



The Central Bank of The Bahamas

PUBLIC CONSULTATION

on

**The Credit Reporting Bill, 2014
and
The Credit Reporting Regulations, 2014**

23rd September, 2014

Table of Contents

I. Introduction	3
II. Background	3
III. The Role of a National Credit Reporting System	4
IV. Key Provisions of the draft Credit Reporting Bill, 2014	7
V. Key Provisions of the draft Credit Reporting Regulations, 2014	13
VI. Glossary	18
VII. Consultation Period & Communication Strategy	20
Annex 1: Draft Credit Reporting Bill, 2014	
Annex 2: Draft Credit Reporting Regulations, 2014	

I. Introduction

1. The Bahamas' Credit Bureau Project (the BCBP) was launched by the Central Bank of The Bahamas (the Bank) in 2010, for the purpose of establishing a national credit reporting system in The Bahamas. The Central Bank recognizes that a national credit reporting system should be supported by an appropriate legal and regulatory framework and has, therefore, drafted the Credit Reporting Bill, 2014 and accompanying Credit Reporting Regulations, 2014 (which are set out in Annexes 1 and 2). The Bank is now seeking public feedback on the draft Bill and Regulations. These drafts were prepared with support from the International Finance Corporation (IFC) as part of the technical assistance which the Bank is receiving under the IFC's Caribbean Credit Bureau Project—which is a 5 (five) year project for credit bureau development in the English-speaking Caribbean, funded by the Canadian International Development Agency (CIDA). The draft Bill and Regulations have gone through several revisions, following review by the Central Bank and the BCBP's inter-disciplinary Legal Working Group.

II. BACKGROUND

- 2.1 Over the years, the Central Bank has held extensive dialogue with the Government, the commercial banks and other private sector stakeholders about the possibility of establishing a credit bureau in the jurisdiction.
- 2.2 Several Bank-led initiatives prepared the way for the launch of the BCBP, inclusive of the establishment of a Credit Bureau Committee (comprising representatives of the Central Bank and the Clearing Banks Association) as a vehicle for coordinating dialogue with financial sector stakeholders on the prospects of establishing a credit bureau in The Bahamas. The Central Bank later engaged the expertise of the World Bank to undertake a feasibility study of the capacity of the local market, to first support a lenders exchange (to comprise banks only) and then, a full fledged credit bureau. The findings arising out of this study formed the basis of the Government's support for the BCBP, which was communicated to

the Bank, via correspondence dated 19th June, 2008.

- 2.3 In February, 2010, the Central Bank invited the IFC, and the Caribbean Regional Technical Assistance Centre, to meet with key stakeholders to gauge the level of domestic interest in developing a private credit bureau. In April 2010, the IFC commenced a market assessment with an analysis of the legal and regulatory framework to determine whether or not The Bahamas' existing regime could support a fully functioning credit reporting system. This was followed, in October 2010, with the IFC's analysis of the business practices and technical processes used in the domestic credit market to approve and administer consumer and small and medium-sized enterprise loans. A survey was launched to obtain relevant information from participating firms (i.e., banks, insurance companies, credit unions and large private sector providers of credit such as furniture stores, etc.) on their current loans, including products, sales, strategy, distribution channels, and portfolio breakdown.
- 2.4 The IFC presented the Bank with the results of their analyses arising out of the market assessment, in two (2) reports: the Business and Technical Assessment Report and the Legal and Regulatory Country Assessment Report. These Reports identified weaknesses in the existing business and regulatory infrastructure for credit reporting in the jurisdiction and set out strategies for strengthening the regulatory and business underpinnings required to support a credit bureau, inclusive of the introduction of credit reporting legislation.

III. THE ROLE OF A NATIONAL CREDIT REPORTING SYSTEM

- 3.1 The Central Bank has been given the mandate under the Central Bank of The Bahamas Act, 2000 , as part of its monetary policy objective, in collaboration with the financial institutions which it regulates, to promote and maintain adequate banking services that are characterized by high standards of conduct and management. The Central Bank is also mandated to ensure the stability of the financial system of The Bahamas.

- 3.2 In keeping with its stability mandate, the Bank is moving toward establishing a credit reporting system in The Bahamas. Credit reporting systems comprise the institutions, individuals, rules, procedures, standards and technology that enable information flows relevant to making decisions related to credit and loan agreements. Essentially, credit reporting systems consist of databases of information on debtors, together with the institutional, technological and legal framework supporting the efficient functioning of such databases.¹
- 3.3 In the current lending environment, lenders are making credit decisions on less than full information on borrowers' indebtedness, which leads to more risky loans being extended. A credit reporting system would provide banks, non-bank financial institutions and other lenders, with additional tools to evaluate the credit worthiness of their customers and to better equip the Central Bank to carry out macro-prudential monitoring of the economy.
- 3.4 A credit bureau is a key component of a properly functioning credit reporting system. Credit bureaus collect personal, financial and demographic information on individuals and small firms and provide this information to participating lenders by way of a credit report. Creditors then utilize these reports to determine whether or not to grant loans or extend credit, and at what interest rate. Typical clients or users of credit bureaus include banks, mortgage lenders, credit card companies and other financing companies.
- 3.5 By providing the mechanisms for credit activities to be conducted on full and relevant information, this will facilitate, among other things:
- (i) a reduction in lenders' exposure to risky loans, mitigate their non-performing loan rates, and make the credit decision making process more efficient;
 - (ii) increased access to credit and to a range of financial products by consumers on more favourable terms and at competitive interest rates, thus reducing their borrowing costs;

¹ World Bank. General Principles for Credit Reporting. September 2011.

- (iii) a measure of discipline on debtor behaviour; thus, reducing the level of consumer indebtedness and the number of non-performing loans in the financial system; and
 - (iv) enhance the Central Bank’s capacity to monitor system risks and utilize accurate aggregate information on credit quality.
- 3.6 Based on the operating experience of existing credit bureaus, a sustainable operation needs in excess of 250,000 credit inquiries per annum; otherwise, the capital cost of entry is too high and the subsequent cost of individual credit reports, prohibitively expensive.
- 3.7 The IFC has recommended an off-shore model for credit bureau implementation in The Bahamas—where an existing service provider would leverage its existing systems outside The Bahamas to serve the Bahamian market. While the bureau may leverage its existing hardware and software to host data from The Bahamas outside The Bahamas, the data would be strictly segregated from any other data hosted on the same servers, and would only be accessible by authorized persons. Additionally, the credit bureau would be required to establish a physical presence in The Bahamas to provide for customer and consumer interface.
- 3.8 The Central Bank intends to issue a Request For Solution which will be open to any qualified operator, whether domestic or international, interested in submitting an application to operate a credit bureau in the jurisdiction. The Bank will select the operator who best meets the criteria set out in the Request For Solution.
- 3.9 Clause 31 of the draft Credit Reporting Bill will permit a credit bureau, subject to the approval of the Central Bank, to outsource or otherwise sub-contract the processing of data subject information (hereafter referred to as “consumer information”) in its control to an entity outside The Bahamas. The Central Bank may, prohibit the transfer of personal data outside The Bahamas, if it has reason to believe that protection for credit information is not or not likely to be the same as or similar to standards established under the Bill.

IV KEY PROVISIONS OF THE DRAFT CREDIT REPORTING BILL, 2014

4.1 This Consultation Paper highlights and summarizes key provisions of the proposed Credit Reporting Bill, 2014 and the Credit Reporting Regulations, 2014.

a. Regulatory Oversight of the Credit Reporting System

4.2 Given the impact of credit on the economy, the Central Bank will have oversight responsibility for the credit reporting system, having as its goal, the promotion of arrangements that are efficient and effective in satisfying the needs of the various market participants, and supportive of consumer rights and of the development of a fair and competitive credit market. The Bank will be responsible for licensing and supervising credit bureaus established in The Bahamas and will be empowered to, *inter alia*, conduct on-site inspections of licensed credit bureaus and issue standards and guidelines regarding the provision of credit reporting services (see Parts II, III and Part V of the draft Credit Reporting Bill, 2014).

4.3 Clause 5 of the draft Credit Reporting Bill, 2014 (the draft Bill) prohibits any person operating in the jurisdiction as a credit bureau without first being licensed for the purpose by the Central Bank.

4.4 Clause 32 of the draft Bill authorizes the Bank to require a credit bureau to provide the Bank with any information or document which the Bank considers necessary to enable it to properly discharge its functions under the Credit Reporting Act and the Credit Reporting Regulations. The Central Bank may conduct on-site inspections of credit bureaus and may also require access to the books and records of the credit bureau (see clause 33). The Bank may not, however, access the credit information of a consumer without, *inter alia*, the consent of the consumer or a court order (see clause 32(8)).

4.5 The Central Bank may enter agreements with any overseas regulatory authority that carries on functions similar to the functions of the Central Bank under the Credit Reporting Act, for the purpose of administering or enforcing the Credit Reporting

Act, or for any other purpose respecting credit reporting services that the Central Bank believes is in the public interest (see clause 44).

- 4.6 Clause 45 of the draft Bill provides that information obtained by the Central Bank as a result of an inspection or audit, must be treated as confidential. Such information may be accessed by directors, officers or employees of the Central Bank or persons authorized by the Central Bank only if, and to the extent that, such access is required to enable them to carry out their responsibilities. Central Bank officials and persons authorized by the Bank are prohibited from disclosing confidential information, unless authorized under the Credit Reporting Act or other law or with the consent of the person to whom the information relates.
- 4.7 Clause 53 provides that where a credit bureau is being wound up or liquidated, or where it has surrendered its licence, the database containing information on the credit history of data subjects shall be transferred to the Central Bank. The Central Bank is authorized to determine whether the credit bureau's activities will be continued and for a period not exceeding twelve months, retains the right to use the credit bureau's platform until the evaluation and selection process to grant a new credit bureau license is completed.
- 4.8 A credit bureau must first obtain the approval of the Central Bank before passing a resolution to suspend its activity or wind up its operations.

b. Credit Reporting

- 4.9 The activities which a credit bureau may engage in are set out in Part IV of the draft Bill, and include collecting, evaluating and disseminating consumer information to users of the credit bureau. It will be mandatory for lenders, including banks, insurance companies, financial and corporate service providers, credit unions, the Bahamas Mortgage Corporation and other mortgage lenders to transmit information to the credit bureau. The Central Bank may require that other credit providers or entities, submit information to the credit bureau. They would include, the utilities (the Bahamas Telecommunications Company, Cable Bahamas, the

Bahamas Electricity Corporation, the Water and Sewerage Corporation), retailers that sell goods on hire purchase, the National Insurance Board, and the Companies Registry. The credit bureau will also obtain public record information, such as court judgments, directly from the courts.

- 4.10 The credit bureau will also issue credit reports on data subjects (hereafter referred to as “consumers”). The credit bureau will capture both positive and negative information which, studies have shown, improves lenders’ ability to predict borrowers’ future payment behaviour. Negative information includes late payments, credit defaults, judgments and bankruptcies. Positive information is more exhaustive than negative data and includes information on open and closed credit accounts of a consumer, such as the amount of credit approved, the payments made on a loan, the current loan balance, repayment patterns, purpose of the loan and the collateral pledged.
- 4.11 The draft Bill prohibits the inclusion of certain types of information in a credit report which might expose a borrower to discrimination. This prohibition includes information regarding the race, creed, colour, medical information, ancestry, ethnic origin or political affiliation of a consumer, or judgments which have been satisfied (see clause 19).
- 4.12 The draft Bill also lists the “permissible purposes” for which a credit bureau may provide a credit report to a user. Clause 20 of the Bill sets out these permissible purposes and provides that a credit bureau must first obtain the consent of the consumer before disclosing the consumer’s credit report. Permissible purposes are:
- (a) for the consideration of an application for credit or an offer to act as a guarantor of an application for credit;
 - (b) for use in connection with:
 - (i) the purchase or collection of a debt of the consumer;
 - (ii) the entering into or renewal of a tenancy agreement with the consumer;
 - (iii) the underwriting of insurance involving the consumer;

- (c) for use in connection with a business or credit transaction involving the data subject that is not mentioned in paragraphs (a) or (b)
- (d) for use relating to a pre-employment check in respect of a consumer, for a position involving significant financial risk;
- (e) periodic portfolio monitoring and risk assessment purposes, collection and skip tracing; and
- (f) for any other permissible purpose as the Central Bank may, from time to time, specify by Regulations.

4.13 A credit bureau will be obliged to provide a credit report in response to a court order. The draft Bill provides that it is an offence for a credit bureau to issue consumer information in contravention of the provisions of the Credit Reporting Act.

4.14 The draft Bill requires credit bureaus to ensure that consumer data is current, authentic, legitimate, reliable, accurate and comprehensive (see clause 21(1)(c)) and that consumer data is not kept longer than necessary for any permissible purpose (except where such information is required for historical, statistical or research purposes).

4.15 The draft Bill requires the credit bureau to take appropriate measures to secure consumer data against unauthorized access to, or alteration, disclosure or destruction of the data and against accidental loss or destruction of the information (see clause 22(1) of the Bill).

4.16 Under the draft Bill, a credit bureau is required to enter a subscriber agreement before disclosing consumer information to a subscriber (see clause 22(2)(c)).

c. Consumer Rights

4.17 As a credit bureau collects and handles personal information of individuals, the legal and regulatory framework for credit reporting must address the issue of data privacy and consumer protection and must afford consumers rights in this regard. Under the Credit Reporting Bill, 2014 and Credit Reporting Regulations, 2014, consumers will have the right to:

- know that their information is being shared with the credit bureau and inquired upon from the credit bureau (see clause 23);
- have information held by the credit bureau that they perceive to be inaccurate, misleading, incomplete or out-of-date, corrected in a timely manner (see clause 23);
- dispute the accuracy of information produced in a credit report (see clause 30); and
- receive a free credit report, upon request, each year and also in any case where a credit bureau has corrected credit or personal information relating to the consumer or where a consumer has been denied credit (see clauses 23(1) (c), 23(4) and clause 25(b).

d. National Credit Reporting Review Commission

4.18 Part VII of the draft Bill provides for the establishment of a Credit Reporting Review Commission (the Commission) to provide for an objective and independent review of any action or decision taken by the credit bureau as it relates to its clients or underlying consumers, or by the Central Bank as it relates to any of the credit reporting system participants. Part VII prescribes the procedure for the Commission to review:

- (a) the action, decision or conduct of a credit bureau where the credit bureau does not issue a decision within the prescribed time for resolving a dispute; or, if the consumer is not satisfied with the decision of the credit bureau in relation to a dispute; or,
- (b) the action or decision of the Central Bank in respect of a credit bureau.

4.19 The draft Bill requires the Commission to issue a written decision on any application submitted to it for review, within twenty-eight (28) days of receipt of the application. The Commission must notify the applicant of the right to appeal the decision under Part VIII of the Bill, no later than seven (7) days following the date of the decision and must notify any other person who participated in

the proceedings, before the Review Commission of the reasons for the Commission's decision.

- 4.20 The Review Commission has power to make its decisions available for public inspection, provided such disclosure is lawful, in the public interest and not likely to prejudice the legitimate commercial interests of the credit bureau which was a party to the proceedings or the interests of an aggrieved consumer (see clause 41).

e. Appeals

- 4.21 Appeals from a decision of the Commission may be made to the Supreme Court within twenty-eight (28) days of the decision or order (see clause 42). On hearing an appeal, the Supreme Court may-
- (a) dismiss the appeal;
 - (b) allow the appeal;
 - (c) allow the appeal subject to terms and conditions;
 - (d) vary the decision or order of the Central Bank or Commission;
 - (e) refer the matter back to the Central Bank or Commission for further consideration and a decision or an order; or
 - (f) make such other order as the Court deems appropriate.
- 4.22 The commencement of an appeal shall not operate as a stay of a decision or order appealed from, unless a judge of the Supreme Court orders otherwise.
- 4.23 Appeals from the decision of the Supreme Court lie to the Court of Appeal on questions of law only (see clause 43). An appeal must be launched within six (6) weeks of the date of the decision or order of the Supreme Court.

V. KEY PROVISIONS OF THE DRAFT CREDIT REPORTING REGULATIONS, 2014

a. Assessing applications for a credit bureau licence

- 5.1 The draft Credit Reporting Regulations (the Regulations) set out the information and documents which must accompany an application for a licence to operate a credit bureau in The Bahamas. The Regulations describe the factors which the Central Bank must take into account when evaluating an application for a credit bureau licence including, for example, the experience and qualifications of persons who will operate the credit bureau, whether such persons are fit and proper, the business plan of the credit bureau operator and the adequacy of its safety and security measures (see Regulations 3 - 5).
- 5.2 A credit bureau must furnish the Central Bank with periodic returns regarding their business operations in such form and within such time as the Bank may require (see Regulation 14).
- 5.3 Regulation 20 provides that a credit bureau is required to apply high standards for screening its staff and may not hire any person who is:
- (a) an undischarged bankrupt or enters into a composition or scheme of arrangement with his or her creditor;
 - (b) has been convicted of an offence involving fraud or dishonesty; or
 - (c) has been removed from office under the provisions of this Act and the Regulations.
- 5.4 Where a person referred to in paragraph 5.3 is already in the employment of a credit bureau, the person—
- (a) shall be disqualified; and
 - (b) upon such disqualification, shall not be eligible to hold office in, or be in the employment of, any credit bureau for a period of ten years from the date of the disqualification.

b. Information which may be collected and disseminated by a credit bureau

- 5.5 The Regulations prescribe the type of information which may be collected and disseminated by a credit bureau, which includes the following: personal information; the credit history of the consumer, including the nature and amounts of loans granted, or to be granted, to the consumer; any security taken or proposed to be taken by a credit provider for the aforementioned loans; and the pattern of loan repayments and debt restructuring, etc. (see Regulation 8).
- 5.6 Personal information about a natural person includes their name, date of birth, national insurance or national identity number, passport number, driver's licence number, and past and current addresses (see Regulation 8(3)(a)).
- 5.7 Information about a company or other legal person includes their business name, registration number of the company, names of directors, shareholders or partners, the current registered address and past registered addresses (see Regulation 8(3)(b)).
- 5.8 Credit information providers are mandated, pursuant to clause 18(1) of the draft Credit Reporting Bill, to provide information on a consumer to the credit bureau. Regulation 9(2) requires a credit information provider to provide the following information to the credit bureau:
- the amount and nature of loans granted by the credit provider to the consumer;
 - the nature of the security taken from any consumer in respect of loans granted to the consumer by the credit provider;
 - the nature of any guarantee furnished to the consumer by the credit provider; and
 - information about a consumer's income, creditworthiness or history of financial transactions, including antecedents and adverse court judgments, obtained by the credit provider in relation to transactions involving the credit provider.

The Regulations provide that the Central Bank may specify, by notice published in the Gazette, additional credit-related

information which credit providers must transmit to the credit bureau.

- 5.9 The Regulations require credit information providers and users to:
- (i) take reasonable measures to satisfy themselves that the information is reliable (see Regulation 9(3)); and
 - (ii) inform consumers of the name and address of the credit bureau to which information about the consumer is being sent (see Regulation 10(3)).
- 5.10 Where a credit information provider becomes aware that information provided to the credit bureau was inaccurate at the time it was provided, the Regulations require that within five working days thereafter, the credit information provider instruct the credit bureau, by way of an amendment notice, to delete the inaccurate information and replace it with correct information (see Regulation 9(4)).
- 5.11 Where a subscriber requests information about a consumer from a credit bureau for the purpose of evaluating a consumer's application for credit, before the credit bureau may disclose information to the subscriber, the subscriber must first certify that it will use the consumer's information only for a permissible purpose, properly dispose of consumer information so that it cannot reasonably be read or reconstructed and has adequate security and control systems to protect data received by it (see Regulation 10(2)).
- 5.12 A credit bureau may impose charges for its services, including the provision of credit reports, as may be agreed between the user and the credit bureau. The credit bureau may not charge for conducting an investigation into a dispute of a consumer, providing a free annual credit report or correcting disputed information (see Regulation 21)).

c. Consumer access to credit reports

- 5.13 A consumer may make a written request of a credit bureau for a credit report which the credit bureau must provide to the

consumer within five (5) working days of the request. The regulations provide that the credit report shall clearly and accurately disclose the following to the consumer (see Regulation 11):

- (a) the nature and substance of all information in the credit bureau's file regarding the consumer, at the time of the request;
- (b) the sources of such information;
- (c) the names of all persons to whom a credit report regarding the consumer has been provided within the previous twelve (12) months; and
- (d) the contents of any written credit report regarding the consumer, made to any other person.

5.14 The credit bureau must also inform the consumer of his or her right to dispute any information in the credit bureau's file and of the procedure for filing a dispute.

d. Disputing information in a credit report

5.15 Where a consumer is denied credit by a credit provider, the credit provider is required to advise the consumer of the contact details and address of the credit bureau which furnished the consumer's credit report (see Regulation 13) and of the consumer's right to dispute the report with the credit bureau or to have any erroneous or outdated information corrected. The Regulations provide that a notice of dispute, submitted by a consumer, must be in writing and contain details regarding the disputed information and an indication of the action which the consumer expects the credit bureau to take (see Regulation 16).

e. Dispute resolution

5.16 The credit bureau is required to address disputes expeditiously and inform consumers of any action they propose to take following their investigations into a complaint.

5.17 Where the credit bureau is of the view that information on the consumer's file is accurate, complete and verified, it is required to

inform the consumer and also advise the consumer of their right to file a written statement of dispute containing not more than two hundred words setting out the nature of their dispute regarding the information (see Regulation 17(2)(a)). The credit bureau must provide a copy of the statement of dispute to any person who received a copy of the consumers' credit report within the preceding six (6) months and attach a copy of the statement of dispute to any subsequently issued credit report (see Regulation 17(3)).

- 5.18 If the credit bureau finds that information on file regarding a consumer is erroneous, obsolete or incomplete, it must, within a reasonable time, update the information, by completing or correcting the information or deleting the information, as the case may be. The credit bureau must also give written notice of the action taken to the consumer and any person who received a credit report on the consumer during the previous six (6) months, unless the consumer directs otherwise.
- 5.19 Where a credit information provider receives a notice of dispute from a credit bureau, the credit information provider shall, within ten (10) working days of receipt of the notice of dispute, complete its investigation into the disputed information and give the credit bureau a notice of resolution or an amendment notice advising whether the disputed information is to be deleted, amended or is to remain unchanged (see Regulation 18).

VI. GLOSSARY

Below is a short glossary of some key terms relating to credit reporting as used in this Consultation Paper and based on definitions in the draft Credit Reporting Bill, 2014.

“credit file” in relation to a data subject, means file, whether in electronic form or otherwise, containing the data subject information and other records collected, kept, maintained or otherwise processed by a credit bureau in respect of the data subject from which a credit report is prepared or produced;

“credit information” means any positive or negative information bearing on a data subject’s credit worthiness, credit standing, credit capacity, including, but not limited to, the history or profile of the data subject with regard to credit, assets or financial obligations;

“credit information provider” means a credit provider or other entity listed in clause 18 of the Credit Reporting Bill, that furnishes data subject information to a credit bureau;

“credit provider” includes a person that carries on a business involving—

- (a) the provision of credit to another person; and
- (b) the selling of goods in accordance with a hire purchase agreement, credit sale agreement, or conditional sale agreement pursuant to the Hire Purchase Act [Ch. 342];

“credit report” means a communication by a credit bureau, whether in electronic form or otherwise, pertaining to the credit information, personal information, or both, of a data subject;

“data subject” in relation to a credit bureau, includes any person—

- (a) whose information has been furnished to the credit bureau by reason of a contractual relationship with a credit provider or a loan application signed by the person or any other legitimate purpose; or
- (b) who is a guarantor of a person described in paragraph (a);

“data subject information” includes any information relating to the credit information or personal information of a data subject (whether such information is obtained from the data subject, a third party or specified public register) that may be processed under the Credit Reporting Bill or the Regulations;

“user” means –

- (a) a person who has entered a subscriber agreement with a credit bureau to receive credit reports from the credit bureau and any reference to “subscriber” shall be construed accordingly; or
- (b) a person, other than a subscriber, who has obtained the consent of a data subject to receive the data subject’s credit report from a credit bureau.

VII. CONSULTATION PERIOD & COMMUNICATION STRATEGY

- 7.1 The Central Bank invites your comments on the draft Credit Reporting Bill, 2014 and the draft Credit Reporting Regulations, 2014. Comments should be submitted no later than 17th December, 2014. Your comments and questions regarding the proposed changes should be directed to:

The Bahamas Credit Bureau Project
Central Bank of The Bahamas
Frederick & Market Streets
P.O. Box N 4868
Nassau, Bahamas
Tel (242) 302-2615
Fax (242) 323-7795
Email: LGL@centralbankbahamas.com

- 7.2 During the consultation period, the Central Bank will be arranging a series of outreach sessions—to include, presentations to various key interest groups and associations; such as, the Rotary and Kiwanis Clubs, the credit and trade unions, the Chambers of Commerce and members of the general public, on the BCB Project and the key legislative changes to be introduced, through the enactment of the Credit Reporting Bill and Credit Reporting Regulations, and how these changes will likely impact borrowers. Groups interested in such a presentation are invited to contact the Bank at the above-noted address for further information.

23rd September, 2014

THE CREDIT REPORTING BILL, 2014

Arrangement of Sections

Section

PART I – PRELIMINARY	3
1. Short title and commencement	3
2. Interpretation	3
PART II – ADMINISTRATION	8
3. Supervisory and regulatory authority of the Central Bank.....	8
4. Powers, duties and functions of the Central Bank.....	8
PART III - LICENSING OF CREDIT BUREAUS	9
5. Licence required.....	9
6. Application for licence	9
7. Grant of licence	10
8. Refusal to grant licence	10
9. Terms and conditions of licence.....	11
10. Restrictions on the transfer of licence	12
11. Duration of licence and payment of fees.....	13
12. Material changes in circumstances affecting credit bureau.....	14
13. Suspension and revocation of licence	14
14. Surrender of licence	15
15. Auditors and annual reports	16
16. Publication by the Central Bank	16
PART IV - CREDIT REPORTING	16
17. Activities of credit bureaus	16
18. Credit information providers.....	17
19. Credit reports.....	18
20. Permissible purposes.....	19
21. Data management and quality control.....	19
22. Security and control measures.....	20
23. Data subjects’ right of access and correction	22
24. Consent requirements.....	22
25. Denial of credit, etc.	23
26. Duty to maintain records and credit information	23
27. Restrictions regarding disclosure of data subject information	23
28. Supplying false information prohibited.....	24
29. Void agreements.....	24
30. Resolution of disputes	24
31. Cross-border data flow	24
PART V - SUPERVISION BY THE CENTRAL BANK	25
32. Information gathering powers	25
33. Inspections	26

CREDIT REPORTING BILL, 2014

34.	Warrants	26
35.	Costs of inspections.....	27
36.	Court order	27
PART VI - CIVIL LIABILITY		28
37.	Civil liability for wilful and negligent non-compliance.....	28
PART VII - CREDIT REPORTING REVIEW COMMISSION		28
38.	Right to review	28
39.	Review Commission	29
40.	Review proceedings	29
41.	Decisions of the Review Commission	30
PART VIII APPEALS		32
42.	Appeals to Supreme Court	32
43.	Appeals to Court of Appeal.....	32
PART IX - MISCELLANEOUS PROVISIONS		33
44.	Agreements with other bodies.....	33
45.	Confidentiality and restrictions regarding access to information.....	33
46.	Evidence regarding certificate of the Central Bank	34
47.	General offences.....	34
48.	Offences by body corporate	34
49.	General penalties	35
50.	Fixed penalties	35
51.	Limitation on prosecution	36
52.	Immunity	36
53.	Protection of databases upon liquidation	36
54.	Regulations.....	37
FIRST SCHEDULE (SECTION 2(1))		38
PUBLIC REGISTRIES		38
SECOND SCHEDULE (SECTION 39(2))		39
CONSTITUTION, OPERATION AND PROCEDURES OF THE CREDIT REPORTING REVIEW COMMISSION		39
OBJECTS AND REASONS		42



CREDIT REPORTING BILL, 2014

A BILL FOR AN ACT TO PROVIDE FOR A FAIR AND AN ACCURATE CREDIT REPORTING SYSTEM WITHIN THE FINANCIAL SYSTEM IN ORDER TO ASSURE OBJECTIVE CREDIT DECISIONS; TO ENABLE CREDIT INFORMATION SHARING AND REPORTING; TO PROVIDE FOR THE REGULATION OF THE CONDUCT OF CREDIT REPORTING AND CREDIT REPORTING SERVICES; TO PROVIDE SAFE GUARDS FOR DATA PROTECTION FOR CUSTOMERS OF CREDIT PROVIDERS AND FOR RELATED MATTERS.

Enacted by the Parliament of The Bahamas.

PART I - PRELIMINARY

Short title and commencement.

1. (1) This Act may be cited as the Credit Reporting Act, 2014.

(2) This Act shall come into operation on such day as the Minister may, by notice published in the *Gazette*, appoint.

Interpretation.

2. (1) In this Act, unless the context otherwise requires—

“**access log**” means a record of every access made to credit information held by a credit bureau;

“**applicant**” means the applicant for a licence pursuant to section 6;

“**Central Bank**” means the Central Bank of The Bahamas established pursuant to section 3 of the Central Bank of The Bahamas Act, **Ch. 351**;

“**Consumer Protection Commission**” means the Consumer Protection Commission established pursuant to section 3 of the Consumer Protection Act, **Ch. 337C**;

“**court**” means the Magistrate’s Court, the Supreme Court or any other court of competent jurisdiction in The Bahamas;

“**credit**” includes—

- (a) the borrowing capacity provided to a person by a credit provider, in the form of a loan; and

CREDIT REPORTING BILL, 2014

- (b) any promise or agreement regarding the acquisition (that is to say, the buying, purchasing or obtaining) of goods or services from a credit provider and the payment for the goods or services at some time after the date of such acquisition pursuant to designated terms and conditions;

“credit bureau” means a person licensed pursuant to this Act to—

- (a) collect or otherwise process data subject information;
- (b) prepare, produce or provide credit reports on the basis of activities referred to in paragraph (a); and
- (c) offer value added services—
 - (i) for gain or profit, or
 - (ii) on a regular, co-operative and non-profit basis;

“credit file”, in relation to a data subject, means a file, whether in electronic form or otherwise, containing the data subject information and other records collected, kept, maintained or otherwise processed by a credit bureau in respect of the data subject from which a credit report is prepared or produced;

“credit information” means any positive or negative information bearing on a data subject’s credit worthiness, credit standing, credit capacity, including, but not limited to, the history or profile of the data subject with regard to credit, assets or financial obligations;

“credit information provider” means a credit provider or other entity specified in section 18 that furnishes, to a credit bureau, data subject information;

“credit provider” includes a person that carries on a business involving—

- (a) the provision of credit to another person; and
- (b) the selling of goods in accordance with a hire purchase agreement, credit sale agreement, or conditional sale agreement pursuant to the Hire Purchase Act, **Ch. 342**;

“credit report” means a communication by a credit bureau, whether in electronic form or otherwise, pertaining to the credit information, personal information, or both, of a data subject;

“credit reporting system” comprises all the institutions, individuals, rules, procedures, standards and technology that enable information flows relevant to making decisions for a permissible purpose as specified under this Act;

“database” means a set of data subject information collected, managed, disseminated or otherwise processed by a credit bureau;

CREDIT REPORTING BILL, 2014

“Data Protection Act” means the Data Protection (Privacy of Personal Information) Act, Ch. 324A;

“Data Protection Commissioner” means the person appointed pursuant to section 14 of the Data Protection Act to perform the functions pursuant to that Act;

“data subject”, in relation to a credit bureau, includes any person—

(a) whose information has been furnished to the credit bureau by reason of -

- (i) a contractual relationship with a credit provider;
- (ii) a loan application signed by the person; or
- (iii) any other legitimate purpose; or

(b) who is a guarantor of a person described in paragraphs (a)(i) and (ii);

“data subject information” includes any information relating to the credit information or personal information of a data subject (whether such information is obtained from the data subject, a third party or specified public register) that may be processed pursuant to this Act or the Regulations;

“director”, in relation to a credit bureau, means a member of the board of directors of the credit bureau;

“law enforcement agency” includes—

- (a) a legally authorised body with responsibility for the investigation of criminal matters and enforcement of the criminal law; and
- (b) any specialized agency in charge of processing financial information related to criminal or terrorist activity;

“licence” means a valid licence granted pursuant to this Act to carry on business as a credit bureau;

“loan” includes—

- (a) direct, indirect or contingent obligations incurred by a person with a third party;
- (b) any discount, advance or overdraft;
- (c) export bills purchased or other bills receivable or purchased;
- (d) import bills, or data subjects’ liability on off-balance sheet items; or
- (e) any other credit facilities extended to a data subject by a credit provider;

CREDIT REPORTING BILL, 2014

“material change in circumstances”, in relation to a credit bureau, means a change in circumstances specified in the Regulations by the Central Bank;

“Minister” means the Minister with responsibility for Finance;

“negative information”, in relation to a credit transaction between a data subject and a credit provider, includes—

- (a) credit defaults, collections, late payments;
- (b) accounts compulsorily closed other than for administrative reasons;
- (c) voluntary or mandatory surrender of assets;
- (d) convictions respecting the offence of fraud or forgery;
- (e) receiverships, bankruptcies and liquidations;
- (f) liens, garnishment or any other such judgments; and
- (g) any other act or information which could cause a credit application to be declined or restricted according to a creditor's policy relating to the overdue, past due, charge off, or delinquent status of the credit transaction between the data subject and the credit provider;

“officer”, in relation to a credit bureau, includes the chief executive officer, chief financial officer, treasurer, chief internal auditor and the manager of a significant unit of the credit bureau;

“person” includes a natural person or a legal person;

“personal information”, in relation to a data subject, means any information about the data subject that may be used to identify the data subject;

“positive information” means any information relating to the current or historical status of a credit transaction between a data subject and a credit provider including, but not limited to, the date an account was opened, the date of the last payment, credit approved, the payments made, the current balance, repayment patterns, the utilization of credit and any collateral pledged;

“prescribed” means prescribed in the Regulations;

“process”, in relation to data subject information, means—

- (a) collect, record, hold or store data subject information; or
- (b) carry out any operation or set of operations on the data subject information, including—

CREDIT REPORTING BILL, 2014

- (i) the organization, adaptation or updating of the data subject information;
- (ii) the retrieval, consultation or use of the data subject information;
- (iii) the disclosure of the data subject information by transmission, transfer, dissemination or otherwise making available; and
- (iv) the alignment, combination, correction, erasure or destruction of the data subject information,

and cognate expressions shall be construed accordingly;

“record”, in relation to a credit bureau, means a book, paper, document, whether in electronic form or otherwise, that may contain information regarding the finances or business of the credit bureau;

“Regulations” mean regulations made pursuant to this Act;

“significant shareholder”, in relation to a credit bureau, means a shareholder holding ten percent or more of the voting shares of the credit bureau;

“specified public register” means a public register maintained pursuant to a public registry listed in the First Schedule;

“user” means—

- (a) a person who has entered a subscriber agreement with a credit bureau to receive credit reports from the credit bureau and any reference to a “subscriber” shall be construed accordingly; or
- (b) a person, other than a subscriber, who has obtained the consent of a data subject to receive the data subject’s credit report from a credit bureau;

“Utilities Regulation and Competition Authority” means the Utilities Regulation and Competition Authority established pursuant to the Utilities Regulation and Competition Authority Act, **Ch. 306**;

“value added product” means any product or service that a credit bureau may develop, within the limits imposed by this Act, to increase the value of the credit reporting services that the credit bureau provides to subscribers;

“writing” includes communicating by facsimile transmission, electronic mail and any other mode of representing or reproducing words in visible form and expressions referring to writing shall be construed accordingly.

PART II - ADMINISTRATION

Supervisory and regulatory authority of the Central Bank.

3. (1) The Central Bank shall—
- (a) for the purposes of this Act, be the supervisory and regulatory authority of the credit reporting system of The Bahamas; and
 - (b) be responsible for the general administration, supervision and implementation of this Act and the Regulations.

Powers, duties and functions of the Central Bank.

4. (1) Without prejudice to the generality of section 3, the Central Bank—
- (a) may grant licences to credit bureaus in The Bahamas;
 - (b) may, in accordance with this Act and the Regulations—
 - (i) evaluate every application made pursuant to section 6 for a licence to operate, or carry on the business of, a credit bureau;
 - (ii) issue guidelines regarding the operations of credit bureaus;
 - (iii) inspect the premises, system and operations of applicants and credit bureaus; and
 - (iv) regulate and supervise the activities of credit bureaus, credit information providers, users and their agents, where such activities are subject to the provisions of this Act;
 - (c) shall issue standards and targets regarding the provision of credit reporting services pursuant to this Act and the Regulations;
 - (d) shall ensure that credit bureaus maintain proper standards of conduct and acceptable credit reporting practices;
 - (e) shall protect the integrity of the credit reporting system against abuses;
 - (f) shall take measures to protect the interests of data subjects;
 - (g) may impose penalties for contravention of this Act and take any remedial action set out in subsection (2) against a credit bureau, credit information provider or user found in breach of this Act or the Regulations;
 - (h) may undertake other activities necessary or expedient to give full effect to the provisions of this Act;

CREDIT REPORTING BILL, 2014

- (i) may exercise such other duties and functions as may be conferred upon or assigned to the Central Bank by or pursuant to this Act and the Regulations.
- (2) The Central Bank may, pursuant to paragraph (g) of subsection (1)—
 - (a) issue a warning or reprimand to a credit bureau, credit information provider or user;
 - (b) levy a fixed penalty, in accordance with section 50, on a credit bureau, credit information provider or user;
 - (c) give to a credit bureau, credit information provider or user such directives as the Central Bank considers appropriate; or
 - (d) suspend or revoke the licence of a credit bureau.
- (3) The Central Bank may in writing authorise any person to assist the Central Bank in the exercise of its duties and the performance of its functions under this Act.

PART III - LICENSING OF CREDIT BUREAUS

Licence required.

5. (1) No person shall—
- (a) operate, or carry on the business of, a credit bureau in The Bahamas; or
 - (b) use or continue to use words in the description or title pursuant to which such person is carrying on business from within The Bahamas, whether or not such business is carried on in The Bahamas, implying that the person is a credit bureau, unless the person—
 - (i) is licensed pursuant to this Act; and
 - (ii) is a company, incorporated or registered pursuant to the Companies Act.
- (2) A person who wilfully contravenes subsection (1) commits an offence.
- (3) Where, in a prosecution for the contravention of this Act, it is alleged that the accused person operated or acted as a credit bureau without being the holder of a licence, evidence that the accused person provided data subject information to another person is proof, in the absence of evidence to the contrary, that the accused person operated or acted as a credit bureau without being the holder of a licence.

Application for licence.

6. For the purpose of obtaining a licence to operate, or carry on the business of, a credit bureau in The Bahamas, an applicant shall, in accordance with the Regulations—

CREDIT REPORTING BILL, 2014

- (a) submit to the Central Bank an application in such form containing such particulars as the Central Bank may, from time to time, determine; and
- (b) comply with any request by the Central Bank for any other information or supporting document, as the Central Bank may require, to determine the eligibility of the applicant.

Grant of licence.

7. (1) The Central Bank shall, in considering the application made pursuant to section 6, have regard to—

- (a) the incorporation and ownership structure of the applicant;
- (b) the nature and sufficiency of the financial resources of the applicant to provide continuing financial support for the applicant;
- (c) the soundness and feasibility of the business plan of the applicant;
- (d) the adequacy of the systems and arrangements that have been put in place by the applicant to ensure compliance with the provisions of this Act; and
- (e) the best interests of the financial system in The Bahamas.

(2) The Central Bank may grant to the applicant a licence subject to such terms and conditions as the Central Bank thinks fit, if—

- (a) the Central Bank is satisfied with respect to the matters set out in subsection (2) of section 8; and
- (b) the applicant has paid the prescribed fees.

Refusal to grant licence.

8. (1) Subject to subsection (2), the Central Bank shall refuse to grant a licence to an applicant if—

- (a) the application is not made in accordance with this Act and the Regulations; or
- (b) the Central Bank is of the opinion that—
 - (i) the applicant has made a false or misleading statement, with respect to any matter that the Central Bank considers material, in the application or in any of the information, particulars, declarations, documents or other materials submitted to the Central Bank in support of the application; or
 - (ii) it is not in the public interest to grant the licence.

(2) Without prejudice to subsection (1), the Central Bank shall not grant a licence to an applicant, unless the Central Bank is satisfied that—

CREDIT REPORTING BILL, 2014

- (a) the applicant, or any other person the Bank deems relevant is a fit and proper person for that purpose;
 - (b) adequate systems and arrangements have been put in place by the applicant to ensure compliance with the provisions of this Act; and
 - (c) the applicant meets such capital requirements as the Central Bank may prescribe.
- (3) Before the Central Bank refuses to grant a licence, the Central Bank shall—
- (a) provide a written notice to the applicant of its intention to refuse to grant the licence;
 - (b) where applicable, give the applicant a reasonable opportunity to make representation; and
 - (c) where the applicant makes representation pursuant to paragraph (b), take the representation into consideration in making the decision.
- (4) Where the Central Bank refuses to grant a licence to an applicant, the Central Bank shall, in writing, promptly notify the applicant of—
- (a) the refusal and the reasons for the refusal; and
 - (b) the right of review of the applicant pursuant to Part VII.
- (5) For the purposes of this Act or the Regulations, in determining whether the applicant, or any other person the Bank deems relevant, is a fit and proper person, the Central Bank shall have regard to all the circumstances including the person's—
- (a) previous disciplinary record and general compliance history including any disciplinary sanction imposed on the person by the Central Bank or any other regulatory authority;
 - (b) honesty, integrity and reputation;
 - (c) financial soundness competence and capability;
 - (d) business record and experience; and
 - (e) capability and soundness of judgement.
- (6) For the purposes of this section, a relevant person includes a person who is or is to be a significant shareholder, director, or officer of the business to which the application relates.

Terms and conditions of a licence.

9. (1) Subject to subsection (6), the Central Bank may at any time amend or vary the terms and conditions of a licence granted pursuant to this Act.

CREDIT REPORTING BILL, 2014

- (2) A credit bureau shall—
- (a) within thirty days of being granted a licence, submit to the Central Bank an irrevocable bank guarantee to the value of two hundred thousand dollars or such larger amount as the Central Bank may, from time to time, specify in writing;
 - (b) within six months of being granted a licence, commence operations as a credit bureau; but the Central Bank may provide for a different commencement date as it considers appropriate;
 - (c) adhere to such capital requirements as may be specified by the Central Bank; and
 - (d) subject to this Act, advise the Central Bank of the pricing for the provision of its services or any change in such pricing.
- (3) The irrevocable bank guarantee referred to in paragraph (a) of subsection (2) shall be—
- (a) provided by an entity approved by the Central Bank; and
 - (b) in a format acceptable to the Central Bank.
- (4) Where there are two or more licensed credit bureaus in The Bahamas, a credit bureau shall not execute any exclusive agreement with its subscribers.
- (5) Credit information providers or the beneficial owners of credit information providers are permitted to acquire shares in a credit bureau, the credit bureau shall restrict the aggregate share ownership in the credit bureau by credit information providers and beneficial owners of credit information providers to a maximum of forty-nine per cent; but any such single shareholder shall hold no more than five percent of the shares of the credit bureau.
- (6) Before the Central Bank amends or varies the terms and conditions imposed on a licence, the Central Bank shall—
- (a) not less than fourteen business days before the commencement date of the intended amendment or variation, provide a written notice to the credit bureau of its intention to amend or vary the terms and conditions and the reason for the intended amendment or variation; and
 - (b) give the credit bureau a reasonable opportunity to make representation.
- (7) Every credit bureau shall comply with such terms and conditions as the Central Bank may specify in the licence granted to that credit bureau.

Restrictions on the transfer of licence, etc.

10. (1) A credit bureau shall not, without the prior approval of the Central Bank—
- (a) transfer any licence granted or reinstated pursuant to this Part; or

CREDIT REPORTING BILL, 2014

(b) sell, lease or transfer title to any of its credit files except to another credit bureau licensed pursuant to this Act.

(2) A credit bureau which wilfully or intentionally fails to comply with subsection (1) commits an offence.

Duration of licence and payment of fees.

11. (1) A licence granted pursuant to this Part shall be valid from the date of the grant of the licence unless the licence is suspended or revoked in accordance with section 13.

(2) A fee in the amount prescribed by the Central Bank, shall be payable to the Central Bank for the grant of the licence and annually for the continuation of the licence.

(3) The Central Bank may vary—

- (a) the fee payable for processing an application for a licence;
- (b) the fee payable for the grant of a licence;
- (c) the annual licence fee, that is to say, the fee payable annually for the continuation of the licence; and
- (d) the reinstatement fee, that is to say, the fee payable to reinstate a credit bureau licence.

(4) The fee for the continuation of the licence shall be paid on or before the 1st day of January in each year.

(5) As respects the fees prescribed by the Central Bank pursuant to subsection (2) —

- (a) not more than sixty days grace, to be calculated from the first day of January in each year, may be allowed by the Central Bank for the payment of the fees payable in any year; and
- (b) no such fees shall be payable in any year where the original appointment or licence to which such fee relates was made or granted on or after the first day of September in the preceding year.

(6) Where a credit bureau fails to pay the annual licence fee—

- (a) within the time specified in subsection (5), the Central Bank may, subject to paragraph (b), suspend or revoke the licence of the credit bureau in accordance with section 13; or
- (b) on or before the 1st day of January in any year, the credit bureau shall pay double the annual licence fee, if payment is made on or before the 2nd day of March in that year.

CREDIT REPORTING BILL, 2014

Material change in circumstances affecting credit bureau.

12. (1) A credit bureau shall, before implementing any planned material change affecting the credit bureau, notify the Central Bank of the planned material change.

(2) Subject to subsection (3) and the Regulations, a credit bureau may initiate or implement a material change in the circumstances affecting the credit bureau.

(3) Where a reasonable unforeseeable material change in circumstances affecting an applicant or a credit bureau occurs, the applicant or credit bureau shall, within seven days of the occurrence of the material change and in accordance with the Regulations, notify the Central Bank of the occurrence of the material change in circumstances.

Suspension and revocation of licence.

13. (1) Subject to subsection (2), the Central Bank may suspend or revoke a licence granted to a credit bureau—

- (a) if the credit bureau has failed to comply with—
 - (i) any term or condition specified in the licence;
 - (ii) any of the provisions of this Act or any other law to which it is subject;
 - (iii) any direction issued pursuant to this Act within the time specified;
- (b) if the credit bureau—
 - (i) has provided the Central Bank with false or inaccurate information;
 - (ii) does not commence operations within six months after the issuance of its licence or within such further period as the Central Bank may approve;
 - (iii) becomes insolvent or makes any arrangement with its creditors;
 - (iv) is in breach of any duty or obligation imposed upon it by this Act;
 - (v) has committed a misrepresentation, fraud or other dishonest act; or
 - (iv) has demonstrated incompetence or untrustworthiness in the operation of its business;
- (c) if consumers' rights and interests in respect of their data are threatened;
- (d) if the carrying on of business by a credit bureau is no longer in the interest of the public or the effective and efficient operation of the credit reporting system is at risk; or
- (e) on any ground on which the Central Bank might have refused to grant the licence pursuant to section 8.

CREDIT REPORTING BILL, 2014

(2) Before the Central Bank suspends or revokes a licence granted to a credit bureau, the Central Bank shall—

- (a) provide fourteen business days written notice to the credit bureau of its intention to suspend or revoke the licence and the reason for the intended suspension or revocation; and
- (b) give the credit bureau a reasonable opportunity to make representation.

(3) Where a credit bureau—

- (a) is notified pursuant to subsection (2) of the intended suspension or revocation of its licence; and
- (b) makes representation pursuant to this section,

the Central Bank shall, within a reasonable period, consider the submission, make a decision and, subject to subsection (4), notify the credit bureau of its decision.

(4) Where the Central Bank suspends or revokes a licence pursuant to this section—

- (a) the Central Bank shall give to the credit bureau a notice in writing of its decision—
 - (i) stating the reasons for the decision, and
 - (ii) informing the credit bureau of the right of review pursuant to Part VII and the right of appeal pursuant to Part VIII; and
- (b) the credit bureau shall cease to carry on business as a credit bureau as of the date specified in the notice.

(5) The Central Bank may, on receipt of the prescribed reinstatement fee, reinstate a licence that has been suspended under paragraph (a) of section 11(6) if the Central Bank considers it appropriate to do so.

(6) Notwithstanding subsections (1) through (4), where a credit bureau ceases to operate or carry on business as a credit bureau, the Central Bank may revoke the licence granted to the credit bureau.

Surrender of licence.

14. (1) A credit bureau which has ceased to operate or carry on business as a credit bureau may apply to the Central Bank to surrender its licence if it produces evidence that it-

- (a) has ceased to carry on such business, or
- (b) is being wound up voluntarily.

(2) The Central Bank may upon application made pursuant to subsection (1) approve the surrender upon such terms and conditions as the Bank deems appropriate.

CREDIT REPORTING BILL, 2014

Auditors and annual reports.

15. (1) Subject to subsection (5), every credit bureau shall—

- (a) appoint an independent auditor to conduct an annual audit and compliance review of the credit bureau in accordance with this Act and applicable best practice standards; and
- (b) within fourteen days of the appointment under paragraph (a), notify the Central Bank of the appointment of the auditor.

(2) The auditor shall, as part of the annual audit, obtain from the credit bureau a copy of the most recent report of inspection of the credit bureau prepared by the Central Bank and any order, direction, notice or other action issued or taken by the Central Bank pursuant to this Act, to verify compliance with this Act, the regulations and best practice.

(3) Every credit bureau shall within three months of the end of its financial year, deliver to the Central Bank a signed copy of its audited financial statements, management letter, compliance report and list of shareholders of, and their shareholdings in, that credit bureau.

(4) Without prejudice to subsection (3), where a credit bureau is a public issuer within the meaning of the Securities Industry Act 2011, the credit bureau shall publish its audited financial statements in accordance with the provisions of that Act.

(5) A person is not qualified to be appointed under this section if the person is not a member of the Bahamas Institute of Chartered Accountants.

Publication by Central Bank.

16. The Central Bank shall cause every notice of the grant, surrender, suspension, revocation or reinstatement of a licence to be published in the *Gazette*.

PART IV - CREDIT REPORTING

Activities of credit bureau.

17. (1) A credit bureau shall not engage in activities other than activities specified in this Act and the Regulations or as approved by the Central Bank in accordance with this Act.

(2) A credit bureau may engage in the following activities—

- (a) storing, managing, evaluating, updating and disseminating data subject information to users, in accordance with this Act and the Regulations;
- (b) compiling and maintaining databases in respect of data subject information and generate reports from such databases;
- (c) carrying out market and statistical research relating to matters set out pursuant to this Act and the Regulations;

CREDIT REPORTING BILL, 2014

- (d) developing and making available to subscribers value added products;
- (e) where applicable, providing a credit information provider a reasonable opportunity to make the necessary correction to the inaccurate, illegal, incomplete or otherwise deficient information contained in the credit file of a data subject kept and maintained by the credit information provider;
- (f) providing, on a continuous basis, consultancy and training regarding credit reporting including the publication of educational materials; and
- (g) carrying out such other activity as the Central Bank may, from time to time, by Regulations prescribe.

Credit information providers.

18. (1) Where a credit provider provides credit to a data subject, the credit provider shall provide data subject information to the credit bureau if the credit provider is—

- (a) any bank licensed pursuant to the Banks and Trust Companies Regulation Act, **Ch. 316**;
- (b) any person licensed pursuant to the Insurance Act, Ch. 347; but only to the extent that such a person falls within the definition of “credit provider”;
- (c) any person licensed pursuant to the Financial and Corporate Service Providers Act, Ch. 369; but only to the extent that such a person falls within the definition of “credit provider”;
- (d) any credit union registered pursuant to the Bahamas Co-operative Credit Unions Act, 2014;
- (e) the Bahamas Mortgage Corporation or any other person licensed pursuant to any Act to provide in The Bahamas mortgage services;
- (f) the Bahamas Development Bank; and
- (g) any other person that the Central Bank designates by notice published in the *Gazette* if the Central Bank is of the opinion that the designation is in the public interest.

(2) Notwithstanding any other enactment and without prejudice to the generality of paragraph (g) of subsection (1), the Central Bank may, by notice published in the *Gazette*, designate any or all of the credit providers or other entities specified in paragraphs (a) to (e) as credit information providers—

- (a) any person licensed by the Utilities Regulation and Competition Authority pursuant to Part III of the Telecommunications Act, Ch. 304;

CREDIT REPORTING BILL, 2014

- (b) the Bahamas Electricity Corporation established pursuant to section 3 of the Electricity Act, Ch. 194;
- (c) the Water and Sewerage Corporation established pursuant to section 3 of the Water and Sewerage Corporation Act, Ch. 196;
- (d) any person carrying on the business of selling goods pursuant to a hire purchase agreement, credit sale agreement, or conditional sale agreement pursuant to the Hire Purchase Act, Ch. 342;
- (e) any specified public register.

Credit reports.

19. (1) Subject to subsection (2) and the Regulations, a credit report issued by the credit bureau may contain positive information and negative information.

(2) No credit bureau shall include, in a credit report, any of the following—

- (a) information regarding any judgment against the data subject in relation to a judgment creditor unless the judgment creditor confirms in writing that the judgment debt remains outstanding in whole or in part and such confirmation is contained in the credit file of the data subject and mention is made of—
 - (i) the amount of the judgment,
 - (ii) date of the judgment, and
 - (iii) the name and, if available, the address of the judgment creditor or the agent of the judgment creditor at the date of entry of the judgment;
- (b) information regarding the race, creed, colour, medical information, ancestry, ethnic origin or political affiliation of a data subject or such other sensitive personal information; or
- (c) information retained in contravention of section 27.

(3) No credit bureau shall—

- (a) provide any report that lists all data subjects with good payment history unless there is a permissible purpose regarding such listing; or
- (b) wilfully or intentionally omit from any credit report of a data subject any information that can impact the ability of the data subject to access credit.

(4) A credit bureau which wilfully or intentionally fails to comply with subsection (3) commits an offence.

CREDIT REPORTING BILL, 2014

Permissible purposes.

20. (1) A credit bureau shall not disclose the credit report of a data subject, except for a permissible purpose specified in subsection (2).

(2) Subject to section 24, a credit bureau may provide a credit report to a user---

- (a) for the consideration of an application for credit or an offer to act as a guarantor of an application for credit;
- (b) for use in connection with—
 - (i) the purchase or collection of a debt of the data subject;
 - (ii) the entering into or renewal of a tenancy agreement with the data subject; or
 - (iii) the underwriting of insurance involving the data subject;
- (c) for use in connection with a business or credit transaction involving the data subject that is not mentioned in paragraphs (a) or (b);
- (d) for use in connection with a pre-employment check of the data subject for a position involving significant financial risk;
- (e) for periodic portfolio monitoring and risk assessment purposes, collection and skip tracing; and
- (f) for any other permissible purpose as the Central Bank may, from time to time, specify by Regulations.

(3) Notwithstanding the provisions of subsections (1) and (2) a credit bureau shall, in response to a court order, provide information from the credit file of a data subject.

(4) A credit bureau that wilfully or intentionally discloses data subject information in contravention of the provisions of this section commits an offence.

Data management and quality control.

21. (1) Every credit bureau shall—

- (a) implement procedures that ensure that the information registered or contained in its database is updated as frequently as needed or at least once a month;
- (b) implement strict quality control procedures in order to ensure the maximum possible accuracy and completeness of its database;
- (c) take all such steps as are reasonably necessary to ensure that data subject information maintained by the credit bureau is up to date, authentic, legitimate, reliable, accurate and comprehensive; and

CREDIT REPORTING BILL, 2014

- (d) otherwise maintain reasonable procedures designed to promote compliance with this Act and, in particular, to limit the furnishing of credit reports for the permissible purposes stated in this Act.

(2) Without limiting the generality of subsection (1), every credit bureau shall ensure that—

- (a) the procedures and steps referred to in that subsection are lawful, fair, adequate, relevant and not excessive;
- (b) the data subject information is not—
 - (i) used or disclosed in a manner incompatible with any permissible purpose pursuant to this Act, or
 - (ii) kept longer than is necessary for any permissible purpose except in the case of personal information kept for historical, statistical or research purposes; or
- (c) in accordance with section 22, appropriate security measures are taken against the unauthorized access to, alteration, disclosure, accidental loss or destruction of, data subject information.

(3) Where a credit bureau fails to adopt or implement any data management or quality control measures specified in subsections (1) and (2), the credit bureau commits an offence.

Security and control measures.

22. (1) A credit bureau shall in respect of data subject information kept and maintained by the credit bureau—

- (a) take the necessary security and control measures in order to avoid—
 - (i) illegal interception or interruption of the data subject information during transmission,
 - (ii) accidental or unauthorised access to, loss, destruction, alteration, modification or disclosure of the data subject information, or
 - (iii) other misuse regarding the data subject information, including misuse by anyone with authorised access to the data subject information;
- (b) keep and maintain an access log regarding the data subject information, including procedures performed; and
- (c) make available to the data subject the name of each user and the date on which the user obtains access to the data subject information.

CREDIT REPORTING BILL, 2014

(2) Without limiting paragraph (a) of subsection (1), every credit bureau must, for the purpose of safeguarding and protecting the data subject information which it keeps and maintains—

- (a) develop written policies and procedures to be followed by its employees, agents and contractors respecting the provision of credit reporting services pursuant to this Act and the Regulations;
- (b) impose access authentication controls such as the use of passwords, credential tokens or other mechanisms;
- (c) ensure that a subscriber agreement, as may be prescribed, is in place before disclosing information to any subscriber;
- (d) provide information and training to ensure compliance with the policies and procedures referred to in paragraph (a);
- (e) monitor usage of, and regularly check compliance with the subscriber agreement, policies, procedures and controls pursuant to paragraphs (a), (b) and (c);
- (f) identify and investigate possible breaches of—
 - (i) the subscriber agreement, policies, procedures and controls pursuant to paragraphs (a), (b) and (c), and
 - (ii) the requirements of this Act and the Regulations;
- (g) take prompt and effective action in respect of any breaches that are identified pursuant to paragraph (f); and
- (h) systematically review the effectiveness of the policies, procedures and authentication controls pursuant to paragraphs (a) and (b) and, where applicable, promptly remedy any deficiencies observed or detected.

(3) Subject to the approval of the Central Bank, a credit bureau and a credit information provider shall, by agreement, provide for the receipt of data subject information from the credit information provider using such standard data format as the Central Bank may, after consultation with the credit bureau, approve.

(4) Notwithstanding the termination of an agreement referred to in subsection (3), the credit information provider shall, for such time as the Central Bank may specify, continue to supply to the credit bureau credit and personal information regarding any data subject who was previously part of the periodic update pursuant to the terms and conditions of the agreement as if the agreement were not terminated.

(5) A credit bureau commits an offence if the bureau fails—

- (a) to comply with any provision of subsection (3); or

CREDIT REPORTING BILL, 2014

- (b) to adopt security and control measures that are necessary to avoid the unauthorised access to, or wrongful use or management of data subject information kept, maintained and otherwise processed by it.

Data subjects' rights of access and correction.

23. (1) Every data subject is entitled—

- (a) to know what information in respect of that data subject was submitted to a credit bureau by a credit information provider;
- (b) to access data subject information relating to that data subject that is kept, maintained or otherwise processed by a credit bureau; and
- (c) to a copy of the credit report of the data subject, without cost to the data subject, once each year.

(2) Where a data subject requests a credit bureau to furnish to the data subject a credit report or information pursuant to this Act or the Regulations, the credit bureau shall, promptly but no later than five working days after receipt of the request, furnish the credit report or information in accordance with this Act and the Regulations.

(3) Every credit bureau shall provide to every data subject detailed information regarding the procedures for accessing or correcting credit information and personal information kept, maintained or otherwise processed by that credit bureau in relation to the data subject.

(4) Without prejudice to the generality of subsection (3), where a credit bureau is required to correct any credit information or personal information kept, maintained or otherwise processed by the credit bureau in relation to a data subject, the data subject is entitled to a copy of a credit report without cost to the data subject.

(5) The Central Bank may, by Regulations, provide for the correction of incomplete, obsolete, misleading, erroneous or inaccurate credit information kept and maintained by a credit bureau in relation to data subjects.

Consent requirements.

24. (1) A subscriber shall not request or obtain a credit report in respect of a data subject for a permissible purpose referred to in section 20, unless the data subject provides his or her consent.

(2) A credit bureau shall not release data subject information to a user that is not a party to a subscriber agreement unless the credit bureau—

- (a) first verifies—
 - (i) the identities of the data subject and the user; and
 - (ii) that the data subject has given consent for the release of the data subject's credit report to the user; and

CREDIT REPORTING BILL, 2014

(b) uses reasonable means of transmission that ensures that the data subject's credit report is not altered, modified or corrupted during the transmission process.

(3) The consent referred to in subsections (1) and (2) may be obtained by electronic means or by any method that permits the person to produce valid evidence that the data subject consented, including prominently displaying the information regarding the consent in a clear and comprehensible manner in an application for credit, insurance, employment or tenancy.

(4) In the case of a contract respecting the credit relationship between the credit provider and the data subject, the consent referred to in subsection (1) expires upon the termination of the contract; but the credit information respecting the data subject shall remain in the database of the credit bureau in accordance with section 27.

(5) Any person who intentionally and without authority obtains information regarding a data subject from a credit bureau pursuant to false pretences commits an offence.

Denial of credit.

25. Where, as a result of negative information contained in a credit report regarding a data subject, a credit provider denies credit to the data subject—

- (a) the credit provider shall, promptly notify the data subject of the denial of the credit; and
- (b) the data subject may, notwithstanding paragraph (c) of section 23(1), request a copy of the credit report from the credit bureau without cost to the data subject.

Duty to maintain records and credit information.

26. (1) Every credit bureau shall ensure that it keeps and maintains—

- (a) complete and accurate records regarding data subject information; and
- (b) any other prescribed records in accordance with this Act and the Regulations.

(2) A credit bureau that wilfully contravenes subsection (1) commits an offence.

(3) Where a credit bureau wrongfully or unlawfully alters, modifies, deletes or otherwise processes any credit information or record in its database, the credit bureau commits an offence.

Restrictions regarding disclosure of data subject information.

27. (1) Where a credit bureau obtains credit information regarding credit extended to or in respect of a data subject, the credit bureau shall not disclose such information for a period longer than five years after the date of termination or settlement of such credit.

(2) A credit bureau that knowingly, negligently or willfully contravenes subsection (1) commits an offence.

CREDIT REPORTING BILL, 2014

Supplying false information prohibited.

28. (1) No person shall knowingly, negligently or recklessly supply false or misleading information regarding a data subject to any credit bureau.

(2) A person who knowingly, negligently or recklessly supplies false or misleading information regarding a data subject to any credit bureau commits an offence.

Void agreements.

29. An agreement referred to in section 22(2), 22(3) or 44 is void if the agreement states or implies that—

- (a) the provisions of this Act or the Regulations do not apply to the agreement;
- (b) any right or remedy provided by or pursuant to this Act or the Regulations does not apply to the agreement; or
- (c) any right or remedy provided by or pursuant to this Act or the Regulations is in any way limited, modified or abrogated by the agreement.

Resolution of disputes.

30. (1) Subject to the provisions of this section—

- (a) the Central Bank may, by Regulations, provide for the resolution of disputes regarding credit bureaus, users and data subjects; and
- (b) a data subject may, in accordance with the Regulations referred to in paragraph (a), dispute the accuracy of information produced in a credit report regarding the data subject from data kept and maintained by a credit bureau.

(2) During an investigation of a dispute pursuant to this section, the credit bureau shall make, in the credit report of the relevant data subject, a notation that the credit information has been challenged.

(3) In the resolution of any dispute pursuant to this section, conciliation, mediation or other alternative dispute resolution technique or process may be applied.

Cross-border data flow.

31. (1) Subject to subsection (2) and the approval of the Central Bank, a credit bureau may in accordance with the Regulations, outsource or otherwise sub-contract the processing of data subject information in its possession or control to any organization based or operating outside The Bahamas.

(2) The Central Bank may prohibit the transfer of data subject information from The Bahamas to a place outside The Bahamas, if the Central Bank has reason to believe that the data subject information is not protected, or is not likely to be protected, in a like or similar manner as provided under this Act.

PART V - SUPERVISION BY THE CENTRAL BANK

Information gathering powers.

32. (1) The Central Bank may require—

- (a) by notice in writing, a relevant person to supply to the Central Bank in such form and at such times as specified in the notice such information or document; or
- (b) access to such information or documents of a relevant person

as the Central Bank considers necessary for the proper discharge of its functions under this Act or the Regulations.

(2) Where a relevant person fails to comply with a requirement under subsection (1), the Central Bank may apply to a Magistrate for an order requiring the person to comply with the requirement.

(3) A relevant person, who without reasonable cause fails or refuses to comply with a requirement under subsection (1), commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars and, if the offence of which the relevant person is convicted is continued after conviction, the relevant person commits a further offence and is liable to a fine of two thousand dollars for every day on which the offence is continued.

(4) Where, in connection with a requirement under subsection (1), the Central Bank considers it necessary to examine a relevant person on oath, the Central Bank may apply to a Magistrate to have that person examined by the court and to have the results of that examination sent to the Bank.

(5) The court shall process an application under subsection (4) within seven days of its receipt and shall send the result of the examination to the Central Bank within fourteen days of the examination.

(6) Any document provided to the Central Bank under subsection (1) shall be the property of the Central Bank.

(7) For the purposes of this section—

“relevant person” means a credit bureau, a connected person, or a person reasonably believed to have the information or document relevant to an enquiry by the Central Bank; and

“connected person” means a person who is a significant shareholder, director, officer, employee, or agent of a credit bureau.

(8) For the avoidance of doubt, nothing in this section or section 33 empowers or authorises the Central Bank to access data subject information without—

CREDIT REPORTING BILL, 2014

- (a) the consent of the data subject; or
- (b) an order of a court.

Inspections.

33. (1) Where, upon an inspection of a credit bureau, the Central Bank or its appointed agent has reason to believe that the credit bureau—

- (a) is conducting its business in an unlawful manner; or
- (b) is in a condition, that endangers, or is likely to endanger, the credit worthiness, credit standing, credit capacity, character, general reputation or personal characteristics of the data subject,

the Central Bank may direct the credit bureau to take such measures to rectify the situation, immediately or within such time as the Central Bank may specify or consider necessary.

(2) For the purposes of an inspection pursuant to this section, the Central Bank or its appointed agent may inquire into and examine—

- (a) the business affairs of the credit bureau with respect to which the inspection is being made;
- (b) any record of the credit bureau with respect to which the inspection is being made and any payments to, by or on behalf of, in relation to or in connection with that credit bureau; and
- (c) any property or assets of, or things owned, acquired or alienated in whole or in part by—
 - (i) the credit bureau with respect to which the inspection is being made, or
 - (ii) any other person acting on behalf of, or as agent, for the credit bureau referred to in sub-paragraph (i).

(3) Where a credit bureau or other person with respect to whom the inspection is being made, fails or refuses to comply with any request of the Central Bank within the period specified, the credit bureau or other person with respect to whom the inspection is being made commits an offence.

Warrants.

34. (1) Where—

- (a) pursuant to this Part, the Central Bank requires a person to produce any records; and
- (b) the person from whom the records are required fails or neglects to produce the records,

CREDIT REPORTING BILL, 2014

the Central Bank may apply ex parte to a Magistrate for a warrant authorizing the Central Bank or a person named in the warrant to—

- (c) enter and search any premises named in the warrant for the records that the person failed or neglected to produce;
- (d) seize and take possession of the records; and
- (e) where applicable, make copies of any records seized.

(2) A Magistrate may issue the warrant, if satisfied on oath of a director, officer, employee or agent of the Central Bank that—

- (a) the Central Bank requires a person to produce any records pursuant to this Act; and
- (b) the person from whom the production of the records is required has failed or neglected to produce the records.

Costs of inspections.

35. Where the Central Bank conducts an inspection or inquiry pursuant to this Part, the person with respect to whom the inspection or inquiry is made shall pay the fees and costs of the inspection or inquiry, including the costs of any travel undertaken in the course of the conduct of the inquiry.

Court order.

36. (1) Where the Central Bank has reason to believe that a person has failed to comply with this Act or the Regulations or with an order, a direction or a notice of the Central Bank, the Central Bank may apply to the Supreme Court for any or all of the following—

- (a) an order directing the person to comply with this Act, the Regulations or the order, direction or notice of the Central Bank;
- (b) an order restraining the person from contravening this Act, the Regulations or the order, direction or notice of the Central Bank;
- (c) in the case of a body corporate, an order—
 - (i) directing the directors and officers of the body corporate to comply with this Act, the Regulations or the order, direction or notice of the Central Bank, or
 - (ii) restraining the directors and officers of the body corporate from contravening this Act, the Regulations or the order, direction or notice of the Central Bank;
- (d) any other order, relief or remedy that the Supreme Court may grant.

(2) On hearing an application pursuant to subsection (1), the Supreme Court may make such order as the Supreme Court considers appropriate.

PART VI - CIVIL LIABILITY

Civil liability for wilful and negligent non-compliance.

37. Where a data subject suffers injury by reason of the grossly negligent failure of a person to comply with any requirement imposed pursuant to this Act or the Regulations, the person is liable to the data subject in an amount equal to the sum of—

- (a) the actual damages sustained by the data subject by reason of the grossly negligent failure; and
- (b) in the case of a successful action to enforce liability pursuant to this section, the costs of the action together with reasonable attorney's fees as the Supreme Court may determine.

PART VII - CREDIT REPORTING REVIEW COMMISSION

Right of review.

38. (1) Without prejudice to the provisions of Part VI—

- (a) an aggrieved data subject may seek a review of the action, decision or conduct of a credit bureau where—
 - (i) the credit bureau does not issue a decision within the prescribed time for resolving a dispute, or
 - (ii) the data subject is not satisfied with the decision of the credit bureau in relation to a dispute pursuant to this Act; or
- (b) an aggrieved credit bureau or aggrieved applicant may seek a review of the action or decision of the Central Bank.

(2) An aggrieved person shall, in writing in the English language and within the prescribed time, file with the secretary to the Review Commission the application for review and the reason for making the application.

(3) Where payment of a deposit is required in respect of the application for review, the aggrieved person shall make the payment.

(4) The application for review shall be accompanied by—

- (a) such documents as the Central Bank may specify in support of the application; and
- (b) where applicable, such document evidencing payment of the deposit.

CREDIT REPORTING BILL, 2014

(5) The deposit made pursuant to this section is liable to be forfeited if the Review Commission determines that the application for review is frivolous or irrelevant or is not made in good faith.

(6) For the purposes of this Part—

“aggrieved credit bureau” means any credit bureau that claims to have suffered or is likely to suffer loss or injury by reason of an action or decision of the Central Bank pursuant to this Act or the Regulations;

“aggrieved data subject” means any data subject who claims to have suffered or is likely to suffer loss or injury by reason of an action or decision of, or a breach of a duty imposed on, a credit bureau by or pursuant to this Act or the Regulations.

“aggrieved person” means an aggrieved credit bureau, an aggrieved data subject or an applicant.

Review Commission.

39. (1) Subject to subsection (2), the Minister may, from time to time, appoint a Review Commission for the purposes of hearing and determining applications for review pursuant to this Part.

(2) Subject to section 40, the Second Schedule shall have effect with regard to the constitution, operations and procedures of the Review Commission.

Review proceedings.

40. (1) Where an application for review and the documents in support of the application are filed—

- (a) the secretary to the Review Commission shall, without delay, inform the credit bureau and, as the case may be, the Central Bank; and
- (b) any person whose interests are affected or are likely to be affected by the review proceedings has a right to participate in such proceedings; but where such a person fails to participate in the review proceedings that person is not entitled to file a subsequent application for review on the same facts and grounds in respect of the same matter.

(2) The Review Commission—

- (a) shall expeditiously consider any application submitted to it for review;
- (b) in considering an application for review of an action or a decision of the Central Bank or a credit bureau—
 - (i) shall consider the materials contained in the administrative record kept and maintained by the Central Bank or, as the case may be, a credit bureau, and

CREDIT REPORTING BILL, 2014

- (ii) may not consider information or events that occurred after the date on which the action or decision which is the subject of the application was taken or made; and
 - (c) may decide the matters upon which it shall hear oral evidence or arguments.
- (3) The Review Commission may, in accordance with the Regulations—
- (a) require any person to attend before the Review Commission to give evidence under oath or on affirmation with respect to any matter related to a review;
 - (b) require any person to produce any records regarding any matter referred to in paragraph (a);
 - (c) require any person to present to the Review Commission arguments or submissions respecting any matter related to a review, in person or in writing, within such time as may be specified in the Regulations; or
 - (d) apply to the Supreme Court for an order requiring a person to attend before the Review Commission if a person fails or refuses to comply with a requirement specified in the Regulations.

Decisions of the Review Commission.

41. (1) The Review Commission shall—

- (a) within twenty-eight days of the date of submission of an application for review, issue a written decision concerning the application, stating the reasons for the decision and the remedies granted, if any; and
- (b) no later than seven days from the date of the decision, notify, in writing—
 - (i) the aggrieved person of the decision of the Review Commission, the reasons for the decision and the right of the aggrieved person to appeal the decision pursuant to Part VIII; and
 - (ii) any other person who participated in the review proceedings of the decision of the Review Commission and the reasons for the decision.

(2) After the service of the notice pursuant to subsection (1), the Review Commission may make the decision and the reasons for the decision available for inspection by members of the public; but no information shall be disclosed if such disclosure—

- (a) is contrary to law;
- (b) is not in the public interest;
- (c) is likely to prejudice the legitimate commercial interests of the aggrieved credit bureau or the aggrieved applicant which is a party to the review proceedings; or

CREDIT REPORTING BILL, 2014

(d) is likely to prejudice the interests of the aggrieved data subject.

(3) The Review Commission may dismiss the application if the Review Commission is of the opinion that the application—

- (a) is frivolous or irrelevant;
- (b) was not made in good faith;
- (c) is devoid of sufficient grounds for a hearing;
- (d) is not supported by evidence of probative value; or
- (e) does not pertain to a matter which the Review Commission is empowered to deal with pursuant to this Act or the Regulations.

(4) The Review Commission, after making or causing to be made such inquiry or investigation as it thinks necessary, may, unless it dismisses the application in accordance with subsection (3), grant one or more of the following remedies —

- (a) direct the Central Bank or, as the case may be, the credit bureau concerned to act or to proceed in a lawful manner or to reach a lawful decision;
- (b) annul, wholly or in part, an act or decision of the Central Bank or, as the case may be, the credit bureau concerned;
- (c) subject to subsection (5), reverse an unlawful decision of the Central Bank or, as the case may be, the credit bureau concerned;
- (d) substitute its own decision for an unlawful decision of the Central Bank or, as the case may be, the credit bureau concerned.

(5) The Review Commission may reverse the decision of the Central Bank only if—

- (a) the Central Bank failed to follow the prescribed procedure;
- (b) the Central Bank's decision is contrary to law;
- (c) there was no factual basis for the Central Bank's decision; or
- (d) based on a review of the records, the Central Bank—
 - (i) committed a manifest error in its assessment of the facts, or
 - (ii) abused its discretion.

(6) Unless appeal proceedings are instituted pursuant to Part VIII, the decision of the Review Commission is final and binding.

PART VIII - APPEALS

Appeals to Supreme Court.

42. (1) A person who is the subject of a decision or order of the Review Commission may, within twenty-eight days of the date of the decision or order, appeal the decision or order to the Supreme Court.

(2) An appellant shall serve a notice of appeal on the Review Commission and any other person that the Supreme Court may order.

(3) On receipt of a notice of appeal pursuant to subsection (2), the Review Commission shall file with the court true copies of—

- (a) all documents and materials that were before the Review Commission when the Review Commission made its decision or order;
- (b) the decision or order appealed against; and
- (c) the written reasons for the decision or order of the Review Commission.

(4) On hearing an appeal pursuant to this section, the Supreme Court may—

- (a) dismiss the appeal;
- (b) allow the appeal;
- (c) allow the appeal subject to terms and conditions;
- (d) vary the decision or order of the Review Commission;
- (e) refer the matter back to the Review Commission for further consideration and a decision or an order; or
- (f) make any other order that the Supreme Court considers appropriate.

(5) The Supreme Court may make any order as to costs with respect to the appeal that the Supreme Court considers appropriate.

(6) The commencement of an appeal pursuant to this section does not stay the effect of the decision or order appealed against, unless a judge of the Supreme Court orders otherwise.

Appeals to Court of Appeal.

43. (1) The Central Bank a credit bureau, or a person who is the subject of a decision or order of the Supreme Court may, within six weeks of the date of the decision or order of the Supreme Court, appeal the decision or order to the Court of Appeal on a question of law only.

CREDIT REPORTING BILL, 2014

(2) The commencement of an appeal pursuant to this section does not stay the effect of the decision or order appealed from, unless the Court of Appeal orders otherwise.

PART IX - MISCELLANEOUS PROVISIONS

Agreements with other bodies.

44. (1) The Central Bank may enter into an agreement with an overseas regulatory authority—

(a) for the purpose of administering or enforcing this Act; or

(b) for any other purpose respecting credit reporting services that the Central Bank believes is in the public interest.

(2) For the purposes of subsection (1) an “overseas regulatory authority” means an authority which, in a country or territory outside The Bahamas, exercises functions corresponding to any functions of the Central Bank.

Confidentiality and restrictions regarding access to information.

45. (1) Any information obtained by the Central Bank as a result of an inspection or audit pursuant to this Act is not available for access to any person except—

(a) directors, officers or employees of the Central Bank whose responsibilities require or allow them to have access to the information; or

(b) such persons as authorized, in writing, by the Central Bank to have access to the information.

(2) Unless authorized by this Act or by any other law or with the consent of the person to whom any information relates, no authorized person, director, officer or employee of the Central Bank shall—

(a) communicate or allow to be communicated any information obtained pursuant to this Act to any person who is not legally entitled to the information; or

(b) allow any person who is not legally entitled to the information obtained pursuant to this Act to have access to such information.

(3) No person who is given or permitted access to information pursuant to this section is compellable to give evidence concerning that information unless—

(a) the person to whom the information relates consents; or

(b) a court, on an application, orders the evidence to be given.

(4) On an application for an order pursuant to subsection (3)(b)—

CREDIT REPORTING BILL, 2014

- (a) the Central Bank and the person to whom the information relates are entitled to appear before the court and to make submissions; and
- (b) the person seeking the order to compel the giving of the evidence must prove to the satisfaction of the court that it is in the public interest to make the order.

(6) For the purposes of subsection (2), “authorised person” means a person authorized by the Central Bank to inspect or have access to information obtained by the Central Bank as a result of an inspection pursuant to this Act.

Evidence regarding certificate of Central Bank.

46. A certificate of the Central Bank certifying that—

- (a) a person named in the certificate was licensed or was not licensed;
- (b) a licence was granted to a person on a date set out in the certificate; or
- (c) a licence granted to a person was suspended or revoked or made subject to terms and conditions,

is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or official position of the person purporting to have signed the certificate.

General offences.

47. A person commits an offence if the person wilfully—

- (a) makes a false or misleading statement in any application or in any proceeding or in response to any inspection or audit pursuant to this Act or the Regulations; or
- (b) fails to comply with any order, notice or direction made pursuant to this Act or the Regulations.

Offences by body corporate.

48. (1) Where a body corporate commits an offence under this Act, every director, partner or other senior officer of the body corporate shall, subject to subsection (2), be proceeded against as if the director, partner or other senior officer committed the offence and is liable on summary conviction to a fine of ten thousand dollars whether or not any action has been instituted against the body corporate.

(2) A director, partner or other senior officer of a body corporate does not commit an offence under subsection (1) if the director, partner or other senior officer can show that he neither knew nor connived in the commission of the offence.

CREDIT REPORTING BILL, 2014

General penalties.

49. Where a person commits an offence pursuant to this Act for which no penalty is specified or provided, the person is liable, on summary conviction, to a fine not less than ten thousand but not more than one hundred thousand dollars.

Fixed penalties.

50. (1) Notwithstanding section 49, where the Central Bank has reason to believe that a person has committed an offence pursuant to this Act or the Regulations, the Central Bank may issue to the person a notice, in writing—

- (a) offering the person the option to discharge any liability to conviction in respect of that offence by payment of a fixed penalty of ten thousand dollars; and
- (b) giving the person no less than seven days from the date of receipt of the notice to show cause why the fixed penalty should not be imposed.

(2) Where a fixed penalty is payable under this Act or the Regulations, the fixed penalty shall be paid to the Central Bank within ten days from the date of its imposition, unless otherwise stated.

(3) Where a credit bureau—

- (a) is required to pay a fixed penalty pursuant to this Act or the Regulations; and
- (b) fails to pay the fixed penalty within such time as may be prescribed by the Central Bank,

the Central Bank may, subject to subsection (5), recover the amounts due on the fixed penalty from the bank guarantee submitted pursuant to paragraph (a) of section 9(2).

(4) For the purposes of recovering a fixed penalty payable by a credit bureau from a bank guarantee, the Central Bank shall issue an order to the bank issuing the bank guarantee—

- (a) notifying the bank of the failure of the credit bureau to pay the fixed penalty; and
- (b) directing the bank to immediately pay up the amount to the Central Bank.

(5) Where a fixed penalty has been recovered from the bank guarantee in accordance with this section—

- (a) the Central Bank shall, by notice in writing inform the credit bureau of the recovery; and
- (b) the credit bureau shall, within thirty days of being notified, furnish the Central Bank with a new irrevocable bank guarantee in the amount required to be submitted pursuant to paragraph (a) of section 9(2) and in a format acceptable to the Central Bank.

CREDIT REPORTING BILL, 2014

(6) Without prejudice to any action taken by the Central Bank pursuant to subsection (5), where a credit bureau fails to comply with subsection (3) or paragraph (b) of subsection (5), the Central Bank may suspend or revoke the licence of the credit bureau in accordance with section 13.

Limitation on prosecution.

51. No prosecution for an offence committed pursuant to this Act or the Regulations is to be commenced after a period of more than two years from the date on which the offence is alleged to have been committed.

Immunity.

52. (1) No action or proceeding lies or shall be commenced against the Central Bank or any person authorised to act on behalf of the Central Bank pursuant to this Act for anything done, caused, permitted or authorized to be done, attempted to be done or omitted to be done in good faith by that person—

- (a) in the exercise or purported exercise of any power conferred by this Act or the Regulations; or
- (b) in the carrying out or purported carrying out of any order made pursuant to this Act or any duty imposed by this Act or the Regulations.

(2) For the purposes of subsection (1), “authorised person” means a person acting pursuant to the authority of this Act or the Regulations.

Protection of databases upon liquidation.

53. (1) Notwithstanding anything to the contrary contained in the Companies Act—

- (a) a credit bureau shall not pass any resolution for the suspension of its activity or the voluntary winding up of its business unless the credit bureau first obtains the approval of the Central Bank; and
- (b) where a credit bureau is being wound up or liquidated or has surrendered its licence pursuant to section 14—
 - (i) the database containing information related to the credit history of the data subjects shall be transferred to the Central Bank;
 - (ii) the Central Bank shall determine whether the credit bureau’s activities will be continued.

(2) Notwithstanding the provisions of section 32(8) and subject to section 45(1), the Central Bank shall for a period not exceeding twelve months, retain the right to use the credit bureau’s platform until the evaluation and selection process to grant a new credit bureau license is completed.

CREDIT REPORTING BILL, 2014

(3) Where the Central Bank determines not to grant a new licence, the Central Bank shall issue an order regarding the disposal or destruction of the data.

Regulations.

54. (1) The Central Bank, may make Regulations—

- (a) prescribing the fees to be paid for the grant of licences, the continuation of licences and the reinstatement of licences that have been suspended;
- (b) prescribing any matter that is required or authorized by this Act to be prescribed;
or
- (c) respecting any other matter that the Central Bank considers necessary to carry out the intent or purposes of this Act.

(2) Regulations made pursuant to this Act may create offences and prescribe penalties for such offences within the limits in section 50.

FIRST SCHEDULE (Section 2(1))

PUBLIC REGISTRIES

1. Registry of the National Insurance Board
2. The Bahamas Companies Registry
3. The Supreme Court Registry

SECOND SCHEDULE (Section 39(2))
CONSTITUTION, OPERATIONS AND PROCEDURES OF THE REVIEW
COMMISSION

Constitution of Review Commission.

1. A Review Commission shall consist of—
 - (a) the Data Protection Commissioner who shall be the Chairperson;
 - (b) the chairman of the Consumer Protection Commission; and
 - (c) one person appointed by the Minister, on the recommendation of the Data Protection Commissioner, from among persons who have wide experience and qualifications in legal, administrative, economic or financial matters.

Disqualification.

2. A person is not qualified to be appointed, or to remain, a member of a Review Commission if the person—
 - (a) is convicted of an offence involving dishonesty or an offence pursuant to this Act;
 - (b) does not possess the experience and qualifications specified in paragraph 1(c) of this Schedule;
 - (c) is a member of the Senate or the House of Assembly; or
 - (d) is a director, an officer, an employee or an auditor of a credit bureau or credit information provider.

Secretary to Review Commission.

3. (1) The Minister shall appoint a suitably qualified person to act as secretary to the Review Commission.

(2) The secretary shall provide administrative support to the Review Commission and is responsible for—

- (a) preparing the agenda for each sitting of the Review Commission;
- (b) giving notice of sittings which includes the agenda, the day, time and place of such sittings to members and other persons whose attendance is necessary or advisable;
- (c) recording the proceedings of the Review Commission;
- (d) providing copies of the records of the proceedings to members;
- (e) preparing the correspondence and reports of the Review Commission; and

CREDIT REPORTING BILL, 2014

- (f) carrying out such other tasks as are assigned to the secretary by the Review Commission.

Decisions of Review Commission.

4. (1) Decisions of the Review Commission shall be by a majority of the members present and voting, and in the event of an equality of votes, the Chairperson has a second or casting vote.

(2) A decision of the majority of the members of the Review Commission is a decision of the Review Commission.

Sittings of Review Commission.

5. (1) The Review Commission shall sit as often as may be necessary to perform its duties and exercise its powers in an expeditious manner.

(2) A sitting of the Review Commission shall be held on the days and at the times as the chairperson determines.

(3) Subject to this Schedule and section 40 of this Act, the Review Commission shall determine its own procedure; but the Review Commission shall give full opportunity to the parties to present evidence and make representation.

Notice of sittings.

6. (1) The Chairperson shall cause written notice of the place, day, time of every sitting of the Review Commission to be given to the relevant parties, not less than seventy-two hours before the time scheduled for the sitting.

(2) Notice of the sittings of a Review Commission shall be given to a relevant party by—

(a) in the case of an individual—

(i) handing a copy of the notice to the individual;

(ii) sending by facsimile transmission a copy of the notice to the individual at the fax number of the individual; or

(iii) sending by electronic mail a copy of the notice to the individual at the electronic address of the individual;

(b) in the case of a credit bureau—

(i) leaving a copy with an employee at the office of the credit bureau;

(ii) sending by facsimile transmission a copy of the notice to the credit bureau at the fax number of the credit bureau; or

(iii) sending by electronic mail a copy of the notice to the credit bureau at the e-mail address of the credit bureau; or

CREDIT REPORTING BILL, 2014

(c) any other means approved by resolution of the Review Commission.

Resignations.

7. Any member of the Review Commission other than the Chairperson may at any time resign his or her office by instrument in writing addressed to the Minister and transmitted through the Chairperson, and from the date of the receipt by the Minister of such instrument that member shall cease to be a member of the Review Commission.

Publication of membership

8. The Minister shall cause to be published in the *Gazette* the names of all members of the Review Commission as first constituted and every change in membership thereof.

Remuneration.

9. Subject to the approval of the Minister, the members of a Review Commission are entitled, in respect of a review, to such remuneration, whether by way of honorarium, salaries, fees or allowances, as the Minister may determine.

Disclosure of personal interest.

10. (1) A member of the Review Commission who has a direct or indirect personal interest in a matter being considered or to be considered by the Review Commission shall, as soon as reasonably practicable after the relevant facts concerning the matter come to his knowledge, disclose the nature of his interest to the Review Commission.

(2) A disclosure of interest in a matter shall be noted in the relevant records of the proceedings of the Review Commission.

(3) Where a member discloses any personal interest in a matter being considered or to be considered by the Review Commission, the member shall not—

- (a) be present at the sitting of the Review Commission while that matter is being dealt with by the Review Commission; and
- (b) take part in any deliberations or vote relating to the matter.

General authority of chairperson.

11. (1) Where any doubt, dispute or difference arises with respect to the interpretation of any provision of this Schedule, the decision of the Chairperson of the Review Commission in this regard shall be final and binding.

(2) Subject to Part VII of this Act, the Chairperson of a Review Commission has the power and authority to regulate the conduct of the proceedings of the Review Commission to which the provisions of this Schedule apply in all matters not provided for in this Schedule.

CREDIT REPORTING BILL, 2014

OBJECTS AND REASONS

The Credit Reporting Bill 2014 (the Bill) seeks to establish the legal framework for credit reporting in The Bahamas through reasonable procedures that meet the needs of commerce for credit information in a manner that is fair and equitable to the data subjects (borrowers, whether actual or potential).

The Bill also seeks to improve credit assessment processes and to facilitate enhanced risk management and loan pricing strategies throughout the financial sector. The credit assessment processes include assembling and evaluating data subject credit and other information on data subjects such as the credit worthiness, payment habits, credit standing, credit capacity, character, and general reputation of data subjects. The data subject information will be reflected in the credit reports generated by the credit bureau.

Moreover, the Bill seeks to enable banks and other financial institutions and other business entities providing loans to data subjects to better assess the credit worthiness of data subjects and to offer more competitively priced credit facilities with more efficient processing times. The principles regarding confidentiality, accuracy, relevance and proper utilization of credit information are reflected in provisions of the Bill.

In short, the objects of this Bill are to—

- enable credit information sharing and reporting;
- provide for the regulation of the conduct of credit reporting and credit reporting services;
- provide safeguards for data protection for customers of credit providers; and
- provide for matters connected with, or incidental to, the foregoing.

The credit reporting system in The Bahamas will allow credit providers, for example, banks to better understand their customers' (data subjects) creditworthiness in order to price their loans to reflect the risks associated with the individual customer. Consequently such an understanding is expected to have the effect of differential interest rates reflecting the credit ratings of a loan applicant. Data subjects will also know how they are rated and will be able to monitor the information held about them. Further, the data subjects will be able to take the appropriate steps to improve their ratings, where necessary.

Credit information will only be sourced and used from specified credit information providers. Eligible credit information providers will include commercial banks, merchant banks, building societies, credit unions, insurance companies, persons selling goods pursuant to hire purchase arrangements and other specified credit providers.

Additionally, the Bill seeks to impose a licensing system on credit bureaus, that is to say, persons who offer credit reporting services. The reporting processes will also be outlined in the proposed legislative framework to ensure objective and standardized reporting of credit information. Applications for a licence to operate or carry on business as a credit bureau are to be made to the Central Bank of The Bahamas.

Only entities licensed pursuant to the Act can offer credit reporting services. The credit bureaus are empowered to carry out a vital role in assembling and evaluating data subject credit and other information on data subjects. The responsibilities of the credit bureaus will be vital as well as grave.

CREDIT REPORTING BILL, 2014

In this regard, credit bureaus will be subject to regulation by the designated supervising authority pursuant to the Act, namely The Central Bank of The Bahamas. The functions and statutory powers of the Central Bank include, among other things—

- reviewing applications for licensing and making the appropriate decision regarding the grant or refusal of the licence;
- ensuring that credit bureaus exercise their responsibilities with fairness, impartiality, and a respect for the data subject's right to privacy;
- maintaining general supervisory oversight of the operations of credit bureaus and the credit reporting system as a whole;
- imposing administrative fines and other sanctions for breaches of the legislation.

In summary, the Bill requires credit bureaus to adopt reasonable procedures for meeting the needs of commerce including data subject credit, personnel, insurance, and other information in a manner which is fair and equitable to the data subject, having regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of the law.

CREDIT REPORTING REGULATIONS, 2014
Arrangement of Sections

Section

PART I – PRELIMINARY	3
1. Short title	3
2. Interpretation	3
PART II - LICENSING OF CREDIT BUREAUS	4
3. Application for licence	4
4. Evaluation of application.....	6
5. Premises and systems of applicant	8
6. Obligations of credit bureau	8
7. Material change in circumstances	9
PART III - CREDIT REPORTING BUSINESS	10
8. Nature of information to be shared.....	10
9. Obligations of credit information providers	11
10. Additional restrictions regarding data subject information	12
11. Disclosure to data subject by credit bureau	14
12. Limits on disclosure	15
13. Denial of credit	15
14. Periodic returns.....	16
PART IV - COMPLAINTS AND DISPUTE RESOLUTION	16
15. Complaints.....	16
16. Dispute by data subject regarding information on file	17
17. Investigations by credit bureau.....	18
18. Investigations by credit provider	19
19. Resolution of disputes, etc.....	19
PART V - MISCELLANEOUS PROVISIONS	19
20. Restrictions regarding staff	19
21. Charges for services	20
22. Fixed penalties.....	21
FIRST SCHEDULE	22
SUBSCRIBER AGREEMENT	22

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

<u>SECOND SCHEDULE</u>	<u>24</u>
APPLICATION FORM FOR A LICENCE	24
<u>THIRD SCHEDULE</u>	<u>29</u>
PERSONAL DECLARATION FORM FOR PROPOSED OFFICERS AND SIGNIFICANT SHAREHOLDERS OF CREDIT BUREAUS	29
<u>FOURTH SCHEDULE</u>	<u>35</u>
STATUTORY DECLARATION	35
<u>FIFTH SCHEDULE</u>	<u>36</u>
SUMMARY OF RIGHTS	36

**CREDIT REPORTING ACT
NO---OF 2014**

CREDIT REPORTING REGULATIONS, 2014

The Central Bank of The Bahamas, in exercise of the powers conferred by section 54 of the Credit Reporting Act, makes the following Regulations

PART I - PRELIMINARY

Short title.

1. These Regulations may be cited as the Credit Reporting Regulations, 2014.

Interpretation.

2. (1) In these Regulations, unless the context otherwise requires—

“**Act**” means the Credit Reporting Act, 2014 [Act No. of 2014];

“**adverse action notice**” means a written notice issued by a credit provider to a data subject notifying the data subject of any action or determination which—

- (a) is based on the data subject information obtained from a credit bureau; and
- (b) adversely affects the data subject (including denial or cancellation of any loan, existing or applied for);

“**amendment notice**” means a written notice from a credit information provider advising the credit bureau and data subject of an amendment to data subject information;

“**debt collector**” means a person who is in the business of collecting debts;

“**non-performing loan**” means a non-performing loan as defined in the directions issued by the Central Bank;

“**notice of change**” has the meaning assigned to it under regulation 19;

“**notice of dispute**” means a written notice sent by a data subject to a credit bureau under regulation 16;

“**notice of resolution**” includes a written notice sent by a credit information provider to the credit bureau advising of the results respecting a notice of dispute;

“**operations systems**”, in relation to an applicant, includes the description of the operations systems of the applicant and the design of the data collection systems of the applicant;

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

“**performing loan**” means a performing loan as defined in the directions issued by the Central Bank;

“**place of business**” means the premises of a credit bureau where credit reporting business is carried on or is intended to be carried on, whether the premises are owned by the credit bureau or leased or rented.

“**significant shareholder**” means a person other than the Government or a public entity, who holds directly or indirectly or otherwise has a beneficial interest in, more than ten per cent of the share capital of a credit bureau or if it is proposed that such a person shall so hold or have such a beneficial interest;

“**statement of dispute**” has the meaning assigned to it in regulation 17;

“**subscriber agreement**” means an agreement in the form set out in the First Schedule;

“**system**”, in relation to an applicant, means—

- (a) the safety and security system of the applicant;
- (b) the management information system of the applicant; or
- (c) the internal control system of the applicant.

(2) Words and phrases not defined in paragraph (1) and used in these Regulations, unless the context otherwise requires, have the same meaning ascribed to them in the Act.

PART II - LICENSING OF CREDIT BUREAUS

Application for licence.

3. (1) An application for a licence to operate, or carry on the business of, a credit bureau in The Bahamas shall be made to the Central Bank in the form set out in the Second Schedule.

(2) The application shall be accompanied by the following information and supporting documents—

- (a) a certified copy of the applicant’s Certificate of Incorporation, and Memorandum and Articles of Incorporation;
- (b) a feasibility study by the applicant, showing the nature of the proposed business, organizational structure and internal control systems and monitoring procedures of the applicant, covering, inter-alia, the following aspects—
 - (i) market analysis,
 - (ii) ownership structure,

- (iii) governance and management structure,
 - (iv) business plan,
 - (v) business continuity plan, and
 - (vi) operations manuals,
- (c) a sworn declaration of the proposed directors, officers and significant shareholders in the form set out in the Third Schedule;
- (d) a sworn declaration of the proposed chief executive officer in the form set out in the Fourth Schedule, if the proposed chief executive officer is not a proposed director;
- (e) the documentary evidence regarding the management processes, including—
- (i) the development schedule of the software required for the operations of the credit bureau,
 - (ii) the characteristics of the products and services intended to be provided to users,
 - (iii) the policies and procedures manual respecting the supply of credit reporting services, and
 - (iv) the proposed security and control measures aimed at preventing misuse or improper management of data subject information;
- (f) an overview of operations systems of the applicant including the unique identification systems for persons that are adequate to facilitate the ready collection of data and handling of the database;
- (g) a description of the applicant's premises and the security measures to be adopted;
- (h) the suitability of such premises for data subject service;
- (i) the proposed fees structure for service under regulation 21;
- (j) a prototype of the final product that demonstrates the principal features and functions of the systems;
- (k) the documentary evidence regarding the payment to the Central Bank of the non-refundable application processing fee; and
- (l) any other information as the Central Bank considers necessary or may, from time to time, require.

- (3) The operations manuals referred to in sub-regulation (2)(b)(vi) shall—
- (a) be structured to ensure the accuracy and timely updating of the information contained in the database of the applicant; and
 - (b) include the following—
 - (i) a query module manual,
 - (ii) a data loading module manual,
 - (iii) a source quality control manual,
 - (iv) a maintenance module manual,
 - (v) a security module manual,
 - (vi) an operating manual,
 - (vii) a user manual, and
 - (viii) a manual for procedures for handling complaints.

Evaluation of application.

4. (1) When evaluating an application for a licence to operate, or carry on the business of, a credit bureau in The Bahamas, the Central Bank shall take into account all relevant matters within its discretion including—

- (a) the background, reputation, integrity, experience and capacity of the proposed directors, managers and other officers of the applicant as evidenced by, among other things, the curriculum vitae and professional qualifications of the proposed directors, managers and other officers of the applicant;
- (b) the business plan of the applicant, including a mechanism to integrate, gather, update and validate the data; and
- (c) the design of data collection for data subject information and flexibility in structuring the information in accordance with the Act and these Regulations.

(2) Without prejudice to the generality of sub-regulation (1)(a), a person shall not be qualified to hold office as a director or an officer of a credit bureau if the person—

- (a) is a minor or under a legal disability;
- (b) has been convicted of an offence involving theft, fraud, forgery, causing financial loss or perjury;

- (c) has been removed from an office of trust on account of misconduct, abuse of office, corruption or incompetence in the immediate preceding ten years from the date of the application; or
- (d) is an auditor of a credit bureau or any company associated with a credit bureau.

(3) The Central Bank may, in accordance with the Act and these Regulations, require an applicant to provide evidence to its satisfaction that every proposed director, officer or significant shareholder of the applicant is a fit and proper person.

(4) For the purpose of sub-regulation (3), the applicant and the Central Bank—

- (a) shall have regard to the following qualities, in so far as the qualities are reasonably determinable of the —
 - (i) general probity of the proposed director, officer or significant shareholder of the applicant,
 - (ii) competence and soundness of judgement of the proposed director, officer or significant shareholder of the applicant for the fulfilment of the responsibilities of the office in question, and
 - (iii) diligence with which the proposed director, officer or significant shareholder of the applicant is likely to fulfil the responsibilities referred to in sub-paragraph (ii); and
- (b) may have regard to the past conduct and activities of the proposed director, officer or significant shareholder of the applicant in the credit reporting business, and in particular, to any evidence that the person concerned—
 - (i) has been convicted of an offence of fraud or any other offence of which dishonesty is an element,
 - (ii) has contravened the provisions of any law designed for the protection of members of the public against financial loss due to the dishonesty or incompetence of, or malpractices by, persons engaged in the provision of banking, insurance, investment or other financial services,
 - (iii) was a director or an officer of a credit provider that has been liquidated or is under liquidation or statutory management,
 - (iv) has taken part in any business practices that in the opinion of the Central Bank were fraudulent, prejudicial or otherwise improper (whether unlawful or not) or which otherwise discredited his or her method of conducting business,

- (v) has taken part in or has been associated with any other business practices as would cast doubt on his or her competence and soundness of judgement, or
- (vi) has otherwise conducted himself or herself in such a manner as to cast doubt on his or her competence and soundness of judgement.

(5) Where the Central Bank has reason to believe that a person has relevant information in respect of any proposed director, officer or significant shareholder of an applicant, the Central Bank may request the person having such information to furnish such information.

(6) For the purposes of sub-regulation (5), the reference to “relevant information” shall be construed to mean information in respect of any proposed director, officer or significant shareholder of an applicant as may be necessary for the purposes of this regulation.

Premises and systems of applicant.

5. (1) The Central Bank shall carry out or cause to be carried out an on-site inspection of the premises of the applicant—

- (a) to determine the adequacy of the applicant’s systems and administrative and operational processes; and
- (b) to confirm the suitability of the premises for credit bureau operations.

(2) An applicant shall submit to the Central Bank a security audit prepared by an audit firm giving expert opinion on—

- (a) the suitability of the premises of the applicant,
- (b) the adequacy of the management information systems of the applicant, and
- (c) any other aspect regarding the premises or systems of the applicant that may be considered relevant with respect to the operations of a credit bureau.

Obligations of credit bureau.

6. (1) A credit bureau shall—

- (a) ensure that the activities conducted by the credit bureau are in full conformity with the Act and these Regulations;
- (b) ensure that the credit bureau maintains a data subject claims and inquiry service to attend to any data subject who—

- (i) is affected by the information regarding the data subject contained in the database of the credit bureau; and
- (ii) alleges that the information regarding the data subject contained in the database of the credit bureau is illegal, inaccurate, erroneous or outdated; and
- (c) ensure that the credit bureau has adequate staff—
 - (i) to undertake the functions of the credit bureau; and
 - (ii) to sufficiently meet data subject demands under the Act and these Regulations.
- (2) Where a credit bureau intends to—
 - (a) relocate its place of business or open a branch of the credit bureau, the credit bureau shall obtain the requisite approval from the Central Bank before relocating its place of business or opening a branch of the credit bureau; and
 - (b) close any of its places of business, the credit bureau shall seek approval from the Central Bank not less than three months before the date of closing of any of its places of business.

Material change of circumstances.

7. (1) Where a credit bureau intends to implement any material change of circumstances specified in sub-regulation (2), the credit bureau shall first obtain the approval of the Central Bank before implementing the change.

- (2) The material change of circumstances referred to in sub-regulation (1) are—
 - (a) merger or consolidation with any other credit bureau;
 - (b) change of title or name;
 - (c) amendment of the Memorandum or Articles of Association or any other constituent document under which the credit bureau is incorporated;
 - (d) engagement in any business other than that of a credit bureau;
 - (e) change of significant shareholding or ownership; and
 - (f) any change in the systems of the credit bureau that—
 - (i) causes or is likely to cause the credit information providers to incur significant additional cost, or

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

(ii) puts or is likely to put the security of data at risk.

(3) Where a change in the directors, chief executive officer or managers occurs in any applicant or credit bureau, the applicant or, as the case may be, credit bureau shall, within seven days of the occurrence of the change, notify the Central Bank in writing of that change.

(4) The Central Bank may take any of the actions specified in sub-regulation (5) if—

- (a) the Central Bank receives information that there has been a change in the directors, chief executive officer or managers of an applicant or a credit bureau; or
- (b) an applicant or a credit bureau fails to comply with sub-regulation (1) or (3).

(5) The actions which the Central Bank may take are—

- (a) refuse to grant a licence to the applicant in accordance with section 8 of the Act or, as the case may be, to renew the licence of the credit bureau;
- (b) amend the terms and conditions of the licence of the credit bureau in accordance with section 9 of the Act; or
- (c) suspend or revoke the licence of the credit bureau in accordance with section 13 of the Act.

(6) Where the material change in circumstances is by reason of an offence committed by a director, the chief executive officer or a manager of the credit bureau, the Central Bank may require the removal of the director, chief executive officer or manager, as the case may be.

PART III - CREDIT REPORTING BUSINESS

Nature of information exchanged and shared.

8. (1) Subject to this regulation, the data subject information which shall be exchanged, shared or otherwise processed under the Act and these Regulations may contain—

- (a) the particulars regarding the identity of the data subject;
- (b) the credit history of the data subject, including the nature and amounts of loans granted, or to be granted, to the data subject;
- (c) any security taken or proposed to be taken by a credit provider as security for the loans, mentioned in paragraph (b);

- (d) the patterns of payments regarding the loans by the data subject;
- (e) any debt restructuring or other action taken by the credit provider to recover unpaid amounts including realization of securities, legal proceedings and related matters; and
- (f) any other data subject information concerning a data subject's performing and non-performing loans.

(2) The nature of information to be exchanged or shared under this regulation shall not adversely affect the rights and freedoms of the data subject.

(3) For the purposes of sub-regulation (1)(a), the expression "particulars regarding the identity of the data subject" shall be construed to include—

- (a) in the case of a natural person, the data subject's name, date of birth, National Insurance number or national identity number, passport number, driving licence number, past and current addresses; and
- (b) in the case of a legal person, the business name of the data subject, the registration number of the data subject, the names of directors, shareholders or partners, the current registered address and past registered addresses (if any).

Obligations of credit information provider.

9. (1) Every credit information provider shall—

- (a) be responsible for providing accurate information to a credit bureau;
- (b) be obligated to submit and update all data subject information to the credit bureau in accordance with the Act and these Regulations; and
- (c) ensure rigorous standards of security and reliability regarding the data subject information of the data subject.

(2) Subject to sub-regulation (3), a credit information provider shall, in furnishing data subject information to a credit bureau, disclose to a credit bureau, the following information—

- (a) the amount and nature of loans granted to the data subject by a credit provider;
- (b) the nature of the security taken from any data subject in respect of loans granted to the data subject by a credit provider;
- (c) the nature of any guarantee or other non-fund based facility furnished to the data subject by a credit provider;

- (d) information about any data subject's income, creditworthiness or history of financial transactions including antecedents and adverse court judgments, obtained by the credit information provider in relation to transactions involving a credit provider; and
- (e) such other credit related information as the Central Bank—
 - (i) considers appropriate to include as credit information for the purposes of the Act and these Regulations, and
 - (ii) specifies by notice published in the *Gazette*.

(3) A credit information provider shall not provide credit information in respect of a data subject to a person other than the data subject unless the credit information provider is satisfied, after undertaking all reasonable enquiries and investigations, that such information is reliable.

(4) Where a credit information provider becomes aware that data subject information that it provides to a credit bureau was inaccurate at the time such information was provided, the credit information provider shall, within five working days from the day the credit information provider becomes aware of the inaccuracy, give the credit bureau an amendment notice instructing the credit bureau to delete the inaccurate information and replace the inaccurate information with the correct information.

(5) A credit information provider that contravenes sub-regulation (3) commits an offence and is liable to a fine not exceeding ten thousand dollars.

(6) For the purposes of this regulation, credit information is reliable if the credit information—

- (a) is accurate in all material respects; and
- (b) is presented in a fair and balanced manner.

Additional restrictions regarding data subject information.

- 10.** (1) A credit bureau shall—
- (a) protect the confidentiality of data subject information received, collected or otherwise processed under the Act and these Regulations;
 - (b) only report or release the data subject information—
 - (i) to the data subject concerned,
 - (ii) subject to sub-regulation (2), to a user, or
 - (iii) as otherwise required under the Act and these Regulations;

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

- (c) utilize the information referred to in paragraph (a) solely for the purposes set out in the Act and these Regulations;
- (d) take all such steps as are reasonably necessary to ensure that the data subject information maintained or otherwise processed by it is duly protected against any loss or unauthorized access or misuse or unauthorized disclosure; and
- (e) observe, through its shareholders, directors, officers, employees or agents, a duty of confidentiality with regard to the information obtained by them under the Act or these Regulations.

(2) Where, for the purposes of evaluating a data subject's application for credit or other data subject-initiated commercial transaction, data subject information is required to be reported or released under sub-regulation (1)(b)(ii) to a user, the credit bureau shall not report or release the data subject information unless the user to whom the data subject information is to be reported or released—

- (a) certifies to the credit bureau that the user will use the data subject information for a permissible purpose and for no other purpose;
- (b) agrees to properly dispose of the data subject information so that the data subject information cannot reasonably be read or reconstructed; and
- (c) demonstrates adequate level of security and control in its systems to ensure that data received by it is protected.

(3) A user shall not request from a credit bureau data subject information in respect of a data subject under the Act and these Regulations unless the user, at the time at which the data subject consents for the user to request the data subject information, notifies the data subject of the name and address of the credit bureau.

(4) A user shall not—

- (a) use information received from a credit bureau for any purpose other than for reaching decisions on the business of the user in the ordinary course of such business; or
- (b) release information received from a credit bureau to any third party other than the appointed agent of the user for the purpose of assisting the user in the recovery of any of its debts.

(5) A credit bureau which fails or refuses to comply with sub-regulation (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(6) A user who fails or refuses to comply with sub-regulation (4) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

Disclosure to data subject by credit bureau.

11. (1) Where a data subject requires a credit report from a credit bureau, the credit bureau shall—

- (a) for the purpose of enabling it to identify the data subject, require the data subject to submit, in writing, a request in that regard containing such identification and other particulars as the credit bureau may reasonably require; and
- (b) within five working days of receiving the request in accordance with paragraph (a), provide to the data subject a credit report based on the data subject information relating to the data subject held by the credit bureau.

(2) Without prejudice to the generality of sub-regulation (1)(b) but subject to sub-regulations (3) and (4), a credit bureau shall, on receipt of the request from a data subject—

- (a) clearly and accurately disclose to the data subject—
 - (i) the nature and substance of all information in its files regarding the data subject at the time of the request;
 - (ii) the sources of the information referred to in sub-paragraph (i), unless the data subject is able to readily ascertain such sources;
 - (iii) the names of all persons to whom a credit report regarding the data subject has been provided within the twelve-month period immediately preceding the date of the request; and
 - (iv) the contents of any written or oral credit report regarding the data subject made to any other person; and
- (b) inform the data subject of his or her right to dispute any information contained in the file under section 30(1)(b) of the Act and Part IV of these Regulations and the manner in which such a dispute may be made.

(3) A credit bureau shall make the disclosures required under sub-regulation (2) to the data subject—

- (a) in person, if the data subject appears in person;
- (b) by mail, whether electronic mail or otherwise, if the data subject has made a written request for disclosure by such means.

(4) Every credit bureau shall provide trained personnel to explain to a data subject any information provided to the data subject under this regulation.

Limits on disclosure.

12. (1) Where a credit bureau holds or otherwise processes credit information that consists solely of information sourced from a publicly available publication, the credit bureau may disclose such credit information.

(2) A credit bureau that holds or otherwise processes data subject information may disclose the information if the credit bureau has reasonable grounds to believe that the disclosure of the information—

- (a) is authorised by the data subject concerned; and
- (b) is made to—
 - (i) a debt collector for the purpose of enforcement of a debt owed by the data subject concerned,
 - (ii) a prospective landlord or an agent of a prospective landlord for the purpose of assessing the creditworthiness of that data subject as a prospective tenant or as a guarantor of a tenancy,
 - (iii) a prospective employer or an agent of a prospective employer for the purpose of a pre-employment check of that data subject for a position involving significant financial risk,
 - (iv) a credit provider or an agent of a credit provider, for the purpose of making a credit decision affecting that data subject, or
 - (v) a prospective insurer or an agent of a prospective insurer for the purpose of a decision on the underwriting of insurance in respect of a credit related transaction relating to the data subject.

(3) A credit bureau may disclose supplementary identification information regarding the data subject if the disclosure is to confirm identical information supplied by a user.

(4) Subject to regulation 21, a credit bureau may, in accordance with this regulation, make available for a fee credit information that has been re-sorted or combined with other information sourced from a specified public register.

Denial of credit.

13. (1) Where, as a result of information contained in a credit report regarding a data subject, a credit provider denies credit, in whole or in part, to a data subject, the credit provider shall, within fifteen days after making the decision and in writing, provide to the data subject an adverse action notice informing the data subject of—

- (a) the name, address and phone number of the credit bureau that provided the data subject information; and

- (b) the data subject's right—
 - (i) to dispute such information with the credit bureau, and
 - (ii) if the information is erroneous or outdated, to have the erroneous or outdated information corrected.

(2) A credit provider shall be deemed to have notified the data subject if the credit provider sends the adverse action notice referred to under sub-regulation (1) to the data subject's last known address by registered mail.

Periodic returns.

14. (1) Every credit bureau shall furnish the Central Bank with periodic returns regarding its business operations, in such form and time as the Central Bank may require.

(2) A credit bureau which wilfully—

- (a) fails or refuses to comply with sub-regulation (1); or
- (b) furnishes the Central Bank with an incomplete, inadequate, inaccurate or late periodic return,

commits an offence and on summary conviction is liable to a fine not exceeding ten thousand dollars and in the case of a continuing offence is liable to an additional fine of two thousand dollars for each day that such failure to comply continues after conviction.

PART IV - COMPLAINTS AND DISPUTE RESOLUTION

Complaints.

15. (1) A credit bureau shall designate a person—

- (a) to deal with complaints alleging breaches of the Act or these Regulations;
and
- (b) to facilitate the fair, simple, speedy and efficient resolution of complaints.

(2) Subject to sub-regulation (3), every credit bureau shall—

- (a) upon receipt of a complaint alleging a breach of the Act or these Regulations promptly acknowledge receipt of the complaint;
- (b) within ten working days of the date of receipt of the complaint, decide—
 - (i) whether or not the complaint is justified; or
 - (ii) whether time in excess of ten working days is needed to investigate the complaint and inform the complainant of the additional time required and the reasons for that requirement; and

- (c) subject to paragraph (d), as soon as practicable after it decides whether or not the complaint is justified, inform the complainant of—
 - (i) the decision,
 - (ii) the reasons for the decision, and
 - (iii) any actions the credit bureau proposes to take; and
- (d) if the credit bureau decides that a complaint is not justified, inform the complainant of—
 - (i) any appeal procedure which the credit bureau has in place, and
 - (ii) the right to review under Part VII of the Act.

(3) Every credit bureau shall immediately upon receipt of a complaint by a data subject furnish the data subject with a copy of the summary of rights set out in the Fifth Schedule.

(4) For the avoidance of doubt, nothing in this regulation shall be construed as limiting or restricting any provision in the Act.

Dispute by data subject regarding information on file.

16. (1) In order to dispute the completeness or accuracy of any information regarding a data subject contained in a file of a credit bureau under this regulation, the data subject shall submit to the credit bureau a notice of dispute in accordance with sub-regulation (2).

(2) The notice of dispute shall—

- (a) be in writing;
- (b) contain the details regarding the alleged incomplete, inaccurate, erroneous, obsolete or otherwise disputed information; and
- (c) contain information regarding the action required or requested to be taken by the credit bureau.

(3) The credit bureau shall, within five working days of the receipt of the notice of dispute—

- (a) attach a note to the credit report, warning that the disputed information is under investigation; and
- (b) give to the credit information provider a copy of the notice of dispute; and
- (c) request confirmation from the credit information provider as to the accuracy of the information.

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

(4) The credit bureau shall retain or cause to be retained a copy of the notice of dispute on the file of the data subject until the dispute is resolved.

Investigations by credit bureau.

17. (1) Where a credit bureau receives a notice of dispute under regulation 16, the credit bureau shall—

- (a) subject to paragraph (c), investigate the claims of the data subject within a reasonable time, but no later than fifteen working days from the date of receipt of the notice of dispute;
- (b) subject to sub-regulation (2)(b), promptly remedy any error as requested by the data subject if the investigation reveals that error; or
- (c) if the credit bureau does not complete its investigation within fifteen days from the date of receipt of the notice, retain a copy of the notice of dispute or cause a copy of the notice of dispute to be retained on the file of the data subject until the dispute is resolved.

(2) If, as a result of an investigation under sub-regulation (1)—

- (a) the credit bureau is of the opinion that the information in the file regarding the data subject is complete, accurate and verified, the credit bureau shall advise the data subject in writing of his or her right to file a written statement of dispute containing not more than two hundred words setting out the nature of his or her dispute regarding the information; or
- (b) any information in the file regarding the data subject is found to be incomplete or inaccurate, erroneous, obsolete or can no longer be verified, the credit bureau shall, within a reasonable time—
 - (i) update the information by completing or correcting the information and deleting any erroneous or obsolete information or any information that cannot be verified,
 - (ii) notify the data subject in writing of any remedial action taken under sub-paragraph (i), and
 - (iii) notify any person in writing who received a credit report regarding the data subject within six months preceding the date of the remedial action taken under sub-paragraph (i), unless the data subject directs otherwise.

(3) Where a statement of dispute is filed by a data subject under sub-regulation (2)(a), the credit bureau shall—

- (a) provide a copy of the statement of dispute to any person who received a credit report regarding the data subject within six months preceding the

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

date on which the data subject filed a notice of dispute under regulation 16, unless the data subject directs otherwise; and

- (b) attach a copy of the statement of dispute in any subsequent credit report containing the information that the data subject disputes.

Investigations by credit information provider.

18. Where a credit information provider receives a notice of dispute from the credit bureau under regulation 16(3)(b), the credit information provider shall, within ten working days of the date of receipt of the notice of dispute—

- (a) complete all necessary investigations into the disputed information; and
- (b) give the credit bureau and the data subject a notice of resolution or an amendment notice, advising whether the disputed information has been deleted, corrected, amended or has remain unchanged.

Resolution of disputes, etc.

19 (1) Upon receipt of a notice of resolution or an amendment notice from a credit information provider, the credit bureau shall, within five working days of the date of receipt of such notice, send a notice of change to any user that has, at any time within the period of twelve months immediately preceding the date of receipt of such notice, obtained a credit report from the credit bureau containing the disputed information.

(2) Where the data subject disagrees with the action taken by a credit information provider with respect to the disputed information—

- (a) the data subject may request the credit bureau to attach a statement of not more than one hundred words to the data subject's credit report, setting out the data subject's claim that the information is not correct or accurate; and
- (b) the credit bureau shall take reasonable steps to comply with the data subject's request under paragraph (a).

PART V - MISCELLANEOUS PROVISIONS

Restrictions regarding staff.

20. (1) A credit bureau shall not employ, or have in its employment, any person who the credit bureau has reason to believe—

- (a) is an undischarged bankrupt or enters into a composition or scheme of arrangement with his or her creditor;
- (b) has been convicted of an offence involving fraud or dishonesty; or

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

- (c) has been removed from office under the provisions of the Act and these Regulations.
- (2) Where a person referred to in sub-regulation (1) is already in the employment of a credit bureau, the person—
 - (a) shall be disqualified; and
 - (b) upon such disqualification, shall not be eligible to hold office in, or be in the employment of, any credit bureau from the date of the disqualification.
- (3) Where a credit bureau allows a disqualified person to continue acting as an officer or being in employment or is otherwise in breach of this regulation—
 - (a) the credit bureau commits an offence and is liable on summary conviction to a fine of ten thousand dollars and in the case of a continuing offence is liable to a further fine of two thousand dollars for everyday that the breach continues after conviction; and
 - (b) the disqualified person acting as an officer or employee of the credit bureau commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for six months.

Charges for services.

- 21.** (1) Subject to sub-regulation (2), a credit bureau—
- (a) may impose such charges, for its services, as shall be agreed between the user and the credit bureau; and
 - (b) shall notify the Central Bank of such charges through periodic returns submitted in accordance with regulation 14.
- (2) A credit bureau shall not charge the data subject for its service in—
- (a) the case of a credit report being provided to the data subject under section 23 or 25 of the Act;
 - (b) conducting an investigation of disputed data subject information under regulation 17; but if the information disputed by the data subject turns out to be true, the credit bureau may charge the data subject for the reasonable cost of its service in conducting the investigation;
 - (c) making available credit information in accordance with regulation 19 unless the individual concerned requests that the information be made available within five working days, in which case a reasonable charge may be made;
 - (d) correcting any credit information disputed under regulation 16; or

- (e) providing a copy of any information corrected or remedied otherwise than under regulation 17(1)(b).

Fixed penalties.

22. (1) Where the Central Bank has reason to believe that a credit bureau—

- (a) is in breach of the provisions of these Regulations; and
- (b) is liable to pay a penalty,

the Central Bank may, without prejudice to its right to take any other action under these Regulations, proceed against the credit bureau in accordance with section 50 of the Act.

(2) For the purposes of recovering a fixed penalty payable under these Regulations from a credit bureau which is found to be in breach of a provision of these Regulations, section 50 of the Act shall apply with the necessary modification to the recovery of the fixed penalty under these Regulations as that section applies to the recovery of the fixed penalty under the Act.

FIRST SCHEDULE (Regulation 2)

SUBSCRIBER AGREEMENT

A subscriber agreement shall include provisions imposing the following obligations upon the subscriber—

Where the subscriber collects credit information directly or indirectly from the data subject concerned for disclosure to the credit bureau, the subscriber shall inform the data subject of the purposes for which the credit bureau is collecting the information and the purposes for which the information will be used and disclosed.

The subscriber shall not disclose information to the credit bureau without taking such steps as are, in the circumstances, reasonable to ensure that the information is accurate, up to date, complete, relevant, and not misleading.

The subscriber shall, as soon as reasonably practicable, update any credit default information previously disclosed to the credit bureau and ensure that the information remains accurate, up to date, complete, relevant, and not misleading.

The subscriber shall disclose the relevant purpose or purposes under Part III of the Credit Reporting Regulations for which access is being sought, and confirm the relevant purpose at the time of each access.

The subscriber shall co-operate with all reasonable compliance checks conducted by the credit bureau and, for that purpose, shall supply, upon request, evidence to confirm compliance with the requirements of Part III of the Credit Reporting Regulations or evidence to substantiate any credit default information disclosed to the credit bureau by the subscriber.

The subscriber shall promptly cooperate with the credit bureau in its efforts to investigate and resolve complaints and requests for correction of credit information and shall, for those purposes, supply, upon request, evidence to confirm compliance with the requirements of regulation 9 of the Credit Reporting Regulations or evidence to substantiate any credit default information or serious credit infringement information disclosed to the credit bureau by the subscriber.

The subscriber shall take appropriate measures, including the following, to safeguard the credit information held by the credit bureau against improper access—

- (a) develop written policies and procedures to be followed by its employees, agents and contractors;
- (b) establish controls, including;
 - (i) the use of passwords, credential tokens or other mechanisms; and
 - (ii) user identification;
- (c) provide information and training to ensure compliance with the policies and controls;

- (d) monitor usage and regularly check compliance with the policies and controls; and
- (e) take appropriate action in relation to identified breaches of the policies and controls.

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

SECOND SCHEDULE (Regulation 3(1))

FORM

APPLICATION FOR LICENCE TO OPERATE A CREDIT BUREAU IN THE BAHAMAS

1. Name of applicant _____
2. Former name (s) (if any) by which the applicant has been known:

3. **Head/main office:** _____
 - (a) Address: _____
 - (b) Telephone No(s): _____
 - (c) Telefax No(s): _____
 - (d) E-mail address: _____
4. Name(s) and contact of person(s) conducting the application on behalf of the applicant: _____

5. Relationship of contact person(s) to applicant: _____

6. Branches (including physical location): _____
7. **Subsidiaries and affiliates**

Name and type of business	Amount of shares held	% of shares held in total
_____	_____	_____
_____	_____	_____
8. Management:
 - (a) **Board of Directors:**

Name:	Designation	Present term	No. of years as board member
_____	_____	_____	_____
_____	_____	_____	_____
 - (b) **Board committees**

Name and purpose of committee(s):	Name of members:
_____	_____
_____	_____
 - (c) **Officers**

Name:	Position	No. of years as officer
_____	_____	_____

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

9. Ownership profile:

Name	Country of citizenship	Residence	Paid up capital	% Ownership
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____

Other shareholders owning less than 5% of share capital of applicant (Number _____)

TOTAL _____

10. Organization profile—

- (a) **Organization chart-** Attach one indicating major departments or divisions with names, positions and titles of officers heading each department or division;
- (b) **Functions-** Attach a list of functions or responsibilities for each department or division listed in the organization chart indicating the number of personnel or staff for each;
- (c) Qualifications of significant shareholders, directors and officers;
- (d) Annex personal declaration form of each significant shareholder and officer and the name, registered office and other particulars of each significant corporate shareholder; and
- (e) **Powers and purposes-** attach the latest copies of the Memorandum and Articles of Incorporation if not previously submitted to the Central Bank.

11. Owner (s) shareholding in any other financial institution:

Name of Institution	Shares owned-	Number	% of capital amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

12. Name(s) and address(es) of the applicant’s bankers within the last 10 years. (Please also indicate the applicant’s principal bankers).....

.....

13. Name and address of the applicant’s external auditors

.....

14. Does the applicant hold, or has it ever held, any authority from a supervisory body to carry on any business activity in The Bahamas or elsewhere? If yes, give particulars. If any such authority has been revoked, give particulars.....

.....

15. Has the applicant ever applied for any authority from a supervisory body to carry on any business in The Bahamas or elsewhere other than the authority mentioned in answer to question 14?.....

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

If yes, give particulars.....

If any such application was for any reason refused or withdrawn after it was made, give particulars.....

16. Has the applicant or any company in the same group within the last ten years failed to satisfy a judgement debt under a court in The Bahamas or elsewhere within a year of the making of the order?

.....
If yes, give particulars.....

17. Has the applicant or any company in the same group made any compromise or arrangement with its creditors within the last ten years or otherwise failed to satisfy its creditors in full?

.....
If yes, give particulars.....

18. Has a receiver or receiver-manager of any property of the applicant or any company in the same group been appointed in The Bahamas, or has a substantial equivalent of any such person been appointed in any other jurisdiction, in the last ten years?.....

.....
If yes, give particulars, including whether the receiver or receiver-manager is still acting under the appointment.....

19. Has a petition been served in The Bahamas for a winding up order in relation to the applicant or company in the same group, or has the substantial equivalent of such a notice been served in any other jurisdiction, in the last ten years?.....

.....
If yes, give particulars.....

20. Has a notice of resolution for the voluntary liquidation of the applicant or any company in the same group been given in The Bahamas, or has the substantial equivalent of such a notice been served in any other jurisdiction, in the last ten years?.....

.....
If yes, give particulars.....

21. Has a petition been served in The Bahamas for the compulsory liquidation of the applicant or any company in the same group, or has the substantial equivalent of such a petition been served in any other jurisdiction, in the last ten years?.....

.....
If yes, give particulars.....

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

.....
22. State whether the applicant company has ever been under any criminal investigation, prosecution disciplinary action, public criticism or trade sanction in connection with banking and financial services in The Bahamas or elsewhere.....
.....
.....

23. Are there any material matters in dispute between the applicant and the Comptroller of Inland Revenue or any equivalent tax authority in any other jurisdiction?
If yes, give particulars.....
.....
.....

24. Is the applicant engaged or does it expect to be engaged, in The Bahamas or elsewhere, in any litigation which may have a material effect on the resources of the institution?.....
If yes, give particulars.....
.....
.....

25. Is the applicant engaged, or does it expect to be engaged, in any business relationship with any of its (prospective) officers?.....
If yes, give particulars.....
.....
.....

26. Is the business of the applicants' officers or of companies connected with the applicants guaranteed or otherwise underwritten or secured, or expected to be guaranteed or underwritten or secured, by the applicants?.....
If yes, give particulars.....
.....
.....

27. Please provide any other information which may assist the Central Bank in reaching a decision on the application.....
.....
.....

DECLARATION

We certify that all the information contained in and accompanying this form is accurate and complete to the best of our knowledge, information and belief and that there are no other facts relevant to this application of which the Central Bank should be aware. We undertake to inform the Central Bank of any material changes to the application which may arise while the Central Bank is considering the application. We further undertake that, in the event that the institution is granted a licence under the Act and these Regulations we will notify the Central Bank of any material changes to or affecting the completeness or accuracy of the answers to the questions above as soon as possible, but in any event not later than thirty days after the date that changes come to our attention.

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

THIRD SCHEDULE

(Regulation 3(2)(c))

**PERSONAL DECLARATION FORM FOR PROPOSED OFFICERS, DIRECTORS AND
SIGNIFICANT SHAREHOLDERS OF CREDIT BUREAUS**

Name and capacity of person making this Declaration:

1. Name of credit bureau in connection with which this form is being filled:

2. Deponents full names: _____

3. Former surname(s) and/or forenames by which you may have been known: _____

4. Please state the capacity in which you are completing this Form (that is to say, as a current or prospective officer or any combination of these). Please state your full title and describe the particular duties and responsibilities attaching to the position(s) which you hold or will hold. If you are completing this Form in the capacity of director, indicate whether, in your position as director, you have or will have executive responsibility for the management of the applicant's business. In addition, please provide a copy of your curriculum vitae unless it is already provided by the applicant in response to the Second Schedule.

5. Date and place of birth: _____

6. (1) Citizen of: _____ since _____
(Country) (Year)

(2) Resident of: _____ since _____
(Country) (Year)

7. Addresses:

(a) Present residential address:

(in The Bahamas since _____)

(outside The Bahamas since _____)

(b) Last two addresses in The Bahamas, if any, during the past ten years:

(Since _____) (Since _____)

8. Professional and academic qualifications:

Particulars Year obtained

(a) Highest academic qualification

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

(b) Special awards or honours (if any)

(c) Training courses and seminars

(d) Membership in professional organisations

9. Occupation or employment (Present or most recent and for the past ten years)

Name & business of employer	Position held	Inclusive date
		(month & year)
		from year
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

10. Name and address(es) of your bankers within the last ten years

.....

.....

.....

11. Bodies corporate (other than the applicant) where you are now an officer, a shareholder, or a manager? Give relevant dates:

.....

.....

.....

12. Bodies corporate other than the applicant and those listed above where you have been a director, shareholder or manager at any time during the last ten years. Give relevant dates

.....

.....

.....

13. Have you, in The Bahamas or elsewhere, been dismissed from any office or employment, or been subjected to disciplinary proceedings by your employer or barred from entry to any profession or occupation? If yes, give particulars:

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

.....
.....
.....

14. Past and present business affiliation (direct and indirect):

Nature of business	Nature of affiliation i.e. director, officer, shareholder with 5% and above	Inclusive date (month and from)

15. Do any of the above business affiliates maintain a business relationship with the credit bureau? If yes, give particulars:

.....
.....

16. Do you hold or have you ever held or applied for a licence or equivalent authorization to carry on any business activities in The Bahamas or any other country? If any such application was refused or withdrawn after it was made or any authorization was revoked, give particulars:

.....
.....

17. State whether the applicant, with which you are, or have been, associated as a, significant shareholder or officer holds, has ever held or applied for a licence or equivalent authorization to carry on any business activity? If yes, give particulars. If any such application was refused, or was withdrawn after it was made or any licence revoked, give particulars:

.....
.....

18. State your past or current employer or institution in which you or a family group member were affiliated as shareholder, officer, significant shareholder. Also indicate the nature of the family group member's relation (that is to say, spouse, child, parent, brother or sisters) to the applicant.

Name of business	Nature of family member's affiliation to the business	Nature of the family group members relation to the applicant
1		
2		
3		

19. Have you failed to satisfy any debt adjudged due and payable by you as a judgment debtor under an order of a court in The Bahamas or elsewhere or made any compromise arrangement with your creditors within the last ten years? If yes, give particulars:

.....
.....

20. Have you been adjudicated bankrupt by a court in The Bahamas or elsewhere or has a bankruptcy petition ever been served on you? If yes, give particulars:

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

21. Have you, in connection with the formation or management of a body corporate, a partnership or an unincorporated institution, been adjudged by a court in The Bahamas or elsewhere, civilly liable for any fraud, misfeasance or other misconduct by you towards that body corporate, partnership or unincorporated institution or towards its members? _____

If yes, give particulars: _____

22. Has any body corporate, partnership or unincorporated institution with which you are associated as a director, shareholder or manager, in The Bahamas or elsewhere, been wound up, made subject to an administrative order, otherwise made any compromise or arrangement with its creditors or ceased trading either while you were associated with it or within one year after you ceased to be associated with it or has anything analogous to any of these events occurred under the laws of any other jurisdiction? _____

If yes, give particulars:

23. Have you been concerned with the management or conduct of affairs of any institution which, by reason of any matter relating to a time when you were so concerned, has been censured, warned as to future conduct, disciplined or publicly criticized by, or made the subject of a court order at the instigation of any regulatory authority in The Bahamas or elsewhere? _____

If yes, give particulars:

24. In carrying out your duties will, you be acting on the directions or instructions of any individual or credit provider? _____

If yes, give particulars

25. Do you, in your private capacity, or does any related party, undertake business with the applicant? _____

If yes, give particulars:

26. How many shares in the applicant are registered in your name or the name of a related party?

If applicable, give name(s) in which registered and class of shares _____

27. In how many shares in the applicant (not being registered in your name or that of a related party) are you or any party beneficially interested? _____

28. Do you or does any related party, hold any shares in the applicant as trustee or nominee? _____

If yes, give particulars:

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

29. Are any shares in the applicant mentioned in answer to questions 26, 27, and 28 above equitable or legally charged or pledge to any party?_____

If yes, give particulars

30. What proportion of the voting power at any general meeting of the applicant (or another body corporate of which it is subsidiary) are you or any related party entitled to exercise or control the exercise of?

31. Personal record of court cases or any investigation by governmental, professional or any regulatory body (including pending and prospective cases or on-going investigation):

Name of court or particulars of investigative body	Details of status

32. Documentary requirements—

- (a) certified statement of assets and liabilities;
- (b) latest tax compliances certificate or certified true copy of income tax returns;
- (c) three letters of character references from individuals other than relatives who have personally known the undersigned for at least ten years; and
- (d) two letters, duly certified from financial institutions with whom the undersigned has had dealings for the last two years on the performance of past and present accounts such as unauthorized overdraft on deposit accounts, past due or delinquent accounts.

33. If this form is submitted in connection with an application for licensing, please provide any other information which may assist the Central Bank in reaching a decision on the application.

DECLARATION

We certify that all the information contained in, and accompanying, this form is accurate and complete to the best of our knowledge, information and belief and that there are no other facts relevant to this application of which the Central Bank should be aware. We undertake to inform the Central Bank of any material changes to the applicant which may arise while the Central Bank is considering the application. We further undertake that, in the event that the applicant is granted a licence under the Credit Reporting Act 2014 and the Credit Reporting Regulations 2014 we will notify the Central Bank of any material

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

changes to or affecting the completeness or accuracy of the answers to the questions above as soon as possible, but in any event not later than thirty days after the date that changes come to our attention.

Sworn at _____, this _____ day of _____, 20__ .

Name

Position held

Signed

Date

I know and understand the contents of this Declaration and that I am making it under oath / affirmation,

Sworn at _____, The Bahamas this _____ day of _____, 20__ .

Signature of deponent

(Position)

The deponent understands the contents of this affidavit.

Before me, _____

NOTARY PUBLIC

N.B.

1. All Sections of this form shall be filled.
2. If any space provided is inadequate, the required information may be supplied as an attachment labelled accordingly reference shall be made to the relevant section of the form by placing the word "REFER TO ANNEX.....".
3. Information provided in this form is confidential and shall not be disclosed to any third party without the consent of the Governor of the Central Bank.

FOR CONSULTATION

CREDIT REPORTING REGULATIONS, 2014

FOURTH SCHEDULE (Regulation 3(2)(D))

COMMONWEALTH OF THE BAHAMAS

DECLARATION

I, _____ of _____ (*Insert address*) in the
_____ 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 National registration card / identification documentation details.*)
4. THAT I make this Declaration and hereby undertake that the applicant shall adhere to the provisions of the Credit Reporting Act 2014 and the Credit Reporting Regulations 2014 and in particular that the applicant will not disclose to any person any information obtained under the applicant's obligations under the Credit Reporting Act 2014 and the Credit Reporting Regulations 2014 except as provided herein.
5. THAT the facts herein deposed to are true to the best of my knowledge, information and belief.

Sworn by _____ at
this _____ day of _____ 20 .

DEPONENT

Before me
.....
NOTARY PUBLIC

FIFTH SCHEDULE (Regulations 13(2) and 17)

SUMMARY OF DATA SUBJECT'S RIGHTS

A SUMMARY OF YOUR RIGHTS UNDER THE CREDIT REPORTING ACT

The Credit Reporting Act (the Act) promotes fairness, accuracy, and privacy in the practice of credit reporting. Credit bureaus gather and sell information relating to the current or historical status of a credit transaction between you and a credit provider including, but not limited to the date a credit account was opened, the date of the last payment, credit approved, the number of payments and non-payments, the current balance, repayment patterns, purposes of the credit account, any collateral pledged and bankruptcies. You can find the complete text of the Act at www.centralbankbahamas.com. The Act gives you specific rights, many of which are summarised below.

Limited information can be reported about you.

A credit bureau can only collect certain classes of information, set out in the Act, for its credit reporting database. A credit bureau shall not report information for longer than five years on a credit or a loan that has been terminated or settled.

Only certain people can access your file for certain purposes.

The Act limits the people who can gain access to your credit information. These will usually be credit providers who are considering your application for credit, but in some strictly defined situations the information may be available to prospective landlords, employers, insurers, debt collectors, persons involved in court proceedings and certain public sector agencies.

Your consent is required in most situations.

In most cases, access to your credit information can only take place with your authorisation. This applies to access by credit providers, prospective landlords and prospective employers. Your authorisation may not be required for access by certain public sector agencies involved in court proceedings and debt collectors. The credit bureau is required to log each access that is made to your information and will normally disclose this information to you on request.

You can find out what is held about you.

You are entitled to request a copy of the credit information held about you by a credit bureau on an annual basis and whenever you are denied credit because of negative information contained in your credit report. You can ask for just the information contained in your credit report or for all the information held about you (which may include additional information, such as a more complete list of those who have accessed your report). If you want the information quickly (within five working days) you may be required to pay a reasonable charge, but otherwise no charge may be made. A credit bureau shall take precautions to check the identity of anyone making a personal access request. This may involve asking you for certain identification details, although these cannot be added to the credit bureau's database without your authorisation.

You can dispute inaccurate information with the credit bureau.

Credit bureaus shall take reasonable steps to ensure the accuracy of the information they hold and shall act promptly to correct any errors of which they become aware. If you tell a credit bureau that your credit report contains an inaccuracy, the credit bureau shall take steps to correct it. This will usually involve checking the information you are querying with the source such as with a creditor. While the checking process is under way, the credit bureau shall flag your credit report to show that the item has been disputed.

The credit bureau shall, as soon as reasonably practicable, decide whether to make the correction you have requested or to confirm the accuracy of the information. If the credit bureau needs longer than 20 working days to make a decision it shall notify you of the extension and the reasons for it. If the requested

