



# LESOTHO Government Gazette

Vol. 58

Friday – 19th July, 2013

No. 37

## CONTENTS

No.	Page
-----	------

### LEGAL NOTICE

68	Credit Reporting Regulations, 2013 .....	275
----	--	-----

### OTHER NOTICES

(See Supplement of the Gazette)

**Published by the Authority of His Majesty the King**  
Price: M31.00

## LEGAL NOTICE NO. 68 OF 2013

**Credit Reporting Regulations, 2013****Arrangement of Regulations****Regulations****PART I – PRELIMINARY**

1. Citation and commencement
2. Interpretation

**PART II – REGISTRATION REQUIREMENTS, CRITERIA AND PROCEDURES FOR CREDIT BUREAU**

3. Registration requirements
4. Minimum registration requirements
5. Conditions of registration
6. Review of conditions of registration
7. Certificate of registration

**PART III – REGULATION AND SUPERVISION OF CREDIT BUREAU****Chapter A - Annual Compliance Reporting**

8. Annual Compliance Report
9. Time-frame for submission of annual compliance report
10. Processing of Annual Compliance Report by the Central Bank

**Chapter B – Credit Information Reporting Standards**

11. Standards for the filing, retention and reporting of credit information

**PART IV – CREDIT BUREAU REPORTING**

12. Quarterly synoptic report by credit bureau
13. Data Supplier Report
14. Processing of Reports submitted in terms of this chapter by the Central

Bank

**PART V – RECORD-KEEPING AND PRESCRIBED FORMS**

- 15. Records of registered activities to be retained by credit bureaux
- 16. Use of forms
- 17. Electronic submission of forms

Schedule A: **PRESCRIBED FORMS**

Schedule B: **PRESCRIBED FEES, GUIDELINES, CREDIT  
INFORMATION REPORTING STANDARDS**

## LEGAL NOTICE NO. 68 OF 2013

**Credit Reporting Regulations, 2013**

Pursuant to section 41 of the Credit Reporting Act, 2011<sup>1</sup>, I,

**DR. RETŠELISITSOE MATLANYANE**

Governor of the Central Bank of Lesotho make the following regulations -

**Citation and commencement**

1. These regulations may be cited as the Credit Reporting Regulations, 2013 and shall come into operation on the date of publication in the Gazette

**PART I – PRELIMINARY****Interpretation**

2. In these Regulations unless the context otherwise requires -

“Act” means the Credit Reporting Act, 2011

“annual financial statements” means the audited annual financial statements as required for each specific registrant;

“auditor” means a member of the Lesotho Institute of Accountants certified to provide, attest or perform auditing functions recognised by the Lesotho Institute of Accountants;

“delivered” means sending a document by hand, fax, e-mail, or registered mail to an address chosen in the agreement by the proposed recipient, if no such address is available, the recipient’s registered address;

“general management” when referring to juristic persons means the directors of a company registered in terms of the Companies Act, 2011, for all other juristic persons, the individuals who perform a similar function to the board of directors;

“the Central Bank” means the Central Bank of Lesotho continued in existence by the Central Bank of Lesotho Act 2000<sup>2</sup>;

## PART II – REGISTRATION REQUIREMENTS CRITERIA AND PROCEDURES FOR A CREDIT BUREAU

### Registration requirements

3. (1) A person who applies for registration as a credit bureau operator in terms of section 12 of the Act shall submit, to the Central Bank, the following -
- (a) a completed application form on Form CB1 as set out in Schedule A;
  - (b) a resolution by the applicant to apply for registration as a credit bureau on Form CB2 as set out in Schedule A;
  - (c) a document detailing the organisational structure of the applicant, and business activity within that structure, to establish that the applicant is not engaging in any business activity inconsistent with operating an independent and objective credit bureau;
  - (d) a certified strategic and operational competence report from an auditor on Form CB3 as set out in schedule A, to confirm the capacity of the applicant to promote the objectives of the Act under section 3, and compliance with the registration requirements under section 12 of the Act;
  - (e) any additional documents required in the relevant application form; and
  - (f) receipt of the non refundable application fee as set out in Schedule B.
- (2) A person who applies for registration shall, within 15 business days of receipt of a request, provide any further information required by the Central Bank in terms of section 13 of the Act.

---

**Minimum registration requirements**

4. (1) The Central Bank may only register a person as a credit bureau operator, if the person has -
- (a) submitted a completed and signed application form;
  - (b) submitted a completed and signed resolution by an authorised person;
  - (c) satisfied the Central Bank that it does not engage in any business activity inconsistent with operating an independent and objective credit bureau;
  - (d) submitted proof of registration with relevant taxation authorities;
  - (e) submitted a certified strategic and operational competence report by an independent auditor on Form CB3, confirming the capacity of the applicant to promote the objectives of the Act set out in section 3, and compliance with the registration requirements set out in section 12 of the Act;
  - (f) submitted credible plans to remedy areas of lack of capacity or non compliance, if referred to in the report by the independent auditor, within a reasonable time as agreed between the Central Bank and the applicant;
  - (g) submitted a receipt of the non refundable initial registration fee, as set out in Schedule B.

**Conditions of registration**

5. (1) The Central Bank may, having regard to the objects, and purposes of the Act, the circumstances of the application for registration, and the registration requirements, impose conditions on the registration of an applicant, where the applicant has not satisfied the requirements of registration.

(2) The applicant may be notified of the conditions contemplated in

subregulation (1) and the reasons for the conditions imposed.

(3) An applicant who has received a notification of conditions imposed on the applicant, shall respond to the Central Bank within 15 business days after that date on which the applicant first received notification.

(4) If the applicant consents, the Central Bank shall register the applicant subject to the conditions imposed.

(5) If the applicant does not respond to the notice or objects, the Central Bank may consider any objection lodged and may finally determine the conditions to be imposed, and register the applicant.

(6) The Central Bank shall inform the applicant, in writing, of a decision in terms of subregulation (5).

#### **Review of conditions of registration**

6. (1) A registrant may on compelling grounds apply to the Central Bank for the review or variation of any condition of registration.

(2) On receipt of an application under subregulation (1), the Central Bank may determine the application having regard to -

- (a) the purposes and objectives of the Act;
- (b) the prescribed registration requirements; and
- (c) the compelling grounds submitted by the applicant.

(3) A determination under subregulation (2), may be referred by an applicant to a competent court for review.

#### **Certificate of registration**

7. A certificate of registration issued in terms of section 16 of the Act, shall specify -

- (a) the identity of the registrant;

- (b) the company registration number and, in the case of a partnership, the words “trading in partnership” shall be specified;
- (c) the activities that the registration permits the registrant to engage in, conduct or make the activities available to the public;
- (d) registration number of the registrant issued by the Central Bank;
- (e) signature of a duly authorised representative of the Central Bank;
- (f) certificate number;
- (g) date on which the certificate was issued.

### PART III – REGULATION AND SUPERVISION OF CREDIT BUREAU

#### Chapter A – Annual Compliance Reporting

##### **The annual compliance report**

8. A registrant shall submit to the Central Bank an annual compliance report, compiled by an auditor following special investigations, due diligence and factual findings in accordance with the guidelines stipulated in Guideline CB1 set out in Schedule B, addressing the following matters -

- (a) adequacy of policies, processes and procedures employed by it to ensure -
  - (i) the accuracy and integrity of data received, maintained and reported by it;
  - (ii) the confidentiality and security of data received, maintained and reported by it;
  - (iii) data released as permitted by the Act;



- (iv) the display of data for fixed reasonable periods, as stipulated in the Credit Information Reporting Standards stipulated under guideline CB2;
  - (v) rights of a consumer to access their reports and challenge information contained in it;
  - (vi) compliance with the Credit Information Reporting Standards stipulated under guideline CB2.
- (b) Incidence of requests for correction of data in terms of sections 27(2) and 27(3) of the Act, and resolution of such requests, more particularly -
- (i) total requests for correction of data;
  - (ii) reasons for requests to correct data;
  - (ii) incidence of data corrected at the request of the consumer.

#### **Time-frame for submission of annual compliance report**

9. A compliance report submitted by a registered credit bureau in terms of regulation 8 above shall be submitted to the Central Bank on or before the 15th March each year for the period starting 1st January and ending on 31st December.

#### **Processing of Annual Compliance Report by the Central Bank**

10. On receipt of an annual compliance report from a registered credit bureau, the Central Bank shall -

- (a) in writing, acknowledge receipt of the report;
- (b) make an assessment of the report and communicate the outcome of the assessment to the registrant credit bureau;
- (c) If the outcome of the assessment of the report reflects

areas of non compliance found, the Central Bank may -

- (i) provide the registrant with an opportunity to remedy the shortcomings found;
- (ii) issue a compliance notice in terms of section 35 of the Act;
- (iii) cancel the registration in terms of section 17 of the Act if the registrant has repeatedly contravened the Act.

### **Chapter B – Credit Information Reporting Standards**

#### **Standards for the filing, retention and reporting of credit information**

11. (1) In terms of section 7(2) of the Act, the Central Bank may prescribe standards for the filing, retention and reporting of credit information in the Credit Information Reporting Standards.

(2) The Credit Information Reporting Standards shall, among other things, address matters such as display and retention periods for credit information; maintenance, retention and reporting of credit information by credit bureau.

(3) The Credit Information Reporting Standards set out in Schedule B may be amended, varied or supplemented by the Central Bank by written notification to all registrants.

### **PART IV – CREDIT BUREAU REPORTING**

#### **Quarterly synoptic report to be submitted by registered credit bureau**

12. (1) A registered credit bureau shall in terms of sections 9(1)(a) and 8 of the Act submit a quarterly synoptic report in accordance with the report template and report Guidelines prescribed in form CB4, and definitions stipulated in Guideline CB2, regarding -

- (a) the total number of credit active consumers that are natural persons;

- (b) the total number of credit active consumers that are juristic persons;
- (c) the credit standing of the consumers that are natural persons, in particular, the number of the consumers that are natural persons in good standing; and the number of the consumers that are natural persons with impaired records;
- (d) the total number of consumer accounts pertaining to natural persons, in good standing, and the total number of the consumer accounts pertaining to natural persons with impaired records;
- (e) the total number of the consumer accounts, pertaining to juristic persons in good standing and with impaired records;
- (f) credit market activity, with respect to the following credit products, mortgages, vehicle and asset finance, unsecured credit loans, credit facilities, and telecommunication services in respect of which payment is made in arrears;
- (g) total outstanding book debt per credit product, amount in arrears per credit product and amount in relation to adverse information and civil court judgment information for debt.

(2) A report on each credit product in terms of subregulation (1)(f) shall be in the following categories -

- (a) small credit agreement;
- (b) medium credit agreement; and
- (c) large credit agreement.

(3) In reporting in terms of subregulation (1), a registered credit bureau shall report on credit extended in Lesotho or credit extended in other coun-

try to natural persons that are Lesotho citizens, or juristic persons registered in Lesotho.

(4) A registered credit bureau shall submit a quarterly synoptic report referred to in subsection (1), in accordance with the report template on Form CB4 set out in Schedule A, in respect of the quarters and by the following due dates -

- |     |          |                         |              |
|-----|----------|-------------------------|--------------|
| (a) | quarter1 | 1 January – 31 March    | 15 May;      |
| (b) | quarter2 | 1 April – 30 June       | 15 August;   |
| (c) | quarter3 | 1 July – 30 September   | 15 November; |
| (d) | quarter4 | 1 October – 31 December | 15 February. |

(5) The Central Bank may, after consultation with a registered credit bureau, vary or amend the content of the quarterly synoptic report.

#### **Data supplier report**

13. A registered credit bureau shall, in terms of section 9(1)(b) of the Act, submit a data supplier report to the Central Bank on or before the 10th working day of each month, regarding -

- (a) credit providers, with a place of business in Lesotho, from whom the registrant has accepted and loaded credit information;
- (b) credit providers, with a place of business in Lesotho, who have supplied credit information which the registrant has rejected, and the reason for the rejection;
- (c) credit providers with a place of business in Lesotho, who have not supplied credit information;
- (d) credit providers with a place of business in Lesotho, who have accessed credit information for credit assessment in accordance with section 30 of the Act.

(2) A credit bureau data liaison officer shall be appointed by the Central Bank for purposes of regulating the submission of accurate, complete and up-to-date credit information by all credit providers extending credit in Lesotho to a registered credit bureau.

**Processing of reports submitted in terms of this chapter  
by the Central Bank**

14. On receipt of a quarterly synoptic report or data supplier report from a registered credit bureau, the Central Bank shall -
- (a) acknowledge receipt of the report in writing;
  - (b) make an assessment of the report within a reasonable period;
  - (c) In the case of a quarterly synoptic report, communicate the outcome of the assessment to all stakeholders within the credit market;
  - (d) In the case of a data supplier report, take reasonable steps based on the outcome of the report to ensure that credit providers with a place of business in Lesotho, submit complete, accurate and up-to-date credit information to a registrant credit bureau;
  - (e) If a credit provider with a place of business in Lesotho fails to submit a complete, accurate and up-to-date credit information to a registrant credit bureau, the Central Bank may, after consulting with the credit provider -
    - (i) require that the credit provider submit within a reasonable period, specified categories of credit information, not previously submitted; or
    - (ii) issue the credit provider with a compliance notice for failing to comply with its obligation in terms of section 19(2) of the Act;
  - (f) If a registered credit bureau fails to submit a report, or

submits an incomplete or inaccurate report, the Central Bank may, after consulting with the registrant -

- (i) provide the registrant with a reasonable opportunity to remedy the shortcomings found;
- (ii) issue a compliance notice in terms of section 35 of the Act; or
- (iii) cancel the registration in terms of section 17 of the Act if the registrant has repeatedly contravened the Act.

## PART V – RECORD-KEEPING AND PRESCRIBED FORMS

### **Records of registered activities to be retained by credit bureaux**

15. A registrant shall maintain records of registered activities, in paper or electronic format, readily accessible for a period of three years from the date on which the registrant created, signed or received the document.

### **Forms and use of forms**

16. (1) The forms to be used, for the purposes of these regulations, shall be as set out in Schedule A.

(2) If a prescribed form is used with any other information or document not prescribed, the prescribed form shall be clearly distinguishable from the information or document not prescribed.

(3) If a prescribed form is used in conjunction with another prescribed form, each shall be clearly distinguishable from the other.

- (4) Where a form or document is prescribed in these regulations -
  - (a) it shall be sufficient if a person required to prepare such a form or document does so in a form that satisfies all the substantive requirements as to content and design of the prescribed form; and

- (b) any deviation from the prescribed form shall not invalidate the form, unless the deviation fails to satisfy the requirements set out in paragraph (a), negatively affects the substance of the document or is deceptive or misleading.

**Electronic submission of forms.**

17. A form that has to be submitted to the Central Bank may be submitted electronically.

**DATED:**

**DR. RETŠELISITSOE MATLANYANE  
GOVERNOR OF THE CENTRAL BANK OF LESOTHO**

1. Act No. 1 of 2012
2. Act No. 12 of 2000



## SCHEDULE A

(regulation 3)

**FORM CB1 – APPLICATION TO BE REGISTERED AS A CREDIT BUREAU**

(Application form CBI is obtainable from the Central Bank of Lesotho)

**FORM CB2 – RESOLUTION BY APPLICANT TO APPLY TO BE REGISTERED AS A CREDIT BUREAU**

Resolution of the Members/Directors/Trustees/Partners of

.....(the  
entity) ..... Registration number (if  
applicable)

taken at ..... on ..... date ..... of.....  
month..... year

**RESOLVED THAT -**

1. The entity ..... applies to the Central Bank for registration as a credit bureau.
2. .... (full name of person) be and is hereby authorised by the entity, to sign all such documentation and take all such steps as may be necessary to give effect to the above mentioned decision.
3. The entity understands that it will be liable for any action by any broker or agent who acts on behalf of the entity.

FULL NAME(S): .....

SIGNED: .....

(Properly mandated  
representative of the  
applicant)

Date





- (1) the existence of business plans;
- (2) lower-level supporting procedures;
- (3) remediation plans to address known deficiencies, for purposes of operating a credit bureau to serve the Lesotho market, and
- (4) provide a brief high level summary of the contents of such business plan;
- (5) The business plan should specifically refer to the strategy to collect, host and report credit information on -
  - (a) all persons that are the recipients of credit in Lesotho; and
  - (b) all natural persons that are Lesotho citizens, or juristic persons registered in Lesotho that are recipients of credit in any other country.

## **2. Organizational Overview**

Please indicate -

- (1) existing personnel holding key positions within the applicants' organisation as well as
- (2) the overall organizational structure.

### **More Specifically:**

- (a) Resource Strategy & Planning
  - i. Indicate sufficiency of resources (IT, administration or call centre) to manage data to be received and administration requests;
  - ii. If no or inadequate resource available, indicate plan to acquire additional resource;

- iii. Indicate qualifications/experience of administration or call centre staff to manage consumer, data supplier and other requests.

### **3. Site Overview**

Please describe the applicant's building and site facilities for purposes of demonstrating its conduciveness to business operations.

### **4. Business Integrity**

The object is to establish the integrity of the juristic person applying for membership as well as the integrity of the natural persons exercising management and control of the juristic person.

#### **More specifically**

provide background reports on -

- (a) persons who exercise management and control of the applicant, including a certification that -
  - (i) such persons are "fit and proper" persons of good standing, and do not have any criminal records;
  - (ii) have not been subject to insolvency proceedings; and
  - (iii) have a good standing with the relevant government taxation authorities;
- (b) the juristic person /company applying for membership; including confirmation of record of registration of company; and that the company has a good standing with the relevant government taxation authorities.

### **5. Corporate Finance: Sources of Finance**

For purposes of financial due diligence, please indicate sources of finance re-