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The Debt Collection Act 2022 Is Applicable To Banks

On 1 December 2023, the Debt Collection Act 2022 (“DCA”) came into operation. The DCA sets standards for entities and individuals involved in the activity of debt collection.

The DCA regulates: (i) entities which carry on the business of collecting debts on behalf of other persons; and (ii) entities which are engaged in lending and collecting money owed to them, and which are already regulated by government agencies (“**Already-Regulated Entities**”). Already-Regulated Entities include banks, merchant banks, licensed credit card or charge card issuers, finance companies, and licensed and exempt moneylenders. Unlike the first category of entities, Already-Regulated Entities do not have to apply for and obtain licences to carry out debt collection activities. They are authorised under a class licence to carry out debt collection activities. However, they must comply with the conditions specified in the Debt Collection (Class Licence) Order 2023.

For an entity such as a bank, the conditions which the bank must comply with include:

- (a) Deploying appropriate employees as the bank’s debt collectors;
- (b) Putting in place measures, including appropriate training, to ensure that the bank’s debt collectors do not breach the DCA or any other law in the course of carrying out any debt collection activity;
- (c) Taking reasonable and necessary measures to ascertain the identity of a debtor;
- (d) Keeping records; and
- (e) Not collecting, or attempting to collect, any debt under certain circumstances.

With the enactment of the DCA, banks should enhance their processes and systems to make certain that they do not fall afoul of the conditions specified in the Debt Collection (Class Licence) Order 2023. In particular, it is important for a bank to train its debt collectors, which consist of any employee who requests, demands, or collects a debt from a debtor. When in doubt about the implications of the DCA, legal advice should be sought.

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