) he is or becomes of unsound mind or is otherwise incapable of performing his functions; or
- (h) he is or becomes involved in any activity which may interfere with his independence in performing his functions.

Disclosure of interest

20. (1) A member of the Board or a Board Committee, who acquires or has an interest, directly or indirectly, in relation to any matter under discussion by the Board or Board Committee shall disclose to the Board or Board Committee, as the case may be, the existence of his interest and nature of such interest.

(2) A disclosure under subsection (1) shall be recorded in the meeting minutes of the Board or Board Committee, as the case may be, and after the disclosure, such member of the Board or Board Committee shall—

- (a) neither take part nor be present in any deliberation or decision of the Board or Board Committee, as the case may be; and

(b) be disregarded for the purpose of constituting a quorum of the Board or Board Committee, as the case may be, relating to the matter.

(3) No act or proceedings of the Board or Board Committee shall be invalidated on the ground that any member of the Board or Board Committee has failed to comply with this section.

(4) Any member of the Board or Board Committee who contravenes subsection (1) or paragraph (2)(a) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Returns, reports, accounts and information

21. The Commission shall furnish the Minister with such returns, reports, accounts and information with respect to the performance of any of its functions under this Act as may be required by the Minister from time to time.

Division 2

Executive Chairman and Deputy Executive Chairman

Executive Chairman

22. (1) The Executive Chairman shall be entrusted with the day-to-day administration and management of the Commission and may, unless otherwise provided under this Act, exercise all powers and do all acts which may be done by the Commission under this Act or any other written law.

(2) The Executive Chairman may bring any matter in relation to the functions or powers of the Commission to the Board or Board Committee for deliberation or direction, where he deems it necessary.

Absence or inability of Executive Chairman and Deputy Executive Chairman

23. (1) During the absence of the Executive Chairman or inability of the Executive Chairman to act due to any cause, the Deputy Executive Chairman shall carry out the functions of the Executive Chairman.

(2) For the purposes of subsection (1), in the case where the Deputy Executive Chairman is also absent or unable to act due to any cause, a senior officer of the Commission specified by the Board on the recommendation of the Nomination and Remuneration Committee shall carry out the functions of the Executive Chairman.

Division 3

*Officers of Commission***Appointment of officers of Commission, etc.**

24. (1) The Commission may from time to time employ persons who shall be paid such remuneration and allowances, and shall hold their employment on such terms and conditions as may be determined by the Board.

(2) The Commission may make arrangements for the payment of such retirement benefits, gratuities or other allowances as may be determined by the Board to its officers and employees and their dependants.

(3) All members of the Board or any of its committees or any officer of the Commission while performing their functions or exercising their powers as such members or officers shall be deemed to be public servants within the meaning of the Penal Code [Act 574] and public officers for the purposes of the Evidence Act 1950.

(4) Notwithstanding the provisions of any written law—

(a) in any civil proceedings by or against the Commission;
or

- (b) in any other civil proceedings in which the Commission is required or permitted by the court to be represented or to be heard, or is otherwise entitled to be represented or to be heard,

any officer of the Commission authorized by the Executive Chairman for such purpose may, on behalf of the Commission, institute such proceedings or appear as an advocate therein, and may make any appearance and application and to do all acts in respect of such proceedings on behalf of the Commission.

Power to provide grants, loans, financing and advances to its officers, etc.

25. (1) The Commission may provide grants, loans, financing and advances, including study loans and scholarships, to its officers and employees or to other persons on such terms and conditions as may be determined by the Board.

(2) In this section, the term “officers” includes the Executive Chairman and Deputy Executive Chairman.

Division 4

Finance

Fund of Commission

26. (1) A Fund to be administered and controlled by the Commission is established.

(2) The Fund shall consist of—

- (a) such sums as may be provided from time to time for the purposes of this Act by Parliament;
- (b) sums borrowed by the Commission for the purposes of meeting any of its obligations, performing any of its functions or exercising any of its powers;
- (c) fees or other charges imposed by the Commission;

- (d) penalties paid to the Commission or moneys recovered by, or on behalf of, the Commission in the exercise of a right of action conferred or acquired under this Act;
 - (e) funding received by the Commission excluding the grant received under paragraph 33(2)(a);
 - (f) all other sums or property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions and powers; and
 - (g) all other moneys lawfully payable to, or received by the Commission.
- (3) The Fund shall be expended for the purpose of—
- (a) paying any expenditure lawfully incurred by the Commission including legal fees and costs and other fees and costs, and the remuneration and allowances of officers and agents appointed and employed by the Commission, including the granting of loans, financing, advances, grants, retirement benefits, scholarships, superannuation allowances, allowances or gratuities;
 - (b) paying any other expenses, costs or expenditure properly incurred or accepted by the Commission in the performance of its functions or the exercise of its powers under this Act;
 - (c) purchasing or hiring equipment, machinery and any other materials, acquiring land and erecting buildings, and carrying out any other works and undertakings in the performance of its functions or the exercise of its powers under this Act;
 - (d) repaying any moneys borrowed and the interest due thereon; and
 - (e) generally paying any expenses for carrying into effect the provisions of this Act.

(4) The Commission shall have the duty to conserve the Fund by performing its functions and exercising its powers under this Act to secure that the total revenues of the Commission are sufficient to meet all sums properly chargeable to its revenue account including depreciation and interest on capital, taking one year with another.

Funding to Commission

27. (1) A Regulatory and Supervisory Authority may, on such terms and conditions determined by the Regulatory and Supervisory Authority, grant, lend or advance such sum of money—

(a) necessary for the establishment of the Commission; and

(b) in respect of deficiencies of budget revenue of the Commission, reasonably necessary for the proper operation of the Commission.

(2) For the purposes of this section—

(a) the grant, lending and advance under subsection (1) shall only be given by the Regulatory and Supervisory Authority subject to the relevant written law and with the prior written approval of its board of directors, or any other person if required under any written law; and

(b) “Regulatory and Supervisory Authority” shall exclude the Commission and all ministries referred to in the definition of “Regulatory and Supervisory Authority” in section 4.

(3) This section shall cease to have effect on 1 January 2031.

Financial year

28. The financial year of the Commission shall begin on the first day of January and end on the thirty-first day of December of each year.

Annual report

29. The Commission shall, as soon as practicable after the end of each financial year, prepare a report on its activities during that financial year and send a copy of the report to the Minister who shall cause such copy to be laid before both Houses of Parliament.

Accounts

30. (1) The Commission shall cause proper accounts of the Fund established under section 26 to be kept and shall, as soon as practicable after the end of each financial year, cause to be prepared for that financial year a statement of accounts of the Commission which shall include a balance sheet and an account of income and expenditure.

(2) The Commission shall cause the statement of accounts to be audited by auditors appointed by the Commission.

(3) The Commission shall as soon as practicable send a copy of the statement of accounts certified by the auditors and a copy of the auditor's report to the Minister who shall cause them to be laid before both Houses of Parliament.

(4) The Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall not apply to the Commission.

Power to borrow

31. The Minister may, on the recommendation of the Board, approve for the Commission to borrow at such rate of interest or profit and for such period and upon such terms as to the time and method of repayment and otherwise as may be approved by the Minister, any sums required by the Commission for meeting any of its obligations or performing any of its functions under this Act.

Investment

32. The moneys of the Commission shall, in so far as they are not required to be expended by the Commission under this Act, be invested in such manner as the Commission deems fit, with the approval of the Minister.

Commission may establish or participate in body corporate

33. (1) The Commission may, with the approval of the Minister, establish or participate in any body corporate for the purpose of protecting the interest of the public or credit consumers or for performing its functions under this Act.

(2) The Commission may—

- (a) receive a grant or donation;
- (b) make a grant or donation; or
- (c) provide any other form of assistance,

for the establishment or operations of the body corporate under subsection (1).

(3) Moneys received under paragraph (2)(a) shall be kept in a designated trust account.

(4) The Commission shall disburse the moneys in the designated trust account to the person entitled in accordance with the purpose for which the moneys were received by the Commission.

PART III

FUNCTIONS AND POWERS OF REGULATORY AND SUPERVISORY AUTHORITY

Regulatory and Supervisory Authority

34. (1) A Regulatory and Supervisory Authority referred to in this Act shall consist of any of the following body:

- (a) the Commission;

- (b) the Central Bank of Malaysia;
- (c) the Securities Commission Malaysia;
- (d) the Ministry of Domestic Trade and Cost of Living;
- (e) the Ministry of Housing and Local Government; and
- (f) the Malaysia Co-operative Societies Commission.

(2) A Regulatory and Supervisory Authority shall have all the functions to regulate and supervise the following persons which are regulated by the Regulatory and Supervisory Authority:

- (a) credit providers carrying on credit business as set out in Schedule 2; or
- (b) credit service providers carrying on credit service business as set out in Schedule 3.

(3) For purposes of subsection (2), the powers of a Regulatory and Supervisory Authority shall include the power to—

- (a) impose fees or other charges;
- (b) examine the business and affairs of a credit provider or credit service provider regulated by the Regulatory and Supervisory Authority;
- (c) impose monetary penalty under section 106;
- (d) cause an investigation to be made and exercise all the powers of investigation on matters relating to credit business or credit service business regulated by the respective Regulatory and Supervisory Authority;
- (e) specify standards or guidelines for any matter under section 123;
- (f) issue guidance under section 125;
- (g) publish information under section 126; and
- (h) do anything incidental to any of its functions and powers.

(4) For purposes of this section, a Regulatory and Supervisory Authority shall perform such functions and exercise such powers under this Act in a way which it considers most appropriate for the purpose of this Act.

(5) The functions and powers of the Regulatory and Supervisory Authority under this Act are in addition to, and not in derogation of, the functions and powers of the Regulatory and Supervisory Authority under other relevant written laws.

Appointment of officers or other persons

35. (1) A Regulatory and Supervisory Authority may appoint any of its officers or any other person to perform any or all of its functions or exercise any or all of its powers, or render such assistance in the performance of its functions or exercise of its powers under this Act as it may specify.

(2) Without prejudice to the generality of subsection (1), the Minister of Housing and Local Government may appoint—

(a) a Registrar of Islamic credit providers and such number of Deputy Registrars of Islamic credit providers; and

(b) such other officers as may be necessary for the purposes of this Act, including investigating officers.

(3) The Registrar and Deputy Registrars shall have and may perform or exercise any of the functions and powers of an investigating officer under this Act.

(4) The Registrar may, in writing, delegate all or any of his functions and powers under this Act, except his power of delegation, to any Deputy Registrar or officers appointed under subsections (1) and (2).

PART IV

ADVISORY COMMITTEE

Establishment of Advisory Committee

36. An Advisory Committee is established.

Membership

37. The Advisory Committee shall consist of the following members:

- (a) the Executive Chairman as the chairman of the Advisory Committee;
- (b) a senior management representative of each of the following:
 - (i) the Ministry of Finance;
 - (ii) the Ministry of Entrepreneur and Cooperatives Development;
 - (iii) the Ministry of Domestic Trade and Cost of Living;
 - (iv) the Ministry of Housing and Local Government;
 - (v) the Central Bank of Malaysia;
 - (vi) the Securities Commission Malaysia; and
 - (vii) the Malaysia Co-operative Societies Commission; and
- (c) any other person as appointed by the Advisory Committee.

Functions of Advisory Committee

38. The Advisory Committee shall have the following functions:

- (a) to coordinate the policy and strategy for the protection of credit consumers consistent with this Act;
- (b) to promote and monitor the effective regulation of the consumer credit industry and consistent implementation of this Act;

- (c) to facilitate cooperation and coordination between members of the Advisory Committee in relation to—
 - (i) the carrying out of powers of supervision, investigation and enforcement under this Act, including in circumstances where the carrying out of such powers by a Regulatory and Supervisory Authority may involve matters regulated by another Regulatory and Supervisory Authority;
 - (ii) capacity building of the Regulatory and Supervisory Authorities;
 - (iii) spurring the reform of the consumer credit regulatory framework;
 - (iv) promoting credit consumer awareness and financial education to encourage a sound credit culture; and
 - (v) commissioning or carrying out of general studies or research for the purposes related to this Act;
- (d) to deliberate on the implications of any written law, guidelines, or policies proposed by the Commission or such Regulatory and Supervisory Authority; and
- (e) to deliberate on any matter which may be referred to it for the proper and effective implementation of this Act, and for the protection of credit consumers.

Meetings of Advisory Committee

39. The Advisory Committee may establish its own procedures, which shall be consistent with good governance practices.

PART V

LICENSING AND REGISTRATION

Division 1

*Licensing***Requirement for licence**

40. (1) No person shall carry on any credit business as set out in paragraph 1 or paragraph 2 of Schedule 4 or hold himself out as carrying on such business unless he is a licensed credit provider.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

Application for licence

41. (1) A person intending to carry on a credit business as set out in paragraph 1 or paragraph 2 of Schedule 4 shall submit an application to the Commission or Registrar, as the case may be.

(2) The application under subsection (1) shall be—

(a) made to the Commission or Registrar, as the case may be, in such form and manner as may be specified by the Commission or the Registrar; and

(b) accompanied by payment of the prescribed fee and such information, particulars or document as may be specified by the Commission or Registrar, as the case may be.

(3) The Commission or the Registrar, as the case may be, may at any time after the receipt of an application under subsection (1)—

(a) conduct such inquiry as it may deem necessary, including conducting financial, professional, criminal or any other background checks of the applicant and controller, directors, partners and senior management of the applicant; and

(b) by a written notice require the applicant to furnish it with such document or information as the Commission or the Registrar, as the case may be, deems necessary in relation to the application.

(4) Where any additional document or information required under paragraph (3)(b) is not provided by the applicant within the period specified in the written notice or any extension of time granted by the Commission or the Registrar, as the case may be—

(a) the application shall not be further proceeded with, but without affecting the right of the applicant to make a fresh application; and

(b) there shall be no refund of the fee paid by the applicant.

(5) Where an applicant withdraws an application submitted under subsection (2)—

(a) it shall not affect the right of the applicant to make a fresh application after a period as may be specified by the Commission or the Registrar, as the case may be; and

(b) there shall be no refund of the fee paid by the applicant.

(6) Upon receipt of an application and payment of fee and submission of information, particulars or document under subsection (2) and any additional document or information provided under paragraph (3)(b), the Commission or the Registrar, as the case may be, may consider such application.

(7) A licensed credit provider intending to carry on a subsequent credit business as set out in paragraph 1 or paragraph 2 of Schedule 4 shall submit another application to the Commission or Registrar, as the case may be, in accordance with this section.

(8) Nothing in this Act shall prohibit or restrict any licensed credit provider regulated by the Commission from carrying on an Islamic credit business in addition to its conventional credit business, provided that the licensed credit provider obtains the prior written approval of the Commission.

Grant of licence

42. (1) The Commission or the Registrar, as the case may be, may grant a licence where the Commission or the Registrar is satisfied that the applicant—

(a) meets the minimum financial requirements under section 44; and

(b) complies with any regulations, standards or guidelines, or other requirements relating to licensing under this Act or conditions as may be specified by the Commission or the Registrar, as the case may be.

(2) The Commission or the Registrar, as the case may be—

(a) in granting a licence under subsection (1), may specify any conditions of the licence as the Commission or the Registrar thinks fit to impose, as the case may be; or

(b) may at any time during the duration of the licence issue a written notice to—

(i) impose any additional or new conditions;

(ii) amend or vary any of the conditions; or

(iii) revoke or waive any of the conditions.

(3) If the Commission or the Registrar, as the case may be, adds, amends, varies, revokes or waives any of the conditions under subsection (2), the addition, amendment, variation, revocation or waiver shall take effect at the time of the service of the notice or at such time as specified by the Commission or the Registrar, as the case may be.

(4) Any person who fails to comply with any of the conditions of a licence imposed under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding four years or to both.

Grounds for refusal of licence

43. (1) The Commission or the Registrar, as the case may be, may refuse the application for a licence on any of the following grounds:

- (a) the application was not made in accordance with this Act;
- (b) the applicant has failed to comply with any regulations, standards or guidelines, or other requirements under this Act;
- (c) the applicant has failed to satisfy the Commission or the Registrar, as the case may be, that the applicant, its controller, its directors, its partners and its senior management, are fit and proper;
- (d) any document or information that is furnished by the applicant to the Commission or the Registrar, as the case may be, is false or misleading or from which there is a material omission; or
- (e) the Commission or the Registrar, as the case may be, is of the opinion that it would be contrary to the interests of the public to grant a licence to the applicant.

(2) Where the Commission or the Registrar refuses an application under subsection (1)—

- (a) the Commission or the Registrar shall notify the applicant in writing of the refusal;
- (b) the refusal shall not affect the right of the applicant to make a fresh application after a period as may be specified by the Commission or the Registrar, as the case may be; and
- (c) there shall be no refund of the fee paid by the applicant.

Minimum financial requirements for licensing

44. (1) No person shall be licensed under section 42 if such person does not meet the minimum financial requirements as may be specified by the Commission or the Registrar, as the case may be.

(2) In carrying on its credit business, a licensed credit provider shall comply, at all times, with the minimum financial requirements as may be specified by the Commission or the Registrar, as the case may be.

(3) A licensed credit provider shall not continue to carry on any credit business without the prior written consent of the Commission or the Registrar, as the case may be, if it does not meet the minimum financial requirements as specified under subsection (1).

Fit and proper requirements of licensed credit provider

45. (1) The Commission or the Registrar, as the case may be, may specify fit and proper requirements applicable to a controller, director, partner or senior management of a licensed credit provider, which may include minimum criteria relating to—

- (a) probity, personal integrity and reputation;
- (b) competency and capability; and
- (c) financial integrity.

(2) A controller, director, partner or senior management of a licensed credit provider shall at all times comply with the fit and proper requirements as specified under subsection (1).

Directors and senior management of licensed credit provider

46. (1) A licensed credit provider shall only appoint or reappoint any person—

- (a) in the case of a licensed credit provider regulated by the Commission—
 - (i) as its director or senior management if the person fulfils the fit and proper requirements as specified by the Commission under section 45; and
 - (ii) as its chief executive subject to obtaining a prior written approval of the Commission; or

(b) in the case of a licensed credit provider regulated by the Ministry of Housing and Local Government—

- (i) as its director, partner or senior management if the person fulfils the fit and proper requirements as specified by the Registrar under section 45; and
- (ii) as its director or partner subject to obtaining a prior written approval of the Registrar.

(2) In the case of a licensed credit provider regulated by the Commission, the licensed credit provider shall give a written notice to the Commission on the appointment or reappointment of its directors.

(3) Where an issue arises as to whether a person has complied with the fit and proper requirements as specified under section 45, the Commission or the Registrar, as the case may be, shall have full discretion to determine the issue.

(4) Where a director, partner or senior management subsequently becomes aware that he fails to fulfil the fit and proper requirements specified under section 45, he shall immediately inform the licensed credit provider.

(5) Where a director, partner or senior management fails to fulfil the fit and proper requirements specified under section 45, the licensed credit provider shall immediately remove him from such office.

(6) Subject to section 131, the Commission or the Registrar, as the case may be, may direct a licensed credit provider to remove the director, partner or senior management who fails to fulfil the fit and proper requirement under section 45 within such period as may be specified by the Commission or the Registrar, as the case may be.

(7) Notwithstanding anything contained in any contract of service or any other agreement relating to his appointment, the removal of a director, partner or senior management under subsection (5) or (6) shall be lawful and valid and the director, partner or senior management removed under subsection (5) or (6) shall not be entitled to claim any compensation for such removal.

(8) A licensed credit provider regulated by the Commission shall notify the Commission in writing that its director or senior management has ceased to hold office and act in such capacity and of the reasons of such cessation within a period as specified by the Commission.

(9) A licensed credit provider regulated by the Ministry of Housing and Local Government shall notify the Registrar in writing of the fact that its director or partner has ceased to hold office and act in such capacity not later than fourteen days after the cessation.

(10) Any person who contravenes subsection (1), (4), (5) or (9) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Controller of licensed credit provider

47. (1) No person shall have control over a licensed credit provider unless—

- (a) such person has fulfilled the fit and proper requirements as specified under section 45 by the Commission or the Registrar, as the case may be; and
- (b) such person has obtained the prior written approval of the Commission or the Registrar, as the case may be.

(2) Any person intending to be a controller shall submit an application to the Commission or the Registrar, as the case may be, in such form and manner as may be specified by the Commission or the Registrar.

(3) The Commission or the Registrar, as the case may be, may, at any time after the receipt of an application under subsection (2)—

- (a) conduct such inquiry as it may deem necessary, including conducting financial, professional, criminal or any other background checks on the person; and
- (b) by a written notice require the person to furnish it with such additional document or information as the Commission or the Registrar, as the case may be, deems necessary in relation to the application.

(4) Where an issue arises as to whether a controller has complied with the fit and proper requirements as specified under section 45, the Commission or the Registrar, as the case may be, shall have full discretion to determine the issue.

(5) Where a controller fails or has failed to fulfil the fit and proper requirements as specified under section 45 by the Commission or the Registrar, as the case may be—

(a) a licensed credit provider shall notify the Commission or the Registrar, as the case may be, in writing of such failure within the period as may be specified by the Commission or the Registrar; and

(b) the controller shall—

(i) dispose of the shareholding which renders him to be the controller of; or

(ii) cease to have control in,

the licensed credit provider within a period or such further period, and subject to any conditions as may be specified by the Commission or the Registrar, as the case may be.

(6) For the purposes of this section, “controller” means a person who—

(a) is entitled to exercise, or control the exercise of, not less than thirty-three per centum of the votes attached to the voting shares in a licensed credit provider;

(b) has the power to appoint, or cause to be appointed, a majority of the directors of a licensed credit provider; or

(c) has the power to make, or cause to be made, decisions in respect of the business or administration of a licensed credit provider, and to give effect to such decisions or cause them to be given effect to,

and the word “control” shall be construed accordingly.

(7) Any person who contravenes subsection (1) or (5) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Acquisition of interest in shares of licensed credit provider

48. (1) Except with the prior written approval of the Commission, no person shall acquire any interest in shares of a licensed credit provider regulated by the Commission by entering into an agreement or arrangement or in any manner howsoever, if such acquisition will result in such person holding, together with any interest in shares of that licensed credit provider which are already held by such person, an aggregate interest in shares of thirty three per cent or more in the licensed credit provider.

(2) The Commission may specify what constitutes “interest in shares” for the purposes of subsection (1).

(3) Except with the prior written approval of the Registrar, no person shall become a substantial shareholder of a licensed credit provider regulated by the Ministry of Housing and Local Government.

(4) For the purpose of subsection (3), “substantial shareholder” has the meaning assigned to it under section 136 of the Companies Act 2016.

(5) Any person who contravenes subsection (1) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Appointment of auditor by licensed credit provider

49. (1) A licensed credit provider, at its own expense, shall annually appoint an auditor to carry out an audit of its credit business.

(2) The Commission or the Registrar, as the case may be, may within such period as may be specified by the Commission or the Registrar, require an auditor appointed under subsection (1)—

(a) to enlarge or extend the scope of the audit conducted under subsection (1);

(b) to carry out an examination or establish any procedure in any particular case; or

(c) to submit to the Commission or the Registrar, as the case may be—

(i) such information as may be required by the Commission or the Registrar, as the case may be, in relation to the audit conducted by the auditor; or

(ii) a report on any matters in paragraphs (a) and (b).

(3) For the purposes of subparagraph (2)(c)(i), the information required in relation to the audit may include the following:

(a) financial statements of the credit business;

(b) the number of transactions relating to the credit business;

(c) a report as to whether proper records of the transactions in relation to the credit business have been maintained; and

(d) a report as to whether the licensed credit provider has complied with the provisions of this Act and any other written laws as may be specified by the Commission or the Registrar, as the case may be.

(4) The licensed credit provider shall submit a copy of the audit report duly signed by the auditor to the Commission or the Registrar, as the case may be, not later than three months or such other period, after the end of the financial year of the licensed credit provider as may be specified by the Commission or the Registrar, as the case may be.

(5) Where in the course of the performance of his duties under this section, an auditor appointed under subsection (1) suspects or has knowledge that the licensed credit provider has committed any offence under this Act or any other written laws—

(a) the auditor shall immediately report the matter to the Commission or the Registrar, as the case may be; and

(b) the auditor shall not be liable—

- (i) for a breach of a duty of confidentiality between the auditor and the credit provider in respect of any reporting to the Commission or the Registrar, as the case may be, done in good faith under this Act; or
- (ii) to be sued in any court for defamation in respect of any statement made by the auditor without malice in the discharge of his duties under this Act.

(6) The remuneration and expenses of the auditor relating to any services under this section shall be borne by the licensed credit provider.

(7) For the purposes of this section, “financial statements” includes the latest audited annual balance sheet, profit and loss account, and statement setting out the sources of the funds, of a licensed credit provider.

(8) A licensed credit provider who contravenes subsection (1) or (4) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(9) An auditor who contravenes subsection (2) or paragraph (5) (a) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Revocation or suspension of licence

50. (1) A licence granted to a credit provider under section 42 shall be deemed to be revoked if its credit business is wound up or otherwise dissolved, whether within or outside Malaysia.

(2) Subject to section 131, the Commission or the Registrar, as the case may be, may revoke a licence on any of the following grounds:

- (a) the Commission or the Registrar, as the case may be, in connection with the application under section 41, has been provided with false or misleading, inaccurate or incomplete information from which there is a material omission;
- (b) the licensed credit provider fails or has failed to comply with—
 - (i) any provision of this Act or any other requirements as may be prescribed or specified by the Commission or the Registrar, as the case may be; or
 - (ii) any condition in respect of its licence; or
- (c) it is in the interests of the credit consumer or the public to do so.

(3) Where subsection (2) applies, the Commission or the Registrar, as the case may be, may, if it considers it desirable to do so—

- (a) suspend the licence for a specific period; and
- (b) at any time extend or revoke the suspension of licence.

Voluntary surrender of licence

51. (1) A licensed credit provider regulated by the Commission may apply to surrender its licence voluntarily in the form and manner as may be specified by the Commission.

(2) A licensed credit provider regulated by the Ministry of Housing and Local Government may surrender its licence on his own initiative by forwarding the licence to the Registrar with a written notice of the surrender of the licence.

(3) The surrender of the licence under subsection (1) shall take effect upon obtaining an approval in writing by the Commission.

(4) The surrender of the licence under subsection (2) shall take effect fourteen days from the date the Registrar receives the licence and the written notice or such other date as may be specified by the Registrar.

(5) Upon the surrender of licence under this section, there shall be no refund of any fees paid by the licensed credit provider.

Effect of revocation, suspension and surrender of licence

52. (1) A person shall immediately cease to carry on its credit business where—

(a) the Commission or the Registrar, as the case may be, revokes or suspends a licence under section 50; or

(b) the surrender of a licence has taken effect under subsection 51(3) or (4).

(2) Notwithstanding subsection (1), the person referred to in subsection (1) shall continue—

(a) to be subject to this Act to the same extent as a licensed credit provider; and

(b) to discharge its obligations including, subject to the prior written approval of the Commission or the Registrar, as the case may be, to carry on its credit business solely for the purpose of winding up of its affairs or for the purposes which are beneficial to its credit consumers or other persons dealing with it,

until the Commission or the Registrar, as the case may be, is satisfied that the person has discharged its obligations, or that adequate arrangements have been made to discharge its obligations, which remain undischarged at the time of the revocation, suspension or surrender.

(3) The revocation, suspension or surrender referred to in subsection (1) shall not—

- (a) avoid or affect any agreement, arrangement or transaction entered into by the person referred to in subsection (1) with any person; or
- (b) affect any right, obligation or liability arising under any such agreement, arrangement or transaction.

(4) Any person who contravenes subsection (1) or fails to discharge its obligations under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

Fees payable by licensed credit provider

53. (1) A licensed credit provider shall pay fees as may be prescribed by the Minister or the Minister of Housing and Local Government, as the case may be.

(2) Where a licensed credit provider regulated by the Commission fails to pay the prescribed fee under subsection (1) by the date on which such fee is due to the Commission, for every month that the payment is late, such licensed credit provider shall pay a late payment fee of an amount as prescribed by the Minister and such fees shall be recoverable by the Commission as a civil debt due to the Commission.

(3) The prescribed fees paid to, or recovered by the Commission under this section shall be paid into and form part of the Fund established under section 26.

(4) The prescribed fees paid to the Registrar under this section shall be paid into and form part of the Federal Consolidated Fund.

Establishment, relocation or closure of branch, etc., of licensed credit provider

54. (1) A licensed credit provider regulated by the Commission shall comply with the requirements on the establishment, relocation or closure of its branch as may be specified by the Commission.

(2) A licensed credit provider regulated by the Ministry of Housing and Local Government shall not carry on its credit business at any other place than its authorized address or addresses.

(3) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Transfer or assignment of licence

55. (1) A licensed credit provider shall not—

- (a) transfer or assign its licence to any other person; or
- (b) cause or permit any other person to use the licence or carry on the credit business specified in the licence.

(2) Notwithstanding subsection (1), a licensed credit provider regulated by the Ministry of Housing and Local Government may, with the prior written consent of the Registrar, appoint any person for the purpose of exercising any of the rights conferred on such licensed credit provider under the licence, or cause or permit any such person to exercise any such right.

(3) Notwithstanding subsection (1), the Registrar may authorize the transfer of a licence where the Registrar is satisfied that—

- (a) the licensed credit provider—
 - (i) being a company, is liquidated and a receiver or manager is appointed in relation to the credit business of the company; or
 - (ii) being a society, firm or other body of persons, is dissolved and a receiver or manager is appointed in relation to the credit business of the society, firm or other body of persons; or

(b) it would be just to do so.

(4) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding four years or to both.

Sale, disposal, leasing, etc., of credit business

56. (1) Except with the prior written approval of the Commission or the Registrar, as the case may be, no licensed credit provider shall—

(a) sell, dispose, lease, assign or transfer howsoever, the whole or any part of its credit business to any other person; or

(b) amalgamate or merge its credit business with any other person.

(2) A licensed credit provider who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding four years or to both.

Division 2

Registration

Requirement for registration

57. (1) No person shall carry on credit service business as set out in paragraph 3 of Schedule 4 or hold himself out as carrying on such business unless he is a registered credit service provider.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

Application for registration

58. (1) A person intending to carry on a credit service business as set out in paragraph 3 of Schedule 4 shall submit an application to the Commission.

(2) The application under subsection (1) shall be—

(a) made to the Commission in such form and manner as may be specified by the Commission; and

(b) accompanied by payment of the prescribed fee and such information, particulars or document as may be specified by the Commission.

(3) The Commission may at any time after the receipt of an application under subsection (1)—

(a) conduct such inquiry as it may deem necessary, including conducting financial, professional, criminal or other background checks on the applicant and controller, directors and senior management of the applicant; and

(b) by a written notice require the applicant to furnish it with such document or information as the Commission deems necessary in relation to the application.

(4) Where any additional document or information required under paragraph (3)(b) is not provided by the applicant within the period specified in the written notice or any extension of time granted by the Commission—

(a) the application shall not be further proceeded with, but without affecting the right of the applicant to make a fresh application; and

(b) there shall be no refund of the fee paid by the applicant.

(5) Where an applicant withdraws an application submitted under subsection (2)—

(a) it shall not affect the right of the applicant to make a fresh application after a period as may be specified by the Commission; and

(b) there shall be no refund of the fee paid by the applicant.

(6) Upon receipt of an application and payment of fee and submission of information, particulars or document under subsection (2) and any additional document or information provided under paragraph (3)(b), the Commission may consider such application.

(7) A registered credit service provider intending to carry on a subsequent credit service business as set out in paragraph 3 of Schedule 4 shall submit another application to the Commission in accordance with this section.

Registration

59. (1) The Commission may register the applicant where the Commission is satisfied that the applicant—

- (a) meets the minimum financial requirements under section 61; and
- (b) complies with any other requirements of this Act, any other regulations, standards or guidelines or other requirements relating to registration under this Act and conditions as may be specified by the Commission.

(2) The Commission—

- (a) in registering an applicant under subsection (1), may specify any conditions of the registration as the Commission thinks fit to impose; or
- (b) may at any time during the duration of the registration issue a written notice to —
 - (i) impose any additional or new conditions;
 - (ii) amend or vary any of the conditions; or
 - (iii) revoke or waive any of the conditions.

(3) If the Commission adds, amends, varies, revokes or waives any of the conditions under subsection (2), the addition, amendment, variation, revocation or waiver shall take effect at the time of the service of the notice or at such time as specified by the Commission.

(4) Any person who fails to comply with any of the conditions of a registration imposed under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding four years or to both.

Grounds for refusal of registration

60. (1) The Commission may refuse the application for a registration on any of the following grounds:

- (a) the application was not made in accordance with this Act;
- (b) the applicant has failed to comply with any regulations or standards or guidelines or other requirements under this Act;
- (c) the applicant has failed to satisfy the Commission that the applicant, its controller, its directors and its senior management, are fit and proper;
- (d) any document or information that is furnished by the applicant to the Commission is false or misleading or from which there is a material omission; or
- (e) the Commission is of the opinion that it would be contrary to the interests of the public to register the applicant.

(2) Where the Commission refuses an application under subsection (1)—

- (a) the Commission shall notify the applicant in writing of the refusal;
- (b) the refusal shall not affect the right of the applicant to make a fresh application after a period as may be specified by the Commission; and
- (c) there shall be no refund of the fee paid by the applicant.

Minimum financial requirements for registration

61. (1) No person shall be registered under section 59 if such person does not meet the minimum financial requirements as may be specified by the Commission.

(2) In carrying on its credit service business, a registered credit service provider shall comply, at all times, with the minimum financial requirements as may be specified by the Commission.

(3) A registered credit service provider shall not continue to carry on any credit service business without the prior written consent of the Commission, if it does not meet the minimum financial requirements as specified under subsection (1).

Fit and proper requirements of registered credit service provider

62. (1) The Commission may specify fit and proper requirements applicable to a controller, director or senior management of a registered credit service provider, which may include minimum criteria relating to—

- (a) probity, personal integrity and reputation;
- (b) competency and capability; and
- (c) financial integrity.

(2) A controller, director or senior management of a registered credit service provider shall at all times comply with the fit and proper requirements as specified under subsection (1).

Directors and senior management of registered credit service provider

63. (1) A registered credit service provider shall only appoint or reappoint any person—

- (a) as its director or senior management if the person fulfils the fit and proper requirements as specified by the Commission under section 62; and
- (b) as its chief executive subject to obtaining a prior written approval of the Commission.

(2) A registered credit service provider shall give a written notice to the Commission on the appointment or reappointment of its directors.

(3) Where an issue arises as to whether a person has complied with the fit and proper requirements as specified under section 62, the Commission shall have full discretion to determine the issue.

(4) Where a director or senior management subsequently becomes aware that he fails to fulfil the fit and proper requirements specified under section 62, he shall immediately inform the registered credit service provider.

(5) Where a director or senior management fails to fulfil the fit and proper requirements specified under section 62, the registered credit service provider shall immediately remove him from such office.

(6) Subject to section 131, the Commission may direct a registered credit service provider to remove its director or senior management who fails to fulfil the fit and proper requirement under section 62 within such period as may be specified by the Commission.

(7) Notwithstanding anything contained in any contract of service or any other agreement relating to his appointment, the removal of a director or senior management under subsection (5) or (6) shall be lawful and valid and the director or senior management removed under subsection (5) or (6) shall not be entitled to claim any compensation for such removal.

(8) A registered credit service provider shall notify the Commission in writing that its director or senior management has ceased to hold office and act in such capacity and of the reasons of such cessation within a period as specified by the Commission.

(9) Any person who contravenes subsection (1), (4) or (5) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Controller of registered credit service provider

64. (1) No person shall have control over a registered credit service provider unless—

- (a) such person has fulfilled the fit and proper requirements as specified under section 62 by the Commission; and
- (b) such person has obtained the prior written approval of the Commission.

(2) Any person intending to be a controller shall submit an application to the Commission in such form and manner as may be specified by the Commission.

(3) The Commission may, at any time after the receipt of an application under subsection (2)—

(a) conduct such inquiry as it may deem necessary, including conducting financial, professional, criminal or any other background checks on the person; and

(b) by a written notice require the person to furnish it with such additional document or information as the Commission deems necessary in relation to the application.

(4) Where an issue arises as to whether a controller has complied with the fit and proper requirements as specified under section 62, the Commission shall have full discretion to determine the issue.

(5) Where a controller fails or has failed to fulfil the fit and proper requirements as specified under section 62 by the Commission—

(a) a registered credit service provider shall notify the Commission in writing of such failure within the period as may be specified by the Commission; and

(b) the controller shall—

(i) dispose of the shareholding which renders him to be the controller of; or

(ii) cease to have control in,

the registered credit service provider within a period or such further period, and subject to any conditions as may be specified by the Commission.

(6) For the purposes of this section, “controller” means a person who—

(a) is entitled to exercise, or control the exercise of, not less than thirty-three per centum of the votes attached to the voting shares in a registered credit service provider;

- (b) has the power to appoint, or cause to be appointed, a majority of the directors of a registered credit service provider; or
- (c) has the power to make, or cause to be made, decisions in respect of the business or administration of a registered credit service provider, and to give effect to such decisions or cause them to be given effect to,

and the word “control” shall be construed accordingly.

(7) Any person who contravenes subsection (1) or (5) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Acquisition of interest in shares of registered credit service provider

65. (1) Except with the prior written approval of the Commission, no person shall acquire any interest in shares of a registered credit service provider by entering into an agreement or arrangement or in any manner howsoever, if such acquisition will result in such person holding, together with any interest in shares of that registered credit service provider which are already held by such person, an aggregate interest in shares of thirty three per cent or more in the registered credit service provider.

(2) The Commission may specify what constitutes “interest in shares” for the purposes of subsection (1).

(3) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Appointment of auditor by registered credit service provider

66. (1) A registered credit service provider, at its own expense, shall annually appoint an auditor to carry out an audit of its credit service business.

(2) The Commission may within such period as may be specified by the Commission, require an auditor appointed under subsection (1)—

(a) to enlarge or extend the scope of the audit conducted under subsection (1);

(b) to carry out an examination or establish any procedure in any particular case; or

(c) to submit to the Commission—

(i) such information as may be required by the Commission in relation to the audit conducted by the auditor; or

(ii) a report on any matters in paragraphs (a) and (b).

(3) For the purposes of subparagraph (2)(c)(i), the information required in relation to the audit may include the following:

(a) financial statements of the credit service business;

(b) the amount of transactions relating to the credit service business;

(c) a report as to whether proper records of the transactions in relation to the credit service business have been maintained; and

(d) a report as to whether the registered credit service provider has complied with the provisions of this Act and any other written laws as may be specified by the Commission.

(4) The registered credit service provider shall submit a copy of the audit report duly signed by the auditor to the Commission not later than three months or such other period, after the end of the financial year of the registered credit service provider as may be specified by the Commission.

(5) Where in the course of the performance of his duties under this section, an auditor appointed under subsection (1) suspects or has knowledge that the registered credit service provider has committed any offence under this Act or any other written laws—

(a) the auditor shall immediately report the matter to the Commission; and

(b) the auditor shall not be liable—

(i) for a breach of a duty of confidentiality between the auditor and the provider in respect of any reporting to the Commission done in good faith under this Act; or

(ii) to be sued in any court for defamation in respect of any statement made by the auditor without malice in the discharge of his duties under this Act.

(6) The remuneration and expenses of the auditor relating to any services under this section shall be borne by the registered credit service provider.

(7) For the purposes of this section, “financial statements” includes the latest audited annual balance sheet, profit and loss account, and statement setting out the sources of the funds, of a registered credit service provider.

(8) A registered credit service provider who contravenes subsection (1) or (4) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(9) An auditor who contravenes subsection (2) or paragraph (5)(a) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Deregistration or suspension of registration

67. (1) A credit service provider registered under section 59 shall be deemed to be deregistered if its credit service business is wound up or otherwise dissolved, whether within or outside Malaysia.

(2) Subject to section 131, the Commission may deregister a credit service provider on any of the following grounds:

(a) the Commission, in connection with the application under section 58, has been provided with false or misleading, inaccurate or incomplete information from which there is a material omission;

(b) the registered credit service provider fails or has failed to comply with—

(i) any provision of this Act or any other requirements as may be prescribed or specified by the Commission; or

(ii) any condition in respect of its registration; or

(c) it is in the interests of the credit consumer or the public to do so.

(3) Where subsection (2) applies, the Commission may, if it considers it desirable to do so—

(a) suspend the registration for a specific period; and

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

Voluntary deregistration

68. (1) A registered credit service provider may apply to be deregistered voluntarily in the form and manner as may be specified by the Commission.

(2) The deregistration under subsection (1) shall take effect upon obtaining an approval in writing by the Commission.

(3) Upon the deregistration under this section, there shall be no refund of any fees paid by the registered credit service provider.

Effect of deregistration, suspension and voluntary deregistration

69. (1) A person shall immediately cease to carry on its credit service business where—

- (a) the Commission suspends a registration or deregisters a registered credit service provider under section 67; or
- (b) the deregistration has taken effect under subsection 68(2).

(2) Notwithstanding subsection (1), the person referred to in subsection (1) shall continue—

- (a) to be subject to this Act to the same extent as a registered credit service provider; and
- (b) to discharge its obligations including, subject to the prior written approval of the Commission to carry on credit service business solely for the purpose of winding up of its affairs or for the purposes which are beneficial to its credit consumers or other persons dealing with it,

until the Commission is satisfied that the person has discharged its obligations, or that adequate arrangements have been made to discharge its obligations, which remain undischarged at the time of the deregistration, suspension or voluntary deregistration.

(3) The deregistration, suspension or voluntary deregistration referred to in subsection (1) shall not—

- (a) avoid or affect any agreement, arrangement or transaction entered into by the person referred to in subsection (1) with any person; or
- (b) affect any right, obligation or liability arising under any such agreement, arrangement or transaction.

(4) Any person who contravenes subsection (1) or fails to discharge its obligations under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

Fees payable by registered credit service provider

70. (1) A registered credit service provider shall pay fees as may be prescribed by the Minister.

(2) Where a registered credit service provider fails to pay the prescribed fee under subsection (1) by the date on which such fee is due to the Commission, for every month that the payment is late, such registered credit service provider shall pay a late payment fee of an amount as prescribed by the Minister and such fees shall be recoverable by the Commission as a civil debt due to the Commission.

(3) The prescribed fees paid to, or recovered by the Commission under this section shall be paid into and form part of the Fund established under section 26.

Establishment, relocation or closure of branch, etc., of registered credit service provider

71. A registered credit service provider shall comply with the requirements on the establishment, relocation or closure of its branch as may be specified by the Commission.

Transfer or assignment of registration

72. (1) A registered credit service provider shall not—

- (a) transfer or assign its registration to any other person; or
- (b) cause or permit any other person to use its registration to carry on the credit service business specified in the registration.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding four years or to both.

Sale, disposal, leasing, etc., of credit service business

73. (1) Except with the prior written approval of the Commission, no registered credit service provider shall—

- (a) sell, dispose, lease, assign or transfer howsoever, the whole or any part of its credit service business to any other person; or
- (b) amalgamate or merge its credit service business with any other person.

(2) A registered credit service provider who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding four years or to both.

Division 3

General matters

Application by aggrieved person for review on decision under this Part

74. (1) The Commission may review its own decision under this Part upon an application made by any person who is aggrieved by such decision.

(2) The application referred to in subsection (1) shall be made in writing within fourteen days after the aggrieved person is notified of such decision.

(3) The review by the Commission under subsection (1) shall not include persons who took part in the earlier deliberation of such decision.

(4) Where an application for review is made under this section, the decision of the Commission under this Part shall not take effect until the review is disposed of.

(5) Notwithstanding subsection (4), the Commission may specify in the notification under subsection (2) that the decision of the Commission shall take effect immediately on the date when the notification is issued or on any other date as may be specified by the Commission, if the Commission is of the view that it is necessary in the interest of the public.

(6) A decision of the Commission under subsection (1) is final.

Appeal to Minister of Housing and Local Government on decision under this Part

75. (1) Any person aggrieved by any decision taken by the Registrar under this Part may, within fourteen days after having been notified of the decision, apply in writing to the Minister of Housing and Local Government for an appeal against such decision.

(2) Where an application for an appeal is made under subsection (1), the decision of the Registrar under this Part shall not take effect until the appeal is disposed of.

(3) Notwithstanding subsection (2), the Registrar may specify in the notification under subsection (1) that the decision of the Registrar shall take effect immediately on the date when the notification is issued or on any other date as may be specified by the Registrar, if the Registrar is of the view that it is necessary in the interest of the public.

(4) Any decision made by the Minister of Housing and Local Government under subsection (1) shall be final.

Publication of names of licensed credit providers and registered credit service providers

76. The Commission shall, as soon as practicable, publish a list of all licensed credit providers and registered credit service providers regulated by the Commission in such form and manner as may be determined by the Commission.

Agreements with unlicensed credit provider not enforceable

77. No agreement under which credit is given and purporting to be a credit agreement entered into by a credit consumer and an unlicensed credit provider shall be enforceable.

Presumption as to business of providing credit or credit service

78. (1) Where in any court proceedings against any person, it is alleged that such person is a credit provider, the proof of a single credit transaction made by such person shall raise a presumption that such person is carrying on the business of providing credit to a credit consumer until the contrary is proved.

(2) Where in any court proceedings against any person, it is alleged that such person is a credit service provider, the proof of a single service provided by such person relating to credit shall raise a presumption that such person is carrying on the business of providing credit service involving a credit consumer until the contrary is proved.

Non-application of Part V

79. (1) Part V of this Act shall not apply to—

- (a) a person who is set out in Schedule 5; and
- (b) any person who is carrying on a credit business or credit service business under the Hire-Purchase Act 1967, Consumer Protection Act 1999, Moneylenders Act 1951 and Pawnbrokers Act 1972, unless such person intends to carry on any credit business or credit service business as set out in Schedule 4.

(2) Where a person is carrying on a credit business or credit service business as set out in paragraph 1 or paragraph 3 of Schedule 4 that does not involve a credit consumer, such person shall submit a declaration to the Commission of such fact, in the form and manner as may be specified by the Commission.

(3) A person referred to in subsection (2) shall submit the declaration to the Commission together with such document or information as may be specified by the Commission.

PART VI

ISLAMIC CREDIT BUSINESS

Application

80. This Part shall apply to an Islamic credit provider carrying on any Islamic credit business as set out in paragraph 2 of Schedule 2.

Duty to ensure compliance with Shariah

81. (1) An Islamic credit provider shall at all times ensure that its Islamic credit business, affairs and activities are in compliance with Shariah and manage such business, affairs and activities in a manner which is in compliance with Shariah.

(2) An Islamic credit provider may, through its Regulatory and Supervisory Authority, seek the advice or ruling of the Shariah Advisory Council on Shariah matters in respect of its Islamic credit business, affairs or activities which requires the ascertainment of Islamic law by the Shariah Advisory Council.

(3) A compliance with any advice or ruling of the Shariah Advisory Council in respect of any particular Islamic credit business, affairs or activities shall be deemed to be a compliance with Shariah in respect of that business, affairs or activities.

(4) A Regulatory and Supervisory Authority may carry out an assessment as it thinks necessary to determine whether the Islamic credit provider is carrying on or has carried on its Islamic credit business, affairs or activities in a manner which is in compliance with Shariah.

(5) Any Islamic credit provider who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding four years or to both.

Internal policies and procedures on Islamic credit business

82. (1) An Islamic credit provider shall, at all times ensure that its internal policies and procedures on Islamic credit business are consistent with the regulations made under paragraphs 122(2)(b) and (c) and standards or guidelines specified under paragraphs 123(2)(b) and (c).

(2) Every director, partner or officer of an Islamic credit provider, and a person appointed by an Islamic credit provider to advise on its compliance with Shariah shall at all times comply with the internal policies and procedures adopted by such Islamic credit provider including internal policies and procedures to implement the regulations made under paragraphs 122(2)(b) and (c) and standards or guidelines specified under paragraphs 123(2)(b) and (c).

Reference to Shariah Advisory Council from court or arbitrator

83. (1) Where in any proceedings relating to an Islamic credit business before any court or arbitrator any question arises concerning a Shariah matter, the court or the arbitrator, as the case may be, shall—

(a) take into consideration any regulations made under paragraph 122(2)(b) and standards or guidelines specified under paragraph 123(2)(b); or

(b) refer such question to the Shariah Advisory Council for its ruling.

(2) Any ruling made by the Shariah Advisory Council pursuant to a reference made under paragraph (1)(b) shall be binding on the court or arbitrator making such reference.

PART VII

BUSINESS CONDUCT FOR CREDIT CONSUMER PROTECTION

Division 1

Conduct requirements

Duty to ensure fair, responsible and professional business conduct

84. A credit provider or credit service provider shall manage and ensure it carries on its credit business or credit service business in a fair, responsible and professional manner when dealing with credit consumers.

Compliance with regulations and standards or guidelines on business conduct

85. (1) For the purposes of section 84, regulations under section 122 and standards or guidelines under section 123 may include the following:

- (a) prohibited business conduct;
- (b) promotion of any credit business or credit service business, including through the issuance or publication of an advertisement;
- (c) transparency and disclosure requirements, including the provision of information to a credit consumer that is accurate, clear, timely and not misleading;
- (d) fairness of terms in a credit agreement;
- (e) imposition of interest, profit, fees or charges;
- (f) provision of assessments of affordability of credit offered to credit consumers including circumstances where credit shall not be provided;
- (g) fair debt collection practices;
- (h) provision of assistance to a credit consumer with financial hardship to meet its financial obligation under a credit agreement;
- (i) complaints handling and dispute resolution mechanisms;
- (j) competency of officers or any persons acting on behalf of a credit provider or credit service provider including to ensure that they are adequately trained to engage with credit consumers; and
- (k) management of any document or information relating to the business or affairs of any credit consumer.

(2) Every credit provider or credit service provider shall at all times ensure that its internal policies and procedures relating to business conduct are consistent with the regulations made under paragraph 122(2)(d) and standards or guidelines specified under paragraph 123(2)(c).

(3) Every director, partner or officer of a credit provider or credit service provider shall at all times comply with the internal policies and procedures adopted by such credit provider or credit service provider including internal policies and procedures to implement the regulations made under paragraph 122(2)(d) and standards or guidelines specified under paragraph 123(2)(c).

Financial hardship

86. (1) For the purposes of paragraph 85(1)(h), the Commission may issue standards or guidelines under section 123 to specify—

- (a) the circumstances that qualify as financial hardship; and
- (b) the form and manner of assistance to be provided by a credit provider, if such specification is, in the opinion of the Commission, necessary or expedient.

(2) In exercising its powers under subsection (1), the Commission shall ensure the standards or guidelines specified are—

- (a) in the interest of the orderly functioning and development of the consumer credit industry, having regard to credit consumers' continued access to credit; and
- (b) not detrimental to financial stability.

(3) A credit consumer may apply for financial hardship assistance from a credit provider in respect of a credit agreement with the credit provider, where any circumstances of financial hardship as specified under subsection (1) applies.

(4) Upon receiving an application under subsection (3), the credit provider shall make an assessment to determine whether such assistance is to be provided to the credit consumer.

(5) During an assessment under subsection (4), the rights for the credit provider to commence any proceedings, execution or other legal process against the credit consumer shall be suspended.

(6) Where the credit provider is satisfied that financial hardship assistance is to be provided, the credit provider shall determine the form and manner of assistance to be given, unless the Commission has issued a specification on such matter under paragraph (1)(b).

Division 2

Prohibited business conduct

Prohibited business conduct

87. (1) No person shall engage in any prohibited business conduct as set out in Schedule 6.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

PART VIII

EXAMINATION AND INVESTIGATION

Division 1

Examination powers

Examination by Regulatory and Supervisory Authority

88. (1) A Regulatory and Supervisory Authority may examine, with or without any prior notice, the business and affairs of a credit provider or credit service provider regulated by the Regulatory and Supervisory Authority under this Act or any other written laws administered by the Regulatory and Supervisory Authority, as the case may be.

(2) For the purposes of an examination under subsection (1), the Regulatory and Supervisory Authority may examine—

- (a) an individual, where he is a credit provider or credit service provider, as the case may be;
- (b) a director, partner or officer of a credit provider or credit service provider; or

(c) any of the following persons:

- (i) a person who was at any time, a director, partner or officer of a credit provider or credit service provider;
- (ii) a person who is, or was at any time, having dealings with a credit provider or credit service provider; or
- (iii) a person whom the Regulatory and Supervisory Authority believes to be acquainted with the facts and circumstances of the case.

Duty to provide access to, and produce documents, information, etc.

89. (1) For the purposes of an examination under subsection 88(1), a person under examination and its director, partner or officer—

- (a) shall provide the Regulatory and Supervisory Authority access and produce to the Regulatory and Supervisory Authority its documents, securities held in respect of credit consumers' transactions, titles, cash, premises, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article, within such time as specified by the Regulatory and Supervisory Authority;
- (b) shall give to the Regulatory and Supervisory Authority, orally or in writing, any information and explanation relating to its business and affairs or its agent within such time as specified by the Regulatory and Supervisory Authority;
- (c) shall allow the Regulatory and Supervisory Authority to copy or make extracts of any document referred to in paragraph (a); and

- (d) shall for the purposes of this section provide the Regulatory and Supervisory Authority with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of any program or data held in any computer or otherwise including in a form in which the information contained in a computer or otherwise can be taken away and in which it is visible and legible.

(2) The Regulatory and Supervisory Authority may take possession of any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article to which it has access under subsection (1), if the Regulatory and Supervisory Authority is of the opinion that the documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article may be—

- (a) interfered with, destroyed, concealed or removed unless the Regulatory and Supervisory Authority takes possession of them; or
- (b) needed as evidence in any legal proceedings, whether civil or criminal, which may be instituted under this Act or any other written law.

(3) For purposes of an examination under subparagraphs 88(2)(c)(ii) and (iii), a person under examination shall—

- (a) give to the Regulatory and Supervisory Authority such document, information or explanation as the Regulatory and Supervisory Authority may require within such period as it may specify; and
- (b) not be liable for a breach of a contract relating to, or a duty of, confidentiality for giving such document, information or explanation under paragraph (a).

(4) Any person examined under section 88 shall appear before the Regulatory and Supervisory Authority at such place, and at such time, as may be specified by the Regulatory and Supervisory Authority.

(5) Any person who contravenes subsection (1), paragraph (3)(a) or subsection (4), or refuses to allow possession by the Regulatory and Supervisory Authority under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Division 2

Investigation powers

Investigation by Regulatory and Supervisory Authority

90. (1) A Regulatory and Supervisory Authority may cause an investigation to be made and for such purpose, may exercise all the powers of investigation provided under this Act in respect of all matters concerning consumer credit regulated by the Regulatory and Supervisory Authority under this Act or any written laws administered by the Regulatory and Supervisory Authority.

(2) A Regulatory and Supervisory Authority may appoint an officer of the Regulatory and Supervisory Authority or any other person appointed under subsection 35(1) to be an investigating officer to conduct an investigation under this Division.

(3) For the purposes of investigations conducted by the Ministry of Housing and Local Government—

- (a) the following persons may cause an investigation to be made:
 - (i) a police officer not below the rank of Sergeant;
 - (ii) Registrar of Islamic credit providers and Deputy Registrars of Islamic credit providers; and
 - (iii) any other persons as may be appointed by the Minister of Housing and Local Government;

- (b) any reference to an investigating officer under this Division shall include a police officer unless otherwise provided under the provisions of this Act; and
- (c) a senior police officer referred to in this Division shall have the meaning as assigned to it under the Police Act 1967 [Act 344].

(4) An investigating officer shall be deemed to be a public servant for the purposes of the Penal Code, and to be a public officer for the purposes of the Criminal Procedure Code [Act 593] and the Evidence Act 1950.

Powers of investigating officer

91. (1) An investigating officer referred to under section 90 shall have all the functions and powers conferred on a Regulatory and Supervisory Authority under this Part, and where such investigating officer is not an officer of the Regulatory and Supervisory Authority, he shall, in relation to such functions and powers—

- (a) be subject to; and
- (b) enjoy such rights, privileges, protection, immunities and indemnities,

as may be provided in this Act or any other written law applicable to an officer of the Regulatory and Supervisory Authority as if he was an officer of the Regulatory and Supervisory Authority.

(2) An investigating officer, in performing his functions and exercising his powers, shall be subject to and comply with the directions, controls, instructions, conditions, restrictions or limitations as may be specified by the Regulatory and Supervisory Authority, orally or in writing, either generally, or in any particular case or circumstance.

(3) An investigating officer conducting any investigation of any person under this Division shall have the power to administer an oath or affirmation to the person who is being investigated.

Powers of entry, search and seizure with warrant

92. (1) Where it appears to a magistrate, upon written information, on oath and after such inquiry as he considers necessary that there is reasonable cause to believe that—

- (a) any premises have been used or are about to be used for;
or
- (b) there is evidence in any premises necessary to the conduct of an investigation into,

the commission of an offence under this Act, the magistrate may issue a warrant authorizing an investigating officer named in the warrant, at any reasonable time, by day or by night and with or without assistance to enter the premises and if need be by force.

(2) A warrant under subsection (1) may authorize the investigating officer to—

- (a) enter any premises and search for, seize and detain any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article;
- (b) have access to inspect, make copies of, or take extracts from, any document, securities held in respect of credit consumers' transactions, titles, cash, computer, computer output, system, data, programmes, or information so seized and detained, including access to any program or data held in any computer or otherwise, or have access to, inspect or check the operation of any computer or otherwise, and any associated apparatus or material;
- (c) take possession of, and remove from the premises, any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article so seized and detained;

- (d) search any person who is in, or on, such premises, and for the purpose of such search, detain such person, subject to section 97, and remove him to such place as may be necessary to facilitate the search, and seize and detain any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article found on such person;
 - (e) break open, examine, and search, any article, container or receptacle, including accessing into a computer or otherwise; or
 - (f) stop, detain or search any conveyance.
- (3) An investigating officer may if it is necessary to do so—
- (a) break open any outer or inner door of such premises or other obstruction to the premises, in order to effect entry into the premises;
 - (b) forcibly enter the premises and every part of the premises;
 - (c) remove by force any obstruction to entry, search, seizure, detention or removal as he is empowered to effect under this section; or
 - (d) detain, subject to section 97, any person found in any premises, or in any conveyance, searched under subsection (2) until such premises or conveyance have been searched.
- (4) An investigating officer shall for the purposes of this section be provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of any program or data held in any computer or otherwise including in a form in which the information contained in a computer or otherwise can be taken away and in which it is visible and legible.

(5) Any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information, article or statement obtained by or provided to an investigating officer in the course of a search under this section shall, notwithstanding any law to the contrary, be admissible in evidence in any proceedings under this Act.

Admissibility of warrant

93. A warrant issued under this Act shall be valid and enforceable notwithstanding any defect, mistake or omission therein or in the application for such warrant and any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article seized under such warrant shall be admissible in evidence in any proceedings under this Act.

Powers of entry, search and seizure without warrant

94. (1) If an investigating officer is satisfied upon information received that he has reasonable cause to believe that by reason of delay in obtaining a search warrant under section 92 the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the investigating officer may enter the premises and exercise in, upon and in respect of the premises all the powers referred to in section 92 in as full and ample a manner as if he was authorized to do so by a warrant issued under that section.

(2) For the purposes of this section, where the investigation is conducted by the Ministry of Housing and Local Government and the investigating officer is a police officer, such police officer shall be a senior police officer.

List of seized property, etc.

95. (1) An investigating officer, in the course of his investigation or search, shall—

- (a) prepare and sign a list of all documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article seized; and
- (b) state in the list the location in which, or the person on whom, the documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article is found or obtained.

(2) The occupant of the premises entered under subsection 92(2) or section 94 in the course of an investigation, or any person on his behalf, shall in every instance be permitted to attend during the search, sign the search list or affix his thumb print thereon, and be given a copy of the search list prepared and signed or affixed thumb print under this section.

(3) Where such occupant or person acting on behalf of the occupant under subsection (2) refuses to sign the search list or affix his thumb print on the search list, the investigating officer shall endorse on the search list, under his name, the fact of and reasons for such refusal, if any, stated by such occupant or person acting on behalf of the occupant.

(4) For the purposes of this section, where the investigation is conducted by the Ministry of Housing and Local Government and the investigating officer is a police officer, such police officer shall be a senior police officer.

Release, disposal or forfeiture of seized goods, etc.

96. (1) An investigating officer shall, unless otherwise ordered by any court—

- (a) on the close of investigations or any proceedings arising from such investigations; or

- (b) with the prior written consent of the respective Regulatory and Supervisory Authority at any time before the close of investigations,

release any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article seized, detained or removed by him or any other investigating officer under this Division in accordance with subsection (2) or (3), as the case may be.

(2) For purposes of subsection (1), where the investigation is conducted by the Ministry of Domestic Trade and Cost of Living—

- (a) any person asserting that he is the owner of the documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article, may, personally or by his agent authorized in writing, give a written notice to the Ministry of Domestic Trade and Cost of Living;
- (b) on receipt of the notice under paragraph (a), the Ministry of Domestic Trade and Cost of Living may, after making such enquiries as may be necessary, direct that such documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article be released or forfeited or refer the matter to a magistrate; and
- (c) the magistrate to whom the matter is referred under paragraph (b) shall issue a summons requiring the person asserting that he is the owner of the documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article and the person from whom they were seized to appear before such magistrate and upon their appearance or default to appear, due service of the summons being proved, the magistrate

shall proceed to the examination of the matter and on proof that an offence has been committed under this Act and that such goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, documents, securities held in respect of credit consumers' transactions, titles, cash, information or article were the subject matter or were used in the commission of such offence shall order the same to be forfeited and shall, in the absence of such proof, order their release.

(3) Where the investigation is conducted by a Regulatory and Supervisory Authority other than the Ministry of Domestic Trade and Cost of Living, the investigating officer shall release documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article to such person as he determines to be lawfully entitled to them if he is satisfied that it is not required for the purpose of any prosecution or proceedings under this Act, or for the purpose of any prosecution under any other written law.

(4) For purposes of subsection (3), where an investigating officer is unable to locate the person who is lawfully entitled to the documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article, the investigating officer shall cause to be published a notice in the Regulatory and Supervisory Authority's website or in any other means of publication as deemed fit by the Regulatory and Supervisory Authority calling upon any person who is lawfully entitled to the documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article to claim such documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article within the period stipulated in the notice.

(5) Where no claim is made upon the expiry of the period specified in the notice published under subsection (4)—

- (a) the investigating officer shall make an application in writing to the court as to the disposal of such documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article; and
- (b) the court upon receiving the application under paragraph (a) and being satisfied that the person under subsection (1) who is lawfully entitled to the documents, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article cannot be located, shall order the same to be forfeited or disposed of by the Regulatory and Supervisory Authority in accordance with the order made by the court.

(6) A record in writing shall be made by the investigating officer effecting any release of any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article under subsection (1) in respect of such release specifying therein in detail the circumstances of, and the reason for, such release.

(7) No person shall, in any proceedings before any court in respect of the seizure of any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

(8) Where any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article seized in the exercise of any power under this Act is held in the custody

of the Government pending the completion of any proceedings in respect of an offence under this Act, the cost of holding the same in custody, shall, in the event of any person being found guilty of an offence under this Act, be a debt due to the Government by such person and shall be recoverable accordingly.

(9) For the purposes of this section, where the investigation is conducted by the Ministry of Housing and Local Government and the investigating officer is a police officer, such police officer shall be a senior police officer superior in rank to the senior police officer who effected the seizure.

Search of person

97. (1) An investigating officer may search any person whom he has reason to believe has in his possession, including on his person, any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article necessary, in his opinion, for the purpose of investigation into any offence under this Act.

(2) For the purposes of a search of a person under subsection (1) or section 92 or 94, an investigating officer may, subject to the provisions of the Criminal Procedure Code, detain such person as may be necessary to have the search carried out, and may remove him in custody to such place as may be necessary to facilitate such search.

(3) An investigating officer making a search of a person under subsection (1) may seize, detain or take possession of any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article, found upon such person for the purpose of the investigation being carried out by him.

(4) Any search of a person conducted under this Part shall be in accordance with the provisions in the Criminal Procedure Code.

(5) No person shall be searched except by a person who is of the same gender, and such search shall be conducted with strict regard to decency.

(6) For the purposes of a search conducted under this section by the Ministry of Housing and Local Government, where the investigating officer is a police officer, such police officer shall be a senior police officer.

Obstruction to exercise of powers by investigating officer

98. (1) No person shall—

(a) refuse to give to any investigating officer exercising his powers under this Division—

(i) access to any premises or any part of such premises; or

(ii) any information which may reasonably be required of him and which he has it in his power to give;

(b) assault, obstruct, interfere with or delay any investigating officer in the exercise of his powers under this Division;

(c) fail to—

(i) comply with any lawful demand of any investigating officer in exercising his powers under this Division;

(ii) submit to the search of his person; or

(iii) produce to, or conceal or attempt to conceal from, an investigating officer any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article which the investigating officer may require;

(d) retrieve or endeavour to retrieve anything which has been duly seized;

- (e) furnish to an investigating officer as true, information which he knows or has reason to believe to be false, misleading, inaccurate or incomplete; or
- (f) before or after any seizure, break or otherwise destroy any thing to prevent the seizure thereof, or the securing of such thing.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

Requirement to provide translation

99. (1) An investigating officer may—

- (a) orally or in writing, require a person who has the possession, custody or control of documents, securities held in respect of credit consumers' transactions, titles, cash, computer, computer output, system, data, programmes, or information that is in a language other than the national language or the English language, or in any sign or code, to furnish to the investigating officer a translation in the national language or the English language of such documents, securities held in respect of credit consumers' transactions, titles, cash, computer output, system, data, programmes, or information so found, seized, detained or taken possession of by the investigating officer; and
- (b) specify such reasonable period for the person to furnish the translation, having regard to the length of the documents, securities held in respect of credit consumers' transactions, titles, cash, computer output, system, data, programmes, or information, or other circumstances relating to it.

(2) No person shall knowingly make or furnish a translation under subsection (1) which is not an accurate, faithful and true translation.

(3) Where the person required to furnish a translation under subsection (1) is not the person who is suspected to have committed the offence or breach under investigation, the Regulatory and Supervisory Authority shall pay him reasonable fees for the translation.

(4) Any person who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Power to examine persons for investigation

100. (1) Where an investigating officer suspects any person to have committed an offence or a breach under this Act, he may, if in his opinion it is reasonably necessary to do so for the purposes of an investigation into such offence or breach—

(a) order any person by notice in writing to—

- (i) attend before him for the purpose of being examined orally in relation to any matter which may assist in the investigation; or
- (ii) produce before him, within the time specified by such officer, any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article which may assist in the investigation; or

(b) by notice in writing require any person to furnish a statement in writing made on oath or affirmation setting out therein all such information which may be required under the notice, being information which would be of assistance in the investigation.

(2) A person to whom a notice under paragraph (1)(a) or (1)(b), has been given shall comply with the terms of such notice and, in particular—

(a) a person to whom a notice under subparagraph (1)(a)(i) has been given shall—

- (i) attend in accordance with the terms of the notice to be examined, and shall continue to so attend from day to day as directed by the investigating officer until the investigation is completed; and

- (ii) during such investigation disclose all information which is within his knowledge, or which is available to him, or which is capable of being obtained by him, in respect of the matter in relation to which he is being examined, whether or not any question is put to him with regard thereto, and where any question is put to him he shall answer the question truthfully and to the best of his knowledge and belief, and shall not refuse to answer any question on the ground that it tends to incriminate him or his spouse;
 - (b) a person to whom a notice has been given under subparagraph (1)(a)(ii) shall not conceal, hide, destroy, alter, remove from or send out of Malaysia, or deal with, expend, or dispose of, any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article specified in the notice, or alter or deface any entry in any such documents, all securities held in respect of credit consumers' transactions, titles, cash, computer output, system, data, programmes, or information, or cause such acts to be done, or assist or conspire to do such acts; and
 - (c) a person to whom a written notice has been given under paragraph (1)(b) shall, in his statement made on oath or affirmation, furnish and disclose truthfully all information required under the notice which is within his knowledge, or which is available to him, or which is capable of being obtained by him, and shall not fail to furnish or disclose the same on the ground that it tends to incriminate him or his spouse.
- (3) A person referred to under subsection (2) shall comply with the provisions of subsection (2) and the notice given under subsection (1), notwithstanding any law, whether enacted before or after the commencement of this Act, or of any oath, undertaking or requirement of secrecy, or of any obligation under any contract, agreement or arrangement, whether express or implied, to the contrary.

(4) Where any person discloses any information or produces any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, equipment, apparatus, machinery, computer, computer output, system, data, programmes, information or article, pursuant to subsections (1) and (2), neither the first-mentioned person, nor any other person on whose behalf or direction or as whose agent or officer the first-mentioned person may be acting, shall, on account of such disclosure or production, be liable to any prosecution for any offence under or by virtue of any law, or to any proceeding or claim in any form or of any description by any person under or by virtue of any agreement or arrangement, or otherwise.

(5) An investigating officer may seize, take possession of and retain for such duration as he deems necessary, any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article produced before him in the course of an investigation under subsection (1), or search the person who is being investigated by him under subparagraph (1)(a)(i), or who is producing anything to him under subparagraph (1)(a)(ii), for ascertaining whether anything relevant to the investigation is concealed, or is otherwise upon such person.

(6) An examination under subparagraph (1)(a)(i) shall be reduced into writing or recorded and subsequently taken down in writing by the investigating officer and signed by the person being investigated or affixed with his thumb print after it has been read to him, and where such person refuses to sign the record or affix his thumb print, the investigating officer shall endorse thereon under his hand the fact of such refusal and the reasons thereof, if any, stated by the person investigated.

(7) In an examination of a person under subsection (1), the investigating officer examining the person may do any one or both of the following:

- (a) give directions about who may be present during the examination, or during any part of it; and
- (b) record the examination or any part of it by audio or visual recording or a combination of both.

(8) The record of an examination under subparagraph (1)(a)(i), or a written statement on oath or affirmation made pursuant to paragraph (1)(b), or any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article produced under subparagraph (1)(a)(ii) or otherwise in the course of an examination under subparagraph (1)(a)(i) or under a written statement on oath or affirmation made pursuant to paragraph (1)(b) shall, notwithstanding any written law or rule of law to the contrary be admissible in evidence in any proceedings in any court for, or in relation to—

- (a) an offence or breach under this Act;
- (b) any other matter under this Act; or
- (c) any offence under any other written law,

regardless whether such proceedings are against the person who was investigated, or who produced the documents, all securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, programmes, information or article, or who made the written statement on oath or affirmation, or against any other person.

(9) Any person who contravenes subsection (1) or (2) or furnishes to an investigating officer any information or statement that is false or misleading in any material particular, commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

Service of notices generally, etc.

101. (1) Any notice that is given under this Division, shall, where it is required to be served on an individual, be served by—

- (a) delivering it personally to the person for whom it is intended;
- (b) delivering it to an adult person at the last-known place of residence, occupation or business of the person for whom it is intended;

- (c) sending it by registered post to the person for whom it is intended; or
- (d) sending it electronically and the time at which the notice is received in the computer system of the person for whom it is intended shall be considered as the time of service thereof,

and such transmission thereof shall be sufficient service, but nothing shall prevent the person to whom it is intended from establishing, if such be the case, that he has not been so served.

(2) Any notice that is given under this Division shall, where it is required to be served on a body corporate or unincorporate, be served by delivering the notice to an officer, agent, secretary or other like officer of the body corporate or unincorporate at its registered address or business address.

(3) If the officer effecting any notice under subsection (1) or (2) is satisfied, for reasons to be recorded by him in writing, that the notice cannot be served in the manner provided in subsection (1) or (2), the notice may be served by affixing the notice on a conspicuous part of the premises—

- (a) in which the individual for whom the notice is intended is known to have last resided, to have been last employed or to have last carried on business; or
- (b) at the last known registered address or business address of the body corporate or unincorporate for whom the notice is intended,

and in such case the notice shall be deemed to have been duly served.

Surrender of travel documents

102. (1) Notwithstanding any written law to the contrary, an investigating officer may, by notice in writing, require any person who is the subject of an investigation for an offence under this Division, to surrender his travel documents including passport, certificate of identity or such other document in his possession, within such period as specified in the notice.

(2) A notice under subsection (1) shall be served personally to the person to whom it is addressed in accordance with section 101.

(3) A person to whom a notice under subsection (1) is served shall comply with such notice, failing which he may be arrested and taken before a magistrate.

(4) Where a person is taken before a magistrate, unless such person complies with the notice under subsection (1) or satisfies the magistrate that he does not possess a travel document, the magistrate shall by warrant commit such person to prison—

(a) until the expiry of a period of fourteen days from the date of his committal; or

(b) until he complies with the notice under subsection (1),

whichever occurs earlier.

(5) For the purposes of subsection (4), a certificate signed by the Public Prosecutor to the effect that the person has complied with the written notice under subsection (1) shall be sufficient warrant for the Superintendent of Prison to discharge such person.

(6) An investigating officer may, with the written approval of the relevant Regulatory and Supervisory Authority, by notice in writing issued to the Director General of Immigration, request that any person who is the subject of an investigation in respect of an offence under this Act be prevented from leaving Malaysia.

(7) Subject to any order issued or made under any written law for the time being in force relating to banishment or immigration, the Director General of Immigration who receives a request under subsection (6) in respect of a person shall exercise all measures which may include the removal and the retention of any travel document in relation to that person as may be necessary to give effect to the request.

Agent provocateur

103. Notwithstanding any law or rule of law to the contrary, in any proceedings against any person for an offence under this Act—

- (a) no agent provocateur, whether he is an officer of a Regulatory and Supervisory Authority or not, shall be presumed to be an accomplice or be unworthy of credit by reason only of his having attempted to commit or to abet, or having abetted or having been engaged in a criminal conspiracy to commit, such offence if the main purpose of such attempt, abetment or engagement was to secure evidence against such person;
- (b) any statement whether oral or in writing made to an agent provocateur by any person, including any person who is subsequently charged with an offence under this Act, shall be admissible in evidence and given due weight and consideration at any trial for an offence under this Act; and
- (c) a conviction for any offence under this Act solely on the uncorroborated evidence of any agent provocateur shall not be illegal and no such conviction shall be set aside merely because the court which tried the case has failed to refer in the grounds of its judgment to the need to warn itself against the danger of convicting on such evidence.

Admissibility of documentary evidence, etc.

104. Where the Regulatory and Supervisory Authority has obtained any document or other evidence in exercise of its powers under this Act or by virtue of this Act, such document or copy of the document or other evidence, as the case may be, shall be admissible in evidence in any proceedings under this Act, notwithstanding anything to the contrary in any written law.

Assistance to police officer or public officer

105. (1) A Regulatory and Supervisory Authority may at its own initiative, or on the request of a police officer or public officer—

(a) supply to such police officer or public officer or any other public officer a copy of—

- (i) any document, securities held in respect of credit consumers' transactions, titles, computer output, data, or information seized, detained or taken possession of under section 92, 94 or 97;
- (ii) any record of investigation under paragraph 100(1)(a);
- (iii) any written statement on oath or affirmation made under paragraph 100(1)(b); or
- (iv) any document, securities held in respect of credit consumers' transactions, titles, computer output, data or information produced under paragraph 100(1)(a), or otherwise in the course of any investigation under paragraph 100(1)(a), or under any written statement on oath or affirmation made pursuant to paragraph 100(1)(b); or

(b) allow such police officer or public officer or any other public officer to have access to and inspect any document, securities held in respect of credit consumers' transactions, titles, cash, goods, things, property, apparatus, equipment, machinery, computer, computer output, system, data, information or article which had been produced before, or seized, detained or taken possession of, by an investigating officer under this Part.

(2) Where subsection (1) applies, such police officer, public officer or other public officer may make use of—

(a) such copy of such documents, securities held in respect of credit consumers' transactions, titles, record, statement, computer output, data, or information; or

(b) any knowledge gained by such access or inspection,

as may be necessary or expedient in relation to the performance of his functions, the exercise of his powers or the discharge of his duties, in respect of any person.

PART IX

ENFORCEMENT

Division 1

Administrative actions

Power of Regulatory and Supervisory Authority to take action

106. (1) A person has committed a breach under this Act if the person fails to comply with or give effect to—

- (a) any provision of this Act;
- (b) any regulations made under this Act; or
- (c) any order, direction, standards or guidelines, condition, restriction, specification or requirement under this Act.

(2) A Regulatory and Supervisory Authority shall have regard to the following matters in determining the appropriate action to be taken in each case:

- (a) the effectiveness of the action to be taken under this Act;
- (b) the proportionality of the action to be taken with the breach committed;
- (c) the deterrence of future breaches of similar nature by other persons; and
- (d) any other matter that is considered as relevant in the opinion of the Regulatory and Supervisory Authority.

(3) If the Regulatory and Supervisory Authority is of the opinion that a person has committed a breach and it is appropriate to take action against that person, the Regulatory and Supervisory Authority may, subject to section 131, take any one or more of the following actions:

(a) make an order in writing requiring the person in breach—

(i) to comply with or give effect to; or

(ii) to do or not to do any act in order to ensure compliance with,

such provisions, regulations, order, direction, standards or guidelines, condition, restriction, specification or requirement referred to in subsection (1);

(b) except for a breach of any provision as set out in Schedule 7, impose a monetary penalty in such amount as the Regulatory and Supervisory Authority considers appropriate, but in any event not exceeding five hundred thousand ringgit;

(c) reprimand in writing the person in breach or require the person in breach to issue a public statement in relation to such breach, if it is in the opinion of the Regulatory and Supervisory Authority that such breach is relevant for the information of the general public;

(d) make an order in writing requiring—

(i) the person in breach to take such steps as may be directed by the Regulatory and Supervisory Authority to mitigate the effect of such breach; or

(ii) a credit provider or credit service provider to remedy the breach including making restitution to any other person aggrieved by such breach; or

(e) make an order in writing to remove the person in breach from office or that the person in breach be barred from becoming a chief executive, director, partner or be involved directly or indirectly in the management of a credit provider or credit service provider, for such period of time as may be specified by the Regulatory and Supervisory Authority which shall not exceed a period of five years.

(4) If a breach is committed by a body corporate or unincorporate, any action under subsection (3) may be taken against—

(a) a person who is its director, controller, officer or partner, or was purporting to act in any such capacity; or

(b) a person who is concerned in the management of its affairs,

at the time of the breach unless that person demonstrates that the breach was committed without his consent or connivance and that he exercised all such diligence to prevent the breach as he ought to have exercised, having regard to the nature of his function in that capacity and to the circumstances.

(5) Action under subsection (3) may be taken against the body corporate or unincorporate if a breach is committed by—

(a) a person who is a director, controller, officer or partner of the body corporate or unincorporate, or was purporting to act in any such capacity; or

(b) a person who is concerned in the management of the affairs of the body corporate or unincorporate.

(6) For the purposes of subparagraph (3)(d)(ii), in determining whether or not any amount is to be paid by the credit provider or credit service provider, as the case may be, the Regulatory and Supervisory Authority shall have regard to—

(a) whether or not one or more persons have suffered loss or been otherwise adversely affected as a result of the breach; or

(b) the profits that have accrued to such person in breach.

(7) Any monetary penalty paid by a person in accordance with paragraph (3)(b) shall be paid into and form part of—

- (a) the operating fund of the Malaysia Co-operative Societies Commission where the monetary penalty is imposed by the Malaysia Co-operative Societies Commission;
- (b) the Fund established under section 26 where the monetary penalty is imposed by the Commission; or
- (c) the Federal Consolidated Fund where the monetary penalty is imposed by other Regulatory and Supervisory Authorities.

(8) Where a person fails to pay a monetary penalty imposed under paragraph (3)(b) within the period specified by the Regulatory and Supervisory Authorities—

- (a) the penalty imposed may be sued for and recovered by the Malaysia Co-operative Societies Commission as a civil debt due to the Malaysia Co-operative Societies Commission;
- (b) the penalty imposed may be sued for and recovered by the Commission as a civil debt due to the Commission; or
- (c) the penalty imposed by other Regulatory and Supervisory Authorities may be sued for and recovered by the Government as a civil debt due to the Government.

(9) Where a person fails to remedy the breach including making restitution to any other person aggrieved by the breach under paragraph (3)(d), notwithstanding any other written law, the Regulatory and Supervisory Authority may sue for and recover such sum as a civil debt due to the person aggrieved by the breach.

(10) Nothing in this section shall preclude the Regulatory and Supervisory Authority from taking any of the actions that it is empowered to take under this Act against the person in breach.

Application for review or appeal of decision under paragraph 106(3)(b)

107. (1) Any person who is aggrieved by the decision of a Regulatory and Supervisory Authority under paragraph 106(3)(b) may within thirty days after the aggrieved person is notified of such decision, apply in writing to—

(a) in the case of a decision made by the Regulatory and Supervisory Authority which is the Commission, the Central Bank of Malaysia or the Securities Commission Malaysia, as the case may be, the respective Regulatory and Supervisory Authority to review its decision; or

(b) in the case of a decision made by the Regulatory and Supervisory Authority which is the Malaysia Co-operatives Societies Commission, the Ministry of Housing and Local Government or the Ministry of Domestic Trade and Cost of Living, as the case may be, the respective Minister in charge of such Regulatory and Supervisory Authority for an appeal against such decision.

(2) The review referred to under paragraph (1)(a) shall not include persons who took part in the earlier deliberation of such decision.

(3) A decision of the Regulatory and Supervisory Authority or the Minister, as the case may be, under subsection (1) is final.

Lodgment of amount not distributed with Registrar of Unclaimed Moneys

108. To the extent that any of the amount paid under subparagraph 106(3)(d)(ii) or subsection 106(9) has not been distributed by a credit provider or credit service provider, as the case may be, after reasonable efforts to notify the aggrieved persons have failed due to the difficulty of ascertaining or notifying the aggrieved persons, the credit provider or credit service provider shall lodge such amount with the Registrar of Unclaimed Moneys in accordance with the provisions of the Unclaimed Moneys Act 1965 [*Act 370*].

Division 2

Civil enforcement actions

Civil enforcement action by Regulatory and Supervisory Authority

109. (1) Where it appears to a Regulatory and Supervisory Authority that there is a reasonable likelihood that any person will contravene or has contravened or will breach or has breached or is likely to fail to comply with or has failed to comply with—

- (a) any provision of this Act;
- (b) any regulations made under this Act;
- (c) any order, direction, standards or guidelines, condition, restriction, specification or requirement under this Act;
or
- (d) any action taken by the Regulatory and Supervisory Authority under section 106,

the Regulatory and Supervisory Authority may institute civil proceedings in the court seeking any order specified under subsection 110(1) against that person whether or not that person has been charged with an offence in respect of the contravention or breach or whether or not a contravention or breach has been proved in a prosecution.

(2) For the purposes of this section—

- (a) the Regulatory and Supervisory Authority shall exclude the Ministry of Domestic Trade and Cost of Living; and
- (b) the civil proceedings instituted by the Ministry of Housing and Local Government shall be in the name of the Government.

Orders by court

110. (1) The court may, on an application by a Regulatory and Supervisory Authority under section 109, make one or more of the following orders:

(a) an order requiring the person to pay an amount which shall not exceed three times—

(i) the gross amount of pecuniary gain made or loss avoided by such person as a result of the contravention, breach or non-compliance; or

(ii) the amount of money which is the subject matter of the contravention, breach or non-compliance,

as the case may be;

(b) an order to require the person to pay a civil penalty in such amount as the court considers appropriate having regard to the severity or gravity of the contravention, breach or non-compliance, but in any event not exceeding five hundred thousand ringgit;

(c) an order to—

(i) restrain the person from engaging in any specific conduct; or

(ii) require the cessation of the contravention, breach or non-compliance;

(d) an order to direct—

(i) the person to do a certain act;

(ii) the person, or any other person who appears to have been involved in the contravention, breach or non-compliance to take such steps as the court may direct to mitigate the effect of such contravention, breach or non-compliance;

- (iii) the credit provider or credit service provider to remedy the contravention, breach or non-compliance including making restitution to any other person aggrieved by such contravention, breach or non-compliance; or
 - (iv) where a person has refused or failed to comply with the action that is taken by the Regulatory and Supervisory Authority under subsection 106(3), the person to comply with such action; and
- (e) any other order deemed appropriate by the court, including any ancillary order deemed desirable in consequence of the making of an order under any provision in this subsection.

(2) If an application is made to a court for an order under subsection (1), the court may, if it deems appropriate, before considering the application, make an interim order of the kind applied for and such order shall be expressed to have effect pending the determination of the application.

(3) The court may make an order under subsection (1) against—

- (a) a person who is the director, controller, officer or partner, or was purporting to act in any such capacity; or
- (b) a person who is concerned in the management of the affairs,

of a body corporate or unincorporate in the event where the contravention, breach or non-compliance has been committed by the body corporate or unincorporate unless that person proves that the contravention, breach or non-compliance was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the contravention, breach or non-compliance as he ought to have exercised, having regard to the nature of his function in that capacity and to the circumstances.

(4) An order under subsection (1) can be made against a body corporate or unincorporate if a contravention, breach or non-compliance is committed by—

- (a) a person who is a director, controller, officer or partner of the body corporate or unincorporate, or was purporting to act in any such capacity; or
- (b) a person who is concerned in the management of the affairs of the body corporate or unincorporate.

(5) Any sum ordered by the court under subparagraph (1)(d)(iii) shall be applied—

- (a) firstly, to pay persons aggrieved by the contravention, breach or non-compliance in the case of such order; and
- (b) secondly, to pay the Regulatory and Supervisory Authority, including any remaining sum, for all costs of the proceedings in respect of the contravention, breach or non-compliance.

(6) Any sum ordered by the court under subsection (1) other than subparagraph (1)(d)(iii), shall be paid into and form part of—

- (a) the operating fund of the Malaysia Co-operative Societies Commission where the application is made by Malaysia Co-operative Societies Commission;
- (b) the Fund established under section 26 where the application is made by the Commission; or
- (c) the Federal Consolidated Fund where the application is made by other Regulatory and Supervisory Authorities.

(7) To the extent that the amount of any potential distribution under subparagraph (1)(d)(iii) has not been distributed by the credit provider or credit service provider, as the case may be, after reasonable efforts to notify the aggrieved persons have failed due to the difficulty of ascertaining or notifying the aggrieved persons, the credit provider or credit service provider shall lodge such amount with the Registrar of Unclaimed Moneys in accordance with the provisions of the Unclaimed Moneys Act 1965.

(8) Where the Regulatory and Supervisory Authority makes an application for an order under this section, the court shall not, as a condition of the grant of the order, require any undertaking as to damages to be given by or on behalf of the Regulatory and Supervisory Authority.

(9) Any person who fails to comply with an order of the court under subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

(10) Subsection (9) does not affect the powers of the court in relation to the punishment of contempt of court.

(11) The court may revoke or vary an order made by it under this section or suspend the operation of such an order.

(12) The powers conferred on the court under this section are in addition to any of its other powers, and do not derogate from its other powers provided under any other written law.

(13) An application made under this section—

(a) may be commenced at any time within six years from the date on which the Regulatory and Supervisory Authority discovered the contravention, breach or non-compliance; and

(b) shall not prejudice any other action that may be taken by the Regulatory and Supervisory Authority, aggrieved person, credit provider or credit service provider, as the case may be, under this Act or any other written law.

(14) For the purposes of this section—

(a) the Regulatory and Supervisory Authority shall exclude the Ministry of Domestic Trade and Cost of Living; and

(b) the civil proceedings instituted by the Ministry of Housing and Local Government shall be in the name of the Government.

Evidence obtained in investigations may be used in civil proceedings

111. (1) Notwithstanding any law, any document or information obtained by a Regulatory and Supervisory Authority in the exercise of its investigation powers against the following persons may be used by the Regulatory and Supervisory Authority in a civil enforcement action instituted by the Regulatory and Supervisory Authority:

- (a) a credit provider;
- (b) a credit service provider;
- (c) any director, partner or officer of the person referred to in paragraph (a) or (b);
- (d) any agent of the persons referred to in paragraph (a) or (b); or
- (e) any other person.

(2) For the avoidance of doubt, any document or information referred to in subsection (1) shall not be inadmissible in any civil proceedings under this Part to which the Regulatory and Supervisory Authority is a party by reason only that it was obtained by the Regulatory and Supervisory Authority in the exercise of its investigation powers and the admissibility thereof shall be determined in accordance with the rules of evidence under any law.

(3) For the purposes of this section—

- (a) the Regulatory and Supervisory Authority shall exclude the Ministry of Domestic Trade and Cost of Living; and
- (b) the civil proceedings instituted by the Ministry of Housing and Local Government shall be in the name of the Government.

Division 3

Criminal offences

Offences in relation to entries in documents

112. (1) No person shall—

- (a) make or cause to be made a false entry;
- (b) omit to make, or cause to be omitted, any entry; or
- (c) alter, extract, conceal or destroy, or cause to be altered, extracted, concealed or destroyed, any entry,

in any book or record, or in any report, slip, statement or other document whatsoever, relating to the business, affairs, transactions, condition, property, assets, liabilities or accounts, of a credit provider or credit service provider.

(2) No person shall alter, forge, destroy, mutilate, deface, conceal or remove any document to evade the provisions of this Act.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

Offence by any person acting in official capacity, etc.

113. (1) Where an offence is committed by a body corporate or unincorporate—

- (a) a person who is its director, controller, officer or partner, or was purporting to act in any such capacity; or
- (b) a person who is concerned in the management of its affairs,

at the time of the commission of the offence is deemed to have committed that offence unless that person proves that the offence was committed without his knowledge or without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his function in that capacity and to the circumstances.

(2) An individual may be prosecuted for an offence under subsection (1) notwithstanding that the body corporate or unincorporate has not been convicted of the offence whether or not a prosecution has been initiated or a conviction has been obtained against the body corporate or unincorporate.

(3) Subsection (1) shall not affect the criminal liability of the body corporate or unincorporate for the offence referred to in that subsection.

Offence by employee, officer, agent, etc.

114. (1) Where an offence is committed by an employee, officer, director, partner, controller or agent of a person, in the course of the employment of the employee or officer, in carrying out the director's or partner's function, in carrying out the controller's function or while the agent is acting on the person's behalf, respectively, such person is deemed to have committed that offence and be liable to the same penalty for the offence committed by its employee, officer, director, partner, controller or agent.

(2) Nothing under subsection (1) shall absolve an employee, officer, director, partner, controller or agent from any liability for an offence.

Attempts, abetments and conspiracies

115. (1) Any person who—

- (a) attempts to commit an offence under this Act;
- (b) does an act preparatory to, or in furtherance of, the commission of an offence under this Act; or

- (c) abets or is engaged in a criminal conspiracy to commit, as those terms are defined in the Penal Code, an offence under this Act, whether or not the offence is committed in consequence of it,

commits an offence and may be liable to the penalty provided for such offence.

(2) A provision of this Act which refers to an offence under a specific provision of this Act shall be read as including a reference to an offence under subsection (1) in relation to the offence under that specific provision.

Joinder of offences

116. Notwithstanding anything contained in any other written law, where a person is accused of more than one offence under this Act, he may be charged with and tried at one trial for any number of the offences committed within any length of time.

Seizable offence

117. (1) Every offence punishable under this Act shall be a seizable offence, and a police officer not below the rank of Sergeant, or an investigating officer appointed under section 90 may arrest without warrant a person whom he reasonably suspects to have committed or is committing the offence.

(2) An investigating officer who makes an arrest under subsection (1) shall make over the arrested person to a police officer without unnecessary delay and the arrested person shall be dealt with according to the law relating to criminal procedure as if he had been arrested by a police officer.

Power to compound

118. (1) The Minister may, on the recommendation of the Commission, with the approval of the Public Prosecutor, make regulations prescribing—

- (a) any offence under this Act as an offence which may be compounded; and
- (b) the method and procedure for compounding such offence.

(2) A Regulatory and Supervisory Authority may, with the consent in writing of the Public Prosecutor, offer in writing to compound any offence which may be compounded under this Act by accepting from the person reasonably suspected of having committed the offence, such sum of money not exceeding the amount of fifty per centum of the amount of the maximum fine to which that person would have been liable if he had been convicted of the offence, within such time as may be specified in the offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the time specified in the offer or within such extended period as may be granted by the Regulatory and Supervisory Authority, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (2), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any document or thing seized in connection with the offence may be released by the Regulatory and Supervisory Authority, subject to such terms and conditions as the Regulatory and Supervisory Authority thinks fit.

(5) All sums of money accepted under subsection (2) shall be paid into and form part of—

- (a) the operating fund of the Malaysia Co-operative Societies Commission where the offer to compound is made by the Malaysia Co-operative Societies Commission;
- (b) the Fund established under section 26 where the offer to compound is made by the Commission; or
- (c) the Federal Consolidated Fund where the offer to compound is made by other Regulatory and Supervisory Authorities.

Institution of prosecution

119. No prosecution for an offence under this Act shall be instituted except with the written consent of the Public Prosecutor.

Division 4

General matters

Protection in relation to disclosure of information

120. (1) Where a person discloses in good faith to a Regulatory and Supervisory Authority, his knowledge or belief or any document or information that a breach or contravention has been committed or is about to be committed under this Act—

- (a) such person shall not be liable for a breach of a duty of confidentiality imposed by any law, contract or rules of professional conduct;
- (b) it shall be a defence in an action, a suit, prosecution or proceeding that is brought, instituted or maintained in any court or before any other authority against the person who made the disclosure to the Regulatory and Supervisory Authority that in his belief the disclosure was necessary for the carrying into effect the provisions of this Act; or
- (c) no contractual or other rights or remedy may be enforced against the person on the basis of disclosure.

(2) Any document or information disclosed to the Regulatory and Supervisory Authority under subsection (1) and the identity of the person making the disclosure shall be secret between the Regulatory and Supervisory Authority and the person who made the disclosure, unless the person making the disclosure consents in writing to the disclosure of his identity or such document or information by the Regulatory and Supervisory Authority.

PART X

GENERAL PROVISIONS

Additional powers of Minister

121. (1) The powers of the Minister under this Act are in addition to, and not in derogation of, the powers of the Minister under other relevant written laws.

(2) For the purposes of this section, “Minister” means the Minister charged with the responsibility of finance, the Minister charged with the responsibility for domestic trade and cost of living, the Minister charged with the responsibility for co-operative development or the Minister charged with the responsibility for housing and local government, as the case may be.

Power to make regulations

122. (1) Regulations may be made as may be necessary or expedient for carrying out the purposes or provisions of this Act including any supplemental, incidental or consequential matters in relation to this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made to prescribe for—

- (a) the control by a Regulatory and Supervisory Authority by supervision, regulation, restriction, prohibition or otherwise howsoever, with respect to the provision of credit, credit business and credit service business;
- (b) on Shariah matters—
 - (i) in respect of the carrying on of any Islamic credit business, affair or activity by an Islamic credit provider which require the ascertainment of Islamic law by the Shariah Advisory Council; and
 - (ii) to give effect to the advice or ruling of the Shariah Advisory Council;

(c) the following matters which do not require the ascertainment of Islamic law:

(i) Shariah governance including—

(A) functions, powers and duties of the board of directors, partners and senior management of an Islamic credit provider in relation to compliance with Shariah;

(B) internal Shariah compliance functions; and

(C) the appointment of a person to advise an Islamic credit provider in ensuring its Islamic credit business, affairs and activities comply with Shariah;

(ii) the appointment of an independent person to carry out an audit of Shariah compliance by the Islamic credit provider; and

(iii) any other matter in relation to the Islamic credit business, affairs and activities of an Islamic credit provider for the purposes of compliance with Shariah;

(d) the business conduct and credit consumer protection matters including matters set out in section 85;

(e) the forms or manner in respect of any matter under this Act;

(f) any fees to be paid in respect of any matter under this Act or under any regulations made under this section, including for the amount and manner of payment of such fees; and

(g) any other matters required by this Act to be prescribed.

(3) The regulations made under this Act may prescribe an act or omission in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

(4) Regulations made under paragraph (2)(b) shall be in accordance with the advice or ruling of the Shariah Advisory Council.

(5) Notwithstanding subsection (3), any Islamic credit provider who fails to comply with the regulations made under paragraph (2)(b) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding four years or to both.

(6) For purposes of this section, the following persons may make such regulations:

- (a) the Minister, on the recommendation of the Commission in respect of a credit business or credit service business which is carried on by a person regulated by the Commission and any other matters as set out under this Act;
- (b) the Minister of Domestic Trade and Cost of Living in respect of a credit business or credit service business which is carried on by a person regulated by the Ministry of Domestic Trade and Cost of Living;
- (c) the Minister of Housing and Local Government in respect of a credit business which is carried on by a person regulated by the Ministry of Housing and Local Government;
- (d) the Minister charged with the responsibility for co-operative development in respect of a credit business which is carried on by a co-operative society registered under the Co-operative Societies Act 1993;
- (e) the Minister, on the recommendation of the Central Bank of Malaysia, in respect of a credit business which is carried on by—
 - (i) a person authorized under the Financial Services Act 2013 or Islamic Financial Services Act 2013; and
 - (ii) a development financial institution prescribed under the Development Financial Institutions Act 2002; and

- (f) the Minister, on the recommendation of the Securities Commission Malaysia, in respect of a credit business or credit service business which is carried on by a person licensed, registered or recognized under the Capital Markets and Services Act 2007.

(7) Regulations made under this section may relate to all or any class, category or description of persons, and different provisions for different classes, categories or descriptions of persons.

Power to specify standards or guidelines

123. (1) Standards or guidelines may be specified as may be necessary or expedient for carrying out the purposes or provisions of this Act including any supplemental, incidental or consequential matters in relation to this Act.

(2) Without prejudice to the generality of subsection (1), standards or guidelines may be specified on—

(a) Shariah matters—

- (i) in respect of the carrying on of any Islamic credit business, affair or activity by an Islamic credit provider which require the ascertainment of Islamic law by the Shariah Advisory Council; and
- (ii) to give effect to the advice or ruling of the Shariah Advisory Council;

(b) the following matters which do not require the ascertainment of Islamic law:

(i) Shariah governance including—

- (A) functions, powers and duties of the board of directors, partners and senior management of an Islamic credit provider in relation to compliance with Shariah;
- (B) internal Shariah compliance functions; and

- (C) the appointment of a person to advise an Islamic credit provider in ensuring its Islamic credit business, affairs and activities comply with Shariah;
 - (ii) the appointment of an independent person to carry out an audit of Shariah compliance by the Islamic credit provider; and
 - (iii) any other matter in relation to the Islamic credit business, affairs and activities of an Islamic credit provider for the purposes of compliance with Shariah;
- (c) the business conduct and credit consumer protection matters including matters set out in section 85; and
- (d) the forms or manner in respect of any matter under this Act.
- (3) Standards or guidelines made under paragraph (2)(a) shall be in accordance with the advice or ruling of the Shariah Advisory Council.
- (4) For purposes of subsection (1), the following persons may specify such standards or guidelines:
- (a) a Regulatory and Supervisory Authority in respect of a credit provider or credit service provider regulated by the Regulatory and Supervisory Authority under this Act or any written laws administered by the Regulatory and Supervisory Authority, as the case may be; or
 - (b) the Commission in respect of all matters relating to consumer credit as set out under this Act.
- (5) Standards or guidelines specified under this section may relate to all or any class, category or description of persons, and different provisions for different classes, categories or descriptions of persons.

Provisions relating to approvals, consent, standards or guidelines, specifications, notices, requirements or directions

124. (1) Unless otherwise expressly provided, any approval or consent granted, or any standards or guidelines, specification, notice, requirement or direction specified or issued, under this Act—

(a) may either be general or specific;

(b) may be amended, varied, waived or revoked by the specifying, issuing or granting Regulatory and Supervisory Authority; or

(c) shall be issued or communicated in such manner as the Regulatory and Supervisory Authority thinks appropriate and shall be valid for all purposes.

(2) Any approval or consent under subsection (1) may be—

(a) absolute or conditional; or

(b) limited so as to expire on a specified date, unless renewed.

Power of Regulatory and Supervisory Authority to issue guidance

125. A Regulatory and Supervisory Authority may issue guidance in writing to any person or to any class, category or description of persons regulated by the Regulatory and Supervisory Authority consisting of such information, advice or recommendation as it considers appropriate—

(a) with respect to the provisions of this Act;

(b) for carrying out or achieving the purposes of this Act;
or

(c) with respect to any other matter which, in the opinion of the Regulatory and Supervisory Authority, is desirable to give information, advice or recommendation.

Power of Regulatory and Supervisory Authority to publish information

126. A Regulatory and Supervisory Authority may, where it thinks necessary, publish in such form and manner as it thinks fit, any information in relation to—

(a) any action taken by the Regulatory and Supervisory Authority including—

(i) supervisory actions; and

(ii) enforcement actions under this Act including criminal proceedings, compounding, civil enforcement actions and administrative actions; and

(b) the outcome of actions referred to in paragraph (a) including the outcome of any proceedings, settlement in or out of court in relation to any breach or contravention of provisions of this Act.

Power to exempt

127. (1) The Minister may, on the recommendation of the Commission, by order published in the *Gazette*, subject to such conditions or restrictions as he may consider necessary or expedient to impose, exempt any person or any class of persons from any or all of the provisions of this Act.

(2) For the purposes of subsection (1), the Minister shall consult with the Minister for Domestic Trade and Cost of Living, the Minister charged with the responsibility for co-operative development or the Minister of Housing and Local Government, if the exemption involves any matter regulated by the respective Regulatory and Supervisory Authority, as the case may be.

Power to amend Schedules

128. The Minister may, upon recommendation of the Commission, by order published in the *Gazette*, amend the Schedules to this Act.

Power to require submission of document or information

129. (1) A Regulatory and Supervisory Authority may, by notice in writing, require any person to submit to the Regulatory and Supervisory Authority any document, information or statistical data as may be specified by the Regulatory and Supervisory Authority in the notice, for the purposes of the performance of any of its functions or the exercise of any of its powers under this Act.

(2) A person shall submit such document, information or data to a Regulatory and Supervisory Authority where such person is required to do so—

(a) under this Act; or

(b) by the Regulatory and Supervisory Authority under subsection (1).

(3) Any person who is required to submit any document, information or data under this Act shall not submit any document, information or data—

(a) which he knows, or has reason to believe, to be false or misleading in a material particular; or

(b) which is inaccurate or incomplete in respect of which there is a material error or omission, or any recurring error or omission.

(4) A Regulatory and Supervisory Authority may require—

(a) any document, information or data required to be submitted under this Act to be submitted within a period, at such intervals, in the form and manner as may be specified by the Regulatory and Supervisory Authority;

(b) any document, information or data submitted under this Act to be verified in such manner as may be specified by the Regulatory and Supervisory Authority; or

(c) any document produced to be certified as a true copy.

(5) Any person complying with this section shall not be treated as being in breach of any contract, agreement or arrangement.

(6) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(7) Any person who contravenes paragraph (3)(a) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

Protection against suit and legal proceedings

130. (1) No action, suit, prosecution or other proceeding shall be brought, instituted, or maintained in any court or before any other authority against—

- (a) the Minister;
- (b) the Commission, the Executive Chairman, the Deputy Executive Chairman, other members of the Board and any officer or employee who is or has been employed by the Commission;
- (c) a Regulatory and Supervisory Authority and any director, officer or employee who is or has been employed by the Regulatory and Supervisory Authority;
- (d) the Advisory Committee and any person who is or has been a member of the Advisory Committee;
- (e) any committee established by the Commission or a Regulatory and Supervisory Authority;
- (f) any person who is or has been a member of any committee established by the Commission or a Regulatory and Supervisory Authority; and

- (g) any person who is or has been engaged or appointed by the Commission or a Regulatory and Supervisory Authority to render to it such service or assistance as may be required or specified in connection with the performance of the functions of the Commission or Regulatory and Supervisory Authority,

on account of or in respect of any act, neglect or default done or omitted by him in the course of performing his functions, exercising his powers and carrying out his duties under this Act unless it can be proven that the act, neglect or default was done or omitted in bad faith and without reasonable cause.

(2) For the purposes of this section, “Minister” means the Minister charged with the responsibility of finance, the Minister charged with the responsibility for domestic trade and cost of living, the Minister charged with the responsibility for co-operative development and the Minister charged with the responsibility for housing and local government.

Opportunity to make written representations

131. (1) Where—

- (a) the Registrar or Commission proposes to take any action against a licensed credit provider by revoking or suspending its licence under section 50;
- (b) the Commission proposes to take any action against a registered credit service provider by deregistering or suspending it under section 67;
- (c) the Registrar or the Commission proposes to direct a licensed credit provider or registered credit service provider to remove its director, partner or senior management under subsection 46(6) or subsection 63(6); or
- (d) the Regulatory and Supervisory Authority proposes to take any other action against any person under subsection 106(3),

the Registrar, Commission or Regulatory and Supervisory Authority, as the case may be, shall give such person an opportunity to make written representations before any decision is made.

(2) Notwithstanding subsection (1) and except for paragraph (1)(d), the Registrar, Commission or Regulatory and Supervisory Authority may—

- (a) first take the action or direction and the opportunity to make written representations shall be given immediately after the action or direction has been taken if any delay in taking the action or direction would be detrimental to the interests of any credit provider, credit service provider, credit consumer, the consumer credit industry or the public generally; and
- (b) confirm, amend or revoke the exercise of action or direction taken under paragraph (a) in consequence of written representations made under that paragraph.

Obligation of secrecy

132. (1) Subject to section 124 of the Evidence Act 1950, no persons specified in subsection (2) shall disclose any information which has been obtained by him in the course of performing his functions or exercising his powers under this Act and which is not published in accordance with this Act, except—

- (a) where the disclosure is authorized under a provision of this Act or any other written law, or in writing by the Commission or a Regulatory and Supervisory Authority, as the case may be;
- (b) in assisting the persons specified in subsection (2) for the purposes of this Act or any other written law; or
- (c) in any criminal or civil proceedings by or against the Commission or a Regulatory and Supervisory Authority.

(2) Subsection (1) shall apply to the following persons, whether during or after his tenure of office or employment:

- (a) a member of the Board or the Board Committee;
- (b) a member of the Advisory Committee;
- (c) a member of any committee of the Commission;
- (d) an officer or agent of the Commission or a Regulatory and Supervisory Authority; or
- (e) a person attending any meeting of the Board, Advisory Committee or any committee of the Commission.

(3) The Advisory Committee, the Commission and a Regulatory and Supervisory Authority, as the case may be, may not be ordered to disclose any document to the court under Order 24 of the Rules of Court 2012 [*P.U.(A) 205/2012*] in a civil enforcement proceeding by the Commission or Regulatory and Supervisory Authority, if the Advisory Committee, Commission and Regulatory and Supervisory Authority, as the case may be, considers that such disclosure may impede its ability to perform its function or exercise its power or the public interest would suffer.

(4) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding four years or to both.

Confidential information

133. (1) No credit provider or credit service provider, or any of its directors, partners, officers or auditors shall disclose the following document or information, whether wholly or in part, to any other person, unless authorized in writing by a Regulatory and Supervisory Authority:

- (a) any rating assigned by the Regulatory and Supervisory Authority;

(b) any supervisory assessment made by the Regulatory and Supervisory Authority; or

(c) any document or information specified by the Regulatory and Supervisory Authority.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding four years or to both.

Things done in anticipation of the enactment of this Act, etc.

134. (1) All things done by any person in the preparation of and towards the proper implementation or administration of this Act, and any expenditure incurred in relation thereto, in anticipation of the enactment of this Act shall be deemed to have been authorized by, and under this Act including under this section.

(2) All rights acquired or obligations incurred from anything so done under this section shall upon the date appointed under subsection 1(2) be deemed to be the rights and obligations of the Commission or a Regulatory and Supervisory Authority, as the case may be under this Act.

Transitional

135. (1) Any person who, on the date appointed under subsection 1(2), is carrying on a credit business or credit service business to which the requirement for a licence or registration under this Act applies shall, within six months from such date, apply for a licence or registration under this Act.

(2) Pending the decision on an application by a person referred to in subsection (1), such person may continue to carry on such business subject to any conditions as may be specified by the Commission or Registrar, as the case may be.

SCHEDULE 1
[Subsection 2(1)]

CREDIT NOT SUBJECT TO APPLICATION OF ACT

Credit provided by—

- (a) an employer to its director, officer or employee as a benefit accorded to such person for whatever purpose as set out under the scheme of service of such director, officer or employee;
- (b) the Government, State Government, local authority, statutory body, government-linked company or corporation, or state corporation;
- (c) any entity receiving funding from the Government or State Government to administer or implement micro-financing schemes;
- (d) any foundation for educational purposes;
- (e) any person to another person without imposing any interest rate or profit rate by whatever named called in the course of a customary, social, friendly or family relationship;
- (f) a licensed insurer under the Financial Services Act 2013 to a policyholder for the purpose of maintaining the payment of premiums on an insurance policy;
- (g) a licensed takaful operator under the Islamic Financial Services Act 2013 to a takaful participant for the purpose of maintaining the payment of contributions under a takaful certificate; and
- (h) a licensed entity under the Labuan Financial Services and Securities Act 2010 [*Act 704*] and Labuan Islamic Financial Services and Securities Act 2010 [*Act 705*] exclusively for purposes in Labuan.

SCHEDULE 2
[Section 4]

CREDIT BUSINESS

1. Types of conventional credit business:

- (a) Moneylending
- (b) Pawnbroking
- (c) Hire purchase
- (d) Credit sale

- (e) Buy now pay later scheme
 - (f) Leasing
 - (g) Factoring
2. Types of Islamic credit business:
- (a) Islamic financing facility
 - (b) Islamic pawnbroking
 - (c) Islamic hire purchase
 - (d) Islamic credit sale
 - (e) Islamic buy now pay later scheme
 - (f) Islamic leasing
 - (g) Islamic factoring
3. Interpretation of credit business
- (a) “Moneylending” has the meaning assigned to it under the Moneylenders Act 1951 and shall exclude subscribing or purchasing debt securities which includes—
 - (i) stocks issued under the Loan (Local) Act 1959 [*Act 637*];
 - (ii) Treasury Bills issued under the Treasury Bills (Local) Act 1946 [*Act 188*];
 - (iii) investments under the Government Funding Act 1983 [*Act 275*];
and;
 - (iv) debentures as defined in section 2 of the Capital Markets and Services Act 2007.
 - (b) “Pawnbroking business” has the meaning assigned to it under the Pawnbrokers Act 1972.
 - (c) “Hire-purchase” means providing credit, by whatever name called by way of a “hire-purchase agreement” as defined under the Hire Purchase Act 1967.
 - (d) “Credit sale” means providing credit, by whatever name called pursuant to a “credit sale transaction” as defined under the Consumer Protection Act 1999 and shall exclude a buy now pay later scheme.

(e) “Buy now pay later scheme” means an arrangement, by whatever name called, entered into between a credit consumer and a third-party credit provider for the purchase of goods or services by the credit consumer from a seller where—

- (i) the third-party credit provider provides credit to the credit consumer; and
- (ii) the payment due by the credit consumer to the third-party credit provider is deferred and may be made in a single payment or by instalments in accordance with the terms and conditions of the arrangement,

but does not include—

- (A) “moneylending” as defined in the Moneylenders Act 1951; and
- (B) “credit sale transaction” as defined in the Consumer Protection Act 1999.

(f) “Leasing” means a contract or part of a contract of letting or sub-letting moveable asset that gives the lessee, the right to use the asset owned by the lessor in exchange for payments for a specified period with or without an option to purchase the moveable asset, but excludes any contract which is subject to the Hire-Purchase Act 1967 or the Direct Sales and Anti-Pyramid Schemes Act 1993 [Act 500].

For the purpose of this definition, “movable asset” includes any plant, machinery, equipment or other chattel attached or to be attached to the earth or fastened or to be fastened, permanently or otherwise, to anything attached to the earth.

(g) “Factoring” means an arrangement where a third-party credit provider—

- (i) purchases from a seller, the seller’s current and future accounts receivables arising from the sale of goods or services to a buyer; or
- (ii) advances payment to a seller for a buyer’s accounts payable arising from the purchase of goods or services by the buyer from the seller.

(h) “Islamic financing facility” means any advance, financing arrangements or other facility, in whatever form, whether based on sale, lease, benevolence, fee, equity or partnership, and the acceptance or guarantee of any liability, obligation or duty of any person, or by whatever name called made in accordance with Shariah but excludes Islamic credit businesses as set out in subparagraphs (i) to (n).

- (i) “Islamic pawnbroking” means the provision of financing in accordance with Shariah that is secured by a collateral which is safekept by the credit provider.
- (j) “Islamic hire-purchase” means the letting of goods with an option given to the hirer to purchase the goods—
- (i) prior to the maturity of the letting period, at an agreed price; or
 - (ii) upon the maturity of the letting period, in accordance with terms and conditions agreed by the parties,

under any agreement executed in accordance with the Shariah concept including *al-ijarah thumma al-bai'* or *al-ijarah al-muntahiyah bi al-tamlik*.

- (k) “Islamic credit sale” means providing a facility to a purchaser under a deferred payment sale transaction, which is in accordance with Shariah, which allows the payment of goods sold to be made in a single payment or by instalments and shall exclude an Islamic buy now pay later scheme.
- (l) “Islamic buy now pay later scheme” means an arrangement, by whatever name called, entered into in accordance with Shariah, between a credit consumer and a third-party credit provider for the purchase of goods or services by the credit consumer from a seller where—
- (i) the third-party credit provider provides credit to the credit consumer; and
 - (ii) the payment due by the credit consumer to the third-party credit provider is deferred and may be made in a single payment or by instalments in accordance with the terms and conditions of the arrangement,

but does not include Islamic financing facility and Islamic credit sale.

- (m) “Islamic leasing” means a contract or part of a contract of letting or sub-letting moveable asset which is in accordance with Shariah that gives the lessee, the right to use the asset owned by the lessor in exchange for payments for a specified period with or without an option to purchase the moveable asset, but excludes any Islamic hire-purchase transactions.

For the purpose of this definition, “movable asset” includes any plant, machinery, equipment or other chattel attached or to be attached to the earth or fastened or to be fastened, permanently or otherwise, to anything attached to the earth.

- (n) “Islamic factoring” means an arrangement which is in accordance with Shariah where a third-party credit provider—
- (i) purchases from a seller, the seller’s current and future accounts receivables arising from the sale of goods or services to a buyer; or
 - (ii) advances payment to the seller for a buyer’s accounts payable arising from the purchase of goods or services by the buyer from the seller.

SCHEDULE 3

[Section 4]

CREDIT SERVICE BUSINESS

1. Types of credit service business:
 - (a) Debt collection
 - (b) Impaired loan or financing acquisition
 - (c) Repossession
 - (d) Debt counselling and management
 - (e) Online crowdlending platform
2. Interpretation of credit service business
 - (a) “Debt collection” means collecting debts or financial obligations due under a credit agreement on behalf of a credit provider or credit service provider carrying on the business of impaired loan or financing acquisition, as the case may be, other than collections done by an advocate and solicitor regulated under the Legal Profession Act 1976 [*Act 166*].
 - (b) “Impaired loan or financing acquisition” means acquiring impaired loans or financing under a credit agreement where the acquirer will assume and exercise the rights and obligations of a credit provider in relation to such credit agreement.
 - (c) “Repossession” means the activity of repossessing goods comprised in a “hire-purchase agreement” as defined in the Hire-Purchase Act 1967.
 - (d) “Debt counselling and management” means the following activities undertaken by persons other than a credit provider:
 - (i) providing advice in respect of any matters relating to a credit agreement; and

- (ii) negotiating a debt resolution plan with the credit provider on behalf of a credit consumer in respect of a credit agreement which may involve debt restructuring or rescheduling.
- (e) “Online crowdlending platform” means the activity of operating an electronic platform that is authorized by the Securities Commission Malaysia, that facilitate directly or indirectly the lending or financing of credit to a credit consumer.

SCHEDULE 4

[Subsections 40(1), 41(1), 57(1) and 58(1), section 79]

CREDIT BUSINESS AND CREDIT SERVICE BUSINESS
REQUIRING LICENSING OR REGISTRATION

1. Credit business licensed by Commission:
 - (a) Buy now pay later scheme
 - (b) Leasing
 - (c) Factoring
 - (d) Islamic buy now pay later scheme
 - (e) Islamic leasing
 - (f) Islamic factoring
2. Credit business licensed by Registrar:
 - (a) Islamic financing facility
 - (b) Islamic pawnbroking
3. Credit service business registered by Commission:
 - (a) Debt collection
 - (b) Impaired loan or financing acquisition
 - (c) Debt counselling and management

SCHEDULE 5
[Section 79]

NON-APPLICATION OF LICENSING AND REGISTRATION
REQUIREMENTS UNDER THIS ACT

1. Licensed banks and licensed insurers as defined under subsection 2(1) of the Financial Services Act 2013.
2. Licensed Islamic banks and licensed takaful operators as defined under subsection 2(1) of the Islamic Financial Services Act 2013.
3. Prescribed institutions as defined under subsection 3(1) of the Development Financial Institutions Act 2002.
4. Approved issuers of designated payment instruments which are credit card and charge card as defined under subsection 2(1) of the Financial Services Act 2013.
5. Approved issuers of designated Islamic payment instruments which are credit card-*i* and charge card-*i* as defined under subsection 2(1) of the Islamic Financial Services Act 2013.
6. Licensees as defined under section 2 of the Money Services Business Act 2011 [*Act 731*].
7. Co-operative societies registered under subsection 7(1) of the Co-operative Societies Act 1993.

SCHEDULE 6
[Subsection 87(1)]

LIST OF PROHIBITED BUSINESS CONDUCT

1. Engaging in conduct that is misleading or deceptive, or is likely to mislead or deceive in relation to the nature, features, terms or price of any credit product or services offered or provided by any person to a credit consumer under any business relating to the provision of credit or credit service, as the case may be.
2. Inducing or attempting to induce a credit consumer, including through an advertisement, to do an act or omit to do an act in relation to any credit product or service offered or provided by any person under any business relating to the provision of credit or credit service, as the case may be, by—
 - (a) making a statement, illustration, promise, forecast or comparison which is misleading, false or deceptive;
 - (b) dishonestly concealing, omitting or providing material facts in a manner which is ambiguous; or

- (c) recklessly making any statement, illustration, promise, forecast or comparison which is misleading, false or deceptive.
3. Exerting undue pressure, influence or using or threatening to use harassment, coercion or physical force in relation to—
- (a) the offer or provision to a credit consumer or any related third-party of such credit consumer, of any credit product or services; or
- (b) the payment by a credit consumer or any related third-party of such credit consumer for any credit product or services offered or provided,
- by any person under any business relating to the provision of credit or credit service, as the case may be.
4. Demanding payments from a credit consumer in any manner for unsolicited credit product or services of any person under any business relating to the provision of credit or credit service, as the case may be, including threatening to bring legal proceedings.

SCHEDULE 7

[Paragraph 106(3)(b)]

LIST OF PROVISIONS EXCLUDED FROM MONETARY PENALTY

A monetary penalty may not be imposed in respect of a breach of the following provisions:

- (a) subsection 40(1)
- (b) subsection 57(1)
- (c) subsection 87(1)
- (d) subsection 110(9)

EXPLANATORY STATEMENT

This Bill (“the proposed Act”) seeks to provide for the establishment of the Consumer Credit Commission, protection of the interests of credit consumers, regulation and supervision of conventional or Islamic credit business and credit service business, proper conduct and responsible lending practices in the credit industry and promotion of a fair, efficient and transparent credit industry and to provide for other matters connected therewith and incidental thereto.

PART I

2. Part I seeks to provide for preliminary matters.
3. *Clause 1* contains the short title of the proposed Act and seeks to empower the Minister to appoint the commencement date of the proposed Act including appointing different dates for the coming into operation of different parts or different provisions of the proposed Act.
4. *Clause 2* seeks to provide for the application of the proposed Act on any credit that is provided by a person as set out in Schedule 1. The proposed Act is to be read together with other relevant written laws and it does not override or have any effect against other written laws or contractual terms which may be more advantageous to credit consumers and provide that if there is any conflict or inconsistency in application of the provision of this Act in cases involving credit providers or credit service provider regulated by the Securities Commission Malaysia, such cases shall be dealt with in accordance with the securities laws, guidelines issued by the Securities Commission Malaysia and the rules of exchange as approved by the Securities Commission Malaysia.
5. *Clause 3* seeks to provide that parties are prohibited from contracting out and provides that the proposed Act shall apply notwithstanding any contract term which applies or purports to apply the law of another country in certain circumstances.
6. *Clause 4* contains the definition of certain words and expressions used in the proposed Act.
7. *Clause 5* seeks to provide for the meaning of “a credit consumer” and “credit”.

PART II

8. Part II of the proposed Act contains provisions relating to the establishment of the Consumer Credit Commission and its functions and powers.

Division 1

Establishment, functions and powers of Commission

9. *Clause 6* seeks to provide for the establishment of the Commission.
10. *Clause 7* seeks to provide for the functions of the Commission.
11. *Clause 8* seeks to provide for the powers of the Commission.
12. *Clause 9* seeks to provide for the composition of the members of the Board and its responsibilities and duties. This *clause* also seeks to empower the Minister, on the recommendation of the Board to appoint members of the Board.

13. *Clause 10* seeks to provide for the criteria for the appointment of members of the Board by the Minister.
14. *Clause 11* seeks to provide for the term for the appointment of the members of the Board to be three years and the eligibility for such members to be reappointed, which shall not exceed two consecutive terms.
15. *Clause 12* seeks to empower the Minister to revoke the appointment of any Board member for any reason in writing. The *clause* also provides that the members may resign from office with a written notice given to the Minister.
16. *Clause 13* seeks to provide for the payment of remuneration and allowances to the Board members.
17. *Clause 14* seeks to provide for matters relating to meetings of the Board.
18. *Clause 15* seeks to provide for the circumstances under which the actions of the Board will not be affected and its proceedings will not be invalidated.
19. *Clause 16* seeks to empower the Commission to delegate its functions or powers to any of the persons listed in this *clause*.
20. *Clause 17* seeks to empower the Commission to engage any person who is not an officer of the Commission to render assistance or perform or exercise any of the Commission's functions or powers.
21. *Clause 18* seeks to empower the Board to establish the Audit and Risk Committee, the Nomination and Remuneration Committee, and such other committee as the Board considers fit or necessary.
22. *Clause 19* deals with the disqualification of a member of the Board or Board Committee.
23. *Clause 20* seeks to provide for disclosure of interest of a member of the Board or Board Committee if he acquires or has an interest, directly or indirectly, in relation to any matter under discussion by the Board or Board Committee.
24. *Clause 21* seeks to require the Commission to furnish returns, reports, accounts and information on the performance of its functions to the Minister as may be required by the Minister from time to time.

Division 2

Executive Chairman and Deputy Executive Chairman

25. *Clause 22* seeks to provide for the duty of the Executive Chairman and empowers the Executive Chairman, where he deems necessary, to bring any matter in relation to the functions or powers of the Commission to the Board or Board Committee for deliberation or direction.

26. *Clause 23* seeks to empower the Deputy Executive Chairman to carry out the functions of the Executive Chairman where the Executive Chairman is absent or unable to act due to any cause. The *clause* further empowers the senior officer of the Commission as designated by the Board to carry out the functions of the Executive Chairman if the Deputy Executive Chairman is also absent or unable to act due to any cause.

Division 3

Officers of Commission

27. *Clause 24* seeks to empower the Commission to appoint its officers and employees and matters relating to monetary arrangements for such officers and employees including their dependants. This *clause* deems all members of the Commission, committees or its officers as public servants and public officers while performing their functions or exercising their powers.

28. *Clause 25* seeks to provide that the Commission may provide grants, loans, financing and advances to its officers or employees, or to other persons on the terms and conditions to be determined by the Board.

Division 4

Finance

29. *Clause 26* seeks to provide for the establishment of a Fund to be administered and controlled by the Commission. This *clause* also provides for the expenditure that may be charged to such Fund. This *clause* also places a duty on the Commission to conserve such Fund.

30. *Clause 27* seeks to allow a Regulatory and Supervisory Authority to grant, lend or advance such sum of money to the Commission until 31 December 2030. This enables the Commission to build its capability and capacity to assume greater regulatory responsibilities over time as part of the inter-agency collaboration in transforming the consumer credit regulatory framework given the eventual transfer of the regulatory functions of Ministry of Domestic Trade and Cost of Living and Ministry of Housing and Local Government.

31. *Clause 28* seeks to provide for the financial year of the Commission which shall begin on 1 January and end on 31 December of each year.

32. *Clause 29* seeks to require the Commission to prepare an annual report of its activities which shall be sent to the Minister in order for such copy of the report to be laid before both Houses of Parliament.

33. *Clause 30* seeks to require the Commission to keep proper accounts of the Fund established under *clause 26* and prepare a statement of accounts which shall be audited by its appointed auditors. This *clause* further requires for a copy of the certified statement of accounts and the auditor's report to be sent to the Minister for such copy to be laid before both Houses of Parliament. This *clause* also provides that the Statutory Bodies (Accounts and Annual Reports) Act 1980 [Act 240] shall not apply to the Commission.

34. *Clause 31* enables the Commission to borrow money subject to the approval of the Minister on the recommendation of the Board.

35. *Clause 32* seeks to empower the Commission to invest its moneys subject to the approval of the Minister.

36. *Clause 33* seeks to empower the Commission to establish or participate in any body corporate for the purposes listed in this *clause* and receive or make a grant or donation, or provide any form of assistance for the establishment or operations of such body corporate. This *clause* requires that any moneys received by the Commission must be kept in a designated trust account.

PART III

37. Part III seeks to provide for the functions and powers of Regulatory and Supervisory Authority.

Division 1

Regulatory and Supervisory Authority

38. *Clause 34* seeks to provide for the composition of the Regulatory and Supervisory Authorities. This *clause* also seeks to provide for the responsibility of a Regulatory and Supervisory Authority to regulate and supervise credit providers and credit service providers carrying on businesses as set out in the relevant Schedules. It also states the functions and powers of the Regulatory and Supervisory Authority are additional to those under other relevant written laws.

39. *Clause 35* seeks to empower a Regulatory and Supervisory Authority to appoint its officers to carry out its functions or powers, or render any assistance for such purposes. This *clause* also provides for the appointment of a Registrar of Islamic credit providers and Deputy Registrars of Islamic credit providers in charge of the licensing of Islamic financing facility and Islamic pawnbroking.

PART IV

40. Part IV seeks to provide for matters relating to the Advisory Committee.

41. *Clause 36* seeks to provide for the establishment of the Advisory Committee.

42. *Clause 37* seeks to provide for the membership of the Advisory Committee.

43. *Clause 38* seeks to provide for the functions of the Advisory Committee.

44. *Clause 39* seeks to empower the Advisory Committee to determine its own meeting procedures.

PART V

45. Part V of the proposed Act contains provisions relating to the licensing of credit businesses and registration of credit service businesses under the proposed Act.

Division 1

Licensing

46. *Clause 40* seeks to prohibit any person from carrying on any credit business as set out in *paragraph 1* or *paragraph 2* of Schedule 4 or holding himself out as carrying credit business unless it is licensed under the proposed Act. Any person who contravenes this *clause* commits an offence.

47. *Clause 41* seeks to provide for matters relating to an application for a licence including for a licence to carry on a subsequent credit business and the payment of the requisite non-refundable prescribed fee. This *clause* further provides that any credit provider under the regulation of the Commission that intends to carry on an Islamic credit business in addition to its conventional credit business must obtain the prior written approval of the Commission.

48. *Clause 42* seeks to empower the Commission or the Registrar, as the case may be, to grant a licence if it is satisfied that the applicant meets the criteria provided in this *clause*. This *clause* also empowers the Commission or the Registrar to impose any licensing conditions and such conditions may be added, amended, varied, revoked or waived at any time by the Commission or the Registrar. Any person who fails to comply with the licensing conditions specified commits an offence.

49. *Clause 43* deals with the power of the Commission or the Registrar, as the case may be, to refuse an application based on the grounds provided in the *clause*.

50. *Clause 44* seeks to restrict the granting of a licence to a person if the specified minimum financial requirements are not met. This *clause* imposes a requirement to maintain minimum financial requirements. This *clause* prohibits a licensed credit provider from continuing to carry on its business if it does not meet the minimum financial requirements unless a prior written consent is obtained.

51. *Clause 45* seeks to empower the Commission or the Registrar, as the case may be, to specify fit and proper requirements applicable to a controller, director, partner or senior management of a licensed credit provider for the purpose of *clauses 46* and *47*, as the case may be.

52. *Clause 46* seeks to provide for the requirement of the appointment and reappointment of a person as a director, partner, chief executive officer or senior management of a licensed credit provider under the regulation of the Commission or the Ministry of Housing and Local Government. This *clause* also deals with the consequences if such person is no longer fit and proper. Any person who contravenes *subclause (1), (4), (5) or (9)* commits an offence.

53. *Clause 47* seeks to prohibit any person from having control over a licensed credit provider unless such person fulfils the fit and proper requirements specified and a prior written approval of the Commission or the Registrar, as the case may be, has been obtained in accordance with the application procedures set out in this *clause*. This *clause* also deals with the consequences if such person is no longer fit and proper. Any person who contravenes *subclause (1)* or *(5)* commits an offence.

54. *Clause 48* seeks to prohibit a person from acquiring an interest in shares of a licensed credit provider under the regulation of the Commission amounting to thirty three per cent or more or becoming a substantial shareholder of a licensed credit provider under the regulation of the Ministry of Housing and Local Government unless with a prior written approval of the Commission or Registrar respectively. Any person who contravenes this *clause* commits an offence.

55. *Clause 49* seeks to provide for the requirement of the appointment and scope of work of an auditor, additional work as required by the Commission or Registrar and reporting obligation by the auditor or a licensed credit provider. Any person who contravenes *subclause (1)* or *(4)* or any auditor who contravenes *subclause (2)* or *paragraph (5)(a)* commits an offence.

56. *Clause 50* seeks to provide that a licence will be deemed revoked if the licensed credit provider is wound up or otherwise dissolved. This *clause* seeks to empower the Commission or the Registrar, as the case may be, to revoke or suspend a licence if any of the grounds set out under *subclause (2)* is fulfilled.

57. *Clause 51* deals with the procedures for the voluntary surrender of a licence by a licensed credit provider including the commencement of such voluntary surrender.

58. *Clause 52* seeks to require a licensed credit provider whose licence has been either revoked, suspended or surrendered to cease immediately from carrying on such business. This *clause* also sets out provisions for the continued application of the proposed Act upon such revocation, suspension and surrender. Any person who contravenes *subclause (1)* or *(2)* commits an offence.

59. *Clause 53* deals with requirement for payment of prescribed fees by a licensed credit provider into the relevant funds. This *clause* also states that any unpaid fees due to the Commission may be imposed with a late payment fee and recoverable as a debt by the Commission.

60. *Clause 54* deals with requirement for the establishment, relocation or closure of a branch by a licensed credit provider under the regulation of the Commission. This *clause* further prohibits a licensed credit provider under the regulation of the Ministry of Housing and Local Government from carrying on its credit business at any other place than its authorized address or addresses. Any person who contravenes *subclause (2)* commits an offence.

61. *Clause 55* seeks to prohibit any transfer or assignment of licence to, or use of licence by, any other person except for a licensed credit provider under the regulation of the Ministry of Housing and Local Government subject to the prior written consent of the Registrar. Any person who contravenes *subclause (1)* commits an offence.

62. *Clause 56* seeks to prohibit a licensed credit provider from selling, disposing, leasing, assigning or transferring its business to, or amalgamating or merging its business with, any other person without the prior written approval of the Commission or the Registrar, as the case may be. Any person who contravenes this *clause* commits an offence.

Division 2

Registration

63. *Clause 57* seeks to prohibit any person from carrying on credit service business set out in paragraph 3 of Schedule 4 or representing itself as being a registered credit service provider unless it is registered under the proposed Act. Any person who contravenes this *clause* commits an offence.

64. *Clause 58* seeks to provide for matters relating to an application for a registration to carry on a credit service business, including for a registration to carry on a subsequent credit service business and the payment of the requisite non-refundable prescribed fee.

65. *Clause 59* seeks to empower the Commission to register the applicant if it is satisfied that the applicant meets the criteria provided in this *clause*. This *clause* also empowers the Commission to impose any registration conditions and such conditions may be added, amended, varied, revoked or waived at any time by the Commission. Any person who fails to comply with the registration conditions specified commits an offence.

66. *Clause 60* deals with the power of the Commission to refuse an application based on the grounds provided in the *clause*.

67. *Clause 61* seeks to restrict the registration of a person if the specified minimum financial requirements are not met. This *clause* imposes a requirement to maintain minimum financial requirements. This *clause* prohibits a registered credit service provider from continuing to carry on its business if it does not meet the minimum financial requirements unless a prior written consent is obtained.

68. *Clause 62* seeks to empower the Commission to specify fit and proper requirements applicable to a controller, director or senior management of a registered credit service provider for the purpose of *clauses 63* and *64*, as the case may be.

69. *Clause 63* deals with the requirement in respect of the appointment and reappointment of a person as a director, chief executive officer or senior management of a registered credit service provider under the regulation of the Commission. This clause also deals with the consequences if such person is no longer fit and proper. Any person who contravenes *subclause (1), (4) or (5)* commits an offence.

70. *Clause 64* seeks to prohibit any person from having control over a registered credit service provider unless such person fulfils the fit and proper requirements specified and a prior written approval of the Commission has been obtained in accordance with the application procedures set out in this *clause*. This clause also deals with the consequences if such person is no longer fit and proper. Any person who contravenes *subclause (1) or (5)* commits an offence.

71. *Clause 65* seeks to prohibit a person from acquiring an interest in shares of a registered credit service provider under the regulation of the Commission amounting to thirty three per cent or more unless with a prior written approval of the Commission. Any person who contravenes this *clause* commits an offence.

72. *Clause 66* deals with the requirements for the appointment and scope of work of an auditor, additional work as required by the Commission and reporting obligation by the auditor or a registered credit service provider. Any person who contravenes *subclause (1) or (4)* or any auditor who contravenes *subclause (2) or paragraph (5)(a)* commits an offence.

73. *Clause 67* seeks to provide that a registered credit service provider will be deemed deregistered if it is wound up or otherwise dissolved. This *clause* seeks to empower the Commission to deregister or suspend the registration of a registered credit service provider if any of the grounds set out under *subclause (2)* is fulfilled.

74. *Clause 68* deals with the procedures for the voluntary deregistration by a registered credit service provider including the commencement of such voluntary deregistration.

75. *Clause 69* seeks to require a registered credit service provider whose registration has been either deregistered, suspended or voluntarily deregistered to cease immediately from carrying on such business. This *clause* also sets out provisions for the continued application of the proposed Act upon such deregistration, suspension and voluntary deregistration. Any person who contravenes *subclause (1) or (2)* commits an offence.

76. *Clause 70* deals with the requirements for payment of prescribed fees by a registered credit service provider into the relevant funds. This *clause* also states that any unpaid fees due to the Commission may be imposed with a late payment fee and recoverable as a debt by the Commission.

77. *Clause 71* seeks to provide that the Commission may specify the requirements for the establishment, relocation or closure of a branch by a registered credit service provider.

78. *Clause 72* seeks to provide for the prohibition of any transfer or assignment of registration to, or use of registration by, any other person. Any person who contravenes *subclause (1)* commits an offence.

79. *Clause 73* seeks to prohibit a registered credit service provider from selling, disposing, leasing, assigning or transferring its business to, or amalgamating or merging its business with, any other person without the prior written approval of the Commission. Any person who contravenes this *clause* commits an offence.

Division 3

General matters

80. *Clause 74* seeks to provide for the power of the Commission to review its decision under this Part and the procedures relating to it.

81. *Clause 75* seeks to provide for an appeals procedure for a decision that is made by the Registrar under this Part to the Minister of Housing and Local Government.

82. *Clause 76* deals with the requirement for the Commission to publish a list of all licensed credit providers and registered credit service providers under its regulation in such form and manner as it deems appropriate.

83. *Clause 77* seeks to provide that any agreement where credit is given and purporting to be a credit agreement without a valid licence is not enforceable.

84. *Clause 78* seeks to provide for a rebuttable presumption on the proof of business of providing credit or credit service in any court proceedings.

85. *Clause 79* deals with the non-application of the requirements under Part V to persons set out in *subclause (1)* as such persons are currently regulated by the existing Regulatory and Supervisory Authorities. *Subclause (2)* also seeks to require persons carrying on a credit business or credit service business that does not involve a credit consumer to submit a declaration together with any document or information as specified by the Commission.

PART VI

86. Part VI contains provisions relating to the Islamic credit business and the requirements on compliance with Shariah for Islamic credit business.

87. *Clause 80* provides that Part VI of the proposed Act shall only apply to an Islamic credit provider carrying on any Islamic credit business as set out in paragraph 2 of Schedule 2.

88. *Clause 81* seeks to provide that an Islamic credit provider shall ensure that its Islamic credit business, affairs and activities are in compliance with Shariah at all times. Such compliance shall be deemed when an Islamic credit provider complies with the Shariah Advisory Council's advice or ruling. An Islamic credit provider may seek advice or ruling on Shariah matters from the Shariah Advisory Council through its Regulatory and Supervisory Authority.

89. *Clause 82* seeks to provide that an Islamic credit provider shall ensure that its internal policies and procedures are consistent with such regulations or standards or guidelines and its director, partner, officer and any appointed person shall comply with such policies and procedures.

90. *Clause 83* deals with the requirement for a court or an arbitrator in a proceeding relating to Islamic credit business where a question concerning a Shariah matter arises, to take into consideration any regulations made and standards or guidelines specified for purposes of this Part or to refer such question to the Shariah Advisory Council for its ruling. This *clause* also provides for the effect of the Shariah Advisory Council's ruling.

PART VII

91. Part VII of the proposed Act deals with a principle-based approach in the imposition of the requirements and prohibitions in relation to the business conduct of credit providers and credit service providers for the protection of credit consumers.

Division 1

Conduct requirements

92. *Clause 84* seeks to impose a duty on a credit provider and credit service provider to manage, and ensure it carries on its business in a fair, responsible and professional manner when dealing with credit consumers.

93. *Clause 85* seeks to provide that regulations or standards or guidelines may be made on, among others, the subject matters as listed under *subclause (1)*, for the purposes of ensuring that a credit provider and credit service provider carries out its duty in *clause 84*. A credit provider and credit service provider shall ensure that its internal policies and procedures are consistent with such regulations made and standards or guidelines specified and its directors, partners or officers must comply with such policies and procedures.

94. *Clause 86* seeks to empower the Commission to specify on matters relating to financial hardship. This *clause* also provides that the rights of the credit provider to commence any proceedings, execution or other legal process against the credit consumer shall be suspended during the financial hardship assessment.

Division 2

Prohibited business conduct

95. *Clause 87* seeks to prohibit any person from engaging in any prohibited business conduct as set out in Schedule 6.

PART VIII

96. Part VIII contains provisions relating to the Regulatory and Supervisory Authority's examination and investigation powers.

Division 1

Examination powers

97. *Clause 88* seeks to empower a Regulatory and Supervisory Authority to examine, with or without giving prior notice, the business and affairs of a credit provider or credit service provider under its regulation as well as to examine any director, partner or officer of such credit provider or credit service provider.

98. *Clause 89* seeks to impose an obligation on a person who is being examined under *clause 88* and its director, partner or officer to give the Regulatory and Supervisory Authority access to, or produce, items listed including the necessary password etc, and to appear before the Regulatory and Supervisory Authority as required.

Division 2

Investigation powers

99. *Clause 90* seeks to empower a Regulatory and Supervisory Authority to investigate offences or breaches under the proposed Act. This *clause* deals with the appointment of an investigating officer for the purposes of this Division. Investigating officers of the Ministry of Housing and Local Government shall include a police officer unless otherwise stated. An investigating officer shall be deemed to be a public servant and public officer for the purposes of the laws listed.

100. *Clause 91* deals with the scope of powers and functions of the investigating officer.

101. *Clause 92* deals with the investigating officer's power to enter any premises and search and seize items listed subject to the issuance of a warrant by a magistrate. Any items or statement obtained by or provided to an investigating officer in the course of a search under this *clause* shall, be admissible in evidence in any proceedings under the proposed Act.

102. *Clause 93* seeks to provide that a warrant issued under the proposed Act shall be valid and enforceable notwithstanding any defect, mistake or omission in the warrant or in the application for such warrant.

103. *Clause 94* seeks to provide for an investigating officer's power to enter any premises and search and seize items listed without a warrant, if he is satisfied upon information received that he has reasonable cause to believe that any delay in obtaining a search warrant would adversely affect the investigation or that evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed.

104. *Clause 95* seeks to require an investigating officer to prepare a list of all items seized and sets out the necessary procedures to be complied with.

105. *Clause 96* deals with the release, disposal or forfeiture of goods under the circumstances listed in this clause, including the right to recover any costs or damages arising from the seizure and holding of any goods seized.

106. *Clause 97* seeks to provide for an investigating officer's powers to search or detain any person to facilitate the search, and seize, detain, or take possession of any items listed found upon him. For purposes of propriety, a person shall only be searched by a person who is of the same gender, with strict regard to decency.

107. *Clause 98* contains prohibitions against any obstruction to the exercise of any power by an investigating officer under this Division and such obstructions shall be a criminal offence under the proposed Act.

108. *Clause 99* seeks to empower an investigating officer to require a translation of any items listed from the person who has the possession, custody or control of such items. Failure to provide the translation or submission of an inaccurate translation is an offence. If the person required is not the suspect, the Regulatory and Supervisory Authority shall pay him reasonable fees for the translation.

109. *Clause 100* seeks to provide for an investigating officer's power to examine a suspect by requiring the person to attend before the investigating officer to be examined or to produce anything or furnish information to assist the examination. This *clause* also provides for the necessary procedures in conducting such examination.

110. *Clause 101* provides for the manner in which notices shall be served under this Division.

111. *Clause 102* seeks to empower an investigating officer to require, by a written notice, any person who is the subject of an investigation under this Part to surrender his travel documents within the period specified in the notice. The investigating officer also may, with the written approval of the relevant Regulatory and Supervisory Authority, request by a notice in writing issued to the Director General of Immigration that any person who is the subject of an investigation under the proposed Act be prevented from leaving Malaysia.

112. *Clause 103* seeks to provide for the credibility of an agent provocateur's evidence and admissibility of evidence given by an agent provocateur in a proceeding for an offence under the proposed Act, whether he is an officer of a Regulatory and Supervisory Authority or not. This clause further provides that a conviction based solely on the uncorroborated evidence of an agent provocateur shall not be illegal.

113. *Clause 104* provides for the admissibility of documentary evidence.

114. *Clause 105* seeks to empower a Regulatory and Supervisory Authority to supply to a police officer or public officer a copy of any items listed or allow such officer to have access to and inspect any items listed. Such officer make use of the same or any knowledge gained from such access or inspection as may be necessary or expedient in relation to the performance of his functions, exercise of his powers or discharge of his duties in respect of any person.

PART IX

115. Part IX of the proposed Act contains provisions relating to a Regulatory and Supervisory Authority's powers to take administrative, civil enforcement and criminal actions, including general matters and matters relating to powers of court.

Division 1

Administrative actions

116. *Clause 106* seeks to empower a Regulatory and Supervisory Authority to take administrative actions against any person for a breach on any of the provision under the proposed Act, subject to the matters that shall be taken into consideration. This *clause* also provides that the Regulatory and Supervisory Authority is not precluded from taking any other actions against the person in breach.

117. *Clause 107* seeks to provide that any person who is aggrieved by a decision of a Regulatory and Supervisory Authority made under *paragraph 106(3)(b)* may make an application to the Regulatory and Supervisory Authority or the relevant Minister, as the case may be, to review or appeal against such decision within thirty days of notification of such decision. The decision made under this *clause* is final.

118. *Clause 108* deals with any amount that is paid under *subparagraph 106(3)(d)(ii)* or subsection 106(9) which has not been distributed by the credit provider or credit service provider, as the case may be, after reasonable efforts to notify aggrieved persons have failed shall be lodged with the Registrar of Unclaimed Moneys in accordance with the provisions of the Unclaimed Moneys Act 1965 [Act 370].

Division 2

Civil enforcement actions

119. *Clause 109* seeks to empower a Regulatory and Supervisory Authority to institute civil proceedings against a person if there is a reasonable likelihood that the person will contravene or has contravened, or will breach or has breached or is likely to fail to comply with or has failed to comply with the proposed Act or action taken under *clause 106*. *Clauses 109, 110 and 111* will not be applicable to the Ministry of Domestic Trade and Cost of Living.

120. *Clause 110* seeks to provide for various orders, including interim orders, which can be made by the court on the application by a Regulatory and Supervisory Authority under *clause 109* at any time within six years from the date of discovery of the contravention, breach or non-compliance. Any person who fails to comply with the court order commits an offence. This *clause* provides that the Regulatory and Supervisory Authority, aggrieved person, credit provider or credit service provider is not precluded from taking any other actions.

121. *Clause 111* seeks to empower a Regulatory and Supervisory Authority to use any document or information that is obtained by the Regulatory and Supervisory Authority in the exercise of its investigation powers against a credit provider, credit service provider, any directors, partners, officers or agents of the credit provider or credit service provider, or any other person in a civil enforcement action instituted by the Regulatory and Supervisory Authority.

Division 3

Criminal offences

122. *Clause 112* seeks to provide for the offences in relation to entries in any book, record, report, statement or other document relating to the business, affairs, transactions, condition, property, assets, liabilities, or accounts of a credit provider or credit service provider. This *clause* also makes it an offence if a person evades the provisions of the proposed Act by altering, forging, destroying, mutilating, defacing, concealing or removing any document.

123. *Clause 113* seeks to provide that any person acting in his official capacity shall be held liable for the offences committed by the body corporate or unincorporate, subject to certain conditions.

124. *Clause 114* seeks to provide that the principal is deemed liable for any offence committed by an employee, officer, director, partner, controller or agent of such principal in the course of his employment or in the course of carrying out his function, or when acting on behalf of the principal.

125. *Clause 115* seeks to provide that it is an offence for a person who attempts to commit an offence, or does any act preparatory to or in furtherance of the commission of an offence, or abets or engages in any criminal conspiracy to commit an offence (whether or not the offence is committed in consequence thereof), being an offence under the proposed Act. The person guilty of an offence under this *clause* is rendered liable to the same penalty as provided for the offence in relation to which the offence under this *clause* is committed.

126. *Clause 116* seeks to provide for the joinder of offences.

127. *Clause 117* seeks to provide that an offence punishable under the proposed Act is a seizable offence. This *clause* sets out the powers and obligations of a police officer not below the rank of an inspector or investigating officer appointed under *clause 90* arresting without warrant.

128. *Clause 118* seeks to empower the Minister to make regulations with the approval of the Public Prosecutor in respect of offences which may be compounded and the method and procedures for compounding such offences. A Regulatory and Supervisory Authority, with the written consent of the Public Prosecutor, may compound any prescribed offence where the compound amount shall not exceed fifty per centum of the maximum fine. A person shall not be prosecuted for an offence on which an offer to compound has been made and payment has been accepted by the Regulatory and Supervisory Authority.

129. *Clause 119* seeks to provide that the prosecution for an offence under the proposed Act shall be instituted with the written consent of the Public Prosecutor.

Division 4

General matters

130. *Clause 120* seeks to provide for protection in relation to disclosure of information to any person who discloses in good faith to a Regulatory and Supervisory Authority his knowledge, belief or any document or information that a breach or contravention has been or is about to be committed.

PART X

131. Part X deals with general provisions.

132. *Clause 121* seeks to provide that that the word “Minister” refers to all relevant Ministers under the proposed Act and such Ministers are empowered to exercise powers under the proposed Act.

133. *Clause 122* seeks to provide for the non-exhaustive circumstances or purposes in which regulations may be made and the person who can make such regulations would depend on which credit provider or credit service provider that the regulations are to be applicable. This *clause* further provides that regulations can be general or specific.

134. *Clause 123* seeks to provide for the non-exhaustive circumstances or purposes in which standards or guidelines may be specified and the person who can specify such standards or guidelines would depend on which credit provider or credit service provider that the standards or guidelines are to be made applicable to. This *clause* further provides that the standards or guidelines can be general or specific.

135. *Clause 124* seeks to provide for matters relating to approvals, consents, standards or guidelines, specifications, notices, requirements or directions specified or issued under the proposed Act.

136. *Clause 125* seeks to empower a Regulatory and Supervisory Authority to issue guidance consisting of such information, advice or recommendation as the Regulatory and Supervisory Authority considers appropriate to any person or any class, category or description of persons who are under the regulation of such Regulatory and Supervisory Authority.

137. *Clause 126* seeks to empower a Regulatory and Supervisory Authority to publish any information in relation to any action it has taken and the outcome of the action taken where the Regulatory and Supervisory Authority thinks such is necessary.

138. *Clause 127* seeks to empower the Minister, on the recommendation of the Commission, to exempt any particular person by order published in the *Gazette*, from the provisions of the proposed Act subject to such conditions specified by the Minister in the order. This *clause* further provides that if the exemption involves any matter under the regulation of a Regulatory and Supervisory Authority which is a ministry, the Minister shall consult with the relevant minister.

139. *Clause 128* seeks to empower the Minister, on the recommendation of the Commission, to vary, delete, add to, substitute for, or otherwise amend any of the Schedules of the proposed Act.

140. *Clause 129* seeks to empower a Regulatory and Supervisory Authority to require any person to submit such information for the purposes set out in this *clause*. This *clause* also makes it mandatory for the person to submit the specified document or information and where the requirement to submit document or information is provided under the proposed Act.

141. *Clause 130* seeks to provide for protection to all of the persons listed in this *clause* for an act done or statement made, or was omitted to be done or made, in good faith.

142. *Clause 131* deals with the opportunity to make written representations before any decision is made by the Registrar, Commission or a Regulatory and Supervisory Authority under the proposed *clause 131*.

143. *Clause 132* deals with the obligation of secrecy of the member of the Board or the Board Committee, a member of the Advisory Committee, a member of any committee of the Commission, an officer or agent of the Commission or a Regulatory and Supervisory Authority and a person attending any meeting of the Board, Advisory Committee or any committee of the Commission.

144. *Clause 133* seeks to provide that a credit provider or credit service provider, or any of its directors, partners, officers or auditors shall not disclose the following document or information, whether wholly or in part, to any other person, unless authorized in writing by a Regulatory and Supervisory Authority and the penalty for its contravention.

145. *Clause 134* seeks to provide for the things done by any person in the preparation of and towards the proper implementation or administration of the proposed Act including any expenditure incurred, in anticipation of the enactment of the proposed Act shall be deemed to have been authorized under the proposed Act. This *clause* also seeks to provide that the rights acquired or obligations incurred from anything done shall upon the date appointed under the proposed *subclause 1(2)* be deemed to be the rights and obligations of the Commission or a Regulatory and Supervisory Authority, as the case may be under the proposed Act.

146. *Clause 135* deals with the transitional provisions.

FINANCIAL IMPLICATIONS

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

[PN(U2)3394]