

The Moneylenders Bill 2008

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1. Introduction

The Moneylenders Act (Cap. 188) of Singapore (the “Act”) regulates the business of money-lending in Singapore. The Ministry of Law and the Registry of Moneylenders are currently proposing the introduction of a Moneylenders Bill 2008 (the “Bill”) to repeal and replace certain provisions of the Act.

According to the Ministry of Law and the Registry of Moneylenders, the primary objective of the Bill is to ensure the laws governing moneylending remain relevant, updated and in line with changes in the consumer credit, business financing and moneylending industry as a whole. We highlight below some of the main proposals made under the Bill.

2. Exclusions from the provisions of the Act

Pursuant to Clause 2 of the Bill,

- (i) persons who grant staff loans as a benefit of employment;
- (ii) persons who grant loans solely to corporations, and
- (iii) persons who grant loans to accredited investors¹ within the meaning of Section 4A of the Securities and Futures Act (Cap. 289) of Singapore (“SFA”),

will be excluded from the application of the Act and will fall within the category of “excluded moneylenders”, where a license will not be required in connection with such moneylending.

The exclusion relating to loans granted to corporations may be of particular interest to corporations and the business community in general as it would effectively permit moneylending to corporations without being regulated by the Act.

3. Relaxation of operation restrictions under the Act

Section 6 of the Act currently allows a licensed moneylender to operation from a single location. Pursuant to Clause 10 of the Bill, it is proposed that licensed moneylenders may operate from more than one location subject to prior approval and prescribed conditions of the Registrar of Moneylenders (the “Registrar”).

Section 13 of the Act currently imposes restrictions on advertising by certain licensed moneylenders except financial institutions. The Bill proposes to allow advertising by licensed moneylenders made in accordance with Clause 15 of the Bill.

¹ Pursuant to Section 4A of the SFA, accredited investor, (a) being an individual, means a person whose (i) net personal assets exceed in value S\$2 million (or its equivalent in a foreign currency); or (ii) whose income in the preceding 12 months is not less than S\$300,000 (or its equivalent in a foreign currency); and (b) being a corporation, means a body corporate incorporated in or outside Singapore, including foreign company, with net assets exceeding S\$10 million in value (or its equivalent in a foreign currency) as determined by (i) the most recent audited balance-sheet of the corporation; or (ii) where the corporation is not required to prepare audited accounts regularly, a balance-sheet of the corporation certified by the corporation as giving a true and fair view of the state of affairs of the corporation.

Rule 14 of the Moneylender Rules currently prescribes a maximum interest rate which a licensed moneylender can charge, being 18% per annum for unsecured loans and 12% per annum for secured loans. It is proposed under the Bill that the prescribed maximum interest rates and the prohibition against certain moneylenders the charging of compound interest under the current Section 18 of the Act be removed save that any such interest to be charged shall not be excessive.

Under the current provisions of the Act, moneylenders may not impose fees other than legal fees and fees payable by law (for example, stamp duties) under a loan contract. Clause 21 of the Bill proposes to give the Minister the discretion and power to prescribe the types and quanta of fees which a licensed moneylender may impose on loans.

Section 16(2) of the Act currently limits the disbursements of loan to take the form of "account payee" crossed cheques made payable to the borrower. Section 25(2) of the Act currently prohibits licensed moneylenders from accepting any payment amount exceeding S\$10 from a borrower in a form other than by way of cheque, money order or postal order. The Bill proposes to remove these limitations for the purposes of giving licensed moneylenders and borrowers flexibility as to the modes of loan disbursements and repayments. Accordingly, licensed moneylenders and borrowers may disburse loans and make payment by other means, for example, electronic fund transfer. In addition, under Clause 20(4) of the Bill, a licensed moneylender who receives cash payment from a borrower shall issue a receipt for the amount paid.

4. Consultation Period

The Ministry of law and the Registry of Moneylenders have invited interested parties to provide their feedback on the Bill until 12 September 2008. Interested parties may send their feedback to The Registry of Moneylenders at its postal address at 45 Maxwell Road, #06-11, The URA Centre East Wing, Singapore 069118. Alternatively, feedback may be facsimiled to 63251416 or emailed at ipto_romp@ipto.gov.sg.

Further Information

Should you have any further queries, please do not hesitate to contact the Corporate Department, Lee & Lee/Mr. Adrian Chan at adrianchan@leenlee.com.sg or Mr. Francis Lim at francislim@leenlee.com.sg.

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