

ปัญหาการคุ้มครองข้อมูลเครดิตทางเลือกภายใต้
กรอบการคุ้มครองข้อมูลส่วนบุคคลตามกฎหมายไทย
Legal Problems of Alternative Credit Data Protection under
Personal Data Protection Framework in Thai Laws

เกรียงศักดิ์ อารีย์จิตเกษม¹
Kriengsak Areejitkasame¹

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¹ นักศึกษาดุษฎีบัณฑิตหลักสูตรปริญญาตรี สาขาวิชานิติศาสตร์, มหาวิทยาลัยการเงินและเศรษฐกิจ, นครเชียงใหม่ สาธารณรัฐประชาชนจีน 200433

¹ Ph.D. Candidate, Ph.D. in Economic Law, School of Law, Shanghai University of Finance and Economics, Shanghai, 200433, China

Email address: kriengsakareed@hotmail.com



บทคัดย่อ

บทความวิจัยนี้มีวัตถุประสงค์เพื่อให้ทราบถึงแนวทางการแก้ไขปัญหาวินิจฉัยในการคุ้มครองข้อมูลเครดิตทางเลือกที่เหมาะสมโดยศึกษาเปรียบเทียบกับมาตรการระหว่างประเทศและเสนอแนวทางแก้ไขกฎหมายคุ้มครองข้อมูลส่วนบุคคลที่เกี่ยวข้องกับข้อมูลเครดิตทางเลือกในประเทศไทย

งานศึกษานี้ใช้วิธีดำเนินการวิจัยเชิงคุณภาพ โดยศึกษาความเป็นมา คำนิยาม และแนวคิดของข้อมูลเครดิตทางเลือกศึกษาขอบเขตและมาตรการทางกฎหมายในการคุ้มครองข้อมูลส่วนบุคคลที่เกี่ยวข้องกับข้อมูลเครดิตทางเลือก และวิเคราะห์ปัญหาทางกฎหมายเกี่ยวกับคำนิยามและมาตรการทางกฎหมายในการเก็บรวบรวมข้อมูลส่วนบุคคลที่เกี่ยวข้องกับข้อมูลเครดิตทางเลือกจากรายงานเชิงเทคนิค งานวิจัย วารสาร ตำบฏกฎหมาย กรอบและมาตรการสากล ตำรา บทความ ทั้งของประเทศไทยและต่างประเทศ

ผลการศึกษาพบว่า (1) ข้อมูลเครดิตทางเลือกมีขอบเขตและประเภทของข้อมูลที่กว้างขวาง โดยสามารถเป็นได้ทั้งข้อมูลส่วนบุคคล ข้อมูลอ่อนไหว หรืออาจอนุมานได้จากข้อมูลเครดิตแบบดั้งเดิม (2) ข้อมูลเครดิตทางเลือกสามารถอยู่ภายใต้การคุ้มครองตามพระราชบัญญัติการประกอบธุรกิจข้อมูลเครดิต พ.ศ. 2545 และพระราชบัญญัติคุ้มครองข้อมูลส่วนบุคคล พ.ศ. 2562 ขึ้นอยู่กับประเภทของข้อมูลและความสามารถในการอนุมานข้อมูล (3) คำนิยามและข้อกำหนดในการเก็บรวบรวมข้อมูลเครดิตทางเลือกที่ถือเป็นข้อมูลอ่อนไหวภายใต้กฎหมายทั้งสองฉบับมีความไม่สอดคล้องกันโดยมาตรา 10 ของพระราชบัญญัติการประกอบธุรกิจข้อมูลเครดิต พ.ศ. 2545 ไม่อนุญาตให้มีการจัดเก็บข้อมูลห้ามจัดเก็บซึ่งครอบคลุมถึงข้อมูลอ่อนไหวบางประเภทในขณะที่มาตรา 26 ของพระราชบัญญัติคุ้มครองข้อมูลส่วนบุคคล พ.ศ. 2562 กำหนดให้สามารถเก็บรวบรวมข้อมูลอ่อนไหวหากได้รับความยินยอมอย่างชัดแจ้งจากเจ้าของข้อมูลโดยหากข้อมูลดังกล่าวถูกนำไปใช้ในทางที่ไม่เหมาะสมอาจกระทบต่อสิทธิส่วนตัวและสิทธิขั้นพื้นฐานของเจ้าของข้อมูล ดังนั้น งานศึกษานี้จึงเสนอให้แก้ไขคำนิยามและข้อกำหนดในการเก็บรวบรวมข้อมูลเครดิตทางเลือกที่ถือเป็นข้อมูลอ่อนไหวภายใต้พระราชบัญญัติการประกอบธุรกิจข้อมูลเครดิต พ.ศ. 2545 และพระราชบัญญัติคุ้มครองข้อมูลส่วนบุคคล พ.ศ. 2562 ดังกล่าวให้เป็นไปในแนวทางเดียวกัน

คำสำคัญ: การคุ้มครองข้อมูลส่วนบุคคล, ข้อมูลเครดิตทางเลือก, ข้อมูลอ่อนไหว



Abstract

The objective of this research paper is to understand and find an appropriate solution to the qualification problem of alternative credit data protection by making a comparative analysis with international measures and propose amendments to the Thai personal data protection legislation.

This study employed a qualitative research method by studying the background, definition, and concept of alternative credit information, studying the scope and legal measures for personal data protection relating to alternative credit data, and analyzing legal issues of the definition and legal measures for collecting personal information relating to alternative credit data from technical reports, literature, legal texts, international frameworks and measures, textbooks, and articles both in Thailand and foreign countries.

The study found that: (1) alternative credit data has a wide scope and various types of data. It can be qualified as personal data, sensitive data, or inferred from traditional credit data; (2) it can be protected under the Credit Information Business Act (CIBA) B.E. 2545 (2002) and the Personal Data Protection Act (PDPA) B.E. 2562 (2019), depending on the type of data and ability of data inference; (3) the definitions and requirements for collection of alternative credit data which is sensitive under the two laws are inconsistent. Section 10 of the CIBA does not allow the collection of prohibited information, which covers certain kinds of sensitive data, while Section 26 of the PDPA allows the collection of sensitive data with an explicit consent of the data subject. If such data is improperly used, it will affect the right to data privacy and fundamental rights of the data subject. This study therefore proposes the relevant Thai agencies to amend the definitions and requirements for the collection of alternative credit data to be consistent under the laws.

Keywords: Personal data protection, Alternative credit data, Sensitive data



Introduction

Despite universally-agreed definition, alternative credit data refers to any data in addition to traditional credit data that is used to analyze the borrower's creditworthiness or the potentiality and willingness to repay loans. [1] The coverage of alternative credit data is very broad since it can refer to any data that indicates the borrower's creditworthiness derived from his or her behavior and preference. Examples include utility payment, e-commerce shopping habit, location tracking, mobile usage, or social media network. Conventionally, lenders often focus on traditional credit data which is mainly data on credit card payment history or outstanding loan balances, salary data, or bank statements, but nowadays with the advancement of technology for data collection and processing, lenders are increasingly employing non-traditional or alternative credit data in assessing creditworthiness of the borrower. Such alternative credit data is considered personal data, which is any data relating to a person that allows direct or indirect identification of such person. [2] In interpreting whether any personal data is considered alternative credit data in a credit process can be subjective and dependent on a particular lender because each lender may utilize a similar type of personal data in different ways. For instance, one lender could treat religion information of a borrower as data for identification only, but the other lender may use this data as alternative credit data to find the borrower's preference and behavior that represents creditworthiness. In addition, alternative credit data can also be extended to include sensitive data, which, if improperly collected or used, may affect the right to data privacy or fundamental rights of the data subject.

Protecting privacy of personal data is essential because the core value of privacy protection is closely related to other human rights, particularly individual autonomy and dignity. [3] The collection and use of personal data can be harmful to privacy since it removes the ability of individuals to exercise control over their own individual data, thereby undermining their autonomy to live and order a life of one's own desire. [4] Individual autonomy has been described as a notion that is generally referred to as the capacity to be one's own person and to live one's life according to reasons and motives that are taken as one's own and not the product of manipulative or distorting



external factors. [5] Except that it is based exclusively on analysis of data collected and used with the informed consent of the individuals, inappropriate processing and use of personal data can undermine the autonomy of data subjects in the processing of their data. This also facilitates activities and actions that further undermine autonomy by subjecting the data subject's decision-making to manipulation. [6] Besides, this study posits that privacy is strongly linked to human dignity. Protecting privacy as human dignity is the treatment of individuals who are not objects that can be exchanged, traded or used, but shall value and respect for the person.

Alternative credit data is widely used and such use raises many privacy concerns, but few aspects have been explicitly regulated. The current legal framework for personal data protection and credit information that applies to alternative credit data in Thailand is the PDPA and the CIBA. Both laws provide definitions and requirements related to the collection, use and disclosure of personal data, sensitive data, and credit information. However, there is no clear definition regarding the definition, and specific measures or criteria for the collection of alternative credit data. The PDPA, which is the key law established to govern the processing of personal data, does not explicitly mention alternative credit data. Besides, legal principles and rules under both laws that apply to alternative credit data are still vague and subject to interpretations. For instance, there is uncertainty in determining the qualification of alternative credit data as personal data or sensitive data. Furthermore, there is no specific rule that applies to the processing of alternative credit data. Despite having the CIBA, its scope and application is only traditional credit data collected by the national credit bureau.

The qualification of alternative credit data as personal data, sensitive data or credit information is significant because such qualification will determine which personal data protection laws apply and also determine proper scope of legal protection provided to data subjects. As alternative credit data has a wide-ranging scope of data, this requires careful consideration of the interpretation and classification of the definition, type, and also understanding of its nature to appropriately determine which legal definitions each alternative credit data falls into and which personal data protection laws it should be subject to.



Moreover, there has not been literature analyzing the qualification of alternative credit data under the Thai legal personal data protection framework. The existing Thai literature mostly focused on general legal problems of data protection, or traditional credit data under the CIBA, including, the scope of credit information that should be extended to reflect the borrower's creditworthiness, [7] the misuse of credit information in employment, [8] general principles, and protection scope of personal data and sensitive data in the banking sector. [9]

This study therefore focuses on analyzing such issues and suggesting ways to improve the laws to determine appropriate scope and protection of alternative credit data to be in line with international framework and measure. In addition to make a recommendation to improve the Thai laws, this study also aims to be employed as a guideline for policy makers, academics, and practitioners in formulating their own personal data protection legislation on alternative credit data.

Objective

This study attempts to understand and find an appropriate solution to the qualification problem of alternative credit data protection.

Methodology

By employing qualitative research, regarding the issue of the qualification of alternative credit data under the existing personal data protection legislation, this study reviewed the background, definition, and concept of alternative credit information, studied the scope and legal measures for personal data protection, and analyzed legal issues of the definition and legal measures for collecting personal information relating to alternative credit data. It also made an assessment on the qualification of alternative credit data under the Thai PDPA and the CIBA, and under international data protection framework and measure, focusing on the definition and interpretation of alternative credit data as personal data and sensitive data. This study also analyzed possible overlaps of traditional credit data, alternative credit data and sensitive data as well as discussed



how alternative credit data should be classified and protected under each category of data under the PDPA and the CIBA.

Results

1. The Concept and Definition of Alternative Credit Data

1.1 Traditional Credit Data

In undertaking to review credit application and determine whether a loan will be granted to an applicant in credit process, lenders need to know the borrower's potentiality to repay debt or creditworthiness by requiring the borrower to provide traditional credit data which is the data that indicates the probability to pay back loan. Traditional credit data can be divided into two main categories. The first one is loan information and repayment history. It is often used by credit bureaus or credit reference agencies as a central individual credit database to be shared among financial institutions in order to address information asymmetry problem between the lender and the borrower. [10] Such data is often written in a credit reference report, including a person's loan or credit limit, debt repayment, and loan outstanding. The second category of traditional credit data is the data that the lender itself collects from the borrower in a credit application, such as income, expenditure, savings, length of time in employment or residence. Such data is conventionally used by lenders to assess credit risk or the risk that the borrower will default on debt repayment. It can also be used to produce credit scores or as an input into credit analytic models.

1.2 Alternative Credit Data: Evolution and Definition

In addition to traditional credit data, alternative credit data contains any other data sources that can be used to assess the borrower's creditworthiness. With the growing utilization of the big data technologies and practices in the collection, analysis and use of various sources of data, it is more challenging to clearly differentiate alternative credit data from traditional credit data. Rapidly increasing interactions and financial transactions via online and digital channels also encourage exchanges of such data among multiple service providers. Also, the capability to analyze and process



large amounts of data in near real-time circumstances enables inference and predictive result from analysis of alternative credit data. Besides, greater computing power and the increasing utilization of machine learning to mine a large amount of dataset allow the use of automated decision-making without human involvement in the credit process.

As mentioned earlier, alternative credit data covers numerous types of data, including but not limited to, data showing patterns in traditional loan repayment, payment of non-loan products, consistency of a consumer's cash inflow and outflow, frequency of changing in residences, jobs, phone numbers or email address, a consumer's education and job data, data on a consumer's relationship with friends or co-workers, as well as behavioral data, including website interface, shopping habits, device use, or daily life activities. [11] Alternative credit data can also be defined as data in an online or digital form that can be collected from a technology platform. [12] The use of alternative credit data is a proven approach that significantly improves the efficiency of credit assessment and analysis as a result of greater accuracy of prediction and reducing cost and time throughout the credit process. The utilization of alternative credit data also has implication for the development of financial sector, and the overall economy, particularly in terms of credit expansion to the under-banked or unbanked borrower who has lower credit scores or even without any credit history. [13]

After understanding that the nature of alternative credit data has been evolved to be more complex and automated with greater inference and predictive capability, the next section analyzes the qualification of alternative credit data under personal data protection laws by employing a comparative analysis of the Thai law and international measure and framework.

2. Comparative Analysis of Alternative Credit Data within the Personal and Sensitive Data Framework under Thai Laws and International Measures

2.1 Alternative Credit Data as Personal Data

As mentioned earlier, the PADA provides comprehensive personal data protection against improper collection, processing, and disclosure by any person or entity. Under the PDPA, the definition of personal data is broadly defined as any piece of information



that directly or indirectly identifies a person, but not including the deceased's information. [14] The PDPA also provides protection that supplements any sector-specific laws regarding the collection, use, or disclosure of personal data and the provisions on the rights of data subjects including penalties as well as complaints, particularly in case that such sector-specific laws have no prescription on such matters. [15] Meanwhile, the CIBA was enacted in 2002 with the key objective to prescribe rules, procedures and conditions for conducting credit information business, credit information transactions, protect the data subject, and promote lending by financial institutions that need to have sufficient information about the financial status and payment history of customers, such as history of debt payments or existing debt obligations under each financial institution.

However, the processing of traditional credit data undertaken by a credit bureau company and its financial institution members under the CIBA is exempt from the obligations and provisions under the PDPA. [16] This essentially means that the protection of traditional credit data will be under the CIBA; whereas, the protection of any other personal data in addition to traditional credit data, including alternative credit data is governed by the PDPA.

According to the CIBA, the definition of traditional credit data is the fact relating to borrowers applying for credit covering two main categories of data. The first one is mainly used to identify the client's identity, i.e. name, address, date of birth, marital status, occupation, official identification card number or government employee's identification card or passport, and tax payer number. The second category covers record of credit application and approval, and payment of credit transaction of the borrower who applies for credit, including payments of goods or services by credit card. [17]

At the international level, personal data is defined under the Organization for Economic Co-operation and Development (OECD) Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data as any information relates to identified or identifiable data subject. [18] Any data that are not related to an identified or identifiable individual are therefore "non-personal" data. Simply looking at the definition of personal data is fairly straightforward because it represents a static meaning and focuses on the



identification of an individual. However, the capability of data analytics that is utilized in today's processing of alternative credit data can convert seemingly non-personal data to personal data, creating a blurry boundary between these two definitions of data. [19]

The European Union General Data Protection Regulation (GDPR), defines personal data as the information that relates to an identified or identifiable alive person, and stipulates that personal data includes the collection of any different pieces of information that leads to the identification of a particular person. It further includes the personal data that has been de-identified or encrypted but can be used to re-identify a person. Therefore, in light of such definition of personal data, alternative credit data should at least fall into the legal scope of personal data because any alternative credit data can be used to indicate the identification of a person, including demographic information, and reveal a particular person's behavior or preference.

2.2 Alternative Credit Data as Sensitive Personal Data

The PDPA defines sensitive personal data as the fact of a person that if there is a misuse or abuse of such fact, it can significantly affect the fundamental rights of that person, like autonomy and freedom. Examples of such sensitive data include racial, ethnic origin, political opinions, religious beliefs, sexual behavior, criminal records, health data, disability, biometric data. [20] By the same token, the definition of sensitive data under the GDPR covers identical categories of personal data. [21] The categories of sensitive data under the PDPA are closely comparable to those of the GDPR's with no significant differences mainly because many parts of the PDPA, including this definition, have been modeled after the GDPR. [22] Meanwhile, the CIBA has the provision on sensitive data that is referred to as prohibited information. Prohibited information is defined as an individual's information that is not typically used in a credit application, or the information that may cause damage, physically or emotionally, or undermines the rights and freedom of such individual, including physical handicaps, genetics, and criminal records. [23]

When comparing the definition of sensitive data under the PDPA and the CIBA, this study found that, first, the intention of both laws is to provide special protection for sensitive personal data that, if used improperly, can affect the fundamental

rights and freedom of the data subject. Second, the PDPA explicitly describes each particular type of data that is considered sensitive; meanwhile the CIBA broadly defines the nature of prohibited information with a few examples of such data. Such broad definition of prohibited information requires careful interpretation of the data type. Consequently, in this case, any alternative credit data that is qualified as sensitive data can be protected and subject to the collection requirements and safeguards provided by either the PDPA or the CIBA, or under both laws. This creates legal uncertainty as to by which law each particular ‘sensitive’ alternative credit data should be governed.

2.3 Alternative Credit Data and its Overlaps with Personal Data, Traditional Credit Data and Sensitive Data

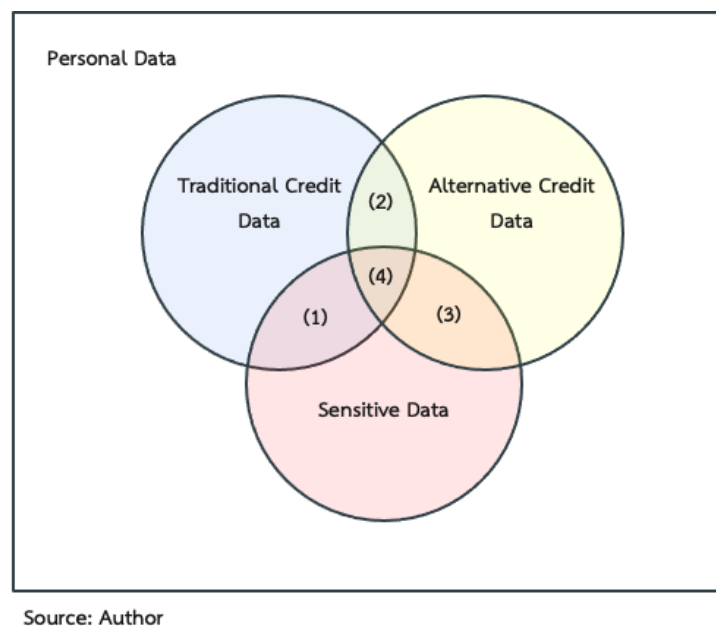


Figure 1: Alternative Credit Data Scope and its Overlaps with Traditional and Sensitive Data

This study suggests that all alternative credit data should be considered personal data because it indicates the borrower’s creditworthiness. Nevertheless, certain alternative credit data can be derived or inferred from traditional credit data or sensitive data. Furthermore, certain types of data can be considered alternative credit data, sensitive data and traditional credit data simultaneously. As shown in Figure 1, the rectangle area is personal data. The three circles: traditional data, alternative credit



data, and sensitive data are subset of personal data. Alternative credit data partly overlaps with traditional credit data or sensitive data or both.

(1) the area where traditional credit data overlaps only with sensitive data represents the traditional credit data that is used to infer certain types of sensitive data, and is not used as alternative credit data in the credit process. For instance, the lender may by default collect the borrower's credit card payment history, which is a traditional credit data. However, this payment record reveals the list of shopping items or the name and type of the retailers that could indicate health-related information of the borrower, which is sensitive data. As mentioned above, the use of any personal data as alternative credit data can be subjective and depends on the judgement of each particular lender. Under this presumed case, the lender subjectively ignores this additional sensitive health information and do not use this factor as alternative credit data in its loan process.

(2) the area where alternative credit data overlaps with traditional credit data can happen in the case that a lender utilizes non-sensitive traditional data to indicate or predict the behavior or preference of the borrower. To illustrate, the lender may take the borrower's payment transactional data, which is traditional credit data, to analyze the number or frequency of payment transactions at different retailers, or to calculate the ratios of cash to total spending in each particular month or the cash payout comparison in different period. In essence, these data have been converted from simply traditional credit data to predictive alternative credit data that reveal the borrower's inclination to spend money at each particular type of retailer within the predictable period of time.

(3) in the area that alternative credit data and sensitive data are overlapped, a typical use case includes social media network analysis that discovers the borrower's unique characteristics, including racial origin or political preference, as well as the borrower's relationship with other people that could reveal sexual orientation of the borrower.

(4) in the middle area where alternative credit data intersects with traditional and sensitive data, this case is possible when the lender conventionally collects certain types of data from the customer during credit application process, which is considered



sensitive data but the lender does not traditionally analyze such data in the credit process. For instance, in Thailand, an identity card or national ID card normally contains religion information. In the loan application, the financial institution requires the borrower's ID card as one of the key required documents for identification. In this case, the financial institution essentially collects the borrower's religion information which is sensitive data. In other words, this data is a sensitive data that is traditionally collected and can be further used as an input for alternative credit data analysis.

In summary, in order to obtain accurate qualification of alternative credit data under the legal definitions of personal data protection legislation, the consideration of alternative credit data must be thoroughly taken in a dynamic way, depending on the context, such as other surrounding data, or the capability of data analytic tools or credit models that are employed to provide predictive or inference results. Certain algorithmic models can also be utilized to discover new correlations that support the credit analysis or decision from the proxies that reveal sensitive data. Therefore, it requires careful consideration on which types and processing activities of alternative credit data should be qualified under the legal scope of personal data, sensitive data, or traditional credit data in order to appropriately determine the requirements of relevant protection under the laws.

3. Limitations of the Thai Legal Personal Data Protection Legislation

3.1 Legal Uncertainty from the Inconsistent Definitions and Requirements of the PDPA and the CIBA

Given the definition of alternative credit data that can be sensitive data, non-sensitive data, and can be inferred from traditional data or credit information defined under the CIBA, the data controller and the regulator may have difficulties in categorizing alternative credit data and providing protection or imposing measures according to the types of alternative credit data under the PDPA and the CIBA. In addition, the PDPA has an exception applicable to the operations on credit information under the CIBA, rendering the PDPA ineligible to protect credit information under the CIBA. Furthermore, with today's technology and practice of alternative credit data processing, the clear line between alternative credit data and traditional credit data is very challenging to define. [24]



Some types of traditional data can be used to infer sensitive data, as shown in the case of *Chief Official Ethics Commission (2022)* where the name and cohabitant information is collected and interpreted the sexual orientation of the data subject by means of processing and analyzing of traditional data. [25] Moreover, in case the lender uses a complicated and advanced credit scoring model, the machine could learn to generate proxies that indicate protected characteristics or sensitive data from processing and analyzing traditional data.

3.2 Inconsistent Protection of Alternative Credit Data as Sensitive Data

Both the PDPA and the CIBA have provisions and guidelines for the protection of sensitive data or information that may affect the data subject's right and freedom, but both key definitions and provisions on the collection of sensitive data under the two laws are inconsistent. The PDPA prohibits the collection of sensitive data or personal data pertaining to such protected characteristics as race, ethnic origin, political opinions, health data, religion, or philosophical beliefs. [26] Meanwhile, the CIBA also has comparable provisions relating to prohibited information. Prohibited information is broadly defined as personal data that does not relate to the request for credit or that can detrimentally affect the feeling or the rights and freedom of the data subject. The CIBA does not allow a credit information company, a data controller, or a data processor to gather and record prohibited information without any exceptions. On the contrary, the PDPA prescribes that sensitive data can be collected only when the data controller obtains the data subject's explicit consent, which the request for consent shall be clearly made in a written statement, or via electronic means, if possible, [27] with certain exceptions. [28]

The processing of alternative data, if not properly protected by law, can potentially lead to the issues of discrimination based on such protected characteristics, resulting in unfair access to credit. To illustrate, in 2015, Facebook utilized a filtering tool to grant the borrower's loan application on the condition that the average credit rating of a borrower's friends shall exceed a preset minimum credit score. This represents lending discrimination because the borrower's creditworthiness should depend exclusively



on the borrower's own factors instead of the borrower's friends, who, for example, can represent mostly low-income citizen. [29]

Conclusion and Discussion

The nature of alternative credit data itself and the current practice in the alternative credit data processing bring emerging challenges to the proper qualification of such data under the scope of personal data protection provided by the applicable laws. Alternative credit data typically encompasses a wide range of data categories, most of which are sensitive and reflect the protected characteristics of the data subject that, if inappropriately used, can undermine the data subject's fundamental rights and freedom. The overlaps of traditional credit data, alternative credit data, and sensitive data require careful consideration and interpretation in order to properly classify each type of alternative credit data to be governed by the personal data protection laws. Although the existing Thai legislation provides protection for alternative credit data, it still lacks legal certainty over the definitions and measures in the case that alternative credit data is considered sensitive data or inferred from traditional credit data.

Recommendation

To the relevant Thai authorities, this study highly recommends that:

(1) Scope and requirements of the PDPA and the CIBA relating to personal data, sensitive data, credit information, and prohibited information should be amended to be consistent and coherent.

(2) Prohibited information under the CIBA should be revised to be comparable to sensitive data under the PDPA, and the processing of prohibited information should be allowed in case that the data subject has given an explicit consent, as well as safeguards of fundamental rights and freedom are in place.

(3) Exemption for credit information processed by a credit bureau company and its members under Section 4(6) of the PDPA should be repealed so that the PDPA overrules the CIBA on the collection of alternative credit data that is considered



personal data and sensitive data. In effect, the definitions and requirements under the PDPA can cover the protection of alternative credit data that is considered sensitive data.

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[28] Section 26 of the PDPA prescribes other exceptions for the collection of sensitive personal data. For instance, prevent a danger to life, body or health of the person, where the data subject is incapable of giving consent; carried out in the course of legitimate activities with appropriate safeguards by the foundations, associations or any other not-for-profit bodies with a political, religious, philosophical, or trade union purposes; it is necessary for the establishment, compliance, exercise or defense of legal claims; it is necessary for compliance with a law to achieve the certain purposes.

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