



GOVERNMENT GAZETTE
OF
THE REPUBLIC OF NAMIBIA

WINDHOEK – AUGUST 2013

GOVERNMENT NOTICE NO.:

2013

CREDIT BUREAU REGULATIONS:
BANK OF NAMIBIA ACT, 1997

Under section 59 read together with section 3 of the Bank of Namibia Act, 1997 (Act 15 of 1997) and after consulting the Bank of Namibia, I make the regulations set out in the schedule.

SAARA KUUGONGELWA-AMADHILA
MINISTER OF FINANCE

Windhoek, August 2013

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PART I

PRELIMINARY PROVISIONS

1. Citation

These Regulations may be cited as the Credit Bureau Regulations, 2013.

2. Application

These Regulations shall apply to all registered credit bureaus and all credit providers operating in Namibia.

3. Objects

The objects of these Regulations shall be-

- (a) to provide for the registration of credit bureaus in Namibia; and
- (b) to provide for the regulation of consumer information system.

4. Definitions

In these Regulations, unless the context requires otherwise-

“Act” means the Bank of Namibia Act, 15 of 1997;

“Authorised user” means a person authorised by a credit bureau to receive credit reports and this excludes a data subject;

“Bank” means the Bank of Namibia;

“Consumer” means any person who has a formal engagement to receive services and products, on agreed terms and conditions, from institutions listed in the Third Schedule of the Regulations;

“Consumer information” means information concerning, but not limited to-

- (a) a person’s credit history, including applications for credit, credit agreements to which the person is or has been a party, pattern of payment or default under any such credit agreements, incidence of enforcement actions with respect to any such credit agreement, the circumstances of termination of any such credit agreement, and related matters;
- (b) a person’s financial history and obligations, and other related matters; or

- (c) a person's identity, including the person's name, date of birth, identity number, marital status, past and current addresses and other contact details, and related matters.

"Credit" when used as a noun, means–

- (a) a deferral of payment of money owed to a person, or a promise to defer such a payment; or
- (b) a promise to advance or pay money to or at the direction of another person;

"Credit agreement" means an agreement between the creditor and the data subject that sets out the rights and obligations of parties on the disbursements and the repayment of credit;

"Credit bureau" means an entity specialised in the collection and sale of credit performance information for individuals and businesses, and registered as a credit bureau in terms of the Regulations;

"Credit history" means all credit information about a data subject which is recorded or retained in any form by a credit bureau and includes both positive and negative credit information;

"Credit provider" means any agency, entity or institution that carries on business involving the provision of credit to a person and includes:

- (i) a banking institution as defined in section 1 of the Act;
- (ii) a person whose business is that of providing finance for the acquisition of goods and/or services;
- (iii) any other entity listed in the Third Schedule.

"Credit report" means any electronic, written, or other communication of any information by a credit bureau, relating to a person's credit score, creditworthiness, credit standing or credit capacity which is used or collected to serve as a factor in establishing that person's eligibility for credit or other service or product provided by an institution or for such other purposes as may be established by law;

"Consumer information provider" means a person, business or institution providing information to a credit bureau and this includes any agency or entity that carries on business involving the provision of credit;

"Data subject" means an individual or a business entity whose data could be collected, processed and disclosed to third parties in the credit information sharing system;

“Debt collection agency” means an entity or institution that collects unpaid or past due debts for other businesses, creditors or lenders, and this may include legal practitioners involved in collection of debts on behalf of individuals or businesses;

“Minister” means the Minister of Finance;

“SME” means a Small and Medium-sized Enterprise that meets the criteria set out in the Namibian Policy and Program on Small Business Development, 1997 as reviewed by the Ministry of Trade and Industry from time to time;

“Subscriber” means a person subscribing to receive consumer information from a credit bureau and this excludes a data subject.

PART II

REGISTRATION AND LICENSING OF CREDIT BUREAU

5. Registration of credit bureau

(1) A person must in accordance with the provisions of these Regulations apply to be registered as a credit bureau if that person engages, other than a credit provider or an employee of a credit provider, in the business of-

(a) receiving reports of, or investigating-

- (i) credit applications;
- (ii) credit agreements;
- (iii) payment history or patterns; or
- (iv) consumer information as defined in these Regulations, relating to consumers or prospective consumers, other than reports of court orders or reasons for judgment or other information that is in the public domain;

(b) compiling and maintaining data from reports contemplated in paragraph (a); and

(c) issuing reports concerning consumers based on information or data referred to in paragraph (b).

(2) A person must not offer or conduct business as a credit bureau, or hold out to the public as being authorised to offer any service customarily offered by a credit bureau unless that person is registered as a credit bureau in terms of these Regulations.

- (3) A person must not be registered as a credit bureau unless that person meets the requirements relating but not limited to-
 - (a) the appropriate qualification, competence, knowledge and experience requirements for its employees or contractors who will have authority to represent it in any function under these Regulations;
 - (b) the human, financial and operational resources requirements necessary to enable it to function efficiently and to carry out effectively its function in terms of these Regulations;
 - (c) a system to enable the bureau to consolidate credit information from data providers and to collect and disseminate credit and non-credit information on SMEs;
 - (d) the procedures to ensure that questions, concerns and complaints of consumers or credit providers are treated equitably and consistently in a timely, efficient and courteous manner;
 - (e) the registration as a Namibian tax payer;
- (4) A person may not be registered as a credit bureau if that person conducts business as a credit provider or debt collection agency.
- (5) A natural person may not be registered as a credit bureau.

6. Application for a license

- (1) An application for a license to conduct credit bureau business must be made to the Bank in the prescribed form as set out in the First Schedule.
- (2) The application shall be accompanied by the following information and supporting documents and any other information that the credit bureau considers necessary or may be required by the Bank from time to time-
 - (a) certified copies of the applicant's certificate of incorporation and its memorandum and articles of association;
 - (b) feasibility study by the applicant, showing the nature of the planned business, organisational structure and internal control system and monitoring procedures of the company, covering inter alia, the following aspects-
 - (i) market analysis;
 - (ii) ownership structure;
 - (iii) governance and management structure;
 - (iv) business plan;
 - (v) business continuity plan;

- (vi) operational manuals that ensure the accuracy of the information contained in its database as well as the timely updating of the information.
- (c) management processes, including-
 - (i) the software required for operation;
 - (ii) characteristics of products and services to be provided to subscribers;
 - (iii) procedure manuals; and
 - (iv) proposed security and control measures aimed at preventing misuse or improper management of information.
 - (d) overview of operations including the description of systems, design of the data collection and dissemination including the unique identification system for individuals and businesses that is adequate to ease the collection of data and handling of the database;
 - (e) a description of the applicant's premises and their suitability for customer service and the description of the security measures to be adopted;
 - (f) the proposed fees structure;
 - (g) a sample format of information that a credit bureau may supply to subscribers;
 - (h) a prototype of the final product that demonstrates the principal features and functions of the system; and
 - (i) payment of a non-refundable application fee as provided in the Fourth Schedule and as reviewed from time to time by the Bank.
- (3) The Bank shall consider an application for a license within sixty days after the date of receipt of an application.

7. Issuance of a license

- (1) A credit bureau license shall only be issued if the applicant meets the requirements set out in these Regulations.
- (2) Where the Bank is dissatisfied with the adequacy of information submitted by the applicant for purposes of processing the application, the Bank may request for additional information and for the applicant to make representation before making a final determination.
- (3) Where the Bank is satisfied that all the necessary requirements have been met, the Bank shall notify the applicant to submit to the Bank a statutory

declaration sworn under oath by the chief executive officer of the applicant in the prescribed form as set out in the Second Schedule.

- (4) Where the Bank is satisfied that the requirements of sub-regulation (3) have been complied with, the Bank shall issue a license to the applicant permitting it to carry out the bureau business operations.
- (5) The Bank shall issue a bureau with a license number which shall at all times be displayed or quoted when dealing with consumers.
- (6) The Bank may endorse a license granted under these Regulations with such conditions as the Bank considers and may from time to time add, vary or substitute such conditions as the Bank deems appropriate.

8. Refusal to issue a license

- (1) Where the requirements of issuance of a license as provided in these Regulations are not met, the Bank may refuse to grant a license and shall communicate the reasons for its refusal to the applicant.
- (2) An aggrieved party may appeal to the Minister within twenty one working days after being notified of the refusal.
- (3) In considering an appeal under sub-regulation (2), the Minister shall have consideration to the material in the administrative record developed by the Bank and may not consider any information or events that occurred after the Bank took its decision.
- (4) The Minister may reverse the decision of the Bank only if-
 - (a) the Bank failed to follow the laid down procedure;
 - (b) the Bank's decision was contrary to law;
 - (c) there was no factual basis for the Bank's decision; or
 - (d) based on the review of the record, the Bank committed an apparent error in its assessment of facts, or abused its discretion.
- (5) The Bank shall be bound by the decision of the Minister.

9. Annual license fee

- (1) A bureau shall be required to pay to the Bank an annual license fee as provided in the Fourth Schedule and as reviewed from time to time by the Bank.

- (2) The annual license fee referred to in sub-regulation (1) shall be paid at the time of registration and thereafter before the anniversary date of registration.
- (3) A bureau that fails to pay the annual license fee before the anniversary date shall pay double the license fee, if payment is made within ninety days after the anniversary date.
- (4) If a bureau fails to pay the fee within ninety days after the anniversary date as prescribed in sub-regulation (3), its license shall be revoked.

10. Validity of a license

A license issued under these Regulations shall remain valid unless revoked by the Bank.

11. Notice to revoke a license

- (1) Where the Bank intends to suspend or revoke a license, it shall issue a written notice and give reasons for its intention to the bureau.
- (2) The written notice referred in sub regulation (1) must request the bureau to make representation and specify the period within which the bureau must make such representation before its license is suspended or revoked.

12. Application for review

- (1) The bureau shall have the right, within twenty one working days from the date of receipt of the notice of intention to suspend or revoke a license, to apply to the Bank for review of such intention by stating the reasons and provide further information to be considered by the Bank.
- (2) If a license referred to in sub regulation (1) is suspended or revoked and the bureau is not satisfied with the Bank's decision to suspend or revoke such a license, the bureau may appeal to the Minister within twenty one days of being informed of the Bank's decision.
- (3) The Bank shall be bound by the decision of the Minister.

13. Surrender of license

Where a bureau terminates business or has its license revoked, the bureau shall be required to surrender the license to the Bank.

14. Transfer of a license

A license issued under these Regulations shall not be transferrable.

PART III

COLLECTION OF CONSUMER INFORMATION

15. Sources of information

- (1) A bureau may collect, receive, collate, compile and disseminate credit and non-credit information concerning a data subject from sources provided in the Third Schedule of these Regulations.
- (2) The sources referred to in sub-regulation (1) shall be obliged to provide information to all credit bureaus that meet the qualifying criteria as set out in these Regulations.
- (3) For the purpose of building data bases for SMEs, a credit bureau may collect and receive non-credit information from suppliers whose participation in the credit information system may be voluntary, and this includes entities referred to in part (v) of the Third Schedule.

16. Search inquiries

- (1) A record of all search enquiries made on data subject's credit history shall be maintained, unless otherwise stipulated by the Bank.
- (2) The record referred to in sub-regulation (1) shall include the date of the search inquiry and name of the person who conducted the search.
- (3) Where a search inquiry results show that there is no record of the data subject, a record shall be created and maintained on the subject of the search inquiry including the date of the search inquiry, the name of the authorised user and the purpose of the search inquiry.

17. Nature of information to be shared

- (1) Consumer information which shall be shared pursuant to these Regulations is any credit information of data subjects and non-credit information relating to SMEs, and may include details specified in sub-regulations (2) and (3);

- (2) The nature of credit information to be shared pursuant to sub-regulation (1) include-
 - (a) any information concerning a data subject's performing and non-performing loans;
 - (b) the data subject's identity, including-
 - (i) in the case of a natural person, his name, sex, date of birth, national identity number/passport number, past and current addresses and other contact details.
 - (ii) in the case of a data subject who is not a natural person, its name, registration number, name of directors, shareholders or partners, past and current addresses and other contact details including telephone number and e-mail address;
 - (c) the data subject's credit history, including the nature and amounts of loans and advances and other credit facilities granted or to be granted to a data subject, amounts outstanding thereof and related matters;
 - (d) the nature and details of security or securities taken or proposed to be taken by an institution as security for the loans, advances and other credit facilities mentioned in sub-regulation (c), and other related matters;
 - (e) details of patterns of payments of credit facilities or default in payment by the data subject, referred to drawer cheques, debt restructuring and actions taken by the institution to recover unpaid amounts including legal proceedings and related matters.
- (3) The nature of non-credit information that may be shared pursuant to sub-regulation (1) and subject to prior consent include, but not limited to, cash flows on bank accounts of SMEs and their transactions with suppliers and utilities.
- (4) Consumer information shall be furnished using a standard format established by agreement of the institutions furnishing information and registered credit bureaus, or otherwise issued by the Bank.

18. Prohibited information

A credit bureau shall not contain in its database or include in the credit report any information relating to the data subject's race, creed, colour, ancestry, ethnic origin, religious or political affiliation or state of health.

PART IV

OBLIGATIONS OF THE CREDIT BUREAU

19. Collected information

- (1) a credit bureau shall accept the filing of consumer information from any source listed in the Third Schedule.
- (2) a credit bureau shall take all reasonable precautions to ensure that all consumer information received or collected is-
 - (a) properly and accurately recorded, maintained, collated, processed, updated, synthesised or consolidated in order to provide a complete picture on consumers;
 - (b) obtained from permissible sources which sources shall take responsibility for the accuracy, completeness and timeliness of the information;
 - (c) properly placed in the correct credit history;
 - (d) protected against loss, including data back up and disaster recovery facilities; and
 - (e) protected against unauthorised access, use, modification or disclosure.

20. Credit reports

- (1) A credit bureau shall implement the following measures in relation to credit reports-
 - (a) establish controls and procedures to be applied when authorised users request credit reports from the credit bureau;
 - (b) maintain automated logs and audit trails of all accessed consumer information by authorised users;
 - (c) maintain logs and audit trails of proven or suspected breaches of security that would include details of credit history affected, details of the breach, and any action taken as a result of an investigation;
 - (d) review, on a regular basis, password controls of all credit bureau personnel and authorised users;
 - (e) create operational guidelines to ensure adequate protection to minimise the risk of unauthorised access of the credit bureau database.

21. Restrictions on the use of consumer information

- (1) A credit bureau shall-
 - (a) protect the confidentiality of consumer information received in terms of these Regulations and shall only report or release such information to the subscribers as explicitly authorised in writing by the data subject concerned or as required by law;
 - (b) utilise the information collected solely for the purposes set out in these Regulations;
 - (c) take all such steps as reasonably necessary to ensure that the consumer information maintained by it is duly protected against any loss or unauthorised access or use or unauthorised disclosure;
 - (d) observe through its shareholders, directors, officers, employees or agents, a perpetual duty of confidentiality with regard to the information divulged to them in terms of these Regulations.
- (2) A credit bureau shall only release consumer information to a subscriber -
 - (a) for the purposes prescribed in these Regulations, which are, but not limited to:
 - (i) an investigation into fraud, corruption or theft, provided that the Namibian Police Service or any other statutory enforcement agency conducts such an investigation;
 - (ii) fraud detection and fraud prevention services;
 - (iii) considering a candidate for employment in a position that requires trust and honesty and entails the handling of cash or finances;
 - (iv) an assessment of the debtor's book of a business for the purposes of:
 - (aa) the sale of the business or debtors book of that business; or
 - (bb) any other transaction that is dependent upon determining the value of the business or the debtors book of that business;
 - (v) assessing an application for credit;
 - (vi) setting a limit in respect of the supply of goods, services or utilities;
 - (vii) assessing an application for insurance;
 - (viii) obtaining data subject information to distribute unclaimed funds, including pension funds and insurance claims;
 - (ix) tracing of a data subject by a credit provider in respect of a credit agreement entered into between the data subject and the credit provider;
 - (x) developing a credit scoring system by a credit provider or credit bureau;
 - (xi) pre-screening to assess the data subject's affordability prior to an application for credit;

- (b) that has certified to the credit bureau that it will use the consumer information for the purpose as set out in these Regulations and for no other purpose; and
 - (c) that has agreed to properly dispose of consumer information so that it cannot reasonably be read or reconstructed.
- (3) Should a report be required for a purpose set out in sub-regulation (2) (a) (iii) or (v) to (xi), the written consent of the data subject must be obtained prior to the report being requested.
- (4) In addition to the consumer information contemplated in these Regulations, a registered credit bureau may receive, compile and report only the following information in respect of a data subject:
- (a) status and history of outstanding obligations and payments in respect of goods, services or utilities supplied to the data subject;
 - (b) information that is relevant for the purpose of credit fraud detection and prevention;
 - (c) payments made by a data subject in respect of a debt, where the debt has been ceded or sold by the credit provider to another party;
 - (d) information that is not related or intended for the purpose of providing consumer credit, provided that the data subject's consent has been obtained to use the information for such purpose and to submit, compile and report such information.
- (5) No subscriber of information from a credit bureau shall use such information for any purpose other than for reaching decisions on the business of the subscriber in the ordinary course of such business.
- (6) Under no circumstances may a subscriber release such information to any third party other than the subscriber's appointed agent for the purpose of assisting the subscriber in the recovery of any of its debts.
- (7) Every credit bureau shall have procedures to deal with all requests and enquiries made by the data subjects on credit information stored in the credit bureau database and such procedures should be displayed at such a place or in such a manner that it is freely accessible and available to data subjects.

22. Data management and quality control

- (1) A credit bureau shall-
 - (a) implement strict quality control procedures in order to ensure the maximum accuracy of its database and the continuity of its services;

- (b) utilise the information collected solely for the purpose set out in these Regulations;
- (c) take all such steps as are reasonably necessary to ensure that consumer information maintained is current, authentic, legitimate, reliable, accurate, truthful and that it reflects the existing situation of the subject at any given time;
- (d) take measures necessary to correct consumer information in its database which is found to be illicit, inaccurate or no longer valid; and
- (e) maintain rigorous standards of security and reliability, and protect data against any loss, corruption, destruction, misuse or undue access.

PART V

OBLIGATIONS OF CONSUMER INFORMATION PROVIDERS

23. Consumer information providers' obligations

- (1) Every provider of consumer information shall provide consumer information to all registered credit bureaus that meet the requirements as set out in these Regulations.
- (2) Every provider of consumer information shall enter into an agreement with credit bureaus that stipulates the conditions for supplying, obtaining and using consumer information.
- (3) A consumer information provider shall undertake to provide complete, accurate and timely credit information that accurately identifies the data subject.
- (4) Where consumer information is found to be inaccurate by the credit bureau or the accuracy of consumer information is challenged by the data subject, the consumer information provider shall promptly investigate, when requested by the credit bureau and the investigation shall be completed within fifteen working days.
- (5) A consumer information provider shall be held responsible for any errors or inaccuracies in the credit information submitted to the credit bureau.

PART VI

DATA SUBJECT RIGHTS AND PROTECTION

24. The right to information and data

- (1) A data subject shall have the right to-
 - (a) know the type of information shared or to be shared in the credit information system regarding the data subject;
 - (b) have access to a credit report related to that specific data subject;
 - (c) obtain a free copy of credit report, unless such data subject is a business entity, once every twelve months to be delivered in a medium and manner as agreed upon between the data subject and the credit bureau; and
 - (d) challenge information contained in the credit report.
- (2) The credit report from the credit bureau shall be in hard copy or uneditable electronic format.
- (3) The credit bureau shall furnish a copy of requested credit report within five working days of the date of request.

25. The right to challenge incorrect information

- (1) A credit bureau shall explicitly inform the data subjects of their rights to challenge the information maintained in the credit bureau database at the time the data subjects request a copy of their credit report.
- (2) Where a data subject believes that consumer information maintained in the credit bureau database is inaccurate, erroneous or outdated, the data subject may notify the credit bureau of the disputed information.
- (3) Where a credit bureau is challenged of issuing credit report containing inaccurate, erroneous or outdated information, it shall-
 - (a) endorse the disputed credit report with a note on specific items which are subject to dispute, until such time when the dispute is resolved;
 - (b) request the consumer information provider to provide credible evidence within seven days in support of the challenged information, and shall within fifteen days after the filing of the challenge –
 - (i) provide a copy of any such credible evidence to the person who filed the challenge; or

- (ii) remove the information, and all record of it, from its files, if it is unable to find credible evidence in support of the information;
- (c) not report any information that is challenged until the challenge has been resolved in terms of sub-regulation 3(a) and 3 (b) (i) or (ii).
- (4) A data subject whose disputed consumer information has been corrected shall be provided with a correct credit report free of charge.
- (5) Where the consumer information provider maintains that the disputed information is accurate and the data subject maintains that disputed information is inaccurate, the data subject may appeal to the Bank.
- (6) Under no circumstances shall the disputed information be reported on until the appeal referred to in sub regulation (5) has been completed.

26. Record of challenges

Every credit bureau shall maintain a record of challenged incorrect information in a format as agreed upon by registered credit bureaus and the Bank.

27. Suspension to access

Where a consumer information provider fails to respond or conclude necessary investigations within fifteen working days, the credit bureau shall suspend the credit information provider from having access to consumer information for a period until the dispute has been resolved and report such incidence to the Bank.

28. Fees

A credit bureau may charge a fee for its services and shall notify the Bank of its fee structure through periodic returns submitted to the Bank as specified under these Regulations.

PART VII

POWERS OF THE BANK

29. Powers of the Bank

- (1) The Bank shall have the powers to license, regulate and supervise credit bureaus.

- (2) In exercising its powers under sub-regulation (1), the Bank shall-
 - (a) inspect credit bureau premises and operations to ensure compliance to these Regulations;
 - (b) issue directives, guidelines and circulars for the better carrying out of its supervisory functions under these Regulations;
 - (c) impose sanctions on the credit bureau upon non-compliance with these Regulations.
- (3) Every credit bureau shall submit to the Bank periodic reports and statistics in a format and frequency prescribed by the Bank.

30. Inspection by the Bank

- (1) The Bank may conduct physical inspections to any credit bureau.
- (2) The Bank shall, before conducting physical inspection, provide reasonable notice to the credit bureau.
- (3) The credit bureau shall, prior and during physical inspection, furnish any record, data and information requested by the Bank.
- (4) The Bank shall, after conducting physical inspection, provide the credit bureau with a summary of findings on deficient areas requiring correction and the credit bureau shall provide an action plan for correction of the deficiencies.

PART VIII

GENERAL PROVISIONS

31. Sale of credit information

- (1) A credit bureau shall not, apart from its own business of selling credit reports, sell, lease or transfer title to its credit information or any files unless such sale, lease or transfer is done to another credit bureau without approval of the Bank.
- (2) Nothing contained in these Regulations shall prevent a credit bureau from doing market segmentation and sell aggregated information, provided that personal information of data subjects shall not be disclosed.

32. Retention period

(1) In this regulation,-

“adverse classifications of consumer behaviour” means subjective classifications of consumer behaviour and include classifications such as ‘delinquent’, ‘slow paying’, ‘absconded’ or ‘not contactable’;

“adverse classifications of enforcement action” means classifications related to enforcement action taken by the credit provider, including classifications such as ‘handed over for collection or recovery’, ‘legal action’ or ‘write-off’;

“date of the event” means the date on which the relevant order was given or the date on which the event occurred which is being displayed in the consumer credit record;

“payment profile” means the consumer’s payment history in respect of a particular transaction.

(2) The consumer information as per the following *Table* may be displayed and used for purposes of credit scoring or credit assessment for a maximum period from the date of the event, as indicated:

Categories of Consumer Credit Information	Description	Maximum Period
1 Details and results of disputes lodged by consumers	Number and nature of complaints lodged and whether complaint was rejected. No information may be displayed on complaints that were upheld.	2 years
2 Purpose enquiries	Number of enquiries made on a data subject’s record, including the name of the entity/person that made the enquiry and a contact person if available.	2 years
3 Payment Profile	Factual information pertaining to the payment profile of the data subject.	5 years
4 Adverse classifications of consumer behaviour	Subjective classifications of the data subject’s behaviour as consumer.	3 years
5 Adverse classifications of	Classifications related to enforcement action taken by the	3 years

	enforcement action	credit provider.	
6	Debt restructuring	An order given by the Court or Tribunal.	Until a clearance certificate is issued.
7	Civil court judgments	Civil court judgments including default judgments.	The earlier of 5 years or until the judgment is rescinded by a court or abandoned by the credit provider.
8	Administration orders	As per the court order.	The earlier of 10 years or until order is rescinded by a court.
9	Sequestrations	As per the court order.	The earlier of 10 years or until rehabilitation order is granted.
10	Liquidations	As per the court order.	Unlimited period.
11	Rehabilitation order	As per the court order.	5 years
12	Other information	Any other information not included in any category above.	3 years

33. Disposal of information

Where a credit bureau terminates business and surrenders its license due to bankruptcy or liquidation, the data provided to the credit bureau by the providers of consumers information and sources stored in its database shall be surrendered to the Bank.

34. Indemnification

- (1) The Bank or an employee or representative of the Bank or any person performing a function or exercising the power in terms of this Regulations, shall not be liable for any actions taken or reports presented in good faith in terms of, or furthering the objects of this Regulations.
- (2) A credit bureau shall be indemnified by a consumer information provider for any type of action or damage awards that may result from inaccurate consumer information reported to it, provided that the credit bureau has taken all reasonable measures to ensure the information was correctly processed by the credit bureau.

35. Compliance notice

- (1) The Bank may issue a compliance notice in the prescribed form to-
 - (a) a person whom the Bank on reasonable grounds believes-

- (i) has failed to comply with a provision of these Regulations; or
 - (ii) is engaging in an activity in a manner that is inconsistent with these Regulations; or
 - (b) a registered credit bureau whom the Bank believes has failed to comply with a condition of its registration.
- (2) A compliance notice contemplated in sub regulation (1) must set out-
- (a) the person or entity to whom the notice applies;
 - (b) the provision, or condition, that has not been complied with;
 - (c) details of the nature and extent of non-compliance;
 - (d) any steps that are required to be taken and the period within which those steps must be taken; and
- (3) A compliance notice issued in terms of these Regulations remains in force until-
- (a) it is set aside by a court; or
 - (b) the Bank issues a compliance certificate contemplated in sub regulation (4).
- (4) If the requirements of a compliance notice issued in terms of sub regulation (1) have been satisfied, the Bank must issue a compliance certificate.

36. Effective date

These Regulations shall come into effect on the date to be determined by the Minister in the *Gazette*.

First Schedule



Please send completed application form to: 71 Robert Mugabe Avenue / P.O. Box 2882 Windhoek

APPLICATION FOR REGISTRATION AS A CREDIT BUREAU IN TERMS OF REGULATION 5 OF THE CREDIT BUREAU REGULATIONS, 2013

General information

The applicant must submit the completed application form, together with the required documentation and application fee to the Bank of Namibia

PART 1 – APPLICANT’S INFORMATION

1. Name of applicant

2. Legal status (Please tick appropriate box)

2.1 Private Company

2.2 Public Company

2.3 Partnership

2.4 Close Corporation

2.5 Other (specify)

3. Registration number

4. Date of commencement of trading

5. Financial Year – End

6. Income Tax registration number

7. VAT registration
number _____

8. Contact detail of the applicant

Physical
address _____

Postal
address _____

Telephone number _____ Fax number _____

Website address (if applicable)

9. Contact person

Title _____

Name _____ Initials _____

Surname _____

Telephone number (office) _____ Cell number _____

E-mail address (if applicable) _____

10. Auditor/ Accounting Officer

Physical
address _____

Postal
address _____

Telephone number _____ Fax number _____

11. Name of Auditor or Accountant _____

Telephone number _____ Fax number _____

E-mail address

Practice number

Name of professional body registered with _____

12. Compliance Officer (if applicable) _____

Name of Compliance Officer _____

Telephone number _____ Fax number _____

E-mail address _____

If external compliance officer, name of firm _____

Postal address _____

Name of professional accredited body _____

Telephone number _____

13. Type of business conducted (please tick appropriate box)

Receive enquiries for purposes of credit applications Yes ___ No ___

Receive information on conclusion of credit agreements Yes ___ No ___

Receive information on payment history or patterns Yes ___ No ___

Receive consumer credit information Yes ___ No ___

Investigate credit applications Yes ___ No ___

Investigate credit agreements Yes ___ No ___

Investigate payment history or patterns Yes ___ No ___

Investigate personal financial information Yes ___ No ___

Compile and maintain data from such reports Yes ___ No ___

PART 2 – MEMBERS, DIRECTORS, TRUSTEES, PARTNERS AND GENERAL MANAGERS OF THE APPLICANT

1. Does the Applicant or any natural person exercising general management or control whether alone or in conjunction with others, hold a controlling interest in any of the following businesses?

A credit provider Yes ___ No ___

A debt collection agency Yes ___ No ___

2. If the answer to any of the above is “yes”, please provide details:

PART 3 – SHAREHOLDING OF APPLICANT

1. Indicate the shareholding structure (including nationality of each shareholder) of the Applicant.

Add additional pages if required.

PART 4 – QUALIFICATION, COMPETENCE, KNOWLEDGE AND EXPERIENCE

1. MINIMUM QUALIFICATION, COMPETENCE, KNOWLEDGE AND EXPERIENCE REQUIREMENTS

Employees and Outsource providers

Do you maintain and impose minimum qualifications, competence, knowledge and experience requirements for employees and outsource service providers who will have the authority to represent the applicant in any function Yes ___ No ___

If so, please indicate the minimum qualification requirements imposed:

PART 5 – HOSTING OF A SERVER

1. Where will the server of the applicant be hosted? Locally____ Abroad ____

2. If the answer is abroad, please provide a credible plan indicating how the sovereignty of Namibian data will be maintained.

Add additional pages if required.

PART 6 – HUMAN, FINANCIAL AND OPERATIONAL RESOURCES

1. Human resources

1.1 Indicate the number of staff employed _____

1.2 Does an applicant has a call centre Yes ___ No ___

1.3 Indicate the number of employees responsible for a call centre _____

(a) Average number of calls received daily _____

(a) Average number of staff employed in the call centre on a daily basis _____

1.4 Indicate the daily ratio between calls received by the call centre and the number of staff employed in the call centre _____

1.5 Are any of the services and function of the applicant as a credit bureau outsourced? Yes ___ No

If yes, please provide details of the services that are outsourced.

1.6 If the Applicant does not have a call centre, indicate how the Applicant intends on dealing with enquiries, and who will be responsible for dealing with such enquiries?

2. Financial resources

Provide a copy of the applicant's most recent audited financial statements.

3. Operational resources (please tick appropriate box)

- 3.1 Do you have a fixed business address? Yes___ No ___
- 3.2 Do you have adequate access to communication facilities including telephone, typing, fax and copying facilities? Yes___ No ___
- 3.3 Do you have adequate storage and filing systems for the safe-keeping of all records? Yes___ No ___
- 3.4 Do you have procedures in place and sufficient resources to accept the filing of consumer credit information? Yes___ No ___
- 3.5 Do you have procedures in place and sufficient resources to take reasonable steps to verify the accuracy of any consumer credit information reported to you? Yes___ No ___
- 3.6 Do you have procedures in place and sufficient resources to retain consumer credit information reported to you for the prescribed period? Yes___ No ___
- 3.7 Do you have procedures in place and sufficient resources to maintain your records of consumer credit information in a manner that satisfy the prescribed standards? Yes___ No ___
- 3.8 Do you have procedures in place and sufficient resources to promptly remove from your records any prescribed consumer credit information that, in terms of the regulations, is not permitted to be entered in your records? Yes___ No ___
- 3.9 Do you have procedures in place and sufficient resources to issue a Report to any person who requires it for a prescribed purpose or a purpose Contemplated in the Regulations? Yes___ No ___
- 3.10 Do you have sufficient resources to ensure compliance with accounting and reporting requirements in terms of the Regulations? Yes___ No ___
- 3.11 Do you have sufficient resources to ensure compliance with the requirements of the Regulations? Yes___ No ___
- 3.12 If the answer to any of the above is "No", please provide a credible plan to acquire or develop these resources or procedures. Yes___ No ___

Add additional pages if required.

PART 7 – QUESTIONS, CONCERNS AND COMPLAINTS

(Please tick appropriate box)

1. Do you have a policy in place to handle questions, concerns and complaints? Yes___ No ___
2. Does this policy outline your commitment to handle questions, Concerns and complaints as well as your internal systems and procedures for resolving questions, concerns and complaints? Yes___ No ___
3. Do these internal systems and procedures ensure that questions, Concerns and complaints from customers or credit providers are treated equitable and consistently? Yes___ No ___
4. Do these internal systems and procedures ensure that questions, concerns and complaints from customers or credit providers are treated equitable and consistently? Yes___ No ___
5. Are these internal systems and procedures transparent and visible to consumers and credit providers? (i.e. do consumers and credit providers have knowledge of these systems?) Yes___ No ___
6. Do you have sufficient human resources to handle questions, concerns and complaints from consumers and credit providers? Yes___ No ___
7. Are your human resources adequately trained to handle questions, concerns and complaints from consumers and credit providers? Yes___ No ___
8. Do you have sufficient resources to handle questions, concerns and complaints from consumers and credit providers? Yes___ No ___
9. Are your facilities accessible to consumers and credit providers? Yes___ No ___
10. If the answer to any of the above is “No”, please provide a credible plan to acquire or develop these resources and procedures?

Add additional pages if required.

PART 8 – BUSINESS PREMISES

THIS FORM MUST BE COMPLETED IN RESPECT OF ALL BUSINESS PREMISES FROM WHICH THE APPLICANT CONDUCTS / INTENDS TO CONDUCT THE BUSINESS OF A CREDIT BUREAU. (MAKE ADDITIONAL COPIES IF NECESSARY)

1. Total number of business premises _____

2. Information required per business premises

Trading name

Physical
address _____

Contact person

Telephone number _____ Fax number _____

e-mail address (if applicable)

Trading name

Physical
address _____

Contact person

Telephone number _____ Fax number _____

PART 9 – DECLARATION BY CREDIT BUREAU

1. The applicant hereby permits the Bank of Namibia or any person authorised by the Bank of Namibia to enter any place at or from which the applicant conducts the registered activities during normal business hours, and to conduct inspection for compliance purposes in accordance with regulation 31 (2)(a) of the Regulations.

2. The applicant confirms that the information contained in this application is accurate and complete.

Date:

Capacity

Signatory:

Duly authorised representative of Applicant

If this application is completed on behalf of a juristic person, attach proof of authorisation.

PART 10 – DISQUALIFICATION OF NATURAL PERSONS

THIS FORM MUST BE COMPLETED AND SIGNED IN RESPECT OF EACH NATURAL PERSON WHO EXERCISES GENERAL MANAGEMENT OR CONTROL OF THE APPLICANT, WHETHER ALONE OR IN CONJUNCTION WITH OTHERS. MAKE ADDITIONAL COPIES.

Name of natural person completing form:

Identity number:

Date:

Questions:

- 1. Are you subject to an order of a competent court holding you to be mentally unfit or disordered? Yes___ No ___
- 2. Have you ever been removed from office on account of misconduct relating to fraud or the misappropriation of money, whether in Namibia or elsewhere? Yes___ No ___
- 3. Have you ever been a director or member of a governing body of an entity at such time that such entity has been de-registered in terms of public regulation? Yes___ No ___
- 4. Have you ever been convicted during the previous ten years in Namibia or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, or an offence under the Anti Corruption Act, 2003 (Act 8 of 2003) or comparable legislation of another jurisdiction and been sentenced to imprisonment without the option of fine? Yes___ No ___

If your answer is yes, when providing full details in respect thereof, indicate whether you received a grant of amnesty or free pardon for the offence.

- 5. Have you ever been convicted during the previous ten years, in Namibia or elsewhere, of a crime involving violence against another natural person and been sentenced to imprisonment without the option of a fine? Yes___ No ___

If your answer is yes, when providing full details in respect thereof, indicate whether you received a grant of amnesty or free pardon for the offence.

6. I certify that the information contained herein is true and correct.

Signature _____ **Date** _____

Second Schedule



Please send completed application form to: 71 Robert Mugabe Avenue / P.O. Box 2882 Windhoek

STATUTORY DECLARATION IN TERMS OF REGULATION 7(3) OF THE CREDIT BUREAU REGULATIONS, 2013

I, _____ of _____
(insert address) in the Republic of _____ do hereby make oath and solemnly state as follows:

1. THAT I am the deponent herein hence competent to swear this affidavit.
2. THAT I am the Chief Executive Officer of _____
(insert name of Credit Bureau) hereinafter referred to as the Applicant.
3. THAT I am holder of _____ (insert Identification Card details).
4. THAT I make this affidavit and hereby undertake that the applicant shall adhere to the provisions of these Regulations and in particular the applicant will not disclose to any person any information obtained pursuant to the applicant's obligations under these Regulations except as provided herein.
5. THAT the facts herein deponed to are true to the best of my knowledge, information and belief.

Sworn by _____ at _____ day of _____

Before me,

Commissioner of Oaths

Third Schedule



PRIMARY SOURCES OF CREDIT AND NON-CREDIT INFORMATION IN TERMS OF REGULATION 15(1) OF THE CREDIT BUREAU REGULATIONS, 2013

- (i) Credit providers
 - a. Commercial banks
 - b. Micro lenders
 - c. Retailers providing credit

- (ii) Utilities
 - a. Regional Electricity Distributors (REDs)
 - b. Bulk water suppliers
 - c. Telecommunication companies

- (iii) An organ of State, court or judicial officer

- (iv) Local Authorities
 - a. Municipalities
 - b. Town Councils
 - c. Village Councils

- (v) Other entities engaged in the extension of credit to borrowers, guarantors or any other parties to a credit.

Fourth Schedule



APPLICATION AND ANNUAL LICENCE FEES IN TERMS OF REGULATIONS 6(2) (i) and 9(1) OF THE CREDIT BUREAU REGULATIONS, 2013

1. An application for a license to conduct credit bureau business shall be accompanied by a proof of payment of N\$ 1,000 payable to the Bank, being a non-refundable application fee.
 2. A credit bureau shall be required to pay to the Bank an annual license fee of N\$ 10,000.
 3. Fees referred to in paragraphs (1) and (2) above shall be subjected to periodic review by the Bank.
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