

Zambia: Regulatory Implications for a Credit Reporting Agency

Submitted by:
Emerging Markets Group

Submitted to:
Robert Woodbridge
Project Technical Officer
FIRST Initiative

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ABBREVIATIONS AND GLOSSARY

BoZ	Bank of Zambia
CRA	Credit Reference Agency
CRAL	Credit Reference Agency Licensing Guidelines
CRSAD	Credit Reference Service Act Draft
PC	Credit Data Privacy Code

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This report was prepared by Jim Aziz, Consultant of Baja Group Consultants, for Emerging Markets Group, Ltd., prime contractor for FIRST Initiative, Emerging Market Economies Ltd., under Contract CNTR IDA.F.11 C345

The information contained is, to the best of the writer's knowledge, accurate and a true representation of information provided to him.

All the individuals the writer has had the pleasure of working with, have been cooperative, courteous and professional. This has been most appreciated!

Special thanks to Zipha Mphande and Francis Muma from the BoZ Non Banking Financial Sector and Namwandi Hamanyanga, lawyer from the Bank Secretary's Department, for their diligence and cooperation as we worked through the proposed changes to the privacy code, the draft law and licensing requirements for a CRA.

For purposes of this document Credit Bureau or Credit Reference Agency is referred to as CRA.

A Credit Bureau/Credit Reference Agency (CRA) is defined as a repository or data bank of records of individuals' demographics and the payment history/manner or repayment of any and all types of credit obligations belonging to these individuals. A CRA could also contain similar information on SMEs that could include ownership structure details.



EXECUTIVE SUMMARY

The Bank of Zambia (BoZ), by requesting this consultancy, continues to place emphasis on the successful creation of a robust legal framework for the impending creation of a private Credit Bureau in Zambia. The creation of this credit bureau is being driven by increasing private bank credit delinquency rates and the knowledge that a credit bureau will assist in reducing these rates by providing credit grantors with factual data to assist in their credit adjudication processes and allow them to make more precise credit decisions. BoZ officials have, as an interim measure, created a Credit Data (Privacy) Code, licensing guidelines for applicants for the establishment of private credit bureaus and a draft law that would provide the framework for a credit reporting industry.

The conclusion of this consultancy is that the BoZ is moving in the right direction and is taking the proper steps to assure a sound regulatory and legislative environment exists for the private credit reporting industry.

The findings of this consultancy are:

- **The Bank of Zambia has taken the appropriate steps in the creation of a legal framework for a credit reporting industry.** Commencing with a Privacy Code and licensing guidelines, to be followed by a law and subsequent regulations, sets the stage for that framework.
- **The creation of a Credit Data (Privacy) Code was a reasonable first step in setting the stage for the creation of a credit reporting industry.** As a first step, given the length of time that will be required for the passage of a credit reporting law, establishment of this Code has created the opportunity for the commencement of a credit reporting industry.
- **Licensing guidelines have been established, for the credit reporting industry and the first license was issued in June 2006.** Modifications were made to the licensing process, during this mission, to better reflect best practice and more firmly commit successful applicants to the Privacy Code and other laws that would govern the industry.
- **A draft of a Credit Reference Services Act has been created.** During this mission, this draft was significantly reworked to better reflect the purpose of a law and more succinctly define the framework for a credit reporting industry in Zambia.
- **The Credit Data (Privacy) Code has been updated.** During this mission, that code was significantly reworked to better reflect best practice and to provide more concise and detailed content to fit with local customs and to ensure that the best possible regulatory environment will be in place for the industry while at the same time providing rights and protections for Zambians.
- **The Bank Secretary's Department has played an active role in the creation of the Code, Licensing and Draft Law.** Department officials have been active participants, during this mission, in reworking all three of these documents and providing relevant legal advice, suggestions and confirmation of the adjustments.
- **There is a commitment, on the part of the Bank of Zambia, to continue to move forward with their plans to properly frame the industry.** Bank officials have embraced suggestions and gained more understanding of the reasoning for these changes and are eager to see their efforts achieve the best possible legal environment for Zambia and for the credit reporting industry.



SECTION 1

1.1 Project Details

Project Title: Zambia: Regulatory Implications of a Credit Reporting Agency
Project Code: CNTR IDA.F.11 C345
Period Covered: February 21 to March 4, 2005
Prepared By: Jim Aziz, Consultant and Collin Keeney, Project Director

1.2 Project Activity

This is the first of two missions to assist with the creation of framework legislation for the credit reporting industry that includes passage of a law to cover the industry.

This report contains findings, conclusions and specific recommendations arising from the work completed during the designated period. Consultant Jim Aziz arrived in Lusaka on July 17th, 2006 and spent two weeks working closely with the relevant staff of the Non Banking Supervision Department of the Bank of Zambia (BoZ), a lawyer from the BoZ Secretary's department and meeting various stakeholders and constituent groups who could regulate a CRA, provide data for a CRA, utilize the services of a CRA and own a CRA.

In line with the Terms of Reference of the contract, Mr. Aziz conducted two Workshops, one for potential data providers and one for employees of the BoZ. These workshops updated the attendees relative to the January 2006 Privacy Guidelines (PG), the draft Credit Reference Services Act (CRSA) and recommendations emanating from reviews of both these documents. Efforts to organize a workshop for regulators and senior officials from the Ministry of Finance and the Ministry of Justice were unsuccessful.

The consultant provided advice, and recommendations, to Bank of Zambia officials relative to the recently issued Credit Data (Privacy) Code, the Credit Reference Services (Licensing) Guidelines and the Draft Credit Reference Services Act in order to bring these documents to best practice while at the same time recognizing local Zambian issues and factors that will allow for the creation of a robust and sustainable CRA framework in which the credit reporting industry may successfully operate. He worked closely with the Bank of Zambia Secretary, and her officials (responsible for laws and regulations), as well as officials from the BoZ Non Banking Supervision Department, as he conducted his activities.

1.3 Comments on Project Activity

The counterparts have been cooperative in providing information, facilitating workshops and engaging in dialogue on proposed changes in the legal component. Project activity has progressed in line with the schedule envisioned. Specific findings, conclusions and recommendations, arising from this visit, are detailed in the following sections.

Workshops: Details on the two workshops are contained in the body of the report.

Revised copies of the Privacy Code, the Credit Reference Services Act and Credit Reference Services (Licensing) Guidelines are attached to this report as Appendages.



1.4 Other Comments

1.4.1 HISTORY

In February of 2005, the BoZ requested assistance in dealing with a 2004 Government of Zambia commitment for the creation of a private credit registry in Zambia. The BoZ had earlier made a decision that they would not create their own registry but when presented with a formal request, from a private sector company, they sought professional advice from the FIRST Initiative, to ensure they proceeded in the appropriate manner. Consultant Jim Aziz conducted a mission to Lusaka in February 2005 and left an extensive document, to be used as a tool, for the BoZ in creating a legal environment for the commencement of a private CRA. Subsequent to his departure, the consultant forwarded laws, from seven countries, to the BoZ. He also completed a review of the proposed code of conduct from the company requesting a credit registry license from the BoZ.

A Study Tour was organized by the consultant in May 2005, to the USA, to visit three CRAs as well as meet with officials from the World Bank and the Credit Data Industry Association. Four BoZ officials participated as well as a representative from the Zambia Banker's Association, The Study Tour served to broaden the understanding of the credit registry industry for the BoZ officials who participated.

In October of 2005, the Banking and Financial Services Act, Section 50 of Bank Law Confidentiality, was amended to change the wording of 'Bank or Financial Services' to 'Financial Services Provider' in order to cover all entities falling under the supervision of the BoZ.

Later in 2005 BoZ officials commenced activity towards the creation of a Privacy Code, Licensing for a CRA and a draft law for the credit reporting industry that was enabled in January 2006. The PC and licensing were enacted in early 2006 followed by completion of a draft law.

The legal work was primarily handled by Matthew Chisunka, BoZ Assistant Secretary and Legal Counsel, and Zifa Mphande, Senior Inspector Non-Banking Financial Institutions of the BoZ.

1.4.2 BANK OF ZAMBIA AND PUBLIC CREDIT REFERENCE AGENCIES (CRA)

In many countries, the Central Bank maintains a registry of credit information that would include either of, or both of, credits extended by Commercial Banks over a certain threshold or delinquent credits over a certain threshold or all credits issued within the banking sector. That is not the case in Zambia and, as a result, a private sector registry was licensed in June 2006.

1.4.3 CREDIT REFERENCE AGENCIES (CRA) FRAMEWORK LAW, LICENSING AND REGULATIONS

There are many issues around the successful creation, implementation and operation of a CRA

Empirical evidence suggests no two countries are alike in the formation of a registry and the legislative environment, that would frame the credit reporting industry, is no different. Local customs, existing laws and the country's culture are all factors on the subject of laws and regulations.

Mission Processes

During this mission the consultant completed a review of the Privacy Code, Draft Law and Licensing, after gaining an understanding of the process used by the BoZ in the creation of these documents.

The review of the PC and Draft Law resulted in 95 discussion points, comments and recommendations. These were then reviewed, intermittently over several days, in depth with Zifa Mphande, Senior



Inspector, Non Bank Financial Institutions of the BoZ, Francis Muma, Inspector, Non Bank Financial Institutions of the BoZ and Namwandi Hamanyanga, a lawyer from the Bank Secretary's Department.

The results of these discussions, and further recommendations, are contained in appendices to this report.

CRA Law and Regulation

In all jurisdictions, where a CRA has been established, data protection laws have been put in place, consumer rights have been enshrined and appropriate regulations have been developed. The completion of these three components will clearly define and frame the credit reporting industry so as to ensure the reputation of the industry is sound, that the rights of individuals are protected and that personal information is protected from unauthorized intrusion.

Credit Data Privacy Code

The PC was created in late 2005 and introduced on January 30, 2006 in the Republic of Zambia Public Gazette #5457. It was designed as a first step to providing a legal framework for the operation of a credit reporting industry in Zambia.

The PC was originally a regulatory document from Hong Kong that was customized for Zambia. As noted above no two countries are alike in the formation of legislation and this situation was no exception. During the mission the customized Hong Kong regulation was found to quite restrictive, and limiting, in a number of areas. It did not require a consent clause for disclosure of information, as is required in Banking Law # 50 for the BoZ; was restrictive in the industries that could provide data to, and use the services of, a CRA; limited the amount of information that could be provided to a CRA; did not deal with the location of the database and transfer of information beyond Zambia borders; placed great strain on authorized users of a CRA in monitoring inquires of the CRA; hiding the identify of data providers on a credit report and allowed for individuals to 'opt out' of the system, if they maintained good credit relations. This last point, if allowed in Zambia, would skew any data that would be considered in the development of a credit scoring program (credit scoring predicts the likelihood of an individual borrower defaulting on their credit obligations within a specified period) and render it of little value. There were a number of other important areas that raised concern and, they too, were addressed with changes or additions. Overall the revised PC will provide a more positive environment for a CRA to operate in Zambia, better protect the rights of individuals in relation to their credit information and is reflective of Best Practice.

A copy of the revised PC is attached as **Appendix 'A'**.

Credit Reference Agency Licensing Guidelines

The CRAL were found to be appropriate and some minor adjustments were made in clarification of terms. It was also recommended that a test or exam be created that the license applicant would have to pass, with a grade in the 75% to 80% range that would be based on the applicant's understanding of the PC.

A copy of the revised draft is attached as **Appendix 'B'**.

Credit Reference Services Act Draft

As with the PC, this document was created based on the Hong Kong regulations and a similar process was followed, during the mission, to tie the CRSAD into the PC. There were seven other subjects addressed in the Draft to reflect best practice. The Draft Law is a statement of the principles of the credit reporting environment and the Privacy Code expands on these principles by explaining how the Act would work. A copy of the revision is attached as **Appendix 'C'**.



Education

Education is an important component of a credit reporting industry. The objective would be to inform individuals of their rights and protections as it relates to their personal credit and demographic information that would be shared with a CRA. The Privacy Code and CRSAD obligate the CRA to play a lead role in consumer education, in partnership with data providers and the BoZ.

Recent education efforts, by the BoZ, include comprehensive articles in the March and June issues of the Zambanker, the internal newspaper of the BoZ. The articles are lifts of information prepared by the consultant and the Egyptian Banking Institute and serve as excellent backgrounders on the industry and consumer rights and protections. The BoZ is commended for publishing these articles.

The next mission will see the consultant working with the BoZ and the CRA on further education activities.

Consumer Rights and Protections

The consumer rights, and protections, that are enshrined in the PC and the proposed CRSAD represent the first consumer protection laws in Zambia. This situation is similar to recent occurrences in Egypt, Ukraine and Kazakhstan which, for them, also represented the first consumer protection laws in the respective countries.

1.4.4 OTHER ACTIVITIES AND RELATED OBSERVATIONS

Workshops: The morning of July 25th, over 50 individuals from the Banking community, the non-Banking sector, the newly licensed credit registry, and other related parties, attended a workshop. A Power Point presentation was made that covered background on best practice Legislation and Regulation; an overview of proposed changes to the PG; an update on the draft law and a refresher on Credit Registries and their value to the marketplace.

The morning of July 27th, over 30 BoZ officials attended a workshop that covered the same items as the July 25th workshop in addition to the role the BoZ will play in regulating the Credit Registry industry.

Both these workshops generated thoughtful and relevant questions and participation was excellent and represented important communication opportunities to keep various constituent groups aware of the progress being made in legal reform.

Workshop for Regulators:

An important deliverable, preferably on this mission, was to arrange a meeting and presentation to senior officials of the Justice and Finance Ministries, as well as legislators, to provide them with an overview of the credit reporting industry and provide detailed information on activities to date and the value to Zambia of a comprehensive legal framework to ensure the creation of a robust credit reporting industry. A Power Point was prepared for this purpose. This group will play a key role in the ultimate passage of the proposed CRSAD.

However, in spite of numerous efforts by the BoZ Secretary's department, to arrange meetings and a workshop, they were not successful.

Other Meetings Held:

July 19, 2006 with BoZ Secretary Dr. Tukiya Kankasa – Mabula

Attendees also included Namwandi Hamanyanga BoZ Secretary Department lawyer, Hamish Chipunge, Assistant Director Inspections Division Non Bank Financial Institutions Department of the BoZ.



There were three purposes of the meeting; first was to gain an understanding of the process of introducing the CRSAD and the steps to passage; second was to enlist the assistance of the Department in organizing meetings, and a workshop, with senior officials (and perhaps the Ministers) of the Justice and Finance Ministries as well as legislators on the subject of credit reporting and efforts to provide a framework for the industry; the third was to enlist the services of a lawyer to participate in discussions around changes to the PC, the CRSAD and the CRAL.

July 28, 2006. Meeting with newly licensed CRA.

Attendees included Peter J. Armond, Consultive Executive Director of the Credit Reference Bureau (CRB), Hamish Chipungu, Zifa Mphande and Francis Muma from the non banking financial supervision sector of the BoZ.

The purpose of the meeting was to address any concerns the new CRA might have and to ensure they were aware of activities within the BoZ as it relates to the credit reporting industry in Zambia and proposed adjustments to the PC and the CRSAD.

Mr. Arman expressed concern about indemnity of the CRA and was advised it will be addressed in the draft law. He welcomed the expansion of the potential user and data provider groups for the CRA and that the proposed changes to the PC will create a more positive environment for the successful creation of a CRA. Banks have not refused to provide their data to the CRA but they have some contract hurdles to overcome before banks make the final decision on providing data to the CRA. The CRA proposes to expand their current collection database to include information for credit reporting. They expect to open for business in October 2006 however they have yet to resolve a shareholding issue. Under the licensing requirements, the Kenyan company that owns 90% of the CRA must reduce their holdings to 65%. They have placed 10%, so far, and must find another local investor for the other 15%. They are currently in negotiations with several local investors.

While Mr. Armond attended the July 25th workshop, he was again reminded of the responsibility of the CRA to consumer rights and protections and public education. His background is banking with no direct experience in credit registries.

He was encouraged to continue close contact with BoZ officials.

The Chairman of the Credit Bureau of Africa (owners of the CRA), who lives in Kenya was invited to attend the meeting a week prior to the meeting but did not attend.

July 28, 2006. Briefing and mission closing meeting with Deputy Governor Operations, Kalyalya.

In attendance were the DGO, his assistant, and from the Non Bank Financial Institutions Department, Hamish Chipungu and Zifa Mphande.

Activities conducted, during the mission, were reviewed and major changes to the PC, licensing and CRSAD were reviewed. Future scenarios were discussed as it related to the sharing of data, by private banks, to the PCR.

It was agreed that, given the election call, that is more appropriate to conduct a workshop for legislators during the next mission given the uncertainty as to who might be the next Government.

The DGO indicated there are three parliamentary sessions per year. The first occurs between January and March and is focused on budget and financial matters; the second occurs from July to September and is focused on legislation while the third session is late in the year.

This year's July to September session has not been too productive given the potential for an election call, which has now occurred. As a result there is a backlog of laws to be considered and if the current ruling party is reelected it could mean there will be some legislation introduced in the January to March time frame. The Minister of Finance is eager to have the CRSAD in place given his initial commitment was for this to occur in 2004.



The BoZ conducts periodic workshops for Members of Parliament in order to inform them of BoZ activities and to educate them on proposed laws and changes. The same workshops will occur, with the MPs that are elected in late September, and the CRSAD will be one of the topics.

When the DGO has a sense as to when the CRSAD might be introduced he will contact the consultant who will arrange to complete the second mission during the legislation's introduction.

Future process of the Draft Law

Once agreement is reached on the final version of the CRSAD, it is provided to the marketplace for comments. This is followed by presentation to the Government Cabinet for approval in principle. Once approved it is returned to the Ministry of Finance who then instruct the Justice Department to draft the legislation, based on the draft version. It is then reviewed by a Technical Committee and a Cabinet committee who make contact stakeholders for further comment. Once the review is completed a date would be established when the bill would be presented to Parliament. The Bill receives First Reading and later Second Reading at which time it would be debated. There would likely be changes suggested by parliamentarians at which time further discussion would ensue and relevant changes would be made, as necessary. The bill would then be presented for third readings and then passage. The final step would be Royal Assent by the President of Zambia. The bill would come in force at the discretion of the Government. (Please see further comment, above, under the meeting with Deputy Governor Kalyalya.)

On Wednesday, July 26th, the President of Zambia dissolved Parliament and called an election for September 28, 2006. This makes it unlikely that Parliament would convene until late 2006 and presentation of the CRSAD would be anticipated for early 2007, at which time the consultant would conduct the second of his two missions, on this project, in order to work with Government officials on gaining an understanding and ultimate passage of the draft.

Supervision of a Credit Bureau by Regulators

The BoZ has determined that it will be the Supervisory Body of any CRA. This information has been placed in the PC and the CRSAD.

Procedures should now be put in place in anticipation of commencement of business of the CRA.

Both the PC and CRSAD have had information added relative to reporting requirements, related to individual requests to obtain their personal credit files and any challenges that result from reviews of those files. Suggestions for those procedures are contained in this report as Appendix 'D'.

Regional Credit Reporting Conference

In advance of the World Credit Reporting Conference, being held in Cape Town from October 8 to 10, the World Bank is holding a Regional Conference, in the same city, October 5 and 6. Given the nature of the topics being discussed at the World Bank Conference, it would be appropriate to have representatives from the BoZ, in attendance, in order to advance their knowledge of the industry and the creation of a sound credit reporting marketplace.

1.4.5 NEXT STEPS

- Zifa Mphande will review the changes in the PC, the CRAL and the CRSAD with Matthew Chisunka, lawyer from the BoZ Secretary's Department.
- Any recommendations and/or changes will be forwarded to the consultant, Jim Aziz.
- The consultant will then review and provide additional commentary.
- A revised PC will then be issued to the marketplace and to the CRA.



- When the BoZ has a sense of when the CRSAD will be introduced in Parliament, they will contact the consultant who will arrange his schedule to complete the second mission of this consultancy that will assist with education of Parliamentarians, the Ministries of Justice and Finance and provide support for the passage of the CRSAD.
- The BoZ Non Bank Financial Sector should use Appendix 'D' as a resource document as they develop an oversight plan for the credit reporting industry. They should become familiar with the reporting requirements, by a CRA, to the BoZ as inserted in the PC and the CRSAD and make any adjustments they feel are necessary.
- The BoZ should continue their communication efforts with stakeholders, especially the CRA, as they support the creation of an effective credit reporting industry.
- The BoZ should work closely with the CRA in the area of consumer education with the lead coming from the CRA.
- Determine if officials from the BoZ will attend the World Bank Regional Credit Reporting Conference in Cape Town, October 5 and 6, 2006.

1.4.6 FINAL THOUGHTS

The BoZ is taking the necessary and correct steps in order to ensure that a sound and effective regulatory environment exists for private CRAs to operate. This environment, however, does not guarantee the success of the credit reporting industry. That rests with any licensed CRA as they establish their business. What it does do, though, is to provide certainty to a private CRA as to the environment in which they will be operating. It also may be that major potential data providers will be reluctant to provide their data to a CRA and it may be that the BoZ might have to take steps to assist the CRA. That possibility is still well into the future and, if the CRA is able to effectively make their case, then data providers should be willing to provide their proprietary data to the CRA.

As far as potential users and data providers are concerned, the credit bureau will be as good as both the users and providers want it to be and this will be reflected in their cooperation with a CRA. Significant expansion of retail credit could take a generation and it will be accelerated with a successful credit bureau.



ANNEXES

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ANNEX A: THE BANKING AND FINANCIAL SERVICES ACT, CAP 387, OF THE LAWS OF ZAMBIA — CREDIT DATA (PRIVACY) CODE

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**The Banking and Financial Services Act, Cap 387,
of the Laws of Zambia**

Credit Data (Privacy) Code

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INTRODUCTION

THIS CODE OF PRACTICE has been issued by the Bank of Zambia (BoZ) in the exercise of the powers conferred upon it by the Banking and Financial Services Act (BFSA) Cap 387 of the Laws of Zambia. Section 125 of the BFSA empowers the BoZ to “... *prescribe and publish such guidelines, bulletins or other regulatory statements as the Bank of Zambia may consider necessary or desirable for the administration or execution of this Act.*”

The Code is designed to provide practical guidance to credit data users in Zambia in the handling of credit data. It deals with collection, accuracy, use, security and access and correction issues as they relate to data of a person who has accessed credit, or has been an applicant for credit. The Code also covers credit reference service providers, data providers and authorised users in their dealing with credit reference services and debt collection agencies.

A breach of the Code by a data user may give rise to a presumption against the data user in any legal proceedings in Zambia.

Aside from legal proceedings, failure to observe this Code of Practice by a data user will weigh unfavourably against the data user in any case before the Registrar and or the Bank.

Basis for Issuing this Code

This Code is issued on the basis of the tenets enshrined in the six Data Protection Principles set out in Appendix 1.

CREDIT DATA (PRIVACY) CODE

CODE OF PRACTICE ON CREDIT DATA

1 INTERPRETATION

Unless the context otherwise requires, the terms used in the Code have the following meanings:

- 1.1 "Account" means any account between a data provider and a person that involves the provision of credit, and includes any new account created as the result of any scheme of arrangement involving one or more previous accounts;
- 1.2 "Account data" means the account data referred to in Schedule 2. For account involving the provision of credit to another person for whom a person acts as guarantor, the account data of such account is, in addition to being account data relating to that other person as the borrower, deemed to be also account data relating to the person to such extent as to reveal the contingent liability of the person as guarantor;
- 1.3 "Account general data" means the account general data referred to in Schedule 2;
- 1.4 "Account repayment data" means the account repayment data referred to in Schedule 2;
- 1.5 " Act" means the Banking and Financial Services Act, Cap 387 of the Laws of Zambia;



- 1.6 “Authorised user” means a legal entity which contracts with a CRA and has a permissible purpose to enquire and obtain credit reports and services provided by a CRA in addition to the clients/data subjects who have credit files in the CRA database;
- 1.7 "Bank" shall have the same meaning as in the Act;
- 1.8 “Consent Clause” means signed written consent of a person to have his/her credit history checked or shared;
- 1.9 "Credit" means any loan, overdraft facility or other kind of credit provided by a data provider to and for the use of a person, or to and for the use of another person for whom a person acts as guarantor. Credit also includes the extension of credit for the supply of any goods or services that would include utilities, cellular companies, retailers, property managers etc. For credit involving leasing or hire purchase a person acquiring motor vehicles, equipment or vessels financed by a data provider by way of leasing or hire-purchase is deemed to be provided with credit by the data provider to the extent of the value of those goods, any amount overdue under the lease or hire-purchase agreement is deemed to be an amount in default under the person's account with the data provider, and all related terms and expressions are to be construed accordingly;
- 1.10 "Credit data" means any positive or negative data relating to a person collected by a data provider in the course of or in connection with the provision of credit, or any data collected by or generated in the database of a CRA in the course of or in connection with the provision of credit reference service;
- 1.11 " Credit Reference Agency" herein referred to "CRA" means credit reference service provider and can be called various other names such as credit bureau, credit registry, credit reference bureau etc, which in turn means any data user who carries on a business of providing a credit reference service, whether or not that business is the sole or principal activity of that data user;
- 1.12 "Credit reference service" means the service of compiling and/or processing credit data relating to a person (including credit scoring), for disseminating such data and any data derived there from to a data provider for credit purposes and, for performing any other functions directly related to credit transactions;
- 1.13 "Credit scoring" means the process whereby credit data relating to a person held in the database of a CRA are used, either separately or in conjunction with other information held in the system, for the purpose of generating a score (being information statistically validated to be predictive of future behaviour or the degree of risk of delinquency or default associated with the provision or continued provision of credit) to be included in a credit report on the person;
- 1.14 "Creation", in relation to credit data held by a CRA, means the entering of such data into the database of the CRA;
- 1.15 "Credit report" provided by a CRA on a person means a disclosure made by the CRA, in whatever form, of credit data relating to such person held in its database;
- 1.16 “Database” means an electronic database that contains credit files of persons and includes data and information which was collected from data providers, processed and maintained within the CRA;
- 1.17 "Data provider" means entities that provide any form of credit or maintain information related to the credit worthiness of persons and produce this information to CRAs and includes entities described in Schedule 1;
- 1.18 "DCA" means debt collection agency;
- 1.19 “Default” means 30 days or more past due, also defined as negative data;



- 1.20 "DPP" means data protection principle as contained in Appendix I;
- 1.21 "Effective date" means the date on which this Code shall be published;
- 1.22 "Loan restructuring arrangement" means any scheme of arrangement in relation to debts owed by a person consequent upon a default in the repayment of those debts;
- 1.23 "Material default" means a default in payment for a period in excess of 90 days;
- 1.24 "Person" shall have the same meaning as in the Act;
- 1.25 "Registrar" shall have the same meaning as in the Act;
- 1.26 "Reporting period", in relation to an account, means the period between the effective date and the date on which account data are provided by the data provider to the CRA for the first time, and, thereafter, the period between each successive instance of providing such data;
- 1.27 "Scheme of arrangement" means any restructuring, rescheduling or other modification of terms of whatsoever nature in relation to debts owed by a person, whether as borrower or as guarantor, towards a single creditor or more than one creditor;
- 1.28 'Supervisory Body' refers to the Bank of Zambia

Words and expressions importing the masculine gender include the feminine, and words and expressions in the singular include the plural, and vice versa.

2 THE HANDLING OF CREDIT DATA BY DATA PROVIDERS

Conditions for the sharing of credit and demographic data with a CRA and the access to that information by authorised users:

- 2.1 All credit and demographic data, from data providers, given to a CRA must have the signed written consent clause from the subject of the data, with the exception of dishonoured checks and delinquent credits.
- 2.2 Access of a CRA database must have the written consent of the subject of the access request.

Notification upon default

Where the data provider has provided credit to a person and the account is subsequently in default, the data provider shall, as a recommended practice, give to such person within 30 days from the date of default a written reminder stating that unless the amount in default is fully repaid before the expiry of 60 days from the date of the default, the person shall be liable to have his account data retained by the CRA until the expiry of 7 years from the date of final settlement of the amount in default or 7 years from the date of the person's discharge from bankruptcy as notified to the CRA, whichever is earlier.

Provision of credit data by data provider to CRA

SCOPE OF DATA TO BE PROVIDED

- 2.3 Where a data provider has collected any credit data in relation to a person, subject to compliance with clauses 2.4 and 2.6, it may thereafter provide to a CRA subject to the completion of a consent clause any of following items of credit data



- 2.3.1 general particulars of the person and in the case of an individual, being: name, sex, address, contact information, date of birth, National Registration Card Number or travel document number;
- 2.3.2 complete credit details including date of credit activation; credit limit; date of last payment; current balance; repayment schedule; manner of payment, arrears and security;
- 2.3.3 negative credit information does not require a consent clause in order to have the information provided to a CRA;
- 2.3.4 credit card loss data, being:
 - 2.3.4.1 notice that the data provider, as card issuer, has suffered financial loss as the result of an unauthorized transaction carried out through the use of a credit card that has been reported lost, for an amount in excess of the maximum liability of the person before notification to the card issuer of the loss of the card;
 - 2.3.4.2 the amount of such maximum liability and the amount of financial loss suffered by the card issuer;
 - 2.3.4.3 the reported date of the loss of the credit card, and the date of such report; and
 - 2.3.4.4 a description of the event (misplacement of wallet, theft, robbery, etc.) reported to have given rise to the loss of the credit card and any follow-up action including, where applicable, any report to the police, subsequent investigation or prosecution and result, finding of the lost card, etc.
- 2.3.5 Identity theft loss, being:
 - 2.3.5.1 notice that the data provider has suffered a financial loss as the result of a loan being granted through fraudulent means;
 - 2.3.5.2 the reported date of the loss of the identity, and the date of such report; and
 - 2.3.5.3 a description of the identity theft and any follow-up action including, where applicable, any report to the police, subsequent investigation or prosecution and result, etc.
- 2.3.6 If, in the absence of any applicable exemption, a data provider provides to a CRA any credit data other than those permitted under this clause, this will give rise to a presumption of contravention of DPP3.

ACCURACY OF DATA PROVIDED

- 2.4 Before a data provider provides any credit data to a CRA, it shall have taken reasonably practicable steps to check such data for accuracy. If subsequently the data provider discovers any inaccuracy in the data which have been provided to the CRA, it shall update such data held in the database of the CRA as soon as reasonably practicable.
- 2.5 If a data provider fails to have taken reasonably practicable steps to check the accuracy of the data before providing such data to a CRA, or if it fails to update the data held in the database of the CRA after discovering such inaccuracy, this will give rise to a presumption of contravention of DPP2(1).

PROVISION OF DISPUTED DATA

- 2.6 Whenever a data provider provides to a CRA any credit data disputed by the person to whom such data relates, this shall be accompanied by an indication of the existence of the dispute. If at



any subsequent time the dispute has ended, the data provider shall as soon as reasonably practicable update the data held by the CRA accordingly.

- 2.7 If a data provider provides to a CRA any credit data disputed by the person to whom such data relate without accompanying the data with an indication of the existence of such dispute, or if the data provider, having accompanied the data with such an indication, fails to update the data held by the CRA as soon as reasonably practicable after the dispute has ended, this will give rise to a presumption of contravention of DPP2(1).

UPDATING OF ACCOUNT DATA

- 2.8 Without prejudice to the generality of clauses 2.3, 2.4 and 2.6, where a data provider has provided any account data to a CRA:

2.8.1 the data provider shall thereafter continue to update such account data, on a regular basis, until the termination of the account, whereupon the data provider shall promptly update the account data to indicate such termination; and

2.8.2 in addition, the data provider shall update as soon as reasonably practicable the account data held in the database of the CRA upon the occurring of any of the following events:

2.8.2.1 the repayment or write-off in full or in part of an amount in default;

2.8.2.2 a scheme of arrangement being entered into with the person; or

2.8.2.3 the final settlement of the amount payable pursuant to such a scheme of arrangement.

- 2.9 If a data provider fails to update any account data provided to a CRA in accordance with clause 2.8, this will give rise to a presumption of contravention of DPP2(1).

Access by data provider to credit data held by CRA

ACCESS FOR UPDATING

- 2.10 A data provider may at any time, for the purpose of providing or updating credit data on a person, access from a CRA such credit data on the person as were previously provided by it to the CRA.
- 2.11 If the data provider accesses any of the credit data held by a CRA in situations other than those provided for in clause 2.10, or 2.12, this will give rise to a presumption of contravention of DPP1(1) and/or DPP1(2).

ACCESS THROUGH CREDIT REPORT

- 2.12 Without prejudice to the generality of clause 2.10 a data provider may, through a credit report provided by a CRA, access credit data held by the CRA on a person, subject to a signed consent clause by the subject of the access:

2.12.1 in the course of:

2.12.1.1 the consideration of any grant of credit;

2.12.1.2 the review of existing credit facilities granted; or

2.12.1.3 the renewal of existing credit facilities granted, to the person as borrower or to another person for whom the person proposes to act or acts as guarantor; or

2.12.2 for the purpose of the reasonable monitoring of the indebtedness of the person while there is currently a default by the person as borrower or as guarantor, and for the purpose of



clauses 2.12.1.2 and other related clauses, the word "review" means consideration by the data provider of any of the following matters (and those matters only) in relation to the existing credit facilities, namely:

- 2.12.3 In response to the order of a court having jurisdiction to issue such an order.
- 2.12.4 In response to an order or direction made under the Act
- 2.12.5 In accordance with the written instructions of the individual to whom the information relates, in a consumer report, given to a person who it has reason to believe
 - 2.12.5.1 intends to use the information in connection with the extension of credit to, or the purchase or collection of, a debt of the individual to whom the information pertains.
 - 2.12.5.2 intends to use the information in connection with the entering into or renewal of a tenancy agreement.
 - 2.12.5.3 intends to use the information for employment purposes
 - 2.12.5.4 intends to use the information in connection with the underwriting of insurance involving the individual
 - 2.12.5.5 intends to use the information to determine the individual's eligibility for any matter under a statute or regulation where the information is relevant to the requirement prescribed by law
 - 2.12.5.6 otherwise has a direct business need for the information in connection with a legitimate business transaction involving the individual.

CONFIRMATION TO CRA UPON ACCESS

- 2.13 On each occasion of accessing any credit data held by a CRA, the authorised user shall confirm to the CRA for its record:
 - 2.12.6 the circumstances provided for in clause 2.10, or 2.12 under which the access has been made; and
 - 2.12.7 in the case where the access has been made in the course of the review of existing credit facilities under clause 2.12.1.2, the specific matter or matters provided for in clause 2.12.5 that has been considered upon such a review.
- 2.14 If the authorised user, on accessing any credit data held by the CRA, fails to give to the CRA the confirmation referred to in this clause 2.13, or gives a confirmation that is not truthful, this will give rise to a presumption of contravention of DPP1(2) .

NO ACCESS FOR DIRECT MARKETING OR PROSPECTING

- 2.15 For the avoidance of doubt, an authorised user is prohibited from accessing the credit data of a person held by a CRA for the purpose of offering or advertising the availability of credit to such person where that person does not have an existing credit relationship with the authorised user. Any contravention by the authorised user of such prohibition will give rise to a presumption of contravention of DPP1(2) and/or DPP3 in Appendix 1 of this Code.



Notification to person of adverse action

NOTIFICATION OF ACCESS FOR CONSIDERING CREDIT APPLICATION

- 2.16 Where a data provider has been provided with a credit report by a CRA on a person and has considered such credit report in connection with an application for credit by that person, the data provider shall, in its notification to the person of its decision to decline the application, provide notice of the fact that a credit report has been so considered. The data provider shall also inform the person how to contact the CRA who provided the credit report, for the purpose of making a data access and correction request. If a correction request made by the person is subsequently complied with by the CRA, the data provider shall, at the request of the person, use a new credit report obtained from the CRA as a basis for its reconsideration of the credit application.
- 2.17 If the data provider fails to notify the person of the fact that a credit report has been considered, or fails to inform such person how to contact the CRA who provided the credit report, this will give rise to a presumption of contravention of DPP2(1) .
- 2.18 If, despite the request of the person whose credit data held by the CRA has been corrected, the data provider fails to use a new credit report obtained from the CRA as a basis for its reconsideration of the credit application, this will give rise to a presumption of contravention of DPP2(1)

Data security and system integrity safeguards by data provider

ENGAGEMENT OF CRA

- 2.19 In deciding on the engagement of a CRA for the provision of credit reference service, and in considering, from time to time, the continued engagement of such CRA, data provider and authorised user shall treat as an important criterion the demonstration by the CRA of its compliance with the requirements of this Code including compliance with the recommended good practice laid down in clauses 3.26 to 3.29 below, regarding the security of credit data.
- 2.20 If the data provider, in deciding on the engagement of the CRA and in considering, from time to time, the continued engagement of such CRA, fails to treat as an important criterion the demonstration by the CRA of its compliance with the requirements of the BFSA and of this Code regarding the security of credit data, this will give rise to a presumption of contravention of DPP4.

MEASURES TO TAKE IN PREPARATION FOR SUBSCRIPTION TO CREDIT REFERENCE SERVICE

- 2.21 On or before a data provider's subscription to the credit reference service of a CRA, the data provider shall take appropriate measures, including the following, to safeguard against any improper access to or mishandling of credit data:
- 2.21.1 develop written guidelines and disciplinary procedures specifying the controls and procedures to be followed by its staff in relation to the access to and the use of a CRA's database;
 - 2.21.2 establish controls, including but not limited to password controls, to ensure that only authorized staff are allowed access to a CRA's database;
 - 2.21.3 enter into a formal written agreement with the CRA whose credit reference service is being subscribed for, which shall specify:



- 2.21.3.1 the duty of both parties to comply with the Code in providing and in utilizing the credit reference service;
 - 2.21.3.2 the conditions under which the authorised user may access credit data held by the CRA;
 - 2.21.3.3 the controls and procedures to be applied when the authorised user seeks access to the CRA's database.
- 2.22 If a data provider, in preparation for subscription to a credit reference service, fails to take any of the measures required under clause 2.21 to safeguard against any improper access to or mishandling of credit data held by it, this will give rise to a presumption of contravention of DPP4.

REQUEST OF INFORMATION FOR PERMISSIBLE PURPOSES AND MEASURES TO TAKE IN DAILY OPERATIONS

- 2.23 It is the responsibility of the users of the CRA to ensure that information is requested only for permissible purposes set out in Section 2.12.

3 THE HANDLING OF CREDIT DATA BY CREDIT REFERENCE AGENCIES

Location of Database

- 3.1 The database of a CRA licensed under this Act shall physically be located in Zambia and shall not be moved beyond the borders of Zambia except as provided under this Act.

Transfer of Credit Data Abroad

- 3.2 Credit data shall not be transferred from Zambia to another credit reference agency abroad, whatever the data medium or the mode of transmission is, except when consented to by the data subject or permitted by the law, provided that the same principle of data protection shall be obeyed by the foreign controller in respect of the data.

Collection of credit data by CRA

- 3.3 Providers of Data to the CRA shall:
- 3.3.1 Sign an agreement that the information they are providing to the CRA is accurate and properly reflects the identification of the individual to whom the information pertains.
 - 3.3.2 Adopt best practices to ensure the information is accurate and reflects the current status of the account reported.
 - 3.3.3 When the CRA contacts them in regards to an individual's challenge to information the entity had provided to the CRA, must promptly and with specialized personnel deal with the challenge. They must investigate and report back to the CRA within ten days of the request, if not sooner.
 - 3.3.4 Maintain a log of all challenges as to date received, date reported back to the CRA and the results of the challenge. This log must be maintained for review by the CRA and/or the Supervisory Body. They may only be destroyed with the express written consent of the Supervisory Body, or after three years.



3.4 Relationship between Data Providers and the CRA:

- 3.3.5 The CRA must have a contractual agreement between the data provider and itself outlining the terms and conditions of their relationship and ensuring compliance with the Code.

SCOPE OF DATA TO BE COLLECTED

3.5 A CRA may, for the credit reference service which it provides, collect the following items of credit data:

- 3.5.1 general particulars of a person and in the case of an individual: name, sex, address, contact information, date of birth, National Registration Card Number or travel document number;
- 3.5.2 credit data and dishonoured cheques as permitted to be provided by a data provider to the CRA under clause 2.3, including the identity of the data provider and the date of the provision of such data;
- 3.5.3 public record and related data (including tax data), being data in official records that are publicly available relating to any action for the recovery of a debt or judgements for monies owed entered against the person, and any declaration or discharge of bankruptcy appearing on official records;
- 3.5.4 watch list data, being a list of authorised users providers who wish to be notified and provided information to assist in debt collection if a person in default has reappeared in the system;
- 3.5.5 file activity data, being record of a data provider accessing a person's credit data (enquiry search) held by the CRA under the credit reference service provided;
- 3.5.6 credit score data, being the score that results or resulted from applying credit scoring to a person;
- 3.5.7 notification by the Road Traffic Commission;
- 3.5.8 remarks that include disputes.

3.6 If a CRA, for the credit reference service which it provides, collects credit data other than those permitted under clause 3.5, this will give rise to a presumption of contravention of DPP1(1).

Retention of credit data by CRA

RETENTION OF ACCOUNT GENERAL DATA

- 3.7 Where a CRA has collected from a data provider any account data (comprising of account general data and account repayment data), the CRA may thereafter retain the account data in its database for so long as there remain in such database any account repayment data relating to the same accounts.
- 3.8 If a CRA retains in its database any account general data beyond the period permitted under this clause 3.7, subject to clause 3.15, this will give rise to a presumption of contravention of DPP2(2).



RETENTION OF ACCOUNT REPAYMENT DATA REVEALING DEFAULT PERIOD IN EXCESS OF 60 DAYS

- 3.9 Where a CRA has collected from a data provider any account repayment data relating to a person that reveal a material default, the CRA shall thereafter retain the account repayment data in its database until the earlier of:
- 3.9.1 the expiry of 7 years from the date of final settlement of the amount in default (including set Court of First Instance or by a written notice from the Official Receiver stating that the Official Receiver has no objection to a certificate of discharge being issued to the person, irrespective of any write-off by the data provider of the amount in default in full or in part at any time (if such be the case).
- 3.10 If a CRA retains in its database any account repayment data described in this clause 3.9 beyond the period permitted for the retention of such data under this clause, subject to clause 3.15, this will give rise to a presumption of contravention of DPP2(2).

RETENTION OF ACCOUNT REPAYMENT DATA NOT REVEALING DEFAULT PERIOD IN EXCESS OF 60 DAYS

- 3.11 Where a CRA has collected from a data provider any account repayment data that do not reveal a material default, the CRA may thereafter, in respect of each individual item of data collected, retain the same in its database for a period of 7 years from the date of creation of such data, provided that if the account is in the meantime terminated, then subject to clause 3.9.2, the CRA may continue to retain the account repayment data in its database until the expiry of 7 years after account termination.
- 3.12 If a CRA retains in its database any account repayment data described in this clause 3.11 beyond the period permitted for the retention of such data under this clause, subject to clause 3.15, this will give rise to a presumption of contravention of DPP2(2).

RETENTION OF OTHER CREDIT DATA

- 3.13 Where a CRA has collected any credit data other than account data, it may thereafter retain such data in its database for the following periods:
- 3.13.1 public record and related data under clause 3.5.3, except data relating to a declaration or discharge of bankruptcy: the period of 7 years from the date of discharge of the bankruptcy;
- 3.13.2 public record and related data under clause 3.5.3 relating to a declaration or discharge of bankruptcy: the period of 10 years from the relevant discharge of bankruptcy;
- 3.13.3 credit application data: the period of 3 years from the date of the reporting of the application;
- 3.13.4 credit card loss data the period of 7 years from the date of report of the loss of the credit card;
- 3.13.5 file activity data under clause 3.5.5: the period of 7 years from the date of creation of such data;
- 3.13.6 general particulars of a person: for as long as there are other credit data related to the person contained in the database of the CRA.
- 3.14 If a CRA retains in its database any credit data described in this clause 3.13 beyond the period permitted for the retention of such data under this clause, subject to clause 3.15, this will give rise to a presumption of contravention of DPP2(2).



RETENTION OF EXEMPTED DATA

- 3.15 For the avoidance of doubt, notwithstanding any provision to the contrary in the Code, in a situation where exemption from DPP3 applies to certain credit data held by the CRA (including, for example, such data used or to be used by the CRA for the development of a credit scoring model intended to be of general application), the data may continue to be retained by the CRA for so long as such exemption applies.

Use of credit data by CRA

PROVISION OF CREDIT REPORT

- 3.16 In response to the seeking of access by a data provider to credit data relating to a person pursuant to clause 2.12, a CRA may provide to the data provider a credit report on the person. The credit report may contain any of the credit data relating to the person permitted to be collected and retained by the CRA, subject to the following constraints which apply to particular categories of credit data:
- 3.16.1 credit application data, credit card loss data under clause 2.3.4 and file activity data; and identity theft data under clause 2.3.5.
 - 3.16.2 account data and the derivatives deriving directly from such account data; and
 - 3.16.3 enquiries under clause 3.5.5.

DISCLOSURE OF DISPUTED DATA

- 3.17 If any credit data provided by a data provider to a CRA are accompanied by an indication of the existence of a dispute over the data, then, in subsequently disclosing such data in a credit report, the CRA shall also reveal in the credit report the existence of the dispute. Disputes will be shown in the remarks section of the credit report.
- 3.18 If a CRA, in disclosing in a credit report any credit data known to be subject to a dispute, fails to reveal in the credit report the existence of such dispute, this will give rise to a presumption of contravention of DPP2(1).

OTHER USES OF CREDIT DATA

- 3.19 In addition to disclosure in a credit report pursuant to clause 3.16, a CRA may, in providing a credit reference service, use any credit data relating to a person held in its database⁴:
- 3.19.1 to provide notice and information to a data provider on a watch list, when new data of the person in default have appeared in the system, to assist in debt collection action;
 - 3.19.2 to provide notice to a relevant data provider and to the Road Traffic Commission where a person who has received credit in relation to a motor vehicle has been the subject of advice from the Commission that it has received an application from the person for a duplicate vehicle registration document;
 - 3.19.3 to provide a report to insurers in relation to insurance cover for property related to a credit transaction;
 - 3.19.4 for reasonable internal management purposes, such as the defence of claims and the monitoring of the quality and efficiency of its service; or
 - 3.19.5 to carry out credit scoring, provided that the CRA shall not, in carrying out such scoring, take into account:



- 3.19.5.1 in relation to an active account, any account data created more than 7 years before the carrying out of the scoring; or
- 3.19.5.2 in relation to a terminated account, any account data created more than 7 years before account termination.
- 3.19.5.3 In response to the order of a court having jurisdiction to issue such an order.
- 3.19.5.4 In response to an order or direction made under the Act
- 3.19.5.5 In accordance with the written instructions of the individual to whom the information relates, in a consumer report, given to an authorized user:
 - 3.19.5.5.1 in connection with the extension of credit to, or the purchase or collection of, a debt of the individual to whom the information pertains; or.
 - 3.19.5.5.2 in connection with the entering into or renewal of a tenancy agreement; or.
 - 3.19.5.5.3 for employment purposes; or
 - 3.19.5.5.4 in connection with the underwriting of insurance involving the individual; or
 - 3.19.5.5.5 to determine the individual's eligibility for any matter under a statute or regulation where the information is relevant to the requirement prescribed by law; or
 - 3.19.5.5.6 otherwise has a direct business need for the information in connection with a legitimate business transaction involving the individual.

Data security and system integrity safeguards by CRA

MEASURES TO TAKE IN PREPARATION FOR PROVIDING CREDIT REFERENCE SERVICE TO AUTHORISED USERS

- 3.20 On or before providing credit reference service to a data provider, a CRA shall take appropriate measures, including the following, to safeguard against any improper access to or mishandling of credit data held by it:
 - 3.20.1 enter into a formal written agreement with the data provider as subscriber for such service, which shall specify:
 - 3.20.1.1 the duty of both parties to comply with the Code in providing and in utilizing the credit reference service;
 - 3.20.1.2 the conditions under which the authorised user may access credit data held by the CRA;
 - 3.20.1.3 the controls and procedures to be applied when such data provider seeks access to the CRA's database;
 - 3.20.2 establish controls to ensure that only data to which a subscriber is entitled are released;
 - 3.20.3 train staff in relation to this Code and, in particular, good security practice;
 - 3.20.4 develop written guidelines, and disciplinary or contractual procedures in relation to the proper use of access authorities by staff, external contractors or subscribers;



- 3.20.5 ensure that adequate protection exists to minimize, as far as possible, the risk of unauthorized entry into the database or interception of communications made to and from the database.
- 3.21 If a CRA, in preparation for providing a credit reference service, fails to take any of the measures required under clause 3.20 to safeguard against any improper access to or mishandling of the credit data held by it, this will give rise to a presumption of contravention of DPP 4.

MEASURES TO TAKE IN DAILY OPERATIONS

- 3.22 A CRA shall take appropriate measures in its daily operations, including the following, to safeguard against any improper access to or mishandling of credit data held by it:
- 3.22.1 review on a regular and frequent basis its password controls which help to ensure that only authorized staff are allowed access to its database;
 - 3.22.2 monitor and review on a regular and frequent basis usage of the database, with a view to detecting and investigating any unusual or irregular patterns of access or use;
 - 3.22.3 monitor complaints from persons relative to challenges of enquiries noted in the enquiry section of their personal reports;
 - 3.22.4 ensure that practices in relation to the deletion and disposal of data are secure, especially where records or discs are to be disposed of off-site or by external contractors;
 - 3.22.5 maintain a log of all incidents involving a proven or suspected breach of security, which includes an indication of the records affected, an explanation of the circumstances and action taken.
- 3.23 If a CRA, in its daily operations, fails to take any of the measures required under clause 3.22 or 3.24 to safeguard against any improper access to or mishandling of the credit data held by it, this will give rise to a presumption of contravention of DPP 4.

ASSURANCE OF NO ABUSE OF SYSTEM BY CRA

- 3.24 The CRA has responsibility to ensure there is no abuse of the system and where they establish abuse, to take corrective action and log that information.
- 3.24.1 Which log shall include:
 - 3.24.1.1 the identity of the authorised user seeking access;
 - 3.24.1.2 the date and time of access;
 - 3.24.1.3 the identity of the person whose data were so accessed;
 - 3.24.1.4 corrective action and the result of that action..

DATA ACCESS AND CORRECTION REQUEST TO CRA

- 3.25 The CRA must establish a consumer (individual) relations centre to deal with any and all individual requests for a credit file that contains information on the requestor, under the following conditions:
- 3.25.1 The CRA must maintain a physical presence and the office must be open for individuals to visit, phone, email or fax during normal business hours.
 - 3.25.2 Personnel who work in the consumer relations center must be knowledgeable and well trained as to an individual's rights and convey that information to individuals. They must also be knowledgeable about the content of credit files and be able to explain the content.



- They must be qualified to deal with any consumer challenges to information contained in credit files.
- 3.25.3 Individuals who request credit files may do so via fax, via telephone, via mail, via internet and in person.
 - 3.25.4 Requests are to be honored based on proper identification being provided by the individual requestor.
 - 3.25.5 The requestor must be provided with a 'user friendly' copy of their credit file that includes specific information that explains the details of the contents of the file.
 - 3.25.6 The 'user friendly' file must contain all data, pertaining to the requestor, which is domiciled in the CRA database.
 - 3.25.7 The requestor must be provided with details of how they may file a challenge to information they deem to be incorrect as it appears on their credit file.
 - 3.25.8 If there is a challenge to information on individual credit files, the Credit Reporting Agency must contact the provider of the information and verify its accuracy within 15 days or sooner.
 - 3.25.9 During the challenge period, a narrative code must be placed, with the information, indicating it is 'in dispute'.
 - 3.25.10 If the information is found to be inaccurate it must be corrected and all qualified users who have enquired on that individual's credit file, in the past twelve months, must be notified of the correction and receive a corrected copy of the file, assuming they originally received the incorrect information.
 - 3.25.11 If the information is found to be accurate and the individual agrees to its accuracy then there will be no changes to the information.
 - 3.25.12 If the provider of the information confirms the information is accurate and the individual maintains it is inaccurate then the individual must be provided with the opportunity to provide his reasons for disagreement and up to 100 words of the individual's anecdotal disagreement is to be noted in the comment sections of his personal credit file.
 - 3.25.13 If there is still disagreement, the individual may appeal to the Supervisory Body whose decision on the matter will prevail.
 - 3.25.14 If the challenge is not concluded in 30 days the challenged information is to be deleted from the individual's credit file.
 - 3.25.15 The CRA shall maintain a log of all requests for individual credit files, maintain a log of all challenges to information and maintain a log of their efforts to investigate challenges to information along with the results and any action taken. These logs will be maintained for review by the Supervisory Body and may only be destroyed by the Supervisory Body.
 - 3.25.16 The Credit Reporting Agency must send monthly reports to the Supervisory Body, of these logs. Details of the log are specified in 3.24.
 - 3.25.17 The CRA shall develop a process whereby they must approve any applicants for access to the credit reporting system in a manner that satisfies them that the applicant has a legitimate need for the files and will follow best practices to ensure laws and regulations are adhered to and have a remedy in place if they are not. This process must include a signed contract, by the user, obligating the user to follow the law and regulations and they may only request credit files with the signed authorization of individuals.



Compliance audit of CRA

COMPLIANCE AUDIT

- 3.26 A CRA shall engage, at its expense, an independent compliance auditor approved by the Bank of Zambia, to conduct regular compliance audits on the way in which the CRA provides the credit reference service, including the security of credit data held by the CRA in its database, and the adequacy and efficiency of the measures taken by it to comply with the requirements of this Code.

THE FIRST COMPLIANCE AUDIT

- 3.27 The first of such compliance audits shall be carried out within 12 months from the effective date, with a view to having the compliance auditor submit its audit report to the Bank for its consideration within 3 months from the commencement of the compliance audit. In addition to the matters mentioned in clause 3.26, the first compliance audit shall address, in particular, the adequacy of the data handling system of the CRA in accordance with the provisions of the Code.

BANK'S APPROVAL OF REPORT

- 3.28 If the Bank does not approve the first compliance audit report provided to it, it may, by written notice to the CRA, direct the CRA to take such steps as may be considered necessary for ensuring better compliance with the requirement of the Code and/ or the BFSA, thereafter to arrange for a further compliance audit to be carried out, and for such further audit report to be submitted to the Bank for its reconsideration within such period as the Bank may specify.

REGULAR AUDITS AFTER BANK'S APPROVAL

- 3.29 Upon the receipt of a notice from the Bank under clause 3.28, the CRA shall duly comply with the Bank's directions, and clause 3.28 shall continue to apply to the CRA until the Bank gives his approval to a compliance audit report submitted. From the date of such approval onwards, the CRA shall continue to arrange for compliance audits to be conducted at intervals not exceeding 12 months and, in each instance, for audit reports to be provided to the Bank for his consideration and/or comments within 3 months from the commencement of the compliance audit.

COMPLIANCE WITH DATA ACCESS REQUEST

- 3.30 A CRA shall promptly respond to a data access request in respect of credit data held by it made by a person who advises that he has been refused credit by a data provider to whom a credit report on him has been provided by the CRA or for any other reason. Where such an access request is made at the office of the CRA during normal business hours, the copy of the data held shall be provided to the person at the time of the request.

VERIFICATION WITH DATA PROVIDER

- 3.31 Upon receiving a request for correction of credit data provided by a data provider, the CRA shall promptly consult the data provider. The CRA in conjunction with the data provider of the disputed data must resolve the complaint within 15 working days.
- 3.32 The CRA shall maintain a log of all individual requests to view their credit files that will include, but not be limited to: date and time of request, method of request (person, phone, fax, letter or internet; date copy of file provided; any challenge; date of challenge; result of challenge; date of completion; other comments.



- 3.32.1 A copy of this log shall be submitted to the Supervisory Body by the 10th of each month along with a summary of the number of requests, the number of requests by method, the number of challenges, the number of challenges concluded.

VERIFICATION OF PUBLIC RECORD DATA

- 3.33 Upon receiving a request for correction of credit data being public record data, the CRA shall wherever practicable verify the accuracy of such data by checking the relevant public records. If no such verification is obtained within 15 working days from the date of the correction request, the public record data shall upon expiry of the 15 working days be amended as requested, except where the person alleges any inaccuracy in the data which is not apparent on the face of the public records, it shall in that case be incumbent on the person to provide proof of such inaccuracy.

4 GENERAL

No effect on duty of confidentiality

- 4.1 For the avoidance of doubt, nothing in Parts I to III of the Code affect the application of the law of confidentiality in relation to credit data. In particular, in a situation where, under the general law, a data provider or a CRA owes a duty of confidentiality to a person in respect of the credit data relating to such person, none of the provisions in Parts I to III of the Code shall have, or purport to have, the effect of abrogating, limiting or otherwise modifying such duty under the general law.
- 4.2 Without prejudice to the generality of 4.1 above, a data provider shall provide confidential information about the customer in accordance with the provisions of Section 50 of the Act.

Contravention of data protection principles

- 4.3 Contravention of a DPP by a data provider or a CRA shall constitute an unsafe or unsound practice under the Act.

Consumer Education

The CRA shall take the lead role in developing a robust educational program for the marketplace, relative to credit reporting and consumer rights, in conjunction with the Supervisory Body, data providers and qualified users.



SCHEDULE 1

Data providers

- 1 (a) a bank, financial institution or financial business within the meaning of section 2 of the BFSAs, Cap 387 of the Laws of Zambia.
- (b) a subsidiary of a bank, financial institution or financial business shall have the same meaning as in section 2 of the Companies Act Cap 388 of the laws of Zambia.
- (c) a money lender licensed under the Money Lenders Act, Cap 398 of the Laws of Zambia
- (d) a person whose business (whether or not the person carries on any other business) is that of providing finance for the acquisition of goods way of leasing or hire-purchase
- (d) a person whose business is to lease property for rent, mobile phone companies, utility companies, property management companies and any other entity that extends credit for services and not necessarily money.

SCHEDULE 2

Account data as described in clause 2.8

(A) Account general data, being:

- . identity of the data provider;
- . account number;
- . capacity of the person (whether as borrower or as guarantor);
- . account opened date;
- . account closed date;
- . type of the facility and currency denominated;
- . approved credit limit or loan amount (as appropriate);
- . repayment period or terms (if any);
- . account status (active, closed, write-off, etc.);
- . facility maturity date (if any);
- . details of any scheme of arrangement, including:
 - the date of the arrangement, the number and frequency of instalments, the instalment amount, etc.;
 - current outstanding balance;
 - security of credit;
 - manner of payment category;
 - amount of arrears (if any); and
 - required monthly payment.



(B) Account repayment data, being:

- . amount last due;
- . amount of repayment made during the last reporting period;
- . remaining available credit or outstanding balance;
- . default data being:
 - amount past due (if any) and number of days past due;
 - date of settlement of amount past due (if any).

(C) Cheque number, name of payee and value of dishonoured cheque

APPENDIX I

Credit Data (Privacy) Code

DATA PROTECTION PRINCIPLES

1. Principle 1 - purpose and manner of collection of credit data

(1) Credit data shall not be collected unless -

- (a) the data are collected for a lawful purpose directly related to a function or activity of the data user who is to use the data;
- (b) subject to paragraph (c), the collection of the data is necessary for or directly related to that purpose; and
- (c) the data are adequate but not excessive in relation to that purpose.

(2) Credit data shall be collected by means which are -

- (a) lawful; and
- (b) fair in the circumstances of the case.

(3) Data provided by data providers will have the written consent of the subject persons.

2. Principle 2 - accuracy and duration of retention of credit data

(1) All practicable steps shall be taken to ensure that-

- (a) credit data are accurate having regard to the purpose (including any directly related purpose) for which the credit data are or to be used;
- (b) where there are reasonable grounds for believing that personal data are inaccurate having regard to the purpose (including any directly related purpose) for which the data are or are to be used-
 - (i) the data are not used for that purpose unless and until those grounds cease to be applicable to the data, whether by the rectification of the data or otherwise; or
 - (ii) the data are erased;
- (c) where it is practicable in all the circumstances of the case to know that-



- (i) credit data disclosed on or after the appointed day to a third party are materially inaccurate having regard to the purpose (including any directly related purpose) for which the data are or are to be used by the third party; and
 - (ii) that data were inaccurate at the time of such disclosure, that the third party-
 - (A) is informed that the data are inaccurate; and
 - (B) is provided with such particulars as will enable the third party to rectify the data having regard to that purpose.
- (2) Credit data shall not be kept longer than is necessary for the fulfilment of the purpose (including any directly related purpose) for which the data are or are to be used.

3. Principle 3 - use of credit data

Credit data shall not, without the prescribed written consent of the data subject, be used for any purpose other than-

- (a) the purpose for which the data were to be used at the time of the collection of the data; or
- (b) a purpose directly related to the purpose referred to in paragraph (a).

4. Principle 4 - security of credit data

All practicable steps shall be taken to ensure that credit data (including data in a form in which access to or processing of the data is not practicable) held by a data user are protected against unsupervised or accidental access, processing, erasure or other use having particular regard to-

- (a) the kind of data and the harm that could result if any of those things should occur;
- (b) the physical location where the data are stored;
- (c) any security measures incorporated (whether by automated means or otherwise) into any equipment in which the data are stored;
- (d) any measures taken for ensuring the integrity, prudence and competence of persons having access to the data; and
- (e) any measures taken for ensuring the secure transmission of the data.

5. Principle 5 - information to be generally available

All practicable steps shall be taken to ensure that a person can -

- (a) ascertain a data user's policies and practices in relation to personal data;
- (b) be informed of the kind of credit data held by a data user;
- (c) be informed of the main purposes for which credit data held by a data user is or is to be used.

6. Principle 6 - access to credit data

A data subject shall be entitled to, subject to proper identification-

- (a) ascertain whether a data user holds credit data of which he is the data subject;



- (b) request access to credit data-
 - (i) within a reasonable time;
 - (ii) once per calendar year at no charge; at no charge on each adverse action.
 - (iii) at a fee, if any as approved by the Bank of Zambia
 - (iv) in a reasonable manner; and
 - (v) in a form that is intelligible;
 - (vi) in person; by phone; by mail; by fax; via the internet.
 - (vii) with written explanation (in simple language) of the content of the report
- (c) be given reasons if a request referred to in paragraph (b) is refused;
- (d) object to a refusal referred to in paragraph (c);
- (e) request the correction of credit data;
- (f) be given reasons if a request referred to in paragraph (e) is refused; and
- (g) object to a refusal referred to in paragraph (f).

DRAFT



**ANNEX B: THE BANKING AND FINANCIAL SERVICES ACT, CAP 387 — CREDIT
REFERENCE SERVICES (LICENSING) GUIDELINES, 2006**

DRAFT



BANK OF ZAMBIA

Banking and Financial Services Act, Cap 387 of the Laws of Zambia

The Banking and Financial Services Act, Cap 387 Credit Reference Services (Licensing) Guidelines, 2006

In exercise of the powers conferred upon the Bank of Zambia by Section One hundred and twenty five of the Banking and Financial Services Act, the following Guidelines are hereby made:

Title and Commencement

These Guidelines may be cited as the Banking and Financial Services (Credit Reference Agency Licensing) Guidelines of 2006 and shall come into force on the date on which these Guidelines shall be published.

Interpretation

In these Guidelines , unless the context otherwise requires:

“Act” means the Banking and Financial Services Act, Cap 387 of the Laws of Zambia

“Credit Data” means any positive or negative data relating to a person collected by a credit provider in the course of or in connection with the provision of credit, or any data collected by or generated in the data base of a Credit Reference Agency in the course of or in connection with the providing of credit reference services.

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

- (i) a bank, financial institution or financial business within the meaning of section 2 of the BFSAs, Cap 387 of the Laws of Zambia;
- (ii) a subsidiary of a bank, financial institution or financial business (the term “subsidiary” shall have the same meaning as in section 2 of the Companies Act, Cap 388 of the Laws of Zambia);
- (iii) a money lender licensed under the Money Lenders Act, Cap 398 of the Laws of Zambia;
- (iv) a person whose business (whether or not the person carries on any other business) is that of providing finance for the acquisition of goods by way of leasing or hire-purchase;



- (v) a person whose business is to lease property for rent, mobile phone companies, utility companies, property management companies and any other entity that extends credit for services and not necessarily money.

“Credit Reference Agency” means any data user who carries on a business of providing a credit reference service, whether or not that business is the sole or principal activity of that data user;

“Credit reference service” means the service of compiling and/or processing credit data relating to a person (including credit scoring), for disseminating such data and any data derived wherefrom to a credit provider for credit purposes and, for performing any other functions directly related to credit transactions;

“Person” shall have the same meaning as in Section 2 of the Act.

“Registrar” means the Registrar of Banks and Financial Institutions;

Eligibility for Licensing

Any company duly incorporated and registered under the Companies Act (Cap 388 of the Laws of Zambia) is eligible to apply to the Registrar for a licence to operate as a Credit Reference Agency.

No person shall carry on the business of credit reference services (whether as principal or agent) except by or under the authority of a licence issued in accordance with the Act.

Ownership and Control of CRAs

Shares issued by a CRA shall be only of such classes or series as may be approved by the Bank of Zambia.

A person shall not, without prior approval in writing of the Bank of Zambia –

- (a) acquire any beneficial interest in the voting shares of a CRA; or
- (b) enter into any voting trust or other agreement;

that would enable that person or another person to control more than sixty percent of the total votes that could be cast on any general resolution at a general or special meeting of the CRA:

Provided that this sub section shall not apply to a company which is publicly listed on a securities exchange in a jurisdiction outside the Republic acceptable to the Bank of Zambia.

A CRA shall not register any transfer of its voting shares to any person if, as a result of the transfer, the person would contravene section 7.

No subsidiary companies or cross ownership between the CRA and any other companies can be established without the written approval of the Bank of Zambia.

Application for Licence

An application for a licence shall be made to the Registrar by the submission of completed form CRA 1 as set out in Schedule 1 of these Guidelines and shall be accompanied by:

- (i) Articles of Association
- (ii) Business Plan
- (iii) Proforma balance sheet and income statement with relevant assumptions for at least 3 years
- (iv) Names, addresses and occupations of persons including their corporate affiliations who would hold significant shareholdings directly or indirectly in the credit reference agency venture and the respective values of such holding as also their corporate affiliations.



- (v) Particulars of the directors and key management personnel concerned with the management of the credit reference agency, including their background, certified financial position, business interests and performance of the business concerns under their control or management.
- (vi) Declarations from each would-be director stating whether he or she has
 - (a) Ever been convicted in any country of any crime (not including motor vehicle traffic misdemeanors?)
 - (b) Ever been the subject of actions (cease and desist orders, consent orders, injunctions, license suspensions, or revocations etc?)
 - (c) Ever been refused any licence (except for motor vehicle operation) by any government agency or withdrawn such an application?
 - (d) Ever been a defendant in any litigation filed in connection with the credit business?

Grant of Licence

The Registrar may grant a licence to a credit reference agency if he is satisfied that:

- a. the Directors and Senior Officers of the applicant are fit and proper persons to engage in activities covered by the licence and comply with the requirements of Section 31 of the Act;
- b. the applicant has in place clear and comprehensive policies and procedures for use of credit data designed to ensure the security, confidentiality and integrity of credit data;
- c. the applicant has met any other conditions that the Bank and or Registrar may prescribe.
- d. the applicant obtains at least an 80 percent pass mark in the examination on the understanding of the guidelines and the Credit Data (Privacy) Code.

Conditions of the licence

Every CRA licensed under this Act agrees, in principle that it will be bound by the Act, laws and any regulations passed by the Bank of Zambia related to this industry.

A licence issued under this Act is renewable on a yearly basis. The application for the renewal of a licence shall be made three months prior to the expiry of the current licence.

Applicable fees are set out in the table below.

Licence Fee Structure

LICENCE CATEGORY	FEE
Licence application	K5.4 million
Annual licence (Renewal)	K2.7 million
Supervisory	N/A

Minimum Capital Requirement

The minimum capital requirement shall not be less than K1, 000 million (interpreted as paid up capital and or fixed assets directly related to the provision of credit reference services).

Refusal of Licence

The Registrar may refuse an application for a license to carry on credit reference agency business if the applicant does not meet the prescribed requirements.



An applicant for a licence aggrieved by the refusal of the Registrar to grant a licence may appeal against that decision to the Minister of Finance and National Planning.

Suspension of a Credit Reference Agency Licence

The validity of a Credit Reference Agency licence may be suspended for a period of up to six months for one of the following reasons:

- (i) failure to comply with its obligations under this Act;
- (ii) it is established that the documents which were submitted and used as the basis to issue the licence were not consistent with the real state of things;
- (iii) the Credit Reference Agency has not dealt with the violations against Zambian legislation on credit reference services and the collection of credit data after receiving a written instruction from the Bank telling them to do so;
- (iv) failure to follow regulations especially as it relates to the persons rights and protections.

The suspension of a Credit Reference Agency licence will mean that it is forbidden from engaging in the provision of credit reference services, except the activities aimed at receiving credit data under earlier concluded agreements.

The decision to suspend a licence must detail the basis and period for its suspension.

The suspension of a licence will be effective from the day that the Credit Reference Agency's board is informed of this decision.

Revocation of a Credit Reference Agency Licence

The Bank will have the right to apply to court with a statement of claim on revocation of the Credit Reference Agency's licence for one of the following reasons:

- (i) failure to correct the situation that served as the cause for licensee's suspension of the licence.
- (ii) the repeated suspension of a licence over twelve consecutive months;
- (iii) a court ban on the licensee engaging in the activities for which he has received the licence;
- (iv) the licensee terminating his entrepreneurial activities; the deliberate submission by the licensee of false information in order to receive a licence.

Time Limit for decision on application

The Bank of Zambia shall communicate its decision on an application for a credit reference agency within one hundred and eighty days from the date of receipt of a complete application.



Schedule 1

Form CRA1



BANK of ZAMBIA

APPLICATION FOR REGISTRATION AS A CREDIT REFERENCE AGENCY IN ZAMBIA

(Sections 4(2) and 10(2) of the Banking and Financial Services Act 1994)

(Please read the entire form before completing in block capitals)

1. NAME OF APPLICANT *(Complete name under which business is conducted)*

2. a) LOCATION OF OFFICE TO BE LICENSED UNDER THIS APPLICATION

b) NAME AND ADDRESS OF HOME OFFICE OF PARENT COMPANY IF APPLICANT WILL OPERATE AS A BRANCH OR SUBSIDIARY

3. APPLICANT'S POSTAL ADDRESS

4. CONTACT TELEPHONE NUMBER

(Please state country and area codes if based outside the Republic of Zambia)



5. CONTACT FACSIMILE NUMBER

(Please state country and area codes if based outside the Republic of Zambia)

6. E-MAIL ADDRESS *(Use small letters as per standard)*

7. Is applicant presently engaged in credit reference services elsewhere?

Yes

No

If yes,

Date of commencement of business; _____

Address and contact details of Head Office/or Initial Registration

Countries/states in which presently operating

8. THE SHARE CAPITAL OF THE CREDIT REFERENCE AGENCY

(a) AUTHORISED CAPITAL _____

(b) ISSUED CAPITAL _____

(c) PAID UP CAPITAL _____

(Documentary evidence of paid up capital must accompany the application. For example, bank statement and written assurance by the external auditor. If part of the paid up capital is in form of fixed assets, the Registrar will appoint a valuator to assess the value of the assets at the applicant's expense. Such assets must be essential to the operation of a credit reference agency. Documentary evidence of title to the assets has to be made available to the Registrar on demand)

(d) STATE THE SOURCE OF CAPITAL _____



9. PROPOSED BOARD OF DIRECTORS: STATE NAME, NATIONALITY AND WHETHER RESIDENT OR NON-RESIDENT

(Locally based directors and non-executive directors must be in the majority)

Name	Nationality	Resident/Non-Resident
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

a) SHAREHOLDERS/SHAREHOLDING OF THE CREDIT REFERENCE BUREAU TO BE REGISTERED AS FOLLOWS:

Name	Number of Shares	Kwacha Value of Shares	% of Total Shares
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

b) IF SOME SHAREHOLDERS MENTIONED IN 9(a) ABOVE ARE NATURAL PERSONS, STATE THEIR NAMES, NATIONALITY AND PLACE OF PERMANENT RESIDENCE.

Name	Nationality	Place of Permanent Residence
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



c) IF SOME SHAREHOLDERS MENTIONED IN 9(a) ABOVE ARE UNNATURAL PERSONS/CORPORATE BODIES, STATE THEIR NAMES AND PLACE OF REGISTRATION/INCORPORATION

Name	Place of Registration

d) STATE BELOW THE NAMES OF NATURAL PERSONS WHO ARE BENEFICIAL OWNERS OF SHARES IN THE UNNATURAL PERSONS/CORPORATE BODIES MENTIONED IN 9(c) ABOVE AS FOLLOWS:

Corporate Body	Shareholder	Kwacha Value of Shares	% of Total Shares

10 a) BUSINESSES/COMPANIES ASSOCIATED/AFFILIATED WITH DIRECTORS OR BUSINESSES/COMPANIES IN WHICH DIRECTORS HOLD A SUPERIOR POSITION IN ZAMBIA

Director's Name	Business Interest



b) BUSINESSES / COMPANIES ASSOCIATED/AFFILIATED WITH DIRECTORS' IMMEDIATE FAMILY MEMBERS OR BUSINESSES IN WHICH DIRECTORS' IMMEDIATE FAMILY MEMBERS HOLD A SUPERIOR POSITION IN ZAMBIA

Family Member's Name	Business Interest

11 STATE BELOW THE NATURE OF EXISTING BUSINESS INTERESTS, PROFESSION OR OCCUPATION OF PROMOTERS/SHAREHOLDERS OF THE CREDIT REFERENCE AGENCY IF THEY ARE NATURAL PERSONS

Name	Business Interests	Profession/Occupation

12 NAME, ADDRESS AND POSITION OF EACH EMPLOYEE, SALES AGENT, COLLECTOR OR SIMILAR PERSON AT THE OFFICE TO BE LICENSED, WHETHER AN INDEPENDENT CONTRACTOR OR NOT (EXCLUDE PERSONS WITH SOLELY CLERICAL FUNCTIONS).

Name	Number and street	City	Position



13 IN CASE OF A FOREIGN OWNED/CONTROLLED CRA

(That is, if more than 50% of voting shares are held by non-Zambian residents/corporations registered outside Zambia who are part of an international banking / financial services group).

- a) Certificate of the regulatory authority governing credit reference agency of the country or political subdivision of the country in which the head office of the bureau is domiciled, certifying that the bureau has been duly incorporated or established and when it was established by, pursuant to, or in accordance with the laws of that country or political subdivision and the title of citation of these laws.

- b) A certified copy of the resolution of the directors of the bureau authorizing the establishment of the subsidiary in Zambia

14 WHETHER THE DIRECTORS/PROMOTERS/SHAREHOLDERS HAVE ANY EXPERIENCE EXPERTISE OR BACKGROUND IN MANAGING THE BUSINESS OF THE TYPE MENTIONED IN THIS APPLICATION AT 7 ABOVE OR WHETHER THEY ARE/WERE ASSOCIATED WITH ANY OTHER SIMILAR BUSINESS CONCERN AS OWNERS OR OTHERWISE: IF SO GIVE FULL DETAILS

15 DETAILS OF PROPOSED TOP/SENIOR EXECUTIVES OF THE CREDIT REFERENCE AGENCY TO BE REGISTERED.

(Please attach curriculum vitae of each of them)

(a) CHIEF EXECUTIVE OFFICER/MANAGING DIRECTOR:

Name	Nationality	Academic/Professional Qualification <i>(Certified copies of certificates to be attached)</i>

(b) CHIEF FINANCIAL OFFICER:

Name	Nationality	Academic/Professional Qualification <i>(Certified copies of certificates to be attached)</i>



16 NAME AND ADDRESS OF APPLICANT'S PROPOSED AUDITORS

17 PLEASE LODGE WITH THIS APPLICATION THE FOLLOWING DOCUMENTS RELATING TO THE CREDIT REFERENCE AGENCY TO BE REGISTERED

- (i) Articles of Association
- (ii) Business Plan
- (iii) Proforma balance sheet and income statement with relevant assumptions for at least 3 years

18 Has the applicant or any employee, officer, partner, director, member, sales agent or similar person, whether an independent contractor or not:

(a) Ever been convicted in any country of any crime (not including motor vehicle traffic misdemeanors?)

Yes No

(b) Ever been the subject of actions (cease and desist orders, consent orders, injunctions, license suspensions, or revocations etc?)

Yes No

(c) Ever been refused any licence (except for motor vehicle operation) by any government agency or withdrawn such an application?

Yes No

(d) Ever been a defendant in any litigation filed in connection with the credit business?

Yes No

If the answer to any of the foregoing is yes, explain the circumstances fully using additional sheets, if necessary.

19 ATTACH CURRICULUM VITAE OF EACH DIRECTOR

20 STATE WHO IS GOING TO PERFORM THE CONSOLIDATED SUPERVISION OF YOUR GROUP

(This applies only to subsidiaries of foreign controlled credit reference agency, where Non-Zambian holds more than 50% of the voting shares in the credit reference agency who are part of a foreign registered credit reference agency)



21 ***I/WE HEREBY CERTIFY THAT TO THE BEST OF MY/OUR KNOWLEDGE AND BELIEF THE INFORMATION GIVEN ABOVE IS CORRECT AND TRUE**

22 **CHAIRMAN**

Full Name

Signature

23 **CHIEF EXECUTIVE OFFICER**

Full Name

Signature

24 **DATE** _____ **PLACE** _____
(date, month, year) *(city/town, country)*

*Delete where not applicable

NOTE: Where the space provided in this form is insufficient to furnish required details, please use a separate sheet of paper indicating the relevant item of the application form. The chairman/chief executive or any duly authorized representative of the applicant company should duly sign such attachment(s).



ANNEX C: THE CREDIT REFERENCES SERVICES ACT NO. 000 OF 2007

GOVERNMENT OF THE REPUBLIC OF ZAMBIA

THE CREDIT REFERENCE SERVICES ACT No. 000 of 2007

ARRANGEMENT OF SECTIONS

CHAPTER I PRELIMINARY

1. Title
2. Interpretation
3. Application

CHAPTER II

4. Authority of the Bank of Zambia
5. Delegation of Authority
6. Power of the Bank of Zambia to Call for information

CHAPTER III LICENSING

7. Eligibility for licensing
8. Prohibition of unlicensed credit reference service business
9. Application for a licence
10. Grant of licence
11. Minimum capital requirement
12. Refusal of licence
13. Appeal against refusal of licence by Registrar
14. Determination of application
15. Conditions of the licence
16. Renewal of licence
17. Suspension of licence
21. Revocation of licence

CHAPTER IV



ORGANISATION AND ADMINISTRATION

Ownership and Control of CRAs

- 22. Limitation on voting control

CHAPTER V

OPERATIONS OF CREDIT REFERENCE AGENCIES

I. THE HANDLING OF CREDIT DATA BY DATA PROVIDERS

Conditions for sharing of credit and demographic data with a CRA and access to that information by authorised users

- 26. Signed written consent from data subject
- 28. Notification upon default

Provision of credit data by data provider to CRA

- 29. Scope of data to be provided
- 30. Accuracy of data provided
- 31. Provision of disputed data
- 32. Updating of account data

Indemnity

- 33. Indemnity of a CRA
- 34. Indemnity for data providers

Access by data provider to credit data held by CRA

- 35. Access for updating
- 36. Access through credit report
- 37. Confirmation to CRA upon access
- 38. No access for direct marketing or prospecting

Notification to person of adverse action

- 39. Notification of access for considering credit application



Data security and system integrity safeguards by data provider

40. Engagement of CRA
41. Measures to take in preparation for subscription to credit reference service
42. Request for information for permissible purposes and measures to take in daily operations
43. Limitation on disclosure of information
44. Supply of list of names

II. THE HANDLING OF CREDIT DATA BY CREDIT REFERENCE AGENCIES

Collection of credit data by CRA

45. Location of database
46. Identification
47. Person's request for their personal credit reports
48. Transfer of credit data abroad
49. Procedure for CRAs
50. Rights of the subjects of the credit file
51. Collection of credit data by CRA
52. Relationship between data providers and the CRA
53. Scope of data to be collected
54. Information prohibited from collection by CRA
55. Sale of files
56. Retention of account general data
57. Retention of account repayment data revealing default period in excess of 60 days
58. Retention of account repayment data not revealing default period in excess of 60 days
59. Retention of other credit data
60. Retention of exempted data

Use of credit data by CRA

61. Provision of credit report
62. Disclosure of disputed data
63. Other uses of credit data

Data security and system integrity safeguards by CRA

64. Measures to take in preparation for providing credit reference service



- 65. Measures to take in daily operations
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1. CHAPTER I PRELIMINARY

1. This law may be cited as the Credit Reference Services Act No. 000 of 2007

Title

2. In this Act, unless the context otherwise requires:

Interpretation

"Account" means any account between a data provider and a person that involves the provision of credit, and includes any new account created as the result of any scheme of arrangement involving one or more previous accounts;

"Account data" means the account data referred to in Schedule 2. For account involving the provision of credit to another person for whom a person acts as guarantor, the account data of such account is, in addition to being account data relating to that other person as the borrower, deemed to be also account data relating to the person to such extent as to reveal the contingent liability of the person as guarantor;

"Account general data" means the account general data referred to in Schedule 2;

"Account repayment data" means the account repayment data referred to in Schedule 2;

" Act" means the Banking and Financial Services Act, Cap 387 of the Laws of Zambia

"Authorised user" means a legal entity which contracts with a CRA and has a permissible purpose to enquire and obtain credit reports and services provided by a CRA in addition to the clients/data subjects who have credit files in the CRA database.

"Bank" shall have the same meaning as in the Act;

"Consent Clause" means signed written consent of a person to have his/her credit history checked or shared.

"Credit" means any loan, overdraft facility or other kind of credit provided by a data provider to and for the use of a person, or to and for the use of another person for whom a person acts as guarantor. Credit also includes the extension of credit for the supply of any goods or services that would include utilities, cellular companies, retailers, property managers etc. For credit involving leasing or hire purchase a person acquiring motor vehicles, equipment or vessels financed by a data provider by way of leasing or hire-purchase is deemed to be provided with credit by the data provider to the extent of the value of those goods. Any amount



overdue under the lease or hire-purchase agreement is deemed to be an amount in default under the person's account with the data provider, and all related terms and expressions are to be construed accordingly;

" Credit data" means any positive or negative data relating to a person collected by a data provider in the course of or in connection with the provision of credit, or any data collected by or generated in the database of a CRA in the course of or in connection with the provision of credit reference services;

" Credit Reference Agency" herein referred to "CRA" means credit reference service provider and can be called various other names such as credit bureau, credit registry, credit reference bureau etc, which in turn means any data user who carries on a business of providing a credit reference service, whether or not that business is the sole or principal activity of that data user;

"Credit reference service" means the service of compiling and/or processing credit data relating to a person (including credit scoring), for disseminating such data and any data derived therefrom to a data provider for credit purposes and, for performing any other functions directly related to credit transactions;

"Credit scoring" means the process whereby credit data relating to a person held in the database of a CRA are used, either separately or in conjunction with other information held in the system, for the purpose of generating a score (being information statistically validated to be predictive of future behaviour or the degree of risk of delinquency or default associated with the provision or continued provision of credit) to be included in a credit report on the person;

"Creation", in relation to credit data held by a CRA, means the entering of such data into the database of the CRA;

"Credit report" or "credit history" provided by a CRA on a person means a disclosure made by the CRA, in whatever form, of credit data relating to such person held in its database;

"Database" means an electronic database that contains credit files of persons and includes data and information which was collected from data providers, processed and maintained within the CRA;

"Data provider" means entities that provide any form of credit or maintain information related to the credit worthiness of persons and produce this information to CRAs and includes entities described in Schedule 1;

"DCA" means debt collection agency;

"Default" means 60 days or more past due, also defined as negative data;



"DPP" means data protection principle as contained in Appendix I;

"Effective date" means the date on which this Act shall be assented to;

"Loan restructuring arrangement" means any scheme of arrangement in relation to debts owed by a person consequent upon a default in the repayment of those debts;

"Material default" means a default in payment for a period in excess of 90 days;

"Person" shall have the same meaning as in the Act;

"Registrar" shall have the same meaning as in the Act;

"Reporting period", in relation to an account, means the period between the effective date and the date on which account data are provided by the data provider to the CRA for the first time, and, thereafter, the period between each successive instance of providing such data;

"Scheme of arrangement" means any restructuring, rescheduling or other modification of terms of whatsoever nature in relation to debts owed by a person, whether as borrower or as guarantor, towards a single creditor or more than one creditor;

"Supervisory Body" refers to the Bank of Zambia;

Words and expressions importing the masculine gender include the feminine, and words and expressions in the singular include the plural, and vice versa.

This Act shall apply to credit reference service providers that meet the minimum capital requirements as prescribed by the Bank of Zambia under section 11.

Application

CHAPTER II AUTHORITY OF THE BANK OF ZAMBIA

The Bank of Zambia, shall for the purposes of this Act, be the regulatory authority.

Authority of the Bank of Zambia

The Bank of Zambia, may subject to such conditions as the Bank of Zambia may consider necessary, delegate to any person the performance of any of the powers

Delegation Authority of



conferred upon the Bank of Zambia, in this Act.

The Bank of Zambia may require a credit reference service provider to furnish details of its operations.

Powers of the Bank of Zambia to call for information

CHAPTER III LICENSING

Any company duly incorporated and registered under the Companies Act (Cap 388 of the Laws of Zambia) is eligible to apply to the Registrar for a licence to operate as a CRA.

Eligibility licensing for

No person shall carry on the business of credit reference services (whether as principal or agent) except by or under the authority of a licence issued in accordance with this Act.

Prohibition of unlicensed reference service business

An application for a licence shall be made to the Registrar by the submission of a completed form CRA 1 as set out in Schedule 4 of this Act and shall be accompanied by:

Application for a licence

- (i) Articles of Association;
- (ii) Business Plan;
- (iii) Proforma balance sheet and income statement with relevant assumptions for at least 3 years;
- (iv) Names, addresses and occupations of persons including their corporate affiliations who would hold significant shareholdings directly or indirectly in the CRA venture and the respective values of such holding as also their corporate affiliations;
- (v) Particulars of the directors and key management personnel concerned with the management of the CRA, including their background, certified financial position, business interests and performance of the business concerns under their control or management;
- (vi) Declarations from each would-be director stating whether he or she has
 - a) Ever been convicted in any country of any crime (not including motor vehicle traffic misdemeanours);
 - (b) Ever been the subject of actions (cease and desist orders, consent orders, injunctions, license suspensions, or revocations etc;



(c) Ever been refused any licence (except for motor vehicle operation) by any government agency or withdrawn such an application;

(d) Ever been a defendant in any litigation filed in connection with a credit reference service.

The Registrar may grant a licence to a CRA if he is satisfied that:

Grant of licence

- (i) the Directors and Senior Officers of the applicant are “fit and proper” persons to engage in activities covered by the licence and comply with the requirements of **Section 31** of the Act;
- (ii) the applicant has in place clear and comprehensive policies and procedures for use of credit data designed to ensure the security, confidentiality and integrity of credit data;
- (iii) the applicant has met any other conditions that the Bank and or Registrar may prescribe;
- (iv) the applicant obtains at least an 80 percent pass mark in an examination on the understanding of this Act, laws and relevant regulations related to this industry.

The minimum capital requirement shall not be less than K1,000 million (interpreted as paid up capital and/or fixed assets directly related to the provision of credit reference services).

Minimum capital requirement

The Registrar may refuse an application for a licence to carry on a CRA business if the applicant does not meet the prescribed requirements.

Refusal of licence

An applicant for a licence aggrieved by the refusal of the Registrar to grant a licence may appeal against that decision to the Minister of Finance and National Planning.

Appeal against refusal of licence by Registrar

The Bank of Zambia shall communicate its decision on an application for a CRA within one hundred and eighty days from the date of receipt of a complete application.

Determination of application



Conditions of the licence

Every CRA licensed under this Act agrees, in principle, that it will be bound by the Act, laws and any regulations passed by the Bank of Zambia related to this industry.

Conditions of the licence

A licence issued under this Act is renewable on a yearly basis. The application for the renewal of a licence shall be made three months prior to the expiry of the current licence.

Renewal of licence

Suspension of a CRA Licence

The validity of a CRA licence may be suspended for a period of up to six months for one of the following reasons:

Suspension of Licence

- (i) failure to comply with its obligations under this Act;
- (ii) if it is established that the documents which were submitted to the Bank of Zambia and used as the basis to issue the licence were not consistent with the real state of things;
- (iii) the CRA has not dealt with the violations against Zambian legislation on credit reference services and the collection of credit data after receiving a written instruction from the Bank of Zambia telling them to do so;
- (iv) failure to follow regulations especially as it relates to a person's rights and protections.

The suspension of a CRA licence forbids a CRA from engaging in the provision of credit reference services, except the activities aimed at receiving credit data under earlier concluded agreements.

The decision to suspend a licence must detail the basis and period for its suspension.

The suspension of a licence will be effective from the day that the CRA's board is informed of this decision.

Revocation of a CRA Licence

Revocation of Licence

- 3. The Bank will have the right to apply to court with a statement of claim on revocation of the CRA's licence for one of the following reasons:



- (i) failure to correct the situation that served as the cause for licensee's suspension of the licence.
- (ii) the repeated suspension of a licence over twelve consecutive months;
- (iii) a court ban on the licensee engaging in the activities for which he has received the licence;
- (iv) the licensee terminating his entrepreneurial activities;
- (v) the deliberate submission by the licensee of false information in order to receive a licence.

CHAPTER IV ORGANISATION AND ADMINISTRATION

Ownership and Control of CRAs

Shares issued by a CRA shall be only of such classes or series as may be approved by the Bank of Zambia.

A person shall not, without prior approval in writing of the Bank of Zambia –

- (a) acquire any beneficial interest in the voting shares of a CRA; or
- (b) enter into any voting trust or other agreement;

Limitation on voting control

that would enable that person or another person to control more than sixty percent of the total votes that could be cast on any general resolution at a general or special meeting of the CRA:

Provided that the above sub section shall not apply to a company which is publicly listed on a securities exchange in a jurisdiction outside the Republic acceptable to the Bank of Zambia.

A CRA shall not register any transfer of its voting shares to any person if, as a result of the transfer, the person would contravene section 23.

No subsidiary companies or cross ownership between the CRA and any other companies can be established without the written approval of the Bank of Zambia.



CHAPTER V
OPERATIONS OF CREDIT REFERENCE AGENCIES

THE HANDLING OF CREDIT DATA BY DATA PROVIDERS

Conditions for the sharing of credit and demographic data with a CRA and access to that information by authorised users

All credit and demographic data, from data providers, given to a CRA must have the signed written consent clause from the subject of the data, with the exception of dishonoured cheques and debts in material default.

Signed written consent
from data subject

Access of a CRA database must have the written consent of the subject of the access request.

Notification upon default

Notification upon
default

Where the data provider has provided credit to a person and the account is subsequently in material default, the data provider shall, as a recommended practice, give to such person within 30 days from the date of default a written reminder stating that unless the amount in default is fully repaid before the expiry of 60 days from the date of the default, the person shall be liable to have his account data retained by the CRA until the expiry of 7 years from the date of final settlement of the amount in default or 7 years from the date of the person's discharge from bankruptcy as notified to the CRA, whichever is earlier.

Provision of credit data by data provider to CRA

Scope of data to be provided

Where a data provider has collected any credit data in relation to a person, subject to compliance with sections 30 and 31, it may thereafter provide to a CRA subject to the completion of a consent clause any of following items of credit data;

- (i) general particulars of the person and in the case of an individual, being: name, sex, address, contact information, date of birth, National Registration Card Number or passport number;
- (ii) complete credit details including date of credit activation; credit limit; date of last payment; current balance; repayment schedule; manner of payment, arrears and security;
- (iii) negative credit information does not require a consent clause in order to have the information provided to a CRA;
- (iv) credit card loss data, being:
 - a. notice that the data provider, as card issuer, has suffered



financial loss as the result of an unauthorized transaction carried out through the use of a credit card that has been reported lost, for an amount in excess of the maximum liability of the person before notification to the card issuer of the loss of the card;

- b. the amount of such maximum liability and the amount of financial loss suffered by the card issuer;
 - c. the reported date of the loss of the credit card, and the date of such report; and
 - d. a description of the event (misplacement of wallet, theft, robbery, etc.) reported to have given rise to the loss of the credit card and any follow-up action including, where applicable, any report to the police, subsequent investigation or prosecution and result, finding of the lost card, etc.
- (v) Identity theft loss, being:
- a. notice that the data provider has suffered a financial loss as the result of a loan being granted based on fraudulent means;
 - b. the reported date of the loss of the identity, and the date of such report; and
 - c. a description of the identity theft and any follow-up action including, where applicable, any report to the police, subsequent investigation or prosecution and result, etc.

Accuracy of data provided

Before a data provider provides any credit data to a CRA, it shall have taken reasonably practicable steps to check such data for accuracy. If subsequently the data provider discovers any inaccuracy in the data which have been provided to the CRA, it shall immediately update such data held in the database.

Provision of disputed data

Whenever a data provider provides to a CRA any credit data disputed by the person to whom such data relate, this shall be accompanied by an indication of the existence of the dispute. If at any subsequent time the dispute has ended, the data provider shall as soon as reasonably practicable update the data held by the CRA accordingly.

Updating of account data

Without prejudice to the generality of sections 29, 30 and 31, where a data provider has provided any account data to a CRA:

- (i) the data provider shall thereafter continue to update such account data, on a regular basis, until the termination of the account, whereupon the data provider shall promptly update the account data to indicate such termination; and
- (ii) in addition, the data provider shall update as soon as reasonably practicable the account data held in the database of the CRA upon the occurring of any of the following events:
 - a. the repayment or write-off in full or in part of an amount



- in default;
- b. a scheme of arrangement being entered into with the person; or
- c. the final settlement of the amount payable pursuant to such a scheme of arrangement.

Indemnity

Indemnity of a CRA

Data providers shall indemnify and hold harmless a CRA against all losses, claims, liabilities or damages, including consequential damages, arising from data providers or any of its authorized affiliates or agents providing the CRA with inaccurate data; non compliance with applicable laws; and/or the failure of data providers or any of its authorized affiliates or agents to obtain the appropriate consents from any individuals as required by applicable legislation.

Indemnity for data providers

The CRA shall indemnify and hold harmless data providers against all losses, claims, liabilities or damages, including consequential damages, arising from the CRA's failure to accurately place the data provider's contributed credit data, on the correct credit file or incorrectly reporting the contributed data, due to gross negligence or due to non compliance with applicable laws.

Access by data provider to credit data held by CRA

Access for updating

An authorised user may at any time, for the purpose of providing or updating credit data on a person, access from a CRA such credit data on the person as were previously provided by it to the CRA.

Access through credit report

Without prejudice to the generality of Section 35 a data provider may, through a credit report provided by a CRA, access credit data held by the CRA on a person, subject to a signed consent clause by the data subject of the access:

- (i) in the course of:
 - a. the consideration of any grant of credit;
 - b. the review of existing credit facilities granted; or
 - c. the renewal of existing credit facilities granted, to the person as borrower or to another person for whom the person proposes to act or acts as guarantor; or
- (ii) for the purpose of the reasonable monitoring of the indebtedness of the person while there is currently a default by the person as borrower or as guarantor, and for the purpose of Section 36 (i) (b) and other related clauses, the word "review" means consideration by the data provider of



any of the following matters (and those matters only) in relation to the existing credit facilities, namely:

- (iii) In response to the order of a court having jurisdiction to issue such an order.
- (iv) In response to an order or direction made under this Act;
- (v) In accordance with the written instructions of the data subject to whom the information relates, in a consumer report, given to a person who it has reason to believe:
 - a. intends to use the information in connection with the extension of credit to, or the purchase or collection of, a debt of the data subject to whom the information pertains;
 - b. intends to use the information in connection with the entering into or renewal of a tenancy agreement;
 - c. intends to use the information for employment purposes;
 - d. intends to use the information in connection with the underwriting of insurance involving the data subject;
 - e. intends to use the information to determine the data subject's eligibility for any matter under a statute or regulation where the information is relevant to the requirement prescribed by law;
 - f. otherwise has a direct business need for the information in connection with a legitimate business transaction involving the data subject.

Confirmation to CRA upon access

On each occasion of accessing any credit data held by a CRA, the authorised user shall confirm to the CRA for its record:

- (i) the circumstances provided for in Section 35 or 36 (i) (b) under which the access has been made; and
- (ii) in the case where the access has been made in the course of the review of existing credit facilities under Section 36 (i) (b), the specific matter or matters provided for in Section 36 (v) that has been considered upon such a review.



No access for direct marketing or prospecting

For the avoidance of doubt, an authorised user is prohibited from accessing the credit data of a person held by a CRA for the purpose of offering or advertising the availability of credit to such person where that person does not have an existing credit relationship with the authorised user. Any contravention by the authorised user of such prohibition will give rise to a presumption of contravention of DPP1(2) and/or DPP3 in Appendix 1 of this Act.

Notification to person of adverse action

Notification of access for considering credit application

Where a data provider has been provided with a credit report by a CRA on a person and has considered such credit report in connection with an application for credit by that person, the data provider shall, in its notification to the person of its decision to decline the application, provide notice of the fact that a credit report has been so considered. The authorised user shall also inform the person how to contact the CRA who provided the credit report, for the purpose of making a data access and correction request. If a correction request made by the person is subsequently complied with by the CRA, the data provider shall, at the request of the person, use a new credit report obtained from the CRA as a basis for its reconsideration of the credit application.

Data security and system integrity safeguards by data provider

Engagement of CRA

In deciding on the engagement of a CRA for the provision of credit reference services, and in considering, from time to time, the continued engagement of such CRA, data providers and authorised users shall treat as an important criterion the demonstration by the CRA of its compliance with the requirements of this Act including compliance with the recommended good practice laid down in Sections 67 to 70 below, regarding the security of credit data.

Measures to take in preparation for subscription to credit reference service

On or before an authorised users subscription to the credit reference service of a CRA, the authorised user shall take appropriate measures, including the following, to safeguard against any improper access to or mishandling of credit data:

- (i) develop written guidelines and disciplinary procedures specifying the controls and procedures to be followed by its staff in relation to the access to and the use of a CRA's database;
- (ii) establish controls, including but not limited to password controls, to ensure that only authorized staff are allowed access to a CRA's database;



- (iii) enter into a formal written agreement with the CRA whose credit reference service is being subscribed for, which shall specify:
 - a. the duty of both parties to comply with the Act in providing and in utilizing the credit reference service;
 - b. the conditions under which the authorised user may access credit data held by the CRA;
 - c. the controls and procedures to be applied when the authorised user seeks access to the CRA's database.

Request of information for permissible purposes and measures to take in daily operations

It is the responsibility of the users of the CRA to ensure that information is requested only for permissible purposes set out in Section 36.

Limitation on disclosure of information

No recipient of an data subject credit file may divulge any information from that file to another person or company. The information is to be used only for the permissible purpose for which the file was requested.

Supply of list of Names

No person shall:

- (i) Supply a list of names and criteria to a CRA in order to obtain an indication of the names of the persons named in the list who meet the criteria; or
- (ii) In any other way other than as described in sub section (i) obtain information about a data subject from a CRA without the express written consent of the data subject.

THE HANDLING OF CREDIT DATA BY CREDIT REFERENCE AGENCIES

Location of Database

The database of a CRA licensed under this Act shall physically be located in Zambia and shall not be moved beyond the borders of Zambia except as provided under this Act.

Identification

A CRA shall require reasonable identification of the individual requesting a copy of their personal credit file.



Person's request for their personal credit reports

A CRA must provide, in a user friendly simple language format, all data in its database that pertains to the individual requesting the information.

Transfer of Credit Data Abroad

Credit data shall not be transferred from Zambia to another CRA abroad, whatever the data medium or the mode of transmission is, except when consented to by the data subject or permitted by the law, provided that the same principle of data protection shall be obeyed by the foreign controller in respect of the data.

Procedures for CRAs

Every CRA shall adopt all procedures reasonable for ensuring accuracy and fairness in the contents of its files on data subjects.

Rights of the Subjects of Credit File

A subject of credit file shall be entitled to receive the following information from a CRA (including once a year for free):

- (i) a credit report from its own credit history;
- (ii) Information from the CRA of enquiries of its own credit history.
- (iii) Procedure for addressing a CRA by the subjects of credit history shall be regulated by the Statute of the CRA
- (iv) The CRA shall provide information to the subject of credit history stipulated in sub section 1 within 5 working days since the day of receiving an enquiry from the subject of credit history in a written or electronic form;
- (v) A subject of credit history shall be entitled to address a written application to the CRA claiming its disagreement to the information contained in its own credit history;
- (vi) In case of receiving an application as mentioned in sub section 4 of this section, the CRA shall be obliged for the term of the information verification to mark it respectively and within 15 working days since receiving this application to address the Data Provider that submitted the contested information to prove or withdraw this information.
- (vii) In case the data provider does not confirm or does not reply within 15 days since the CRA addressed it, the subject of credit history shall be entitled to submit a 100-words' comment to the contested information to the CRA and the CRA shall include it into the credit history;
- (viii) In case the Participant confirms the information of the subject of credit history, the CRA shall make respective amendments to its



- credit history.
- (ix) A data subject of credit history shall be entitled to appeal to a court against the CRA's rejection to provide the information contained in its own credit history in cases envisaged by this Act.

Collection of credit data by CRA

Providers of Data to the CRA shall:

- (i) Sign an agreement that the information they are providing to the CRA is accurate and properly reflects the identification of the data subject to whom the information pertains;
- (ii) Adopt best practices to ensure the information is accurate and reflects the current status of the account reported;
- (iii) When the CRA contacts them in regards to an data subject's challenge to information the data provider had provided to the CRA, must promptly and with specialized personnel deal with the challenge. They must investigate and report back to the CRA within 10 days of the request, if not sooner.
- (iv) Maintain a log of all challenges as to date received, date reported back to the CRA and the results of the challenge. This log must be maintained for review by the CRA and/or the Supervisory Body. They may only be destroyed with the express written consent of the Supervisory Body, or after 3 years.

Relationship between Data Providers and the CRA

The CRA must have a contractual agreement between the data provider and itself outlining the terms and conditions of their relationship and ensuring compliance with this Act.

Scope of data to be collected

A CRA may, for the credit reference service which it provides, collect the following items of credit data:

- (i) general particulars of a person and in the case of an individual: name, sex, address, contact information, date of birth, National Registration Card Number or passport number;
- (ii) credit data and dishonoured cheques as permitted to be provided by a data provider to the CRA under Section 29, including the identity of the data provider and the date of the provision of such data;
- (iii) public record and related data (including tax data), being data in official records that are publicly available relating to any action for the recovery of a debt or judgements for monies owed entered against the person, and any declaration or discharge of



- (iv) bankruptcy appearing on official records;
- (iv) watch list data, being a list of authorised users who wish to be notified and provided information to assist in debt collection if a person in default has reappeared in the system;
- (v) file activity data, being record of a data provider accessing a person's credit data (enquiry search) held by the CRA under the credit reference service provided;
- (vi) credit score data, being the score that results or resulted from applying credit scoring to a person;
- (vii) notification by the Road Traffic Commission;
- (viii) remarks that include disputes.

Information prohibited from collection by the CRA

A CRA shall be prohibited from collecting and storing information, in individual credit files related to:

- (i) Nationality, race or ethnic origin;
- (ii) Political views;
- (iii) Religious and philosophic beliefs;
- (iv) State of health;
- (v) Membership to political parties and other public organizations.

Sale of Files

No person, who is or has been registered as a CRA shall sell, lease or transfer title to its files or any of them except to another CRA, subject to the approval of the Bank.

RETENTION OF CREDIT DATA BY CRA

Retention of account general data

Where a CRA has collected from a data provider any account data (comprising of account general data and account repayment data), the CRA may thereafter retain the account data in its database for so long as there remain in such database any account repayment data relating to the same accounts.

Retention of account repayment data revealing default period in excess of 60 days

Where a CRA has collected from a data provider any account repayment data relating to a person that reveal a material default, the CRA shall thereafter retain the account repayment data in its database until the earlier of:

- (i) the expiry of 7 years from the date of final settlement of the



- amount in default (including settlement of the amounts payable pursuant to a scheme of arrangement with the data provider); or
- (ii) the expiry of 7 years from the date of the person's discharge from bankruptcy, as notified to the CRA by such person and evidenced by the relevant certificate of discharge issued by the Court of First Instance or by a written notice from the Official Receiver stating that the Official Receiver has no objection to a certificate of discharge being issued to the person, irrespective of any write-off by the data provider of the amount in default in full or in part at any time (if such be the case).

*Retention of account repayment data
not revealing default period in excess of 60 days*

Where a CRA has collected from a data provider any account repayment data that do not reveal a material default, the CRA may thereafter, in respect of each individual item of data collected, retain the same in its database for a period of 7 years from the date of creation of such data, provided that if the account is in the meantime terminated, then subject to Section 57 (ii), the CRA may continue to retain the account repayment data in its database until the expiry of 7 years after account termination.

Retention of other credit data

Where a CRA has collected any credit data other than account data, it may thereafter retain such data in its database for the following periods:

- (i) public record and related data under Section 53 (iii), except data relating to a declaration or discharge of bankruptcy: the period of 7 years from the date of discharge of the bankruptcy;
- (ii) public record and related data under Section 53 (iii) relating to a declaration or discharge of bankruptcy: the period of 10 years from the relevant discharge of bankruptcy;
- (iii) credit application data: the period of 3 years from the date of the reporting of the application;
- (iv) credit card loss data under Section 29 (iv): the period of 7 years from the date of report of the loss of the credit card;
- (v) file activity data under Section 53 (v): the period of 7 years from the date of creation of such data;
- (vi) general particulars of a person: for as long as there are other credit data related to the person contained in the database of the CRA.

Retention of exempted data

For the avoidance of doubt, notwithstanding any provision to the contrary in this Act, in a situation where exemption from DPP3 applies to certain credit data held



by the CRA (including, for example, such data used or to be used by the CRA for the development of a credit scoring model intended to be of general application), the data may continue to be retained by the CRA for so long as such exemption applies.

USE OF CREDIT DATA BY CRA

Provision of credit report

In response to the seeking of access by a data provider to credit data relating to a person pursuant to Section 36, a CRA may provide to the data provider a credit report on the person. The credit report may contain any of the credit data relating to the person permitted to be collected and retained by the CRA, subject to the following constraints which apply to particular categories of credit data:

- (i) credit application data, credit card loss data under Section 29 (iv), file activity data under Section 53 (v),; and identity theft data under Section 29 (v).
- (ii) account data and the derivatives deriving directly from such account data; and
- (iii) enquiries under Section 50 (v).

Disclosure of disputed data

If any credit data provided by a data provider to a CRA are accompanied by an indication of the existence of a dispute over the data, then, in subsequently disclosing such data in a credit report, the CRA shall also reveal in the credit report the existence of the dispute. Disputes will be shown in the remarks section.

Other uses of credit data

In addition to disclosure in a credit report pursuant to Section 53 (v), a CRA may, in providing a credit reference service, use any credit data relating to a person held in its database:

- (i) to provide notice and information to a data provider on a watch list, when new data of the person in default have appeared in the system, to assist in debt collection action;
- (ii) to provide notice to a relevant data provider and to the Road Traffic Commission where a person who has received credit in relation to a motor vehicle has been the subject of advice from the Commission that it has received an application from the person for a duplicate vehicle registration document;
- (iii) to provide a report to insurers in relation to insurance cover for property related to a credit transaction;



- (iv) for reasonable internal management purposes, such as the defence of claims and the monitoring of the quality and efficiency of its service; or
- (v) to carry out credit scoring, provided that the CRA shall not, in carrying out such scoring, take into account:
 - a. in relation to an active account, any account data created more than 7 years before the carrying out of the scoring; or
 - b. in relation to a terminated account, any account data created more than 7 years before account termination;
 - c. In response to the order of a court having jurisdiction to issue such an order;
 - d. In response to an order or direction made under the Act;
 - e. In accordance with the written instructions of the data subject to whom the information relates, in a consumer report, given to an authorized user;
- (i) in connection with the extension of credit to, or the purchase or collection of, a debt of the data subject to whom the information pertains; or.
- (ii) in connection with the entering into or renewal of a tenancy agreement; or.
- (iii) for employment purposes; or
- (iv) in connection with the underwriting of insurance involving the data subject; or
- (v) to determine the data subject's eligibility for any matter under a statute or regulation where the information is relevant to the requirement prescribed by law; or
- (vi) otherwise has a direct business need for the information in connection with a legitimate business transaction involving the data subject.

DATA SECURITY AND SYSTEM INTEGRITY SAFEGUARDS BY CRA

Measures to take in preparation for providing credit reference service to authorised users

On or before providing credit reference service to a data provider, a CRA shall take appropriate measures, including the following, to safeguard against any improper access to or mishandling of credit data held by it:

- (i) enter into a formal written agreement with the data provider as subscriber for such service, which shall specify:
 - a. the duty of both parties to comply with the Act in providing and



- in utilizing the credit reference service;
 - b. the conditions under which the authorised user may access credit data held by the CRA;
 - c. the controls and procedures to be applied when such data provider seeks access to the CRA's database;
-
- (ii) establish controls to ensure that only data to which a subscriber is entitled are released;
 - (iii) train staff in relation to this Act and, in particular, good security practice;
 - (iv) develop written guidelines, and disciplinary or contractual procedures in relation to the proper use of access authorities by staff, external contractors or subscribers;
 - (v) ensure that adequate protection exists to minimize, as far as possible, the risk of unauthorized entry into the database or interception of communications made to and from the database.

Measures to take in daily operations

A CRA shall take appropriate measures in its daily operations, including the following, to safeguard against any improper access to or mishandling of credit data held by it:

- (i) review on a regular and frequent basis its password controls which help to ensure that only authorized staff are allowed access to its database;
- (ii) monitor and review on a regular and frequent basis usage of the database, with a view to detecting and investigating any unusual or irregular patterns of access or use;
- (iii) monitor complaints from persons relative to challenges of enquiries noted in the enquiry section of their personal reports;
- (iv) ensure that practices in relation to the deletion and disposal of data are secure, especially where records or discs are to be disposed of off-site or by external contractors;
- (v) maintain a log of all incidents involving a proven or suspected breach of security, which includes an indication of the records affected, an explanation of the circumstances and action taken.

Assurance of no abuse of system by CRA

The CRA has responsibility to ensure there is no abuse of the system and where they establish abuse, to take corrective action and log that information.

- (i) Which log shall include:
 - a. the identity of the authorised user seeking access;



- b. the date and time of access;
- c. the identity of the person whose data were so accessed;
- d. corrective action and the result of that action.

COMPLIANCE AUDIT OF CRA

Compliance audit

A CRA shall engage, at its expense, an independent compliance auditor approved by the Bank of Zambia, to conduct regular compliance audits on the way in which the CRA provides the credit reference service, including the security of credit data held by the CRA in its database, and the adequacy and efficiency of the measures taken by it to comply with the requirements of this Act.

The first compliance audit

The first of such compliance audits shall be carried out within 12 months from the effective date, with a view to having the compliance auditor submit its audit report to the Bank of Zambia for its consideration within 3 months from the commencement of the compliance audit. In addition to the matters mentioned in Section 67, the first compliance audit shall address, in particular, the adequacy of the data handling system of the CRA in accordance with the provisions of this Act.

Bank's approval of report

If the Bank does not approve the first compliance audit report provided to it, it may, by written notice to the CRA, direct the CRA to take such steps as may be considered necessary for ensuring better compliance with the requirement of this Act and/ or the Act, thereafter to arrange for a further compliance audit to be carried out, and for such further audit report to be submitted to the Bank of Zambia for its reconsideration within such period as the Bank of Zambia may specify.

Regular audits after Bank's approval

Upon the receipt of a notice from the Bank under Section 69, the CRA shall duly comply with the Bank's directions, and Section 69 shall continue to apply to the CRA until the Bank of Zambia gives his approval to a compliance audit report submitted. From the date of such approval onwards, the CRA shall continue to arrange for compliance audits to be conducted at intervals not exceeding 12 months and, in each instance, for audit reports to be provided to the Bank of Zambia for his consideration and/or comments within 3 months from the commencement of the compliance audit.



DATA ACCESS AND CORRECTION REQUEST TO CRA

Compliance with data access request

A CRA shall promptly respond to a data access request in respect of credit data held by it made by a person who advises that he has been refused credit by a data provider to whom a credit report on him has been provided by the CRA or for any other reason. Where such an access request is made at the office of the CRA during normal business hours, the copy of the data held shall be provided to the person at the time of the request.

Verification with data provider

Upon receiving a request for correction of credit data provided by a data provider, the CRA shall promptly consult the data provider. The CRA in conjunction with the data provider of the disputed data must resolve the complaint within 15 working days.

The CRA shall maintain a log of all data subject requests to view their credit files that will include, but not be limited to: date and time of request, method of request (person, phone, fax, letter or internet; date copy of file provided; any challenge; date of challenge; result of challenge; date of completion; other comments.

A copy of this log shall be submitted to the Supervisory Body by the 10th of each month along with a summary of the number of requests, the number of requests by method, the number of challenges, the number of challenges concluded.

Verification of public record data

Upon receiving a request for correction of credit data being public record data, the CRA shall wherever practicable verify the accuracy of such data by checking the relevant public records. If no such verification is obtained within 15 working days from the date of the correction request, the public record data shall upon expiry of the 15 working days be amended as requested, except where the person alleges any inaccuracy in the data which is not apparent on the face of the public records, it shall in that case be incumbent on the person to provide proof of such inaccuracy.

Establishment of a consumer relations centre

The CRA must establish a consumer (individual) relations centre to deal with any and all individual requests for a credit file that contains information on the requestor, under the following conditions:

- (i) The CRA must maintain a physical presence and the office must be open for individuals to visit, phone, email or fax during normal business hours;



- (ii) Personnel who work in the consumer relations centre must be knowledgeable and well trained as to a data subject's rights and convey that information to data subjects. They must also be knowledgeable about the content of credit files and be able to explain the content. They must be qualified to deal with any consumer challenges to information contained in credit files;
- (iii) Individuals who request credit files may do so via fax, via telephone, via mail, via internet and in person;
- (iv) Requests are to be honoured based on proper identification being provided by the individual requestor;
- (v) The requestor must be provided with a 'user friendly' copy of their credit file that includes specific information that explains the details of the contents of the file;
- (vi) The 'user friendly' file must contain all data, pertaining to the requestor, that is domiciled in the CRA database;
- (vii) The requestor must be provided with details of how they may file a challenge to information they deem to be incorrect as it appears on their credit file;
- (viii) If there is a challenge to information on data subject credit files, the CRA must contact the provider of the information and verify its accuracy within 15 days or sooner;
- (ix) During the challenge period, a narrative Act must be placed, with the information, indicating it is 'in dispute';
- (x) If the information is found to be inaccurate it must be corrected and all qualified users who have inquired on that data subject's credit file, in the past twelve months, must be notified of the correction and receive a corrected copy of the file, assuming they originally received the incorrect information;
- (xi) If the information is found to be accurate and the data subject agrees to its accuracy then there will be no changes to the information;
- (xii) If the provider of the information confirms the information is accurate and the data subject maintains it is inaccurate then the data subject must be provided with the opportunity to provide his reasons for disagreement and up to 100 words of the data subject's anecdotal disagreement is to be noted in the comment sections of his personal credit file;
- (xiii) If there is still disagreement, the data subject may appeal to the Supervisory Body whose decision on the matter will prevail;
- (xiv) If the challenge is not concluded in 30 days the challenged information is to be deleted from the data subject's credit file;
- (xv) The CRA shall maintain a log of all requests for individual credit files, maintain a log of all challenges to information and maintain a log of their efforts to investigate challenges to



information along with the results and any action taken. These logs will be maintained for review by the Supervisory Body and may only be destroyed by the Supervisory Body;

- (xvi) The CRA must send monthly reports to the Supervisory Body, of these logs. Details of the log are specified in Section 66.
- (xvii) The CRA shall develop a process whereby they must approve any applicants for access to the CRA in a manner that satisfies them that the applicant has a legitimate need for the files and will follow best practices to ensure laws and regulations are adhered to and have a remedy in place if they are not. This process must include a signed contract, by the user, obligating the user to follow the law and regulations and they may only request credit files with the signed authorization of data subjects.

Consumer Education

The CRA shall take the lead role in developing a robust educational program for the marketplace, relative to credit reporting and consumer rights, in conjunction with the Supervisory Body, data providers and qualified users.

Consumer Education

CHAPTER VI DISSOLUTION AND LIQUIDATION

A CRA may be dissolved and liquidated in accordance with the laws of Zambia and with the prior authorisation of the Bank of Zambia, and shall comply with the decision of the Bank of Zambia with regard to the management and control of the database.

Dissolution and liquidation of a CRA

A CRA's petition to the Bank of Zambia to obtain authorisation for dissolution and liquidation must be accompanied by the following documents –

CRAs petition to Bank of Zambia

- (i) A copy of the minutes of the special meeting of shareholders in which the agreement to dissolve was recorded;
- (ii) Financial statements as of the date the agreement to dissolve was made, with a report from the external auditors appointed by the Bank of Zambia;
- (iii) A sworn statement from the chief executive officer specifying that there are no worker, corporate or tax obligations pending the resolution; and
- (iv) Evidence of appointment of a liquidator.

The Bank of Zambia shall conduct any investigations it may deem necessary in order to issue the resolution of dissolution.

Investigation before issuing resolution

A CRA shall deliver any databases containing information to the Bank of



Zambia in the form, terms and conditions stipulated by the Bank of Zambia, and may also, with the express prior authorisation of the Bank of Zambia, transfer the database to another CRA that has an operating licence.

Database before
dissolution

Database upon Dissolution

A CRA shall not, directly or indirectly, transfer any database consisting information to any person, within Zambia or abroad, other than the Bank of Zambia, or its nominated recipient, for any reason. A breach of this condition shall render the CRA liable for contravening this Act.

Database upon
dissolution

GENERAL

No effect on duty of confidentiality

For the avoidance of doubt, nothing in Parts I to III of the Act affects the application of the law of confidentiality in relation to credit data. In particular, in a situation where, under the general law, a data provider or a CRA owes a duty of confidentiality to a person in respect of the credit data relating to such person, none of the provisions in Parts I to III of the Act shall have, or purport to have, the effect of abrogating, limiting or otherwise modifying such duty under the general law.

Without prejudice to the generality of Section 83 above, a data provider shall provide confidential information about the customer in accordance with the provisions of Section 50 of the Act.

Provision of
confidential
information

Contravention of Data Protection Principles

If, in the absence of any applicable exemption, a data provider provides to a CRA any credit data other than those permitted under section 29, this will give rise to a presumption of contravention of DPP3.

If a data provider under section 30 fails to have taken reasonably practicable steps to check the accuracy of the data before providing such data to a CRA, or if it fails to update the data held in the database of the CRA after discovering such inaccuracy, this will give rise to a presumption of contravention of DPP2(1).

If a data provider under section 31 provides to a CRA any consumer credit data disputed by the data subject to whom such data relate without accompanying the data with an indication of the existence of such dispute, or if the data provider, having accompanied the data with such an indication, fails to update the data held by the CRA as soon as reasonably practicable after the dispute has ended, this will give rise to a presumption of contravention of DPP1(2)

If a data provider fails to update any account data provided to a CRA in accordance with section 32, this will give rise to a presumption of contravention of DPP2(1).

If an authorised user accesses any of the consumer credit data held by a CRA in situations other than those provided for in section 35 or 36, this will give rise to a

Contraventions of
DPPs



presumption of contravention of DPP1(1) and/or DPP1(2).

For the consequence of an authorised user accessing the credit data held by a CRA in situations other than those provided for in section 32, see section 89 above.

If the authorised user, on accessing any credit data held by the CRA, fails to give to the CRA the confirmation referred to in section 37, or gives a confirmation that is not truthful, this will give rise to a presumption of contravention of DPP1(2)

If an authorised user under section 39 fails to notify the person of the fact that a credit report has been considered, or fails to inform such person how to contact the CRA who provided the credit report, this will give rise to a presumption of contravention of DPP2(1).

If the data provider, in deciding on the engagement of the CRA under section 40 and in considering, from time to time, the continued engagement of such CRA, fails to treat as an important criterion the demonstration by the CRA of its compliance with the requirements of the Act and of this Act regarding the security of credit data, this will give rise to a presumption of contravention of DPP4.

If a data provider, in preparation for subscription to a credit reference service, fails to take any of the measures required under section 41 to safeguard against any improper access to or mishandling of credit data held by it, this will give rise to a presumption of contravention of DPP4.

If a CRA, for the credit reference service which it provides, collects credit data other than that permitted under section 53, this will give rise to a presumption of contravention of DPP1(1).

If a CRA retains in its database any account general data beyond the period permitted under section 53, subject to section 60, this will give rise to a presumption of contravention of DPP2(2).

If a CRA retains in its database any account repayment data described **in section 69** beyond the period permitted for the retention of such data under this section, subject to section 60, this will give rise to a presumption of contravention of DPP2(2).

If a CRA retains in its database any account repayment data described in section 58 beyond the period permitted for the retention of such data under this section, subject to section 60, this will give rise to a presumption of contravention of DPP2(2).

If a CRA retains in its database any credit data described in section 59 beyond the period permitted for the retention of such data under this section, subject to section 60, this will give rise to a presumption of contravention of DPP2(2).

If, in the absence of any applicable exemption, a CRA uses any credit data otherwise than in a way permitted under section 61 or 63, this will give rise to a presumption of contravention of DPP3.

If a CRA, in disclosing in a credit report any credit data known to be subject to a dispute in accordance with section 62, fails to reveal in the credit report the existence of such dispute, this will give rise to a presumption of contravention of



DPP2(1).

For the consequence of a CRA using any credit data in its database otherwise than in a way permitted under section 63, see section 101 above.

If a CRA, in preparation for providing a credit reference service, fails to take any of the measures required under section 64 to safeguard against any improper access to or mishandling of the credit data held by it, this will give rise to a presumption of contravention of DPP 4.

If a CRA, in its daily operations, fails to take any of the measures required under section 65 or 66 to safeguard against any improper access to or mishandling of the credit data held by it, this will give rise to a presumption of contravention of DPP 4.

For the consequence of a CRA failing to assure that there is no abuse of the system in accordance with section 66, sub section 104 applies.

Contravention of a DPP by a data provider or a CRA shall constitute an unsafe or unsound practice under the Act.

Penalty for Wilfull and or Negligent Non Compliance with this Act

In general – Any authorised user, data provider, CRA or person who wilfully contravenes a DPP or fails or is negligent in failing to comply with any requirement imposed by this Act with respect to any consumer is liable:

Penalty for wilfull and or negligent non compliance

- (i)
 - (a) in amount equal to the sum of seventy five thousand penalty units or to imprisonment for 5 years or to both;
 - (b) in the case of liability of a natural person for obtaining a consumer report under false pretences or knowingly without a permissible purpose, in an amount equal to the sum of one hundred thousand penalty units or to imprisonment for 7 years or to both; or
- (ii) such an amount of punitive damages as the court may allow.

SCHEDULE 1

Data providers

- 1 (a) a bank, financial institution or financial business within the meaning of section 2 of the Act, Cap 387 of the Laws of Zambia.



(b) a subsidiary of a bank, financial institution of financial business shall have the same meaning as in section 2 of the Companies Act Cap 388 of the laws of Zambia.

(c) a money lender licensed under the Money Lenders Act, Cap 398 of the Laws of Zambia

(d) a person whose business (whether or not the person carries on any other business) is that of providing finance for the acquisition of goods by way of leasing or hire-purchase

(d) a person whose business is to lease property for rent, mobile phone companies, utility companies, property management companies and any other entity that extends credit for services and not necessarily money.

SCHEDULE 2

Account data as described in section 2

(A) Account general data, being:

- . identity of the data provider;
- . account number;
- . capacity of the person (whether as borrower or as guarantor);
- . account opened date;
- . account closed date;
- . type of the facility and currency denominated;
- . approved credit limit or loan amount (as appropriate);
- . repayment period or terms (if any);
- . account status (active, closed, write-off, etc.);
- . facility maturity date (if any);
- . details of any scheme of arrangement, including:
 - the date of the arrangement, the number and frequency of instalments, the instalment amount, etc.;
 - Current outstanding balance;
 - Security of credit;
 - Manner of payment category;
 - Amount of arrears (if any); and



- Required monthly payment.

(B) Account repayment data, being:

- . amount last due;
- . amount of repayment made during the last reporting period;
- . remaining available credit or outstanding balance;
- . default data being:
 - amount past due (if any) and number of days past due;
 - date of settlement of amount past due (if any).

(C) Cheque number, name of payee and value of dishonoured cheque

APPENDIX I

DATA PROTECTION PRINCIPLES

1. Principle 1 - purpose and manner of collection of credit data

(1) Credit data shall not be collected unless -

- (a) the data are collected for a lawful purpose directly related to a function or activity of the data user who is to use the data;
- (b) subject to paragraph (c), the collection of the data is necessary for or directly related to that purpose; and
- (c) the data are adequate but not excessive in relation to that purpose.

(2) Credit data shall be collected by means which are -

- (a) lawful; and
- (b) fair in the circumstances of the case.

(3) Data provided by data providers will have the written consent of the subject persons.



2. Principle 2 - accuracy and duration of retention of credit data

- (1) All practicable steps shall be taken to ensure that-
 - (a) credit data are accurate having regard to the purpose (including any directly related purpose) for which the credit data are or are to be used;
 - (b) where there are reasonable grounds for believing that personal data are inaccurate having regard to the purpose (including any directly related purpose) for which the data are or are to be used-
 - (i) the data are not used for that purpose unless and until those grounds cease to be applicable to the data, whether by the rectification of the data or otherwise; or
 - (ii) the data are erased;
 - (c) where it is practicable in all the circumstances of the case to know that-
 - (i) credit data disclosed on or after the appointed day to a third party are materially inaccurate having regard to the purpose (including any directly related purpose) for which the data are or are to be used by the third party; and
 - (ii) that data were inaccurate at the time of such disclosure, that the third party-
 - (A) is informed that the data are inaccurate; and
 - (B) is provided with such particulars as will enable the third party to rectify the data having regard to that purpose.
- (2) Credit data shall not be kept longer than is necessary for the fulfilment of the purpose (including any directly related purpose) for which the data are or are to be used.

3. Principle 3 - use of credit data

Credit data shall not, without the prescribed written consent of the data subject, be used for any purpose other than-

- (a) the purpose for which the data were to be used at the time of the collection of the data; or
- (b) a purpose directly related to the purpose referred to in paragraph (a).

4. Principle 4 - security of credit data

All practicable steps shall be taken to ensure that credit data (including data in a form in which access to or processing of the data is not practicable) held by a data user are protected against unauthorised or accidental access, processing, erasure or other use having particular regard to-

- (a) the kind of data and the harm that could result if any of those things should occur;
- (b) the physical location where the data are stored;



- (c) any security measures incorporated (whether by automated means or otherwise) into any equipment in which the data are stored;
- (d) any measures taken for ensuring the integrity, prudence and competence of persons having access to the data; and
- (e) any measures taken for ensuring the secure transmission of the data.

5. Principle 5 - information to be generally available

All practicable steps shall be taken to ensure that a person can -

- (a) ascertain a data user's policies and practices in relation to personal data;
- (b) be informed of the kind of credit data held by a data user;
- (c) be informed of the main purposes for which credit data held by a data user are or are to be used.

6. Principle 6 - access to credit data

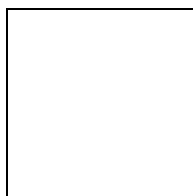
A data subject shall be entitled to, subject to proper identification-

- (a) ascertain whether a data user holds credit data of which he is the data subject;
- (b) request access to credit data-
 - (i) within a reasonable time;
 - (ii) once per calendar year at no charge; at no charge on each adverse action.
 - (iii) at a fee, if any as approved by the Bank of Zambia
 - (iv) in a reasonable manner; and
 - (v) in a form that is intelligible;
- (vi) in person; by phone; by mail; by fax; via the internet.
- (vii) with written explanation (in simple language) of the content of the report
- (c) be given reasons if a request referred to in paragraph (b) is refused;
- (d) object to a refusal referred to in paragraph (c);
- (e) request the correction of credit data;
- (f) be given reasons if a request referred to in paragraph (e) is refused;
and
- (g) object to a refusal referred to in paragraph (f).



SCHEDULE 2

Form CRA1



BANK OF ZAMBIA

APPLICATION FOR REGISTRATION AS A CREDIT REFERENCE AGENCY IN ZAMBIA

(Sections 4(2) and 10(2) of the Banking and Financial Services Act 1994)

(Please read the entire form before completing in block capitals)

1. NAME OF APPLICANT *(Complete name under which business is conducted)*

2. a) LOCATION OF OFFICE TO BE LICENSED UNDER THIS APPLICATION

**b) NAME AND ADDRESS OF HOME OFFICE OF PARENT COMPANY IF APPLICANT
WILL OPERATE AS A BRANCH OR SUBSIDIARY**

3. APPLICANT'S POSTAL ADDRESS

4. CONTACT TELEPHONE NUMBER

(Please state country and area codes if based outside the Republic of Zambia)



5. CONTACT FACSIMILE NUMBER

(Please state country and area codes if based outside the Republic of Zambia)

6. E-MAIL ADDRESS *(Use small letters as per standard)*

7. Is applicant presently engaged in credit reference services elsewhere?

Yes

No

If yes,

Date of commencement of business; _____

Address and contact details of Head Office/or Initial Registration

Countries/states in which presently operating

8. THE SHARE CAPITAL OF THE CREDIT REFERENCE AGENCY

(a) AUTHORISED CAPITAL _____

(b) ISSUED CAPITAL _____

(c) PAID UP CAPITAL _____

(Documentary evidence of paid up capital must accompany the application. For example, bank statement and written assurance by the external auditor. If part of the paid up capital is in form of fixed assets, the Registrar will appoint a valuator to assess the value of the assets at the applicant's expense. Such assets must be essential to the operation of a credit reference agency. Documentary evidence of title to the assets has to be made available to the Registrar on demand)

(d) STATE THE SOURCE OF CAPITAL _____



9. PROPOSED BOARD OF DIRECTORS: STATE NAME, NATIONALITY AND WHETHER RESIDENT OR NON-RESIDENT

(Locally based directors and non-executive directors must be in the majority)

Name	Nationality	Resident/Non-Resident
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

a) SHAREHOLDERS/SHAREHOLDING OF THE CREDIT REFERENCE BUREAU TO BE REGISTERED AS FOLLOWS:

Name	Number of Shares	Kwacha Value of Shares	% of Total Shares
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

b) IF SOME SHAREHOLDERS MENTIONED IN 9(a) ABOVE ARE NATURAL PERSONS, STATE THEIR NAMES, NATIONALITY AND PLACE OF PERMANENT RESIDENCE.

Name	Nationality	Place of Permanent Residence
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



c) IF SOME SHAREHOLDERS MENTIONED IN 9(a) ABOVE ARE UNNATURAL PERSONS/CORPORATE BODIES, STATE THEIR NAMES AND PLACE OF REGISTRATION/INCORPORATION

Name	Place of Registration

d) STATE BELOW THE NAMES OF NATURAL PERSONS WHO ARE BENEFICIAL OWNERS OF SHARES IN THE UNNATURAL PERSONS/CORPORATE BODIES MENTIONED IN 9(c) ABOVE AS FOLLOWS:

Corporate Body	Shareholder	Kwacha Value of Shares	% of Total Shares

10 a) BUSINESSES/COMPANIES ASSOCIATED/AFFILIATED WITH DIRECTORS OR BUSINESSES/COMPANIES IN WHICH DIRECTORS HOLD A SUPERIOR POSITION IN ZAMBIA

Director's Name	Business Interest



b) BUSINESSES / COMPANIES ASSOCIATED/AFFILIATED WITH DIRECTORS' IMMEDIATE FAMILY MEMBERS OR BUSINESSES IN WHICH DIRECTORS' IMMEDIATE FAMILY MEMBERS HOLD A SUPERIOR POSITION IN ZAMBIA

Family Member's Name	Business Interest

11 STATE BELOW THE NATURE OF EXISTING BUSINESS INTERESTS, PROFESSION OR OCCUPATION OF PROMOTERS/SHAREHOLDERS OF THE CREDIT REFERENCE AGENCY IF THEY ARE NATURAL PERSONS

Name	Business Interests	Profession/Occupation

12 NAME, ADDRESS AND POSITION OF EACH EMPLOYEE, SALES AGENT, COLLECTOR OR SIMILAR PERSON AT THE OFFICE TO BE LICENSED, WHETHER AN INDEPENDENT CONTRACTOR OR NOT (EXCLUDE PERSONS WITH SOLELY CLERICAL FUNCTIONS).

Name	Number and street	City	Position



13 IN CASE OF A FOREIGN OWNED/CONTROLLED CRA

(That is, if more than 50% of voting shares are held by non-Zambian residents/corporations registered outside Zambia who are part of an international banking / financial services group).

- a) Certificate of the regulatory authority governing credit reference agency of the country or political subdivision of the country in which the head office of the bureau is domiciled, certifying that the bureau has been duly incorporated or established and when it was established by, pursuant to, or in accordance with the laws of that country or political subdivision and the title of citation of these laws.

- b) A certified copy of the resolution of the directors of the bureau authorizing the establishment of the subsidiary in Zambia

14 WHETHER THE DIRECTORS/PROMOTERS/SHAREHOLDERS HAVE ANY EXPERIENCE EXPERTISE OR BACKGROUND IN MANAGING THE BUSINESS OF THE TYPE MENTIONED IN THIS APPLICATION AT 7 ABOVE OR WHETHER THEY ARE/WERE ASSOCIATED WITH ANY OTHER SIMILAR BUSINESS CONCERN AS OWNERS OR OTHERWISE: IF SO GIVE FULL DETAILS

15 DETAILS OF PROPOSED TOP/SENIOR EXECUTIVES OF THE CREDIT REFERENCE AGENCY TO BE REGISTERED.

(Please attach curriculum vitae of each of them)

(a) CHIEF EXECUTIVE OFFICER/MANAGING DIRECTOR:

Name	Nationality	Academic/Professional Qualification <i>(Certified copies of certificates to be attached)</i>

(b) CHIEF FINANCIAL OFFICER:

Name	Nationality	Academic/Professional Qualification <i>(Certified copies of certificates to be attached)</i>



16 NAME AND ADDRESS OF APPLICANT'S PROPOSED AUDITORS

17 PLEASE LODGE WITH THIS APPLICATION THE FOLLOWING DOCUMENTS RELATING TO THE CREDIT REFERENCE AGENCY TO BE REGISTERED

- (i) Articles of Association
- (ii) Business Plan
- (iii) Proforma balance sheet and income statement with relevant assumptions for at least 3 years

18 Has the applicant or any employee, officer, partner, director, member, sales agent or similar person, whether an independent contractor or not:

(a) Ever been convicted in any country of any crime (not including motor vehicle traffic misdemeanors?)

Yes No

(b) Ever been the subject of actions (cease and desist orders, consent orders, injunctions, license suspensions, or revocations etc?)

Yes No

(c) Ever been refused any licence (except for motor vehicle operation) by any government agency or withdrawn such an application?

Yes No

(d) Ever been a defendant in any litigation filed in connection with the credit business?

Yes No

If the answer to any of the foregoing is yes, explain the circumstances fully using additional sheets, if necessary.

19 ATTACH CURRICULUM VITAE OF EACH DIRECTOR

20 STATE WHO IS GOING TO PERFORM THE CONSOLIDATED SUPERVISION OF YOUR GROUP

(This applies only to subsidiaries of foreign controlled credit reference agency, where Non-Zambian holds more than 50% of the voting shares in the credit reference agency who are part of a foreign registered credit reference agency)



21 ***I/WE HEREBY CERTIFY THAT TO THE BEST OF MY/OUR KNOWLEDGE AND BELIEF THE INFORMATION GIVEN ABOVE IS CORRECT AND TRUE**

22 **CHAIRMAN**

Full Name

Signature

23 **CHIEF EXECUTIVE OFFICER**

Full Name

Signature

24 **DATE** _____ **PLACE** _____
(date, month, year) *(city/town, country)*

*Delete where not applicable

NOTE: Where the space provided in this form is insufficient to furnish required details, please use a separate sheet of paper indicating the relevant item of the application form. The chairman/chief executive or any duly authorized representative of the applicant company should duly sign such attachment(s).

□

LUSAKA

[MF.]

P N Magande
Minister of Finance



ANNEX D: OVERSIGHT OF THE CREDIT BUREAU INDUSTRY

Now that it has been determined that the BoZ will conduct oversight of the credit reporting industry, it is time to develop guidelines for that oversight. Some best practices are noted below:

Frequency of ‘on-site’ visits to the bureau should be established. In the first year, there should be bi-monthly visits to review the logs noted and to ensure that other components of the regulations are being dealt with effectively. The visit dates should be confidential and not shared with the credit bureau. The credit bureau should understand that visits will be of an unannounced nature.

From an administration standpoint, the following requirements should be established for the credit bureau/reporting agency.

- They must maintain a log of all requests, by individuals, to view their individual credit files, maintain a log of all individual challenges to information and maintain a log of their efforts to investigate these challenges to information along with the results and any action taken. These logs will be maintained for review by the oversight body and may only be destroyed by the oversight body. The Credit Reporting Agency must send monthly reports to the oversight body, of these logs.
- The logs must include percentages of challenges of total files requested and the percentage of these challenges that are successful.
- They must provide details of the average number of days it takes to investigate and resolve individual challenges to credit files.
- They need to provide details of the source of information that is being challenged by individuals to determine if there are trends that would indicate that one or a few data providers are generating a disproportionate number of individual challenges. They must have processes in place to deal with data providers whose information is disproportionate to the total number of challenges.
- They must create an awareness program, in the marketplace as to their hours of operation and how individuals can request and be provided with their individual credit files.
- They must develop a process whereby they must approve any applicants for access to the credit reporting system in a manner that satisfies them that the applicant has a legitimate need for the files and will follow best practices to ensure laws and regulations are adhered to and have a remedy in place if they are not. This process must include a signed contract, by the user, obligating the user to follow the law and regulations and they may only request credit files with the signed authorization of individuals.
- They must have an internal education program, for their staff, to ensure there is a comprehensive understanding of regulations governing the credit reporting industry. They must also ensure staff who handle consumer inquiries, regardless of the medium used for the request, be well versed in the industry and qualified to deal with the individuals to explain the contents and data source of credit files and to effectively and promptly deal with consumer challenges to information.

During visits to the credit bureau/reporting agency, the regulators should have a check list to follow to ensure all the above points are effectively and properly reviewed and any necessary corrective action is promptly taken.

Between visits, the regulators should closely review monthly reports to determine if there are any trends they should address.

The relationship between regulators and the credit bureau/reporting agency should be a collaborative one in order to ensure consumer rights are protected