

Consumer Credit Act

Public Consultation Paper

Part 2

Preamble

This Consultation Paper (Part 2) is published by the Consumer Credit Oversight Board Task Force (Task Force) subsequent to the issuance of Consultation Paper (Part 1) on 4 August 2022.

The Task Force had received constructive feedback from various stakeholders in relation to Part 1 of the Consultation Paper. The Task Force further gathered specific perspectives via several industry townhall sessions held on 25 and 26 August 2022. All views, comments and proposals have been duly considered in setting forth the proposed detailed requirements for the regulatory framework targeted for entities carrying on the business of providing credit and credit services.

Parallel to this, the Task Force had also taken the initiative and worked closely with the Ministry of Domestic Trade and Cost of Living (“KPDN”) to review and modernise the existing framework on hire purchase financing for the benefit of financial consumers and in shaping the hire purchase industry moving forward. The modernisation of the framework on hire purchase financing would serve to safeguard the interest of consumers and deliver a more responsive regulatory regime to serve consumers better.

Given the two workstreams, this Consultation Paper has been structured into two broad sections –

- **Section 1** sets out the proposed regulatory requirements that all credit providers and credit service providers need to observe in conducting their business and operations. It elaborates on the authorisation, governance and conduct requirements that will apply to entities carrying on business as a credit provider and credit service provider, as the case may be.
- **Section 2** details the proposals for enhancing the existing framework on hire purchase financing, including matters related to the prohibition on use of Rule of 78, limits for term charges and provisions to enable use of digital or e-signatures.

The Task Force invites written feedback on the regulatory requirements and expectations proposed in this Consultation Paper, including suggestions on any issues or areas which need further clarification or alternative proposals which the Task Force should consider. The written feedback should be supported with clear rationale, evidence or illustration, as may be appropriate, to facilitate the Task Force’s assessment.

The Task Force's response to and position on public feedback received on Consultation Paper (Part 1) are set out in **Appendix 1**.

Feedback must be submitted to the Task Force by **15 May 2023** via any of the following methods:

- (1) Email to CCAconsultation@bnm.gov.my
- (2) CCA Consultation Feedback form on the CCOB website at **ccob.my**

Submissions received may be made public unless confidentiality is specifically requested, for the whole or part of the submission.

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SECTION 1 PROPOSED REGULATORY REQUIREMENTS

PART A OVERVIEW

1. Introduction

- 1.1 The primary aim of the Consumer Credit Act (“CCA”) is to strengthen protection for credit consumers in Malaysia. It does so by providing a comprehensive **framework for regulating** credit business and credit service business¹, ensuring proper conduct of entities carrying out such businesses and promoting a fair, efficient and transparent credit industry.
- 1.2 In achieving this, the CCA will provide for the establishment of the **Consumer Credit Oversight Board (“CCOB”)** as the competent authority. The CCOB will establish an appropriate regulatory framework which sets out the authorisation, governance and conduct requirements including continuous reporting obligations on those carrying out credit business and credit service business.
- 1.3 The immediate focus of the CCOB in Phase 1 (2024 - 2025), will be on **non-bank credit providers and service providers** that are **currently not subject to direct regulation by any authority** within Malaysia. Such credit providers and credit service providers include non-bank leasing and factoring companies and entities offering new forms of credit such as ‘*Buy Now Pay Later*’ (“BNPL”).
- 1.4 This Consultation Paper, therefore, sets out the **authorisation requirements as well as governance and conduct standards** expected of the non-bank credit providers and credit service providers, taking into account the nature of credit related activities and extent of potential risks to credit consumers while ensuring that the credit ecosystem continues to be conducive for innovation and industry development to better meet the needs of individuals and small businesses.

¹ As defined under paragraph 2.1 of this Consultation Paper.

- 1.5 Non-bank credit providers which are currently regulated by a Regulatory and Supervisory Authority² (“RSA”) such as moneylenders, pawnbrokers and hire purchase companies, will not be required to secure authorisation from the CCOB in Phase 1. The **transfer of powers pertaining to the regulation of existing credit providers and credit service providers that are under the purview of the Ministry of Local Government Development (“KPKT”) and Ministry of Domestic Trade and Cost of Living (“KPDN”) to the CCOB is expected to take place only in Phase 2 (2025 onwards)**. Notwithstanding this, towards ensuring a seamless process, the non-bank credit providers and credit service providers currently regulated by KPKT and KPDN are strongly encouraged to understand the CCOB’s regulatory model and expectations as set out in this Consultation Paper. The CCOB had engaged a few industry players and will also be organising focused engagement sessions closer to the implementation period under Phase 2.
- 1.6 The CCA, as an overarching legislation for all credit providers and credit service providers, adopts a **principle-based and outcome-focused** approach. In line with this, broad regulatory principles will be provided within the CCA, while the detailed operational requirements and guidance towards achieving the intended outcomes of such principles will be specified in the **Authorisation Handbook** and **Conduct Handbook** which will be accessible to all industry players. Both documents are key references which should be read together as it lays out the minimum requirements and expectations on all non-bank credit providers and credit service providers seeking licence or registration and their continuing obligations as a regulated entity. CCOB will consult widely on any proposed conduct requirements prior to their formal adoption and implementation.
- 1.7 In Phase 1, the **respective RSA are empowered to issue regulations, standards or guidelines** to credit providers and credit service providers under their respective purview. This will be supported by the Council for Consumer

² As defined under paragraph 2.1 of this Consultation Paper.

Credit Malaysia to promote consistency across RSAs in line with the consumer protection principles under the CCA.

- 1.8 Under the CCA, credit providers, at minimum, are required to undertake some form of credit affordability assessment when offering credit or onboarding customers. If such practices are not prevalent or required within existing credit laws, the respective RSAs may issue specific requirements or guidance to their regulated entities to ensure effective and consistent practices among credit providers in complying with this obligation.
- 1.9 In formulating the regulatory framework, the CCOB is cognisant of, among others, the diversified structure and business models of entities carrying on credit and credit service businesses. It will ensure a **balance between strong regulatory safeguards for consumer protection and the creation of an ecosystem** conducive for industry development. The ultimate objective is to create and facilitate the development of a progressive and sound consumer credit industry that upholds fair practices and responsible conduct.
- 1.10 In this respect, the role of credit consumers is equally important. Credit consumers must be equipped and responsible to make informed financial decisions including assessing their ability to meet their credit obligations. They should understand their legal rights, actively seek information and exercise diligence when borrowing or intending to borrow. Those who are less financially savvy should take time to seek proper advice from trusted and well-informed sources before committing to a credit agreement.
- 1.11 With technology being at the centre of our everyday lives, consumer credit businesses continue to pivot and evolve, providing products and services to consumers with the aid of digital technologies. While greater use of technology can help improve access to financial products and services by consumers (including in the rural communities), it can also potentially increase consumer risks against the backdrop of rising level of consumer debts. To keep abreast

and set to tackle emerging harms that may arise from the advancement of technology, the CCOB will leverage on digital technologies from the onset to operate at scale in regulating the conduct of industry players in the consumer credit market.

- 1.12 Digital technologies will be incorporated throughout an industry player's journey with the CCOB. Starting at authorisation, industry players are expected to submit their data digitally via a one-stop portal that will take into consideration the different consumer credit business requirements.
- 1.13 Towards enhancing the effectiveness of the CCOB's supervision and surveillance vis-a-vis compliance with the regulatory obligations, the CCOB will leverage on digital technologies including introducing the use of an integrated complaints system driven by an Application Programming Interface (API). Such digital solutions in the one-stop portal will be freely accessible to industry players to ease regulatory costs and reporting obligations.
- 1.14 The one-stop portal will also publish information on regulated industry players and the activities for which these industry players have permissions for, allowing the general public to validate their credibility before engaging or dealing with such industry players.

2. Interpretation

- 2.1 For the purpose of this consultation paper –
“**chief executive**” in relation to a credit provider and credit service provider means the principal executive officer of such entity, by whatever name called and whether or not he is a director;

“**credit**” means an arrangement, agreement or facility, in whatever form or whatever name called, which –
(a) results in a person being in debt or incurring a financial obligation; or

- (b) allows the payment for goods or services sold to a person to be made in instalments;

“credit agreement” means an agreement entered into between a credit provider and a credit consumer under which credit is provided;

“credit consumer” means –

- (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 enterprise³ who obtains, has obtained or intends to obtain credit, where such credit does not exceed RM300,000;
- (c) any other person or class, category or description of a person as may be specified by the competent authority⁴; or
- (d) an individual who acts as a guarantor, not for the purpose of making a profit, to a credit consumer under paragraph (a), (b) or (c) in respect of a credit agreement to which the CCA applies;

“credit business” means –

- (a) moneylending;
- (b) pawnbroking;
- (c) hire purchase;
- (d) credit sale;
- (e) BNPL scheme;
- (f) leasing; or
- (g) factoring;

including those made in accordance with the principles of Shariah, for example, Islamic financing facility, Islamic pawnbroking and others;

“credit service business” means –

- (a) impaired loan or financing acquisition activity;

³ See Appendix 1 (item no. 3).

⁴ CCOB.

- (b) debt collection services;
- (c) debt counselling and management services;
- (d) online crowdlending services; or
- (e) repossession activity;

“credit provider” means a person who carries on a credit business;

“credit service provider” means a person who carries on a credit service business;

“controller” in relation to a licensed credit provider or registered credit service provider, means a person who –

- (a) is entitled to exercise or control the exercise of, not less than thirty-three per centum (33%) of the votes attached to the voting shares in the licensed credit provider;
- (b) has the power to appoint or cause to be appointed a majority of the directors of the licensed credit provider or 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 the licensed credit provider or registered credit service provider and to give effect to such decisions or cause them to be given to,

and the word “control” shall be construed accordingly;

“director” has the meaning assigned to it in the Companies Act 2016, includes a reference to –

- (a) a person occupying or acting in the position of director of a corporation, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position; or
- (b) a person in accordance with whose directions or instructions the directors of a corporation are accustomed to act;

“Regulatory and supervisory authority” or “RSA” means –

- (a) Consumer Credit Oversight Board (“CCOB”);
- (b) Bank Negara Malaysia (“BNM”);
- (c) Securities Commission Malaysia (“SC”);
- (d) Ministry of Domestic Trade and Cost of Living (“KPDN”);
- (e) Ministry of Local Government Development (“KPKT”); and
- (f) Malaysia Co-operative Societies Commission (“SKM”).

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

PART B AUTHORISATION, REPORTING AND SHARIAH GOVERNANCE OBLIGATIONS

3. Requirements and conditions

- 3.1 The two main forms of authorisation are **licensing and registration** and whether one or both is needed, will depend on whether an entity is carrying on its business as a credit provider or credit service provider or both. Authorisation is given to an entity for a specific type of business or regulated activity. This recognises that entities involved in providing credit or credit services may also carry on other business activities that are not intended to be governed by the CCA. Accordingly, there could be circumstances where an entity is carrying on multiple credit (or credit service) businesses and may be required to be authorised for the different activities or businesses it undertakes by more than one RSA. For example, a moneylender holding a licence from KPKT which is also carrying on business as a BNPL provider would need to obtain a licence from the CCOB for its BNPL business.
- 3.2 Where an entity intends to carry on multiple credit (or credit service) activities, the CCOB will coordinate with the relevant RSA to facilitate the assessment for authorisation so that the process does not add excessive administrative costs or burdens. While recognising potential business synergies and economies of scale, entities that apply for multiple authorisations are nonetheless expected to demonstrate that they have:
- (a) the requisite system and procedures in place to monitor the relevant regulated activities within the business; and
 - (b) the controls in place to monitor and avoid any conflict of interest and unethical conduct.
- 3.3 The primary focus of authorisation is to assess that entities intending to carry on credit business or credit service business are able to meet obligations to uphold professional standards of conduct and that their business activities will not be detrimental to consumers. This includes assessing their

representatives and ensuring that they are **fit and proper**⁵. It is important for applicants to clearly spell out their **business model** detailing their scope of activities, business strategy or proposition, sources of funds, revenue drivers (charges and fees) and digital applications (if any). An assessment of these factors will consider any risks posed by the business model that could lead to consumer harm.

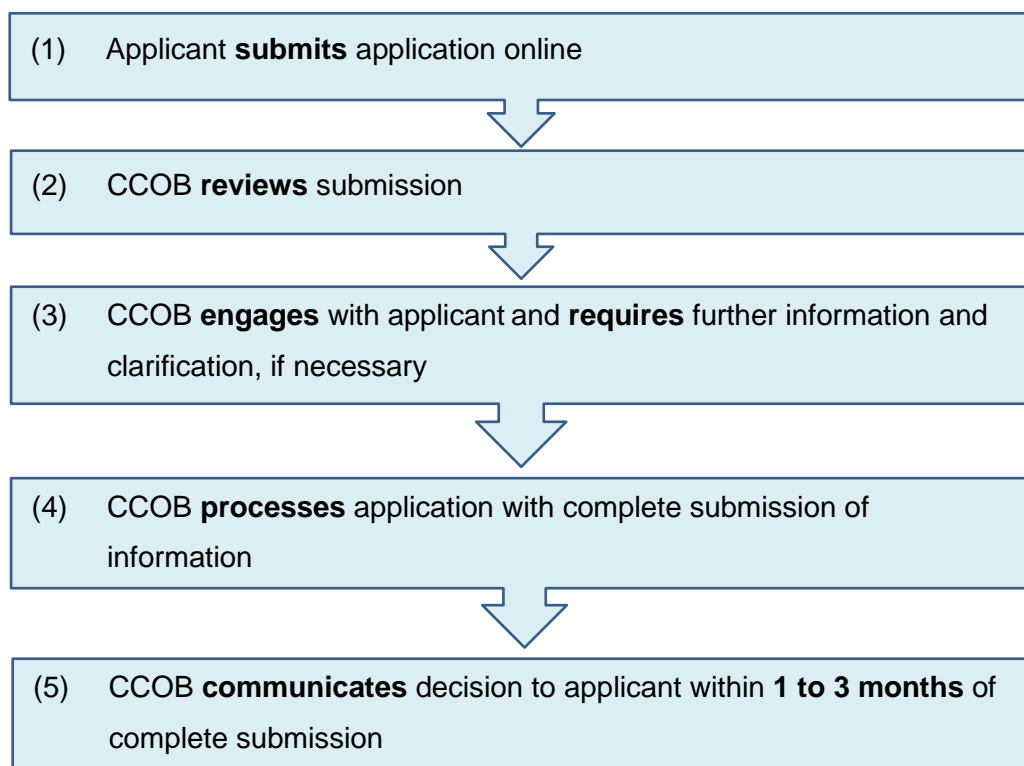
- 3.4 In addition, in assessing an application for authorisation, the CCOB, will have regard to the following matters to establish the applicant's ability to meet obligations to uphold fair and professional standards of conduct on an ongoing basis:
- (a) Organisational structure;
 - (b) Shareholding composition;
 - (c) Financial resources; and
 - (d) Qualification and competencies of key personnel.

The full list of information required for submission is set out in **Appendix 2**.

- 3.5 Further details on each of the factors listed in paragraph 3.4 will be stipulated in the **Authorisation Handbook** and the CCOB will assess whether the applicants satisfy the minimum criteria to qualify for authorisation.
- 3.6 The CCOB's **authorisation is a one-off process** which involves both digital submission and engagement with the CCOB. Engagement would be organised with the applicant to address areas which require enhancement or further clarification. Subject to complete submission of the required information, the CCOB will strive to respond with its decision to the applicant within a timeframe of **one to three months**. Briefly, the application process is depicted in the Diagram 1 below:

⁵ Further details on the fit and proper standard are as set out under paragraph 6 and Appendix 2 of this Consultation Paper.

Diagram 1: Application process



3.7 Following the enactment of the CCA which is targeted in the **4th quarter of 2023**, there will be a grace period of **6 months** for all existing non-bank credit providers⁶ and credit service providers⁷ covered under Phase 1 to prepare themselves towards securing authorisation.

3.8 It is proposed that the licence or registration granted will not be subject to a renewal process and thus, continues to be **valid** unless revoked, suspended, de-registered or in circumstances where the licensee or registrant ceases to carry on credit business or credit service business. The grounds for revocation or suspension of licence or de-registration would include failure to comply with the provisions of the CCA or regulations and standards imposed on a licensee or registrant. This would include but is not limited to, the need to pay an annual licence or registration fee and **ensuring that all financial,**

⁶ BNPL providers, leasing and factoring companies.

⁷ Debt collection agencies, impaired loan buyers and debt counselling and management agencies.

governance, conduct and reporting obligations are met at all times⁸.

The CCOB will **publish and maintain a list** of all its licensed credit providers and registered credit service providers in its one-stop portal or through any other digital means.

- 3.9 A credit provider and credit service provider which has been granted a licence or registration under the CCA is **not allowed to transfer, sell or lease** its licence or registration to any other person. Any proposed amalgamation or merger of its business with any other person requires prior **approval** from the CCOB or relevant RSAs.
- 3.10 Any credit provider or credit service provider aggrieved by the decision of the CCOB or KPKT (for Islamic financing facility and Islamic pawnbroking), in relation to the authorisation may submit an **appeal** in writing to the CCOB or KPKT.
- 3.11 The CCOB will be authorised under the CCA to impose fees and charges on entities that it regulates to help defray the cost of performing its regulatory functions and providing regulatory services. The one-off admission fee will be proportionate to the type and complexity of the regulated activity. Licensed and registered persons are also subjected to an annual licensing and registration fee which commensurate with the size of the regulated entity. Additionally, there will be specific regulatory compliance fees for processing of request for exemption or variation to regulatory requirements to reinforce a strong compliance culture.
- 3.12 Principally, the CCOB's fee structure is demarcated into the following three segments as shown in Diagram 2 below:

⁸ See paragraphs 4 to 8 for further explanation.

Diagram 2: Fee structure

“Admission” Processing fee for new licence/registration application	“Maintenance” Annual fee for existing licensees/registrants	“Regulatory Compliance” Fee to discourage waivers/exemptions from regulatory rules/ requirements
<ul style="list-style-type: none"> • Non-refundable application fee for licence/registration • The fee will depend on the type of authorisation (licensed or registered) 	<ul style="list-style-type: none"> • Annual fee will be <u>proportionate and tiered</u> taking into account business income/revenue. <ul style="list-style-type: none"> ➢ Min fixed fee + variable fee • No additional fees charged for other administrative and regulatory services • Quantum of fees should not be exorbitant and may not fully recover cost of work. 	<ul style="list-style-type: none"> • Fee to deter applications for waivers/exemptions/extensions of time to meet regulatory requirements • The objective is to reinforce a strong compliance culture
<ul style="list-style-type: none"> • Carrying out review and assessment of applications • Processing fee for new licence and registration applications 	Partial recovery of regulatory & supervisory cost incurred in the – <ul style="list-style-type: none"> • Provision of systems and online portal to stakeholders • Carrying out ongoing surveillance and supervision work • Carrying out education and awareness programmes for credit consumers and regulatees 	Carrying out review and assessment on requests for variations or extension of time

Issue for consultation No. 1

The Task Force would like to seek views on:

1. The general requirements for authorisation; and
2. The sufficiency of the grace period of 6 months after the enactment of the CCA for industry players covered under Phase 1 to apply for such authorisation.

4. Governance

Organisational requirements

- 4.1 All credit providers and credit service providers must be locally incorporated, properly resourced and governed, addressing matters such as the following:
- (a) An organisation structure with **clear lines of responsibility and authority**;
 - (b) Having sufficient **human resources** with the right **experience and skillset**;
 - (c) Having appropriate **operational procedures** and **internal controls** commensurate to the nature, scale and complexity of its business;

- (d) Appropriate **risk management policies and procedures**, including a business continuity plan;
- (e) Policies and procedures on **conflict management, anti-corruption, whistleblowing, complaints management and monitoring of unethical conduct**; and
- (f) Policies and procedures to ensure **compliance with applicable laws and regulations**.

4.2 Given the ongoing digitalisation in the industry and the overall state of the economy, credit providers and credit service providers are expected to leverage on digital technology, platforms and infrastructure to serve their customers better and achieve business efficiency and effectiveness. Credit providers will be required to put in place appropriate policies and procedures for **IT audit and cybersecurity**, as well as ensure continuous investment towards maintaining reliable, resilient and secure systems that are proportionate to the extent of reliance on technology in their activities.

Board

- 4.3 The need for an effective board becomes more crucial as an organisation matures, scales up and becomes more complex. The board is responsible for **overseeing the strategic direction** of the business while exercising **oversight on management** in responding to new opportunities and challenges. Good governance supports business sustainability, increases brand reputation and the ability to serve consumers better.
- 4.4 All credit providers and credit service providers must have a board comprising individuals with the **appropriate mix** of skills, knowledge, experience and independence that fits the objectives and strategic goals of the organisation and its responsibility towards consumers.
- 4.5 The board must be of a **size that promotes effective deliberation** and encourage active participation of all directors.

- 4.6 The board must establish and instil an organisational culture that is consistent with expectations of consumer for fair and professional conduct.
- 4.7 The board should have **access to all relevant information** it requires to enable it to have meaningful oversight and discharge its roles and responsibilities effectively. On top of information relating to business and operations, the board is expected to review the adequacy of compliance, controls and risk management.
- 4.8 The board must ensure that the company has policies and processes to mitigate, manage and address actual and potential **conflict of interest** situations that may arise including any transaction, procedure or course of conduct that raises questions about its management integrity.
- 4.9 The board must establish an **internal audit function** to evaluate the effectiveness of different aspects of the company's operations such as financial, operational and compliance. While such function can be outsourced to its group or an external auditor, it must be independent of the management and the functions it audits and must have a **direct reporting line to the Board Audit Committee** or the board.
- 4.10 The board must ensure that all **compliance functions**, including Shariah, are overseen and monitored by a **senior key personnel**. Such personnel must have the necessary competencies, given the appropriate level of authority and provided with direct access to the board. While such person may perform multiple functions within the company, these roles and functions **must not give rise to any form of conflict**. The senior key personnel who is responsible for compliance matters must advise and guide the board and senior management on compliance-related laws, rules and standards and keep them informed of any ongoing developments.

- 4.11 A credit provider and credit service provider must appoint an auditor to carry out an annual audit of its business.
- 4.12 The audit shall opine on the integrity of the **financial statements** of the licensed and registered entities comprising the latest annual balance sheet and profit and loss account in accordance with applicable financial reporting standards, laws and regulatory requirements.
- 4.13 The credit provider and credit service provider must **submit a copy of its audited report** duly signed by the auditor to the CCOB or respective RSA within **3 months** after the end of the financial year of such entity.
- 4.14 Where the auditor suspects or knows that the licensed or registered entity has committed any offence under the CCA including regulations or any other written law, the auditor must report the matter to the CCOB or respective RSA. The auditor will not be liable for any breach of duty of confidentiality between the auditor and the licensed or registered entity nor will be sued in court for defamation in respect of such forms of reporting that are done in good faith.
- 4.15 The CCOB may require the appointed auditor to carry out an examination on specific areas of the credit provider or credit service provider and submit the assessment and findings to the CCOB, the cost of which shall be borne by the regulatee. Such areas may include:
- (a) validation on the nature and volume of business and overall operations relating to the licensed or registered entity;
 - (b) a review as to whether proper records on the business transactions have been maintained; and
 - (c) a review as to whether the licensed and registered entity has complied with the requirements under the CCA, regulations or standards.

Issue for consultation No. 2

The Task Force would like to seek views on the proposed scope of the governance requirements set out in this section.

5. Minimum financial requirements

- 5.1 Having adequate financial resources is key as it reduces the likelihood that insufficient capital will compromise the credit provider's and credit service provider's ability to comply with regulatory requirements including its continuous obligations in terms of conduct.
- 5.2 A credit provider and credit service provider must have **sufficient financial resources** commensurate with the nature, complexity and scale of its business.
- 5.3 At the minimum, the CCOB expects the credit provider and credit service provider to:
- (a) have access to sufficient capital and financial resources to be able to meet all their debts when they become due;
 - (b) adopt sound financial management practices to meet their operational and regulatory requirements as a licensee or registered person; and
 - (c) keep proper records of their financial condition and business activities.
- 5.4 In determining the minimum financial requirements for the respective businesses as shown in Table 1 below, the CCOB is guided by the following principles:
- (a) It should differentiate between a credit provider and credit service provider, taking into account conduct risks posed by their business activities;
 - (b) It should minimise disruption to the consumer credit industry and allow continuation of the businesses of current industry players;

- (c) The quantum should take into consideration the minimum set-up costs and financial resources required for the credit provider and credit service provider to operate and meet the requirements of the CCA and other relevant laws and regulations on an ongoing basis; and
- (d) The quantum should not be prohibitive to encourage healthy competition while promoting the orderly development of the consumer credit market.

The minimum financial requirements, which have been benchmarked against those set by other regulators⁹, are as per Table 1 below:

Table 1: Minimum financial requirements

No.	Type of business	Proposed minimum financial requirements
1.	BNPL	Shareholders' fund of RM2 million
2.	Factoring	
3.	Leasing	
4.	ILB	
5.	DCA	Shareholders' fund of RM500,000; or Shareholders' fund of RM250,000 and Professional Indemnity Insurance coverage of RM250,000
6.	DMA	

- 5.5 Notwithstanding the above, credit providers and credit service providers are expected to maintain adequate financial resources to carry on the business as a going concern. This includes having **sufficient liquidity and capital to support their operations as a going concern and deal with emergencies** that may arise in the course of their business.

⁹ Minimum financial requirements set by BNM for e-money and money services businesses, and by KPKT for moneylending and pawnbroking businesses.

- 5.6 A credit provider and credit service provider are **expected to maintain the minimum financial requirements as stipulated, at all times**. A breach of such requirement may result in the suspension of the regulated business unless prior written consent from the CCOB or relevant RSA has been obtained.
- 5.7 Together with the submission of the annual audited financial statement, the board of a credit provider or credit service provider is expected to submit a **written undertaking or confirmation** that the credit business or credit service business has **adequate financial resources** for the next **12 months**.

Issue for consultation No. 3

The Task Force seeks comments and views on:

1. The proposed minimum financial requirements are as per Table 1 above; and
2. The expectation to maintain such financial requirements as a continuous obligation.

6. Fitness and probity

- 6.1 The minimum qualifications including **fit and proper standards for controllers, directors and senior management** are essential to ensuring that business activities are conducted with high standards of ethics and professionalism. These are key to building trust in the consumer credit industry.
- 6.2 In authorising any person who intends to carry on the business as a credit provider or credit service provider, the CCOB must be satisfied that controllers, directors and senior management are able to carry out their roles and responsibilities effectively, honestly and with integrity.

- 6.3 In this respect, controllers, directors and senior management of a credit provider or credit service provider must comply with the key requirements below, as detailed in **Appendix 2**:
- (a) Probity, personal integrity and reputation;
 - (b) Competency and capability; and
 - (c) Financial integrity.
- 6.4 Such a person must demonstrate the necessary qualification, capabilities and competencies, good ethical behaviour and personal integrity. Additionally, such a person must not be someone who has been convicted or indicted for crimes involving dishonesty, fraud, money laundering, theft or financial crime.
- 6.5 A credit provider and credit service provider are expected to conduct **personal vetting prior to the appointment or re-appointment** of its directors and senior management to ensure that the candidate is fit and proper and is suitably qualified to assume the position. Such appointments and re-appointments must be notified to the CCOB.
- 6.6 Directors and senior management must meet fit and proper requirements on an ongoing basis. Where a director or senior management is found to be no longer fit and proper after his appointment, the credit provider and credit service provider must terminate or remove such person from his office. The CCOB and respective RSA may also direct the credit provider and credit service provider to remove a director or senior management who failed to meet the fit and proper requirements.
- 6.7 Given the significant role played by the controller and Chief Executive Officer (CEO) in steering the business, any **change in the controller or appointment or re-appointment of the CEO would need prior written approval** from the CCOB or relevant RSA. An assessment would be conducted on his probity, competence and financial integrity. In circumstances where an entity does not have a designated CEO position, this

approval would be required on the principal executive officer of the corporation for the time being, by whatever name called.

- 6.8 In circumstances where the credit provider and credit service provider become aware of information that may materially compromise controller/director/CEO/senior management's fitness and propriety, they are expected to immediately report such information to the CCOB or the relevant RSA.

Issue for consultation No. 4

The Task Force seeks comments and views on the scope of fitness and propriety as laid out in Appendix 2.

7. Reporting

- 7.1 The credit provider and credit service provider would be subject to continuous obligations as an authorised person including the **obligation to submit information** on a periodic basis as required by the CCOB or the respective RSA.
- 7.2 Apart from the submission of audited financial statements **within 3 months** after the close of its financial year-end, the credit provider and credit service provider are expected to report information which includes but is not limited to:
- (a) Total assets, total loans and total impaired loan (in RM);
 - (b) Number of borrowers/customers;
 - (c) Number of loan accounts and impaired loan accounts; and
 - (d) Number of complaints lodged and resolved.

- 7.3 The CCOB or respective RSA may also require specific information to be reported to facilitate thematic reviews on consumer conduct practices or developments.
- 7.4 The credit provider and credit service provider are also expected to update the CCOB **within a month**, of any material changes to their operations, for example, change in business address, business model, director composition, new product offerings, etc.
- 7.5 The advancement of technology and innovation has allowed credit providers and credit service providers to leverage on digital technology to meet their compliance obligations. Similarly, as part of the CCOB's aspiration to be a digital-based regulator, the CCOB intends to be data-driven, leveraging on **Regulatory Technology (RegTech)** and will explore ways to automate and digitalise the compliance reporting flow to make it seamless. In addition to conventional reporting channels, the CCOB will actively explore potential digital solutions which may include the use of API, Artificial Intelligence (AI), big data and cloud.

Issue for consultation No. 5

The Task Force would like to seek your views on:

1. The proposed reporting requirements in paragraph 7.2; and
2. Pre-requisites to support the industry's readiness to submit compliance reports digitally.

8. Shariah governance

- 8.1 The business of Islamic credit providers specifically Islamic BNPL, Islamic leasing, Islamic factoring, Islamic financing facility and Islamic pawnbroking under the CCOB and KPKT in Phase 1, must be structured based on appropriate underlying Shariah contracts that properly reflect its business activities.

- 8.2 Compliance with Shariah must be end-to-end i.e., **at every stage of the operational value chain** before such a business can promote or hold itself out as an Islamic credit provider.
- 8.3 While pronouncements and rulings on Shariah will be issued by the **Shariah Advisory Council (SAC) of BNM**, the CCOB and the respective RSA are empowered under the CCA to issue regulations or standards to clarify specific requirements and provide guidance on the application or operationalisation of such rulings in accordance with the advice of the SAC.
- 8.4 An Islamic credit provider must seek the advice of BNM's SAC on matters which requires the ascertainment of Islamic law and compliance. Such advice can be sought through the CCOB's Shariah Unit, who will undertake the first round of review and ensure complete submission of information before further referral and submission to BNM's SAC. Credit providers under the purview of the relevant ministries or agencies may seek advice on Shariah-related matters through the respective RSA.
- 8.5 Licensed credit providers performing Islamic credit business are expected to appoint a Shariah adviser or establish a Shariah committee. This can be from internal, within the group or outsourced. An entity carrying on Islamic credit business must ensure that it has in place internal policies and procedures on Shariah governance that are consistent with the regulations, standards or guidelines issued.
- 8.6 The Shariah adviser or each of the Shariah committee members must be:
- (a) A person or a company **approved and registered by the SC** as a Shariah adviser;
 - (b) A person who is **currently serving as a Shariah adviser or member** of a Shariah committee in an Islamic financial institution; or
 - (c) A person who has been specifically approved by the CCOB to act as a Shariah adviser.

- 8.7 Where any functions are outsourced, the board and management remain accountable for all outsourced functions and must establish effective policies on outsourcing arrangements.
- 8.8 The CCOB and the respective RSA may carry out periodic assessments to determine whether the Islamic credit provider has carried out its Islamic credit business, affairs or activities in compliance with Shariah.

Issue for consultation No. 6

The Task Force seeks views on the proposed arrangements and requirements for credit providers carrying on Islamic credit business.

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PART C BUSINESS CONDUCT AND CREDIT CONSUMER PROTECTION

9. Prohibited business conduct

- 9.1 The orderly growth and development of the consumer credit industry are underpinned by a strong culture of integrity, ethical behaviour, compliance and professionalism.
- 9.2 The CCA provides regulatory oversight on credit providers and credit service providers to ensure that business is carried out in a fair, responsible and professional manner when dealing with credit consumers.
- 9.3 Conduct strictly prohibited under the law are as set out below:
- (a) Engaging in practices or conduct that is **deceptive** or providing information, for example, on the nature, features, terms or price of products or services which could **mislead the credit consumer**;
 - (b) Attempting to induce a credit consumer by, among others:
 - (i) making or recklessly making a statement, illustration or promise, which is **misleading, false or deceptive**; or
 - (ii) **dishonestly concealing** or providing material facts in a manner which are ambiguous;
 - (c) Exerting undue **pressure, harassing or threatening** to use physical force in relation to a credit consumer when credit products or services are being offered, granted or recovered; and
 - (d) Demanding payments from a credit consumer in any manner for unsolicited products/services including threatening to bring legal proceedings.
- 9.4 Any breaches of the prohibited conduct requirements above will be subject to stiff criminal penalties to serve as a strong deterrence against such unfair and unethical business practices. Any person who commits these offences could be liable to imprisonment, a fine or both by the CCOB or relevant RSA,

regardless as to whether the conduct causes actual financial losses to the credit consumer.

10. Promotion of credit business or credit service business

- 10.1 A credit provider and credit service provider must ensure that **advertisements and promotional materials** on credit or credit services are **clear and not misleading** or deceptive. For a credit provider, important information, such as key product features, risks and any applicable fees and charges that are likely to affect credit consumers' borrowing decisions must be prominently displayed. Towards promoting effective disclosures, among others, requirements on matters such as preparing written materials using legible font size to bring a credit consumer's attention to such important information will be provided.
- 10.2 A credit provider and credit service provider must ensure that any warnings or disclaimers in relation to an advertised credit product or service are not obscured or disguised by the content or design of the advertisement. The name and contact details of the credit provider or credit service provider must be provided in the advertisement.
- 10.3 Promotional materials must provide adequate information on the key terms and conditions of the credit products or services. The materials should contain information on the interest or profit rate and any applicable fees and charges to facilitate comparison by a credit consumer.
- 10.4 Advertisements or promotional materials cannot describe any credit product or service as "free" or at "no cost" if there are conditions attached or other forms of fees and charges are being imposed or otherwise imputed in the pricing of the product or service on a credit consumer.

- 10.5 Where a credit provider or credit service provider engages with a credit consumer to promote or offer credit or credit service, they must not:
- (a) adopt **aggressive tactics**, i.e., harass, apply pressure or inappropriately entice credit consumers into signing up for credit products or credit services (e.g. exaggerated special offers with undisclosed conditions attached);
 - (b) make **false commitments or representations** to a credit consumer (e.g. lure credit consumers with attractive promises, gifts or promotions when the credit provider is aware that it would not be able to reasonably fulfil such promises); or
 - (c) provide **false, misleading or deceptive information** to a credit consumer (e.g. present a product as 0% interest or profit with undisclosed conditions and/or other applicable fees attached).

Issue for consultation No. 7

The Task Force would like to seek your views on any practical challenges you may face in implementing the requirements for advertisement and promotion.

11. Transparency and disclosure of information

- 11.1 A credit provider must ensure that clear, unambiguous, accurate and sufficient information is provided so that credit consumers are **adequately informed** of key information relating to a credit product or service at the **pre-contractual stage, at the point of credit consumers entering into a credit agreement and during the term** of the credit agreement, to enable credit consumers to make informed decisions whether the credit product or service meets their needs.
- 11.2 A credit provider and credit service provider must also ensure that information is disclosed effectively in a balanced and fair manner. This includes information relating to any applicable interest or profit rate, fees and

charges, tenure and the total repayment amount of the credit to the credit consumer.

- 11.3 A credit provider and credit service provider must ensure that any information is presented in **plain language** for credit consumers to better understand the key product features, risks and their rights and responsibilities. Plain language refers to a clear presentation of information in a manner that is easy for readers to understand. It is a language that avoids inflated vocabulary and complex sentence structure. Where the use of legal and technical terminology is necessary, the meaning of these terminologies should be accompanied by an explanation in layman's terms, for example, in the glossary of the credit agreement.
- 11.4 A credit provider must include a clear and prominent **statement to remind credit consumers to read and understand the credit agreement terms** and to discuss further with the credit provider if there are any terms that the credit consumers do not understand before signing a credit agreement. A credit provider must obtain the credit consumers' acknowledgment that the key terms and conditions affecting the obligations of such credit consumers have been adequately explained.
- 11.5 The same expectations as to transparency and disclosure, as set out above shall apply to credit products and services which are offered digitally.
- 11.6 A credit provider and credit service provider must consider the profile of affected credit consumers prior to implementing disclosures and communications fully via digital means. Reasonable effort should be undertaken to help credit consumers adjust to any changes in the way the credit provider or credit service provider interacts with its credit consumers.
- 11.7 Where acceptance of the agreement is undertaken through digital means, for example, under the BNPL scheme, a credit provider is to ensure that the

terms and conditions of the credit agreement are **made clearly and available through various channels**, including the credit provider's website or apps (where applicable) and registration page or form. A credit provider must obtain the credit consumers' **acknowledgement that they understand** the key terms and conditions prior to entering into such a credit agreement.

- 11.8 A credit provider and credit service provider (if applicable) must provide the credit consumer with **account statements**¹⁰, which include electronic statements, to enable the credit consumer to be continuously aware of his **credit obligations under the credit agreement**. Such a statement must be given as soon as practicable to the credit consumer. This also applies in the case where the account statements are provided through digital channels. In such circumstances, a credit provider or credit service provider must ensure that the credit consumer has **access to the account statements without incurring any cost**.

Issue for consultation No. 8

The Task Force would like to seek your views on the challenges anticipated in meeting the disclosure requirements. Please supplement your feedback with relevant rationale.

12. Fairness of terms

- 12.1 Credit or credit service is granted and formalised when a **credit agreement** is entered into between a credit provider or credit service provider with a credit consumer. Such providers must ensure that the **terms** of the credit or credit service agreement are **fair** to credit consumers.

¹⁰ Transaction record on outstanding balance, payments made, etc.

- 12.2 For the purpose of paragraph 12.1, fairness of terms would require that a credit provider or credit service provider (if applicable) ensures that the terms of the credit agreement provide a **fair balance between the rights and obligations** of the parties involved. A term is regarded as unfair if it favours a credit provider or credit service provider to the detriment of credit consumers, taking into consideration relevant factors including the relative bargaining power of the contracting parties and effects on the parties' liabilities for the performance of contractual obligations. **Appendix 3** of this Consultation Paper provides a non-exhaustive and indicative list of contract terms that are likely to be regarded as unfair.
- 12.3 A credit provider and credit service provider must not have terms in the credit or credit service agreement that impose barriers which make it **difficult for credit consumers to switch** to another credit product or service or another credit provider or credit service provider before the end of the tenure of the agreement.
- 12.4 Any **early termination fee must not penalise** or act as a barrier to prevent a credit consumer from switching or closing a credit account. The quantum of the early termination fee must not be excessive and should only be based on the **actual costs** which the credit provider needs to recover arising from the early repayment of a credit agreement and should exclude any consideration of the marketing and other costs associated with obtaining new credit consumers.
- 12.5 A credit provider must not prohibit or make it difficult for a credit consumer to make an **early repayment** of a credit agreement either in full or in part.
- 12.6 Where a credit consumer opts for early repayment of a credit agreement, a credit provider is expected to disclose in writing the following information:
- (a) The credit consumer's obligations under the credit agreement;

- (b) The amount required for early repayment in full or in part, whichever is applicable, at a specified date and how that amount is calculated; and
- (c) The amount of applicable interest or profit rate, fees and charges payable and how the amount is calculated.

Issue for consultation No. 9

The Task Force would like to seek your views on the requirements for fairness of contract terms. Please supplement your feedback with relevant rationale.

13. Imposition of fees and charges

13.1 For the purpose of this part –

“fees” refers to any fee, charge or other amounts payable by a credit consumer to a credit provider under a credit agreement or a credit service provider under a credit service agreement, excluding interest rate or profit rate;

“interest rate” refers to any amount, by any name called, in excess of or in addition to the principal amount, payable by a credit consumer to a credit provider under a credit agreement or a credit service provider under a credit service agreement, excluding fees; and

“profit rate” refers to any amount, any other name called, in excess of or in addition to the principal amount, payable by a credit consumer to a credit provider under a **Shariah-based** credit agreement or a credit service provider under a Shariah-based credit service agreement, excluding fees.

13.2 A credit provider and credit service provider must ensure that any interest or profit chargeable under a credit agreement or credit service agreement is **not excessive**.

- 13.3 A credit provider and credit service provider **must not impose excessive or unreasonable fees** in the provision of credit or credit services offered. A fee may be deemed excessive or unreasonable if:
- (a) it is not proportionate to the costs incurred by a credit provider or credit service provider;
 - (b) it does not conform to reasonable standards of commercial practice within the industry; or
 - (c) it is imposed contrary to or in excess of the amount prescribed by the respective RSA.

Late payment charges (LPC)

- 13.4 The LPC is intended to serve as an incentive for credit consumers to make prompt repayments under the credit agreement and **shall not be relied on as an additional source of income** for the credit provider or credit service provider.
- 13.5 A credit provider and credit service provider shall observe the following principles and requirements to ensure fair and reasonable LPC to credit consumers.
- (a) The quantum of LPC must **not be excessive**;
 - (b) The LPC **only covers the actual costs** incurred for recovering overdue instalments i.e. costs that are directly related to the recovery of missed payments; and
 - (c) Any unpaid LPC must not be added to the outstanding amount i.e. **no compounding** when computing LPC for the next repayment cycle.
- 13.6 A credit provider that offers Shariah-compliant credit must ensure that the structure or methodology in calculating the actual costs of the LPC adheres to Shariah principles.

- 13.7 A credit provider and credit service provider must send a **reminder** to credit consumers within a reasonable time **before payment is due**. Such reminders must be made through the credit consumer's preferred channel of communication.

Issue for consultation No. 10

The Task Force would like to seek your views on the challenges anticipated in implementing the requirements on fees and charges. Please support your views with a clear rationale and provide elaboration on the specific challenges to meet the requirements.

14. Affordability assessment

- 14.1 A credit provider must conduct an **affordability assessment** on a credit consumer prior to:
- (a) entering into a credit agreement with a credit consumer; or
 - (b) increasing the amount of credit provided to a credit consumer under a credit agreement.
- 14.2 For the purposes of paragraph 14.1, a credit provider must:
- (a) obtain from the credit consumer, information relating to the financial standing of the credit consumer. These include information relating to the credit consumer's -
 - (i) financial means, i.e. sources and amount of income evidenced by salary slip, EPF statement, bank statement or tax return;
 - (ii) outstanding debt obligations and repayment history, based on information obtained from reliable sources such as from a registered credit reporting institution under the **Credit Reporting Agencies Act 2010**, a credit bureau established under section 47 of the **Central Bank of Malaysia Act 2009** or any centralised credit database established by the respective RSA;

- (iii) pending applications for credit which would incur debt obligations, including a debt obligation that may arise in connection with an application that is being processed by another credit provider; and
 - (b) assess whether the credit consumer would **reasonably be able to meet the financial obligations** to be incurred under the credit agreement **without resulting in undue financial difficulty**.
- 14.3 For the purposes of obtaining information under paragraph 14.2, a credit provider must:
- (a) inform the credit consumer of the need to provide complete and accurate information to the credit provider for purposes of the affordability assessment; and
 - (b) take reasonable steps to verify any information obtained under paragraph 14.2 if the credit provider has reason to believe that such information is false, misleading or incomplete.
- 14.4 A credit provider should apply the **debt service ratio (DSR)**¹¹ computation set out in paragraph 14.6 below to facilitate the assessment of credit consumers' ability to meet the repayment obligations under the credit agreement.
- 14.5 A credit provider should ensure the applicable **DSR level** in its lending policies and decisions **allows sufficient buffers** for the credit consumers' expenditures and contingencies, thereby reducing their vulnerability to unexpected adverse events and income shocks.

¹¹ The proportion of a person's total monthly outstanding debt repayment obligations to monthly income. See paragraph 14.6.

14.6 The DSR computation is as follows:

$$\text{DSR} = \frac{\begin{array}{c} \text{All monthly outstanding debt repayment obligations from} \\ \text{credit providers (banks and non-banks) and} \\ \text{the new credit instalment} \end{array}}{\begin{array}{c} \text{Monthly income after statutory deductions} \\ \text{(i.e. tax, EPF, SOCSO)} \end{array}} \times 100$$

14.7 A credit provider must not provide credit under a credit agreement where:

- (a) the credit provider has failed to obtain all the information required under 14.2; or
- (b) after conducting the affordability assessment set out above, the credit provider has reasonably concluded that:
 - (i) the credit consumer will not be able to meet the financial obligations under the credit agreement; or
 - (ii) the credit consumer will experience substantial difficulty in meeting the financial obligations under the credit agreement.

14.8 In general, the above requirements are necessary for the assessment of a credit consumer's affordability. Nevertheless, recognising the emergence of solutions leveraging on **alternative data points** for the assessment of a credit consumer's affordability, flexibilities may be considered for credit providers applying such data points in conducting their affordability assessments. This may include the use of predictive models harnessed by the power of big data analytics, for example, transactional data, in assessing a credit consumer's ability to meet the financial obligations under the credit agreement. In such circumstances, the credit provider shall provide a detailed alternative model and demonstrate the effectiveness of such mechanism in accurately ascertaining a credit consumer's ability to meet the financial obligations to be incurred under the credit agreement without resulting in undue financial difficulty.

14.9 While the performance of affordability assessments is a fundamental expectation on all credit providers, flexibilities or appropriate exceptions to the conduct of affordability assessments may be accorded to a credit provider for the following types of credit businesses or circumstances:

- (a) Pawnbroking / Islamic pawnbroking;
- (b) Factoring / Islamic factoring;
- (c) Where the credit provided is below a maximum affordability threshold (MAT) set by the RSAs; and
- (d) Where the credit is provided to micro or small enterprises.

14.10 For the purposes of assisting credit providers in conducting affordability assessment on credit consumers, a credit provider must **submit the credit information** of credit consumers, which includes information on credit limits, repayment history and outstanding balances to a registered credit reporting institution under the **Credit Reporting Agencies Act 2010**, credit bureau or a centralized credit database established by the relevant RSA, as the case may be.

Issue for consultation No. 11

The Task Force would like to seek your views on the requirements for affordability assessment, including any implementation challenges that may arise. Please support your views with clear rationale and data.

15. Fair debt collection

15.1 A credit provider and credit service provider must at all times be **ethical, professional and reasonable in their conduct** or manner of collecting any payment due from a credit consumer under the terms of the credit agreement.

- 15.2 Where a credit provider or credit service provider¹² intends to appoint a debt collection agency to collect debts from its credit consumers, the credit provider or credit service provider shall ensure that the **debt collection agency is registered** with the CCOB.
- 15.3 A credit provider and credit service provider must issue an **authorisation card to** each of its debt collectors¹³. At a minimum, the authorisation card shall contain the following information:
- (a) Credit provider or credit service provider's name and contact details;
 - (b) Name and identification card number of the debt collector; and
 - (c) Photo identification of the debt collector.
- 15.4 When collecting any debt, every debt collector must show the authorisation card to identify himself.
- 15.5 A credit provider and a credit service provider must ensure that the credit consumer information provided to debt collectors is clear and accurate.
- 15.6 A credit provider and credit service provider must send reminder notices to credit consumers in advance, which, at minimum, shall contain information on outstanding amount to be settled by the credit consumer, payment due date, the contact details of the credit provider or credit service provider.
- 15.7 In the event where recovery efforts are to be carried out through debt collection agencies, a credit provider and credit service provider must **include details of the debt collection agencies in the reminder notices**. Should there be a change in the debt collection agency, credit consumers must be notified in advance.

¹² Not applicable to a debt collection agency.

¹³ Refers to both in-house debt collectors and debt collection agencies.

15.8 In the course of collecting debts, debt collectors must not:

- (a) use threatening, foul or intimidating language or remarks;
- (b) cause bodily injury to any credit consumer or persons known to the credit consumer;
- (c) enter into premises uninvited or force their way into the premises or not leave when asked to;
- (d) destruct or forcibly remove any personal property belonging to a credit consumer;
- (e) threaten to publish any credit consumer's failure to pay or disclose any details of the credit account;
- (f) put up posters or writing at any credit consumer's residence or on his social media, etc to publicly humiliate the credit consumer;
- (g) mislead the credit consumer on the amount owed;
- (h) falsely imply that they represent a legal authority, for example, that they are collecting the debt based on the court's instruction, with the intention to deceive the credit consumer into making payments; or
- (i) attempt to recover debts, directly or indirectly from any person known to credit consumer.

15.9 A credit provider and credit service provider remain accountable for any complaints against their debt collectors and shall not disclaim responsibility for their misconduct. All complaints must be properly investigated and appropriate remedial actions must be taken for any misconduct or unacceptable practices.

Issue for consultation No. 12

The Task Force would like to seek views on the requirements for fair debt collection practices. Please supplement your feedback with relevant rationale.

16. Relief from financial hardship

- 16.1 A credit provider or credit service provider must provide **assistance and give due consideration** to a credit consumer to vary his credit agreement if the credit consumer-
- (a) is unable to meet his credit obligation due to specific circumstances of **financial hardship**; and
 - (b) reasonably expects to be **able to meet** his financial obligations if a variation to his credit agreement is made.
- 16.2 For the purposes of paragraph 16.1, **financial hardship** refers to the inability or potential inability of a credit consumer to meet repayment obligations during the tenure of his credit agreement due to the following circumstances affecting the credit consumer:
- (a) Critical illness;
 - (b) Critical injury;
 - (c) Non-voluntary loss of employment;
 - (d) Natural disaster; or
 - (e) Death of a breadwinner/wage earner which may be any person within the immediate family of the credit consumer.
- 16.3 A credit provider or credit service provider must provide a **dedicated contact point** for credit consumers facing financial hardship to seek assistance. The contact details must be clearly communicated to all credit consumers.
- 16.4 Upon receiving an application from the affected credit consumer, a credit provider or credit service provider should make **reasonable efforts to offer an alternative repayment plan** that is appropriate to the credit consumer's changed circumstances and financial situation with the aim of resolving genuine repayment difficulties of the credit consumer. An alternative repayment plan shall not unreasonably increase the payment obligation of and financial difficulty facing the credit consumer.

- 16.5 Pending its decision on the application for relief from financial hardship, a credit provider or credit service provider **must not commence any legal proceedings** against the credit consumer.
- 16.6 A credit provider or credit service provider must inform the credit consumer of its decision on the application for relief from financial hardship in writing.
- 16.7 A credit provider or credit service provider must inform credit consumers of the **availability of redress avenues** in the case where the application for relief from financial hardship or financial difficulties is rejected or where the credit consumer disagrees with the proposed alternative repayment plan.

Issue for consultation No. 13

The Task Force would like to seek views, especially from credit providers on the requirements for relief from financial hardship. Please supplement your feedback with relevant rationale.

17. Credit consumer data protection

- 17.1 A credit provider and credit service provider must **preserve the confidentiality of information** disclosed by credit consumers at all times.
- 17.2 A credit provider and credit service provider must have in place adequate measures to safeguard credit consumer information. At a minimum, a credit provider and credit service provider shall:
- (a) maintain consumer credit information in a secured manner and protected from theft, loss, misuse or unauthorised access, modification or disclosure by whatever means;
 - (b) ensure the adequacy and effectiveness of its policies and procedures to protect the credit consumer information; and

- (c) investigate any credit consumer information breach and take appropriate measures to address any consumer harm arising from the breach and prevent its recurrence.
- 17.3 In processing credit consumer information, which covers collection, storage, use, transmission, sharing, disclosure and disposal of credit consumer information, a credit provider and credit service provider must comply with the requirements under the **Personal Data Protection Act 2010**.

18. Complaints handling

- 18.1 All complaints by credit consumers must first be lodged with a credit provider or credit service provider.
- 18.2 A credit provider and credit service provider must establish and implement an **internal complaint-handling process** that is simple, effective and efficient to handle complaints from credit consumers.
- 18.3 A credit provider and credit service provider must provide a **dedicated avenue** or **point of contact** that is easily accessible **to handle complaints** from credit consumers. The contact details must be clearly communicated to all credit consumers.
- 18.4 When assessing complaints, a credit provider and credit service provider must **examine the circumstances** and underlying causes of individual cases in an **equitable, objective and timely manner**. A credit provider and a credit service provider must make reasonable efforts to understand the credit consumer's issue and investigate the complaint thoroughly and expediently.
- 18.5 A credit provider and credit service provider must ensure that there is effective and timely communication with the complainants throughout the complaints handling process.

- 18.6 Submission of complaints data to the CCOB will be facilitated by a one-stop digital portal to be developed by the CCOB which will be interoperable with credit providers' and credit service providers' internal complaints handling systems or made available to credit providers and credit service providers that do not have their own developed internal complaints handling system. The portal will also enable credit consumers to lodge complaints with credit providers or credit service providers. This digital portal will also facilitate sharing of information, engagement and coordination between the CCOB and the respective RSA on complaints involving multiple regulatory agencies.
- 18.7 A credit provider and credit service provider must inform credit consumers on the availability of other avenues¹⁴ for credit consumers to seek assistance, in the event the complaint is not satisfactorily resolved by the credit provider or the credit service provider.

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¹⁴ This may include initiating legal action or escalation to CCOB, SIDREC, OFS, TTPM or TKSKM.

PART D SURVEILLANCE, SUPERVISION AND ENFORCEMENT

- 19.1 The key **objectives** of surveillance, supervision and enforcement under the CCA are:
- (a) to ensure compliance with the CCA including preventing and deterring credit providers and credit service providers from carrying out unlawful and unfair business practices; and
 - (b) to protect credit consumers from harmful and unfair practices.
- 19.2 As an overarching law, the CCA provides the powers for the CCOB and the relevant RSA, individually or collaboratively, to carry out **information gathering, supervision, surveillance, inspection, investigation and take enforcement action** on any non-compliances to the laws, regulations and standards issued by the CCOB and the relevant RSA.
- 19.3 For purposes of **supervision, surveillance and inspection**, the CCOB and RSAs may request documents, information or explanation from any persons, such as one:
- (a) who is or was the director or officer of a credit provider or credit service provider;
 - (b) who is having or has had dealings with the credit provider or credit service provider; or
 - (c) who is acquainted or familiar with the facts of the case.
- 19.4 The CCOB may carry out an **on-site inspection** of credit providers and credit service providers, involving physical engagements with stakeholders with a time to complete the planned inspection programmes, while **off-site inspection** may include, among others, the utilisation of data analytics to facilitate monitoring of industry players.
- 19.5 In carrying out an **investigation**, the CCOB and RSAs will have at their disposal, a wide range of powers to enable the gathering of relevant

information and documentation. Among the investigation powers accorded by the CCA are to:

- (a) enter any premises to conduct a search and take possession of any document, equipment or other information relevant to the investigation;
- (b) request any person to come for an engagement, such as an interview or statement-taking, relating to an investigation; and
- (c) request any person to provide any document, equipment or other information relating to an investigation.

- 19.6 The CCOB and RSAs may decide to or upon request, **provide assistance to Polis Diraja Malaysia (PDRM) and any other enforcement agencies** in performing their functions by providing or sharing of any information or document that are in the possession of the CCOB or RSAs obtained during the course of carrying out an investigation.

Surveillance and Supervision Approach

- 19.7 The focus of surveillance and supervision would be on the orderly operations of the credit providers and credit service providers towards the **prevention and protection** of credit consumers from harm or being unfairly treated. Supervisory actions aim to reinforce a positive culture of professionalism, ethical and fair dealings among credit providers and credit service providers. In this regard, assessment and engagements with credit providers and credit service providers would be undertaken on an ongoing basis.

- 19.8 The CCOB will adopt a **proactive, proportionate and risk-based approach** in conducting supervision activities so that any potential misconduct or non-compliances can be detected and addressed effectively. In determining the appropriateness of supervisory actions to be taken, consideration will be made as to the consumer risks and impact of a credit provider and credit service provider's conduct that the actions aim to address. Among others, periodic risk assessments will be conducted to risk-rate the products/services/operational areas across the different sectors. Focus areas for detailed supervision will be

mapped based on the likelihood and impact of harm that products/services/operations of the credit providers or credit service providers would pose to the credit consumers.

Data-driven surveillance and supervision

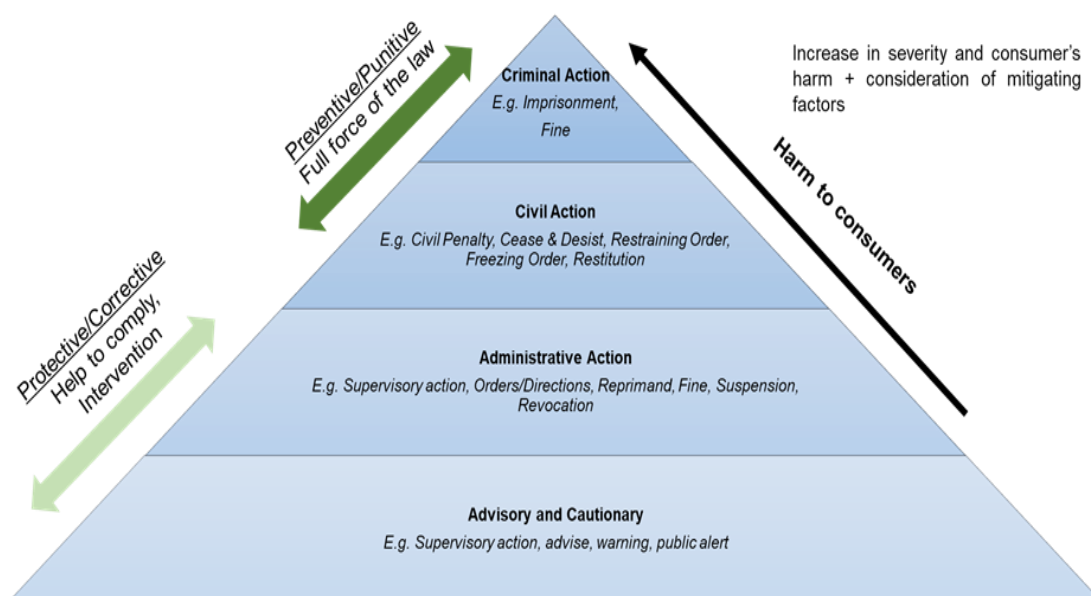
- 19.9 The CCOB is envisaged to be a fully **digital-based organisation** with capabilities to leverage extensively on digital solutions to support digital-based regulatory and supervisory approach. This aims to make the most out of technology to create integrated, effective and efficient surveillance and supervision activities to deliver the outcomes of the CCOB while keeping a lid on regulatory costs for credit providers and credit service providers.
- 19.10 The CCOB will consistently collect and analyse relevant and real-time information and data from various sources in carrying out its surveillance and supervisory functions as the consumer credit industry continues to evolve.
- 19.11 Anchored by a data-driven approach, the CCOB intends to apply the use of **Supervision Technology (SupTech)** in its surveillance and supervision activities. This includes but is not limited to, enhanced and more timely analytics of data points provided by regulated entities, complaints and inquiries by credit consumers, feedback from consumer associations and other relevant regulators and alternative market intelligence. The CCOB aspires to leverage on proven technologies such as automated web-scraping, web-crawling, natural language processing and AI for the purpose of digitising data, digitalising work tools, improving data analytics and enhancing data visualisation.

Enforcement actions available for the CCOB

19.12 There are four levels or categories of enforcement action available to the CCOB to achieve an appropriate enforcement outcome as shown in Diagram 3. These are:

- (a) Advisory and cautionary;
- (b) Administrative action;
- (c) Civil action; and
- (d) Criminal action.

Diagram 3: Enforcement action



19.13 The CCOB will have in place an internal enforcement framework and processes that among others, will take into account the following factors:

- (a) The **nature and severity of harm** to credit consumers arising from the misconduct or malpractices;
- (b) The **circumstances of the misconduct** i.e., whether it is deliberate, accidental, recurring or one-off; and
- (c) The **possible impact on the overall public interest** and the expected deterrence.

- 19.14 Any decision on enforcement action will be subjected to a **robust internal governance process** to ensure that the assessment and review process is fair, consistent and independent.
- 19.15 Enforcement actions on misconduct or breaches by credit providers or credit service providers, regulated by multiple regulators or agencies would entail **co-ordination and information sharing** between the CCOB and RSAs. In specific cases, this could extend to agencies such as PDRM and Malaysian Anti-Corruption Commission.
- 19.16 As part of the CCOB's measures to deter unethical conduct, it would be necessary and in the public interest for the CCOB to be transparent on the outcome of any enforcement action taken. In this regard, the CCOB will **publish its enforcement actions**.

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SECTION 2 HIRE PURCHASE FINANCING

Overview

- 20.1 Hire purchase financing is a type of financial facility obtained by borrowers to repay goods (typically motor vehicles) through instalments. When a borrower opts for hire purchase financing, the borrower (also referred to as the “hirer” under the **Hire Purchase Act 1967, “HPA”**) will enter into a hire purchase agreement with the party providing the hire purchase financing, which is the hire purchase provider (also referred to as the “owner” under the HPA). In Malaysia, the existing framework governing hire purchase financing is set out under the HPA. The HPA sets out provisions to regulate the form and contents of hire purchase agreements and the rights and duties of the parties to such agreements (i.e., the hirer and the owner).
- 20.2 The HPA sets out the formula for calculating term charges or interest rate in relation to a hire purchase agreement, whereby the **Rule of 78** method is required to be used by hire purchase providers offering flat rate¹⁵ loans. Rule of 78 is a financing method that allocates pre-calculated interest charges, with repayment instalments structured to frontload much higher interest payments in the earlier period of the loan tenure. The direct negative consequence to a hire purchase loan with a flat rate and Rule of 78 method is that borrowers who opt for early settlement of their hire purchase loan will have a higher principal loan balance to repay given their paid loan instalments would have comprised largely of the interest portion. This may be seen as unfair to the borrowers.
- 20.3 The Rule of 78 method has been recognised globally to be unfair to borrowers. In Australia and New Zealand, the offering of flat rate loans and the use of the Rule of 78 method for interest calculation by hire purchase providers have been prohibited by regulators. Only fixed rate¹⁶ and variable rate hire purchase loans

¹⁵ The term ‘fixed rate’ in the context of the HPA refers to a rate using the flat rate method. A flat rate is where the rate is fixed and charged on the fixed loan amount.

¹⁶ Rate is fixed and charged on the loan’s outstanding balance using reducing balance method hence the interest portion to be paid by the borrower also reduces throughout the loan tenure.

can be offered by hire purchase providers, with the reducing balance method as the method for interest calculation. The United Kingdom and the United States (practices may differ in individual states) have also prohibited the use of the Rule of 78 method. The offering of flat rate loans is only permitted where the interest charged is equal to or lower than the interest charged under the reducing balance method. In some jurisdictions, such as Singapore and Hong Kong, where the use of the Rule of 78 method is not prohibited, hire purchase providers are required to disclose and provide an explanation to borrowers regarding the method of calculating rebate upon early settlement of hire purchase loans by borrowers. This is to ensure that borrowers are aware and will make an informed decision when signing up for a hire purchase loan.

- 20.4 In addition to the HPA, Malaysia also has a **Hire Purchase (Term Charges) Regulations 2005 (“HPR”)** which sets out the maximum limit on the financing rates that could be charged in relation to a hire purchase agreement. The maximum limits are currently prescribed as **10% per annum for fixed rate** and **17% per annum for variable rate**, respectively. There are generally two types of methods to calculate hire purchase term charges or interest rate as explained below.

Rule of 78 method (used to calculate interest under the flat rate method)

- 20.5 This method calculates the interest to be paid on the original loan amount and requires the borrower to pay a greater portion of interest in the earlier part of the loan tenure. This is less desirable for the borrower because it reduces the potential savings for the borrower in paying off the loan, particularly if the borrower makes an early settlement.
- 20.6 When a hire purchase provider uses the flat rate method, the stated interest rate by the hire purchase provider is not the same as the real interest rate (known as the **Effective Interest Rate (“EIR”)**). The EIR is the rate the borrower actually pays on a loan, which takes into consideration the effects of compounding and reflects the true cost of the hire purchase loan. This means

that the rate the borrower actually pays could be higher than the rate stated by the hire purchase provider. An example of a conversion of the stated flat rate to the effective interest rate is provided in Table 2 below.

Table 2: Converting the stated flat rate to EIR

Loan amount (a)	RM100,000.00
Flat Rate (b)	10.0%
Tenure (month) (c)	108
Total interest (d) $[a*b*c/12]$	RM90,000.00
Total obligations $[a+d]$	RM190,000.00
Monthly instalment $[a+d/c]$	RM1,760
EIR	16.1%

Reducing balance method (used to calculate interest under the fixed rate and variable rate methods)

20.7 This method calculates the interest to be paid on the remaining loan balance, which reduces with each monthly repayment made by the borrower. The interest payable also reduces under this method. The interest rate under the reducing balance method is the same as the EIR.

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Comparison between the Rule of 78 and the reducing balance method

20.8 A comparison of the total interest paid by a borrower who makes an early settlement of his loan in month 36 and the remaining outstanding amount to be paid by the borrower is provided in Table 3 below.

Table 3: Difference in early settlement amount under the two methods

Method	Rule of 78	Reducing balance
Loan amount	RM100,000	RM100,000
Tenure (month)	108	108
Interest rate	Stated rate 10%	EIR 16.1%
Monthly repayment	RM1,760	RM1,759.26
Month of early settlement	36	36
Total interest paid	RM49,816.51	RM44,207.60
Amount to be repaid upon early settlement (outstanding amount)	RM86,456.51	RM80,874.27
Difference in early settlement amount		Difference = RM5,582.24

Proposals for enhancing the framework on hire purchase financing in Malaysia

20.9 Considering the above, a comprehensive review of the existing framework on hire purchase financing was undertaken. The review was guided by two key principles: (1) to review provisions that are unfair to credit consumers and (2) to modernise hire purchase financing practices to align with current operating conditions and regulatory developments. In this regard, the following are the key proposals:

- (a) Hire purchase providers can no longer offer term charges under a hire purchase agreement at a flat rate. Only fixed rate and variable rate hire purchase loans will be permitted. To ensure fairness to borrowers, the Rule of 78 method will be replaced by a new formula using the reducing balance method and shall be used by hire purchase providers for both the calculation of term charges that are at a fixed rate or variable rate.

The standardisation of the formula for fixed rate and variable rate term charges is also aimed at facilitating a better understanding to both credit consumers and hire purchase providers;

- (b) Hire purchase providers will be given the option to adopt technologies by allowing them the option to accept:

- (i) digital signature to execute hire purchase agreements; and
 - (ii) electronic signature for variation of agreements.

In line with this, hire purchase providers will also have the flexibility to service notices through electronic channels for faster delivery of important updates to borrowers;

- (c) The use of EIR, which will not exceed 17% per annum, will be streamlined as the maximum limit for hire purchase term charges under both fixed and variable rate methods which uses the reducing balance method. This will ensure that the interest rate charged by hire purchase providers will reflect the actual cost which the borrower will be charged on the loan and will also facilitate a comparison of hire purchase loan rates by credit consumers. The maximum limit at 17% is the current limit under the HPR applicable to variable rate contracts; and

- (d) To ease comparison and assist credit consumers in making informed decisions when shopping for hire purchase loans, hire purchase providers will be required to disclose the EIR of hire purchase loans offered to credit consumers at the pre-contractual stage, in all hire purchase-related advertisements and on their website. This will also ensure consistent implementation by banks and non-bank hire purchase providers.

APPENDIX 1: PUBLIC FEEDBACK ON CONSULTATION PAPER PART 1 (CP1)

The table below summarises the pertinent feedback received from CP1 and the subsequent Townhall sessions held with relevant industry players.

NO.	MATTER	FEEDBACK RECEIVED	TASK FORCE'S POSITION
Definition of credit consumer			
1.	Definition of 'credit consumer' <i>[Ref. in CP1: Para. 3.4 on pg. 13 and Issue for consultation No. 1 on pg. 14]</i>	Clarification was sought on the application of certain phrases such as ' <i>intends to obtain credit</i> ', as well as phrases ' <i>wholly or predominantly</i> ' and ' <i>domestic or household</i> '.	<ul style="list-style-type: none"> The legal drafting is intended to cover the entire value chain or experience of a credit consumer, starting from the point where he relies on advertisements by credit providers (i.e. before being onboarded as a customer). Such scope is consistent with the approach the Financial Services Act 2013 in defining 'financial consumer'. The meaning of the word 'wholly' is self-explanatory, while 'predominantly' would generally mean more than half. The phrase 'domestic or household' would generally mean that a person does not acquire or use the goods or services for the purpose of resupplying them in trade or consuming them in the course of a manufacturing process, which is consistent with the Consumer Protection Act 1999.
2.	Threshold for individuals <i>[Ref. in CP1: Para. 3.4(a) on pg. 13 and Issue for consultation No. 1 on pg. 14]</i>	Questions were asked on the absence of a threshold limit for individual loan, as it seems to be against the intention of protecting vulnerable consumers. Some have suggested limiting the threshold, as high-net-worth individuals are resilient.	An individual could be placed in a vulnerable position at any point in his life due to unforeseen circumstances, regardless of his financial standing. Recognising such, the CCA provides protection to all individuals provided that the credit taken is for personal or household use.
3.	Coverage and loan threshold of the	i. Clarification was sought on whether an individual, who takes up a loan for	i. An individual taking a loan for business would only be accorded protection under

NO.	MATTER	FEEDBACK RECEIVED	TASK FORCE'S POSITION
	<p>micro and small enterprise (MSE)</p> <p><i>[Ref. in CP1: Para. 3.4(b), 3.5 on pg. 12 and Issue for consultation No 1 on pg. 13]</i></p>	<p>business purposes but is not registered with the Companies Commission of Malaysia (SSM) (e.g., home-based business), would fall under the 'individual' or 'MSE' limb of the definition.</p> <p>ii. There were comments that the minimum threshold of RM500,000 is seen as high, with a suggestion to lower the threshold to a range between RM200,000 and RM300,000.</p> <p>iii. Clarification was sought on whether the threshold of RM500,000 refers to the total credit limit for a particular MSE or to each loan facility.</p>	<p>CCA if such business is registered with SSM or other equivalent bodies <u>and</u> is an MSE as per SME Corp's definition below:</p> <p>For micro enterprises <u>Across all sectors</u></p> <ul style="list-style-type: none"> Sales turnover of less than RM300,000 OR less than 5 full-time employees. <p>For small enterprises <u>Manufacturing sector</u></p> <ul style="list-style-type: none"> Sales turnover from RM300,000 to less than RM15 million OR full-time employees from 5 to less than 75. <p><u>Services or other sectors</u></p> <ul style="list-style-type: none"> Sales turnover from RM300,000 to less than RM3 million OR full-time employees from 5 to less than 30. <p>ii. This minimum threshold has been reduced accordingly.</p> <p>iii. The threshold limit would be based on per transaction/per loan facility.</p>
Authorisation regime			
4.	<p>Authorisation regime under a federated regulatory model with multiple RSAs</p> <p><i>[Ref. in CP1: Para. 1.10 on pg. 6 and para. 2.1 – Phase 1 on pg. 9]</i></p>	<p>Industry players intimated to potential regulatory burden, such as being subjected to numerous reporting obligations as a regulatee of multiple RSAs (e.g., some BNPL providers hold a moneylenders' licence issued by KPKT).</p>	<p>The Task Force will work with relevant RSAs to streamline reporting requirements for non-bank entities. The Council will play a strategic role in coordinating and streamlining regulatory matters.</p>

NO.	MATTER	FEEDBACK RECEIVED	TASK FORCE'S POSITION
5.	Attestation regime [Ref. in CP1: Para. 4.4. and Issue for consultation No. 2(ii) on pg. 14]	<p>i. Clarity was sought on the type of entities that would fall within the attestation regime.</p> <p>ii. In a scenario where a credit provider has a mix of different types of credit consumers i.e., individuals and an MSE with a loan of more than RM500,000, would the credit provider qualify under the attestation regime?</p> <p>iii. Certain industry sectors expressed interest in holding a licence even if they are eligible to come under the attestation regime.</p>	<p>i. Credit providers not serving <i>credit consumers</i>, as defined in the CCA, would fall under the attestation regime. Such entities do not need to be authorised and will only be required to submit a declaration to such effect. Further details on attestation would be provided in the Authorisation Handbook.</p> <p>ii. As long as the credit provider deals with a <i>credit consumer</i> as defined in the CCA, the credit provider will need to be licensed.</p> <p>iii. Entities who are not serving a <i>credit consumer</i> are not required to seek authorisation from the CCOB.</p>
6.	Publication of a list of all authorised entities	It was suggested for the CCOB to maintain a list of all licensed and registered entities under its purview.	<p>The CCOB would publish a list of the following, in such appropriate form and manner:</p> <ul style="list-style-type: none"> • all licensed credit providers; and • all registered credit service providers.
BNPL			
7.	Licensing providers BNPL	The BNPL sector highlighted potential regulatory arbitrage between BNPLs of non-banks and banks, where prudential requirements may not be standardised.	Prudential requirements cannot be standardised given the differences in business scope between the banks and non-banks. However, there will be consistency in terms of conduct requirements for all BNPL providers whether they are banks or non-banks.
8.	Definition of BNPL	The industry was concerned that the 'without interest' phrase in the BNPL definition may hinder industry development and	The Task Force will further engage the BNPL industry and relevant parties to review and refine this definition.

NO.	MATTER	FEEDBACK RECEIVED	TASK FORCE'S POSITION
		some have suggested that the definition be clarified to 'without incurring compound interest'. Clarification was also sought if 'interest' includes administrative and processing fees.	
9.	Accountability of merchants under a BNPL arrangement	<p>It was suggested that the scope of the CCA should be extended to cover merchants, as they may impose a surcharge on consumers to recoup the merchant fees*.</p> <p>* A 'merchant fee' is a fee merchants pay the BNPL company for using the BNPL service.</p>	The CCA regulates the conduct of credit providers and credit service providers for the protection of vulnerable credit consumers. In the case of merchants, they are neither credit providers nor credit service providers. However, the merchants are expected to ensure fair conduct in relation to the BNPL service offered to the credit consumer by the merchants.
Debt Collection Agency			
10.	Registering DCAs as a credit service provider <i>[Ref. in CP1: Para. 4.2 on pg. 13]</i>	It was suggested that individual debt collectors ought to be authorised as it is the individuals, as opposed to the entities, who deal with credit consumers.	The CCOB will be authorising a company as either a credit provider or a credit service provider. These companies, acting as the principal, will be responsible for the conduct of their employees and agents who carry out work on their behalf.
11.	Conduct of DCAs <i>[Ref. in CP1: Para. 4.3 on pg. 14 and Case study 2 on pg. 19]</i>	The unscrupulous practices of some credit providers were highlighted, where they pressure DCAs, setting unreasonable expectations which are not in line with BNM's <i>Fair Debt Collection Practices</i> e.g., asking DCAs to contact consumers during weekends and engaging in practices that invade consumers' privacy.	The CCOB will impose minimum conduct requirements on DCAs. The Task Force is engaging with the relevant stakeholders on the appropriate conduct for credit providers and credit service providers.
Leasing			
12.	Leasing tenure of 3 months <i>[Ref. in CP1: Issue for consultation No. 2(iii) on pg. 14 and</i>	The proposed minimum tenure of 3 months for a lease period is not practical, as the current industry practice is at least 1 year. The required assessment for contracts of	<p>The minimum tenure of 3 months was based on common practices in other jurisdictions. The Task Force will consider a longer leasing tenure.</p> <p>However, this parameter should be coupled with the loan threshold</p>

NO.	MATTER	FEEDBACK RECEIVED	TASK FORCE'S POSITION
	<i>proposed definition of leasing on pg. 23]</i>	short tenures would be burdensome to the industry.	of RM300,000 in determining whether such credit business would fall within the licensing regime.
Credit Consumer Protection Areas			
13.	Fit and proper requirements for Board members and CEO	The CCOB is to consider imposing certain requirements on the board of directors and CEOs of credit providers and credit service providers, including imposing examination requirements on them.	<p>Credit providers and credit service providers will be required to assess the fitness and probity of its board of directors and senior management officers, including the CEO.</p> <p>The CCOB will engage the industry further on specific requirements for individuals undertaking certain credit or credit service activities to meet prescribed minimum qualifications (including examinations).</p>
14.	Collection of data and information on credit consumers	The CCA should provide clarity on the responsibilities and obligations of those who collect data and have access to data on credit consumers, as well as the obligation to ensure the accuracy of data stored and retained.	The CCA will provide for areas on credit consumer data protection. Further, those in possession of personal data, whether the industry players or the regulator, will, at minimum, be subjected to the provisions of the Personal Data Protection Act 2010.
15.	<p>Requirement for credit providers to do affordability/credit assessment and other general feedback on credit reporting agency (CRA) and Central Credit Reference Information System (CCRIS)</p> <p><i>[Ref. in CP1: Para. 1.13(d) on pg. 7 and para. 5.5(5) on pg. 16]</i></p>	Due to the absence of a comprehensive credit bureau to facilitate affordability/ credit assessment and that CCRIS data is only on 'financial consumers' and does not include non-bank credit consumers, there were suggestions that CRAs should be regulated by the CCOB to ensure credit providers have the means to carry out a proper assessment and ensure the integrity of information and data of credit consumer.	The Task Force will engage with the industry, BNM and MOF on the issue of CRA and CCRIS.
16.	General feedback on –	Non-bank credit consumers are not eligible for AKPK services, which may result in consumers referring cases to unprofessional DMAs	The CCA will require all entities carrying out the activities as debt counselling and management services to apply for registration

NO.	MATTER	FEEDBACK RECEIVED	TASK FORCE'S POSITION
	<ul style="list-style-type: none"> Agensi Kaunseling & Pengurusan Kredit (AKPK) Debt counselling and management agency (DMA) 	(including NGOs), Questions on whether such entities should be authorised by the CCOB.	with the CCOB as a credit service provider.
Transitional Period			
17.	Current business operations and transitional period	<p>i. Industry players enquired whether they could continue operations pending the enactment of the CCA and if a grace period would be given before entities are authorised.</p> <p>ii. Clarification was sought on when the process for licensing and registration application would commence.</p>	<p>i. There will be a grace period of 6 months for the industry to comply with the CCA requirements when it is enforced. Pending the coming into force of the CCA, industry players should enhance their systems and procedures to ensure that entities will be able to meet the CCA requirements.</p> <p>ii. The CCOB would be reaching out to the industry when applications may be submitted.</p>

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APPENDIX 2: FIT AND PROPER REQUIREMENTS

1. Organisational

1.1 Applicants for a licence or registration under the CCA must meet the fit and proper criteria for the organisations, their shareholding composition and key personnels. For purposes of the CCOB's review, applicants are expected to ensure complete submission of the following information:

- (a) A comprehensive proposal covering its **business model** for the scope of activities that it plans to carry.
- (b) Identity of **shareholders** and amount/percentage of share ownership.
- (c) Details on its **board of directors** and board **charter** that sets out the mandate, responsibilities and procedures of the board and the board committees, including the matters reserved for the board's decision.
- (d) The **organisational structure** with clear lines of responsibility and authority. Please include control functions such as risk management, compliance function and audit functions¹⁷ which must be commensurate with the nature, scale and complexity of the business. These functions can also be outsourced to its group.
- (e) Details of its workforce, general experience and skillsets.
- (f) The **resources, policies, procedures and controls** that will be in place to ensure compliance with applicable laws, regulations and standards including business continuity framework, conflict management policy, whistleblowing policy, internal controls for monitoring of unethical conduct, types of safeguards against cyber security risks and policy for data and confidentiality protection.

¹⁷ Applicant must appoint an auditor to carry out an audit of its credit business or credit service business for each financial year. The internal audit function can be outsourced to its external auditors.

- (g) Details of its **complaint handling** framework, provisions for immediate redress and forbearance support, where possible.

2. **Fit and proper requirements for directors, chief executive, controller and senior management officer of the applicant**

- 2.1 An assessment of its directors, chief executive, controller, senior management officer and compliance officers with the justification that they have met all the **fit and proper criteria** based on, at minimum, the factors set out below relating to:
 - (a) probity, personal integrity and reputation;
 - (b) competency and capability; and
 - (c) financial integrity.

Probity, personal integrity and reputation

- 2.2 The chief executive, controller and senior management officers must:
 - (a) Be **suitably qualified** to assume the position including having the relevant experience and track record; and
 - (b) Have a **good reputation** and refrain from acting in a manner that tarnishes or could tarnish its reputation as well as be aware of the reputational implication of its associations with affiliates and the consequential impact of doing so.
- 2.3 In determining the **honesty, integrity and reputation** of such key persons, the board must consider factors which include, but are not limited to the following:
 - (a) Whether the person engaged in or has been associated with any business practices or otherwise conducted himself in such a way which may cast doubt on his competence and soundness of judgement;
 - (b) Whether the person has engaged in or has been associated with any conduct that may cast doubt on his ability to act in the best interest of

consumers, having regard to his reputation, character, financial integrity and reliability;

- (c) Whether the person is subject to a bankruptcy or winding up proceeding;
- (d) Whether the person fails or is likely to fail to meet his financial obligations as and when they fall due;
- (e) Whether the person is or has been the subject of any investigations or proceedings of a disciplinary or criminal nature (including those involving dishonesty, fraud or other financial crimes) or has been notified of any impending proceedings or of any investigations, which might lead to such proceedings;
- (f) Whether the person has contravened any provision made by or under any written law designed to protect members of the public against financial loss due to dishonesty, incompetence or malpractice;
- (g) Whether the person has contravened or breached any of the requirements or standards of a regulatory body, professional body, government or government agencies in Malaysia or in any other jurisdiction or has been, is being or is expected to be or subjected to any disciplinary or enforcement actions by such bodies within the last 10 years;
- (h) Whether the applicant/key person has been convicted of dishonesty, fraud, money laundering, theft or any other financial crime;
- (i) Whether the person or any business in which he has a controlling interest or on which he exercises significant influence, has been investigated, disciplined, suspended or reprimanded by a regulatory or professional body, a court or tribunal, whether publicly or privately;

- (j) Whether the person has been dismissed, asked to resign or has resigned from employment or from a position of trust, fiduciary appointment or similar position because of questions about his honesty and integrity;
- (k) Whether the person has held a position of responsibility in the management of a business that has gone into receivership, insolvency, administration or involuntary liquidation while the person was connected with that business;
- (l) Whether the person has been a director of or directly concerned in the management of, any corporation which has been, is being or will be wound up by a court or other authority competent to do so within or outside Malaysia;
- (m) Whether the person has at any time shown a strong objection or lack of willingness to cooperate with regulatory authorities resulting in a failure or potential failure to comply with legal, regulatory and professional requirements and standards, including compliance with tax requirements and obligations;
- (n) Whether the person is involved in any business or other relationship which could materially pose a conflict of interest or interfere with the exercise of his judgement when acting in the capacity of a key responsible person which would be detrimental to the company's or consumers' interests; and
- (o) Whether the person fails or is likely to fail to comply with an enforceable undertaking provided to the CCOB or the Minister.

Competency and capability

- 2.4 The chief executive, controller and senior management officers must have the appropriate skills, experience and sufficient knowledge of the credit business or credit services business to fulfil the role and responsibilities effectively.

Financial integrity

- 2.5 The company must have adequate control of its financial risks and maintain a sound financial position on a continuous basis.

Examples of circumstances that may breach the above requirement include the following:

- (a) Fails or is likely to fail, to meet its financial obligations as and when they fall due.
- (b) In respect of a corporate shareholder:
 - has or is likely to have, insufficient assets, capital or reserves to withstand any financial shocks; and
 - pursues or is likely to pursue, excessive risks or aggressive expansion plans which are not reasonably supported by adequate financial capacity.

3. Prior approval for the appointment of chief executive

- 3.1 A credit business or credit service business should seek the CCOB's **prior written approval for the appointment of its chief executive** after it has undertaken the necessary due diligence to ensure that the candidate is fit and proper and suitably qualified to assume the position. Any vacancy in the position must be filled within **3 months**.

4. The appointment of directors

- 4.1 A credit business or credit service business may appoint its directors without prior approval of the CCOB. Before appointing a director, the credit provider or credit service provider must undertake the necessary due diligence to ensure that the candidate is fit and proper and suitably qualified to assume the position.
- 4.2 A credit providers and credit service providers are required to **notify the CCOB in writing of the appointment or re-appointment** of a director within two business days of the appointment or re-appointment or prior to any public announcement, whichever is earlier.

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APPENDIX 3: CONTRACT TERMS WHICH MAY BE REGARDED AS UNFAIR

1. A term which excludes or limits any obligation of the credit provider or the credit service provider to act with skill, care and diligence toward the credit consumer in connection with the provision of any credit product or service.
2. A term which excludes or limits the credit provider's or the credit service provider's liability for any error, omission, misrepresentation or negligence caused by the credit provider's or credit service provider's staff, representatives or agents.
3. A term which excludes or limits the credit provider's or the credit service provider's liability for breach of contract or non-performance of obligations by the credit provider or the credit service provider.
4. A term which excludes or limits the credit provider's or the credit service provider's obligation to honour commitments to the credit consumer undertaken by the credit provider's or the credit service provider's staff, representatives or agents.
5. A term which excludes or limits the credit consumer's rights to take legal action or access to legal remedy in the event of total or partial non-performance of the credit provider's or the credit service provider's contractual obligations.
6. A term which makes the credit consumer fully liable for matters or losses incurred by the credit provider or the credit service provider that are not caused by the credit consumer.
7. A term which permits the credit provider or the credit service provider to unilaterally terminate the contract without reasonable notice except where there is a valid reason for doing so.

8. A term which provides the credit provider or the credit service provider a right to vary the terms of the contract at its discretion without a valid reason and reasonable notice to the credit consumer.
9. A term which provides the credit provider or the credit service provider a right to notify on variations to contract terms in any manner the credit provider or the credit service provider deems appropriate and the credit consumer is deemed to have agreed to the variation.
10. A term which requires the credit consumer to pay a disproportionately high sum in compensation or permit the credit provider or the credit service provider to retain entire sums (other than any outstanding instalments) paid by the credit consumer where the credit consumer terminates the contract before its maturity.
11. A term which requires the credit consumer to pay a disproportionately high sum in penalty as a consequence of a breach of contract by the credit consumer.
12. A term which gives the credit provider or the credit service provider the discretion to refuse the credit consumer's request to terminate the contract without any valid reason.
13. A term which allows the credit provider or the credit service provider the exclusive rights to interpret any terms of the contract as it thinks fit.
14. A term which allows the credit provider or the credit service provider to assign or transfer the credit provider's or the credit service provider's rights and obligations under the contract to the detriment of the credit consumer.

ACRONYM

BNM	Bank Negara Malaysia
BNPL	Buy Now Pay Later
CCA	Consumer Credit Act <i>[proposed for enactment]</i>
CCOB	Consumer Credit Oversight Board
Council	Council for Consumer Credit Malaysia
DCA	Debt collection agency
DMA	Debt counselling and management services
ILB	Impaired loan buyer
KPDN	Kementerian Perdagangan Dalam Negeri dan Kos Sara Hidup (Ministry of Domestic Trade and Cost of Living)
KPKT	Kementerian Pembangunan Kerajaan Tempatan (Ministry of Local Government Development)
MOF	Ministry of Finance (Kementerian Kewangan)
MSE	Micro and small enterprise
OFS	Ombudsman for Financial Services
PDRM	Polis Diraja Malaysia (Royal Malaysia Police)
RSA	Regulatory and Supervisory Authority
SAC	Shariah Advisory Council
SC	Securities Commission Malaysia (Suruhanjaya Sekuriti Malaysia)
SIDREC	Securities Industry Dispute Resolution Center
SKM	Suruhanjaya Koperasi Malaysia (Malaysia Co-operative Societies Commission)
SSM	Suruhanjaya Syarikat Malaysia (Companies Commission of Malaysia)
Task Force	Consumer Credit Oversight Board Task Force
TKSKM	Tribunal Koperasi, Suruhanjaya Koperasi Malaysia
TTPM	Tribunal Tuntutan Pengguna Malaysia