



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Bank of Namibia Act 15 of 1997

section 59 read with section 3

Credit Bureau Regulations

Government Notice 103 of 2014

(GG 5518)

came into force on date of publication: 31 July 2014

The Government Notice which publishes these regulations, as well as the Government Notice which publishes amendments to the regulations, note that they were made in consultation with the Bank of Namibia.

as amended by

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ARRANGEMENT OF REGULATIONS

PART 1

INTRODUCTORY PROVISIONS

1. Definitions
2. Application of regulations

PART 2

REGISTRATION AND LICENSING OF CREDIT BUREAU

3. Registration of credit bureaus
4. Application for licence
5. Issuance of licence
6. Refusal to issue licence
7. Appeals procedure

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

8. Annual licence fee
9. Validity of licence
10. Notice to revoke licence
11. Application for review
12. Surrender of licence
13. Transfer of licence

PART 3
COLLECTION OF CREDIT PERFORMANCE INFORMATION

14. Sources of credit performance information
15. Search enquiries
16. Nature of information to be shared
17. Prohibited information

PART 4
OBLIGATIONS OF CREDIT BUREAU

18. Collected information
19. Credit reports
20. Restrictions on the use of credit performance information
21. Data management and quality control

PART 5
OBLIGATIONS OF CREDIT PERFORMANCE INFORMATION PROVIDERS

22. Obligations of credit performance information providers

PART 6
DATA SUBJECT RIGHTS AND PROTECTION

23. Right to information and data
24. Right to challenge incorrect information
25. Record of challenges
26. Suspension to access
27. Fee charged by credit bureau

PART 7
POWERS OF BANK

28. Powers of Bank
29. Inspection by Bank

PART 8
GENERAL PROVISIONS

30. Sale of credit performance information
31. Retention period of data subject information on credit bureau database
32. Disposal of information
33. Indemnification
34. Non-compliance Notice

ANNEXURES

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

PART 1
PRELIMINARY PROVISIONS

Definitions

1. In these regulations unless the context requires -

“Bank” means the Bank of Namibia;

“credit” when used as a noun, means -

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

“credit agreement” means an agreement between the credit provider and the data subject that sets out the rights and obligations of parties on the disbursements and the repayment of credit;

“credit bureau” means an entity specialised in the collection and sale of credit performance information for individuals and businesses and registered as a credit bureau in terms of these regulations;

“credit facility” means credit provided by a credit provider to a data subject;

“credit history” means all credit information about a data subject which is recorded or retained in a form determined by the Bank by a credit bureau and includes both favourable and unfavourable credit information;

“credit performance information” means any favourable or unfavourable information bearing on a credit history and payment profile of a person;

“credit performance information provider” means a person, business or institution that is required to provide credit performance information to a credit bureau and includes entities listed in Annexure 3;

“credit provider” means any agency, entity or institution that carries on business involving the provision of credit to a person and includes entities listed in Annexure 3;

“credit report” means information issued by a credit bureau containing all or part of data subject’s credit history;

“credit score” means a numerical expression determined by the Bank in consultation with credit bureaus and credit providers based on a credit history and payment profile of a data subject that is used to determine creditworthiness of a data subject;

“data subject” means an individual or a business entity whose information can be shared in terms of these regulations;

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

“debt collection agency” means an entity or institution that collects unpaid or past due debts on behalf of credit providers and such agency may include a legal practitioner involved in collection of debt on behalf of individuals or businesses;

“favourable credit performance information” means information, other than unfavourable credit information, regarding all credit facilities made available by a credit provider to a data subject, and includes timely payments of loans;

“Minister” means the Minister responsible for finance;

“search enquiry” means a request made by a subscriber for credit performance information to a credit bureau”;

“subscriber” means a credit provider that subscribes to receive credit performance information from a credit bureau;

“the Act” means the Bank of Namibia Act, 1997 (Act No. 15 of 1997); and

“unfavourable credit performance information” means any adverse credit information relating to a data subject including but not limited to:

- (a) refer to drawer cheques;
- (b) closing of bank accounts other than for administrative reasons;
- (c) being involved in proven cases of fraud, corruption, theft or forgery;
- (d) making false declarations and statements in a credit application;
- (e) being subjected to bankruptcies and liquidations; and
- (f) defaulting on credit agreements or making late payments on all types of credits.

Application of regulations

2. These regulations apply to all credit bureaus, credit providers, data subjects and all persons who engage in the business set out in regulation 3(1).

PART 2
REGISTRATION AND LICENSING OF CREDIT BUREAU

Registration of credit bureau

3. (1) A person who engages in the business of -
- (a) receiving reports of or investigating -
 - (i) credit applications;
 - (ii) credit agreements;
 - (iii) payment history or patterns; or

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

- (iv) credit performance information;
- (b) compiling and maintaining data from reports contemplated in paragraph (a); and
- (c) issuing reports concerning data subjects based on information or data referred to in paragraph (b),

must apply for registration as a credit bureau in accordance with these regulations.

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

(3) A person may not be registered as a credit bureau, unless the person meets the requirements relating to -

- (a) the appropriate qualification, competence, knowledge and experience requirements for its employees or contractors who have authority to represent it in any function under these regulations;
- (b) the human, financial and operational resources requirements necessary to enable it to function efficiently and to carry out effectively its functions in terms of these regulations;
- (c) a system to enable the bureau to consolidate credit performance information from data providers and disseminate credit performance information to subscribers;
- (d) the procedures to ensure that questions, concerns and complaints of data subjects or credit providers are treated equitably and consistently in a timely, efficient and courteous manner; and
- (e) the registration as a Namibian taxpayer.

(4) A person may not register as a credit bureau if he or she conducts business as a credit provider or debt collection agency.

(5) Only close corporations registered under the Close Corporations Act, 1988 (Act No. 26 of 1988) or companies registered under the Companies Act, 2004 (Act No. 28 of 2004) may be considered for registration as a credit bureau.

[subregulation (5) substituted by GN 177/2014]

Application for licence

4. (1) An application for a licence to conduct a credit bureau business is made to the Bank in the form set out in the Annexure 1.

(2) The application is accompanied by the following information and supporting documents and any other information that the credit bureau considers necessary or as the Bank may require from time to time -

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

- (a) certified copies of certificate of incorporation or registration of applicant, its memorandum and articles of association;
 - (b) feasibility study by the applicant, showing the nature of the planned business, organisational structure, internal control system and monitoring procedures of the company, covering among other things, the following aspects -
 - (i) market analysis;
 - (ii) ownership structure;
 - (iii) governance and management structure;
 - (iv) business plan;
 - (v) business continuity plan; and
 - (vi) operational manuals that ensure the accuracy of the information contained in its database as well as the timely updating of the information;
 - (c) management processes, including -
 - (i) the software required for operation;
 - (ii) characteristics of products and services to be provided to subscribers;
 - (iii) procedure manuals; and
 - (iv) proposed security and control measures aimed at preventing misuse or improper management of information;
 - (d) overview of operations including the description of systems, design of the data collection and dissemination including the unique identification system for individuals and businesses that is adequate to ease the collection of data and handling of the database;
 - (e) a description of premises of the applicant and its suitability for customer service and the description of the security measures to be adopted;
 - (f) the proposed fee structure;
 - (g) a sample format of information that a credit bureau may supply to subscribers;
 - (h) a prototype of the final product that demonstrates the principal features and functions of the system; and
 - (i) payment of a non-refundable application fee as provided in Annexure 4.
- (3) The Bank must consider an application for a licence within 60 working days after the date of receipt of the application.

Issuance of licence

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

5. (1) If the applicant meets the requirements set out in these regulations, the Bank must issue the applicant with a credit bureau licence.

(2) Where the Bank is dissatisfied with the information submitted by the applicant for purposes of processing the application -

- (a) the Bank may request for additional information; or
- (b) for the applicant to make representation before the Bank makes a final determination.

(3) Where the Bank is satisfied that all the necessary requirements are met, the Bank must notify the applicant to submit to the Bank a declaration sworn under oath by the chief executive officer of the applicant in the form set out in Annexure 2.

(4) Where the Bank is satisfied that the requirements of subregulation (3) are complied with, the Bank must issue a licence with a number to the applicant permitting it to carry on the business of a credit bureau.

(5) A credit bureau must at all times display the licence issued under subregulation (4) at the place of business and quote such number when dealing with the Bank, credit providers, credit performance information providers, data subjects and debt collection agencies.

- (6) The Bank may -
 - (a) endorse a licence granted under these regulations with such conditions as the Bank may consider necessary; and
 - (b) add, vary or substitute such conditions as the Bank considers appropriate.

Refusal to issue licence

6. (1) Where the requirements of issuance of a licence as provided in these regulations are not met, the Bank may refuse to grant such licence and must communicate the reasons for its refusal to the applicant.

(2) An aggrieved party may appeal to the Minister within 21 working days after being notified of the refusal.

Appeals procedure

7. (1) After the receipt of an appeal filed under regulation 6(2) the Minister must consider the appeal based on the information submitted in the application for registration in terms of regulation 4.

- (2) The Minister may -
 - (a) confirm the decision of the Bank; or
 - (b) reverse the decision of the Bank if -
 - (i) the Bank failed to follow the laid down procedures;
 - (ii) the decision of the Bank was contrary to law;

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

- (iii) there was no factual basis for the Bank to refuse the application; or
- (iv) based on the review of the record, the Bank committed an apparent error in its assessment of facts or abused its discretion.

(3) The Bank and the appellant under this regulation are bound by the decision of the Minister on appeal.

Annual license fee

8. (1) A credit bureau is required to pay to the Bank an annual licence fee as set out in Annexure 4.

[The word “as” is repeated.]

(2) The annual license fee referred to in subregulation (1) is paid at the time of registration and every other year before the anniversary date of registration for the licence to be renewed by the Bank.

(3) A credit bureau must pay its annual licence fee before or on the date of anniversary of its registration.

(4) Where the annual fee is not paid in terms of subregulation (3), the bureau must pay double the licence fee, if payment is made within 60 working days after the date of its registration.

(5) If payment is made after the 60 working days in terms of subregulation (4), the Bank may revoke the licence of the credit bureau.

Validity of licence

9. A licence issued under these regulations remains valid, unless revoked by the Bank.

Notice to revoke licence

10. (1) Where the Bank intends to suspend or revoke a licence it must issue a written notice to the credit bureau giving reasons to suspend or revoke the licence.

(2) The written notice referred to in subregulation (1) must request the credit bureau to make written representation to the Bank within the period specified in the notice to show cause why the licence may not be suspended or revoked.

Application for review

11. (1) The credit bureau may, within 21 working days from the date of receipt of the notice of intention to suspend or revoke a licence, apply to the Bank for review of such intention stating the reasons and provide further information to be considered by the Bank.

(2) The Bank may, at the expiration of 21 working days provided for in subregulation (1) and after considering the representations, if any, made by the credit bureau concerned -

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

- (a) suspend or revoke the licence;
- (b) amend the conditions subject to which the licence was granted; or
- (c) decide not to suspend or revoke the licence or to amend the conditions referred to in paragraph (b),

and must as soon as possible in writing inform the credit bureau of its decision.

(3) If a licence referred to in subregulation (2) is suspended or revoked and the credit bureau is not satisfied with the decision of the Bank to suspend or revoke such a licence the credit bureau may appeal to the Minister within 21 working days of being informed of the decision of the Bank.

(4) The decision of the Minister given in terms of subregulation (3) is binding on all parties.

Surrender of licence

12. A credit bureau must surrender the licence to the Bank where a credit bureau terminates its business or has its licence revoked.

Transfer of licence

13. The licence issued under these regulations may not be transferred.

[The word "transferred" is misspelt in the *Government Gazette*, as reproduced above,]

PART 3 COLLECTION OF CREDIT PERFORMANCE INFORMATION

Sources of credit performance information

14. (1) A registered credit bureau may collect, receive, collate, compile and disseminate credit performance information concerning a data subject from sources set out in Annexure 3.

(2) The source referred to in subregulation (1) is obliged to provide information to all licenced credit bureaus.

Search enquiries

15. (1) A credit bureau must maintain a record of all search enquiries made on the credit history of the data subject.

(2) The record referred to in subregulation (1), includes the date of the search enquiry and name of the person who conducted the search.

(3) Where the results of a search enquiry show that there is no unfavourable credit information of the data subject, a record must be created and maintained on the subject of the search enquiry including the -

- (a) date of the search enquiry;

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

(b) name of the subscriber user; and

(c) purpose of the search enquiry.

(4) A record of both favourable and unfavourable information created in terms of subregulation (3) is made available to credit providers for credit assessment purposes.

Nature of information to be shared

16. (1) A credit performance information processed in the manner provided for in regulation 13(1) must be compiled in a credit report and shared with subscribers in accordance with these regulations, and may include -

(a) financial information of a data subject which includes;

(i) the number and amount of credit facility;

(ii) the repayment period of each credit facility; and

(iii) interest rate and other charges for each credit facility;

(b) the identity of the data subject, including -

(i) in the case of a natural person, his name, gender, date of birth, national identity number or passport number, past and current addresses and other contact details;

(ii) in the case of a data subject who is not a natural person, its name, registration number, name of directors, shareholders or partners, past and current addresses and other contact details including telephone number and electronic mail address;

(c) the credit history of the data subject, including the nature and amounts of credit facilities granted or to be granted to the data subject, outstanding amounts and related matters;

(d) the nature and details of security taken or proposed to be taken by a credit provider as security for the credit mentioned in subregulation (2)(c), and other related matters; and

(e) details of patterns of payments of credit or default in the repayment by the data subject, referred to drawer cheques, debt restructuring and actions taken by a credit provider or debt collection agency to recover unpaid amounts including legal proceedings and related matters.

(2) Credit performance information are furnished using a standard format established by agreement between the institutions furnishing information and registered credit bureaus, or as determined by the Bank.

Prohibited information

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

17. A credit bureau may not contain in its database or include in the credit report any information relating to the race, colour, ethnic origin, sex, religion or social or economic status of the data subject.

PART 4
OBLIGATIONS OF CREDIT BUREAU

Collected information

18. (1) A credit bureau must accept the filing of credit performance information from any source set out in Annexure 3.

(2) A credit bureau must take all reasonable precautions to ensure that all credit performance information received or collected is -

- (a) properly and accurately recorded, maintained, collected and classified, processed, updated and consolidated in order to provide a comprehensive representation on a data subject;
- (b) protected against loss by ensuring availability of data back up and disaster recovery facilities; and
- (c) protected against unauthorised access, use, modification or disclosure.

Credit reports

19. (1) A credit bureau must implement the following measures in relation to credit reports -

- (a) establish controls and procedures to be applied when subscribers request credit reports from the credit bureau;
- (b) maintain automated system to retrieve credit performance information and a system to trace each entry made in the credit performance information of a data subject and to trace all accessed credit performance information by subscribers;
- (c) maintain a system to trace proven or suspected breaches of security that include details of credit history affected, details of the breach, and any action taken as a result of an investigation;
- (d) review on a regular basis of password controls of all credit bureau personnel and subscribers; and
- (e) create operational guidelines to ensure adequate protection to minimise the risk of unauthorised access of the credit bureau database.

(2) A credit bureau must issue a credit report to a data subject in a hard copy or uneditable electronic format.

(3) A credit bureau must furnish a copy of the credit report requested by a data subject within five working days of the date of request.

Restrictions on use of credit performance information

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

20. (1) A credit bureau must -

- (a) protect the confidentiality of consumer information received in terms of these regulations and must only report or release such information to subscribers as explicitly authorised in writing by the data subject concerned, subject to subregulation (3), or any other law; and
- (b) observe through its shareholders, directors, officers, employees or agents, a perpetual duty of confidentiality with regard to the information divulged to them in terms of these regulations.

(2) A credit bureau must release credit performance information to a subscriber or law enforcement agency -

(a) for the purpose of -

- (i) an investigation into fraud, corruption, theft or forgery, provided that the Namibian Police Force or any other law enforcement agency conducts such an investigation;
- (ii) fraud detection and fraud prevention services;
- (iii) screening a candidate for employment in a position that requires trust and honesty and entails the handling of cash or finances;
- (iv) an assessment of the debtors book of a business for the purposes of –
 - (aa) the sale of the business or debtors book of the business; or
 - (bb) any other transaction that is dependent upon determining the value of the business or the debtors book of the business;
- (v) assessing the appropriateness of an application for credit;
- (vi) setting a limit in respect of the supply of goods, services or utilities to a data subject;
- (vii) assessing the appropriateness of an application for insurance services;
- (viii) obtaining data subject information to distribute unclaimed funds, including pension funds and insurance claims;
- (ix) tracing of a data subject by a credit provider in respect of a credit agreement entered into between the data subject and the credit provider; and
- (x) developing a credit score on request;

(b) that has certified to the credit bureau that the subscriber uses the credit performance information for the purpose as set out in these regulations and for no other purpose; and

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

(c) that has agreed to properly dispose of credit performance information so that such information cannot reasonably be read or reconstructed.

(3) Where a report is required in terms of subregulation (2)(a)(iii), (v), (vi) or (vii), a written consent of a data subject is required.

(4) In addition to the credit performance information in these regulations, a registered credit bureau may receive, compile and report the following information in respect of a data subject -

- (a) status and credit history of outstanding obligations and payments under a credit agreement and in respect of goods, services or utilities supplied to the data subject;
- (b) payments made in respect of a debt, where the debt has been ceded or sold by the credit provider to another party;
- (c) information that is not related or intended for the purpose of providing credit, provided that the consent of the data subject has been obtained to use the information for such purpose and to submit, compile and report such information.

(5) A subscriber may use credit performance information received from a credit bureau only for purposes of reaching decisions on the business of the subscriber in the ordinary course of such business.

(6) A subscriber may not release credit performance information to a third party, other than the appointed agent of the subscriber, for the purpose of assisting the subscriber in the recovery of any of its debts from a data subject.

(7) A credit bureau must have such procedures to deal with all requests and enquiries made by the data subjects on credit information stored in the credit bureau database and must display such procedure at a place and in a manner accessible and available to data subjects.

Data management and quality control

21. (1) A credit bureau must -

- (a) implement strict quality control procedures to ensure the maximum accuracy of its database and the continuity of its services;
- (b) utilise the information collected solely for the purposes set out in these regulations;
- (c) take all necessary steps to ensure that credit performance information maintained is -
 - (i) current;
 - (ii) authentic;
 - (iii) legitimate;
 - (iv) reliable;

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

- (v) accurate;
 - (vi) truthful; and
 - (vii) that it reflects the credit history of the data subject;
- (d) take measures necessary to correct credit performance information in its database that is contrary to provisions of these regulations or are inaccurate or no longer valid;
 - (e) maintain rigorous standards of security and reliability; and
 - (f) protect data against any loss, corruption, destruction, misuse, undue access or disclosure.

PART 5
OBLIGATION OF CREDIT PERFORMANCE INFORMATION PROVIDER

Obligations of credit performance information providers

- 22.** (1) A credit performance information provider must -
- (a) provide credit performance information to all credit bureaus that meet the requirements as set out in these regulations;
 - (b) enter into an agreement with credit bureaus that stipulates the conditions for supplying, obtaining and using credit performance information, which agreement may not be inconsistent with these regulations; and
 - (c) undertake to provide complete, accurate and timely credit information that accurately reflects the consumer behaviour of the data subject.
- (2) Where -
- (a) credit performance information is found to be inaccurate by the credit bureau; or
 - (b) the accuracy of credit performance information is challenged by the data subject,

the credit performance information provider must institute investigations.

(3) A credit information provider must complete the investigation instituted in terms of subregulation (2) within 20 working days.

PART 6
DATA SUBJECT RIGHTS AND PROTECTION

Right to information and data

- 23.** (1) A data subject has a right to -
- (a) be informed by a credit provider upon approval of credit application regarding the type of information shared or to be shared on the data subject;

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

- (b) access a credit report from a credit bureau related to that specific data subject;
- (c) obtain a free copy of a credit report related to that specific data subject from a credit bureau, upon request, if the data subject is a natural person, once every 12 months to be delivered in a medium and manner as agreed upon between the data subject and the credit bureau; and
- (d) challenge information contained in the credit report.

(2) A data subject who is a corporate entity must, upon a request for a credit report, pay a fee to the credit bureau for the credit report to be delivered to it in a medium and manner as agreed between it and the credit bureau.

Right to challenge information

24. (1) A credit bureau must inform a data subject of his or her right to challenge the information maintained in the credit bureau database at the time the data subject requests a copy of his or her credit report.

(2) Where a data subject is of the view that credit performance information maintained in the credit bureau database is -

- (a) inaccurate;
- (b) erroneous; or
- (c) outdated,

the data subject may notify the credit bureau of the disputed information.

(3) Where a credit bureau is challenged for issuing credit report containing inaccurate, erroneous or outdated information, it -

- (a) must endorse the disputed credit report with a note on specific items which are subject to dispute, until such time when the dispute is resolved;
- (b) must request the credit performance information provider to provide credible evidence within seven working days in support of the challenged information;
- (c) must within 20 working days after the filing of the challenge -
 - (i) provide a copy of any such credible evidence to the person who filed the challenge; or
 - (ii) remove the information, and all record of it, from its files, if it is unable to find credible evidence in support of the challenged information;
- (d) may not report any information that is challenged until the challenge has been resolved in terms of this subregulations to avoid giving such challenged information.

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

(4) A credit bureau must provide the data subject whose disputed credit performance information has been corrected with a correct credit report free of charge.

(5) Where a credit performance information provider has provided a credit bureau with information that is disputed, a data subject may appeal to the Bank within five working days of receipt of information of the completion of the investigation of the disputed information.

(6) The Bank must investigate and consider the appeal referred to in subregulation (5) within 15 working days and communicate its findings in writing to the -

- (a) credit performance information provider;
- (b) credit bureau; and
- (c) data subject concerned.

(7) Any information under dispute is flagged as disputed information in all credit reports until the appeal referred to in subregulation (5) has been finalised.

(8) Where it transpires after the investigation of disputed information by the Bank in terms of subregulation (6) that there are no grounds for the data subject to dispute the information, the credit bureau has the right to re-enter the credit performance information of the data subject into the relevant credit reports.

Record of challenges

- 25.** (1) A credit bureau must -
- (a) maintain a record of all challenged information and its status;
 - (b) document the manner in which it was resolved; and
 - (c) relay such information monthly to the bank, in a format determined by the Bank.

Suspension of access

26. (1) Where a credit performance information provider fails to respond or conclude necessary investigations within 20 working days in terms of regulation 24(3)(c), the credit bureau must -

- (a) suspend access by the credit performance information provider to credit performance information until the failure to respond or the conclusion of necessary investigations is rectified; and
- (b) report such incidence to the Bank.

Fee charged by credit bureau

27. A credit bureau may charge a fee as per its fee structure for its services, notified and submitted to the Bank through periodic returns in terms of regulation 28(3).

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

POWER OF BANK

Power of Bank

28. (1) The Bank is authorised to licence, regulate and supervise credit bureaus.
- (2) In exercising its powers under sub-regulation (1), the Bank must -
- (a) inspect credit bureau premises and operations to ensure compliance to these regulations;
 - (b) ensure that a credit bureau continues to meet the requirements of registration in terms of regulation 3; and
 - (c) issue -
 - (i) directives;
 - (ii) determinations;
 - (iii) guidelines; and
 - (iv) circulars,to direct and clarify the way the Bank carries out its supervisory functions under these regulations.
- (3) A credit bureau must submit to the Bank periodic returns and statistics in the format and frequency determined by the Bank.

Inspection by Bank

29. (1) The Bank may conduct inspections at any credit bureau.
- (2) Before conducting an inspection, the Bank must provide reasonable notice to the credit bureau.
- (3) The credit bureau must, prior or during inspection, furnish any record, data or information requested by the Bank.
- (4) After conducting physical inspection, the Bank must provide the credit bureau with a summary of findings on deficient areas requiring correction and the credit bureau must provide an action plan for correction of the deficiencies within 10 working days after the conclusion of the inspection.
- (5) If the Bank is satisfied with the action plan contemplated in subregulation (4), the Bank must grant the credit bureau 10 working days to implement the actions to correct the deficient areas.

PART 8
GENERAL PROVISIONS

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

Sale of credit performance information

- 30.** (1) A credit bureau may not, apart from its own business of selling credit reports -
- (a) sell;
 - (b) lease;
 - (c) transfer title of its credit performance information; or
 - (d) any file,

unless such sale, lease or transfer is done to another credit bureau with the approval of the Bank.

(2) Nothing contained in these regulations may prevent a credit bureau from doing market segmentation and sell aggregated credit performance information, but personal information of data subjects may not be disclosed.

Retention period of data subject information on credit bureau database

- 31.** (1) In this regulation -

“adverse classifications of consumer behaviour” means subjective classifications of consumer behaviour, determined by the Bank and includes classifications such as ‘delinquent’, ‘slow paying’, ‘absconded’ or ‘not contactable’;

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

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

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

(2) Any favourable and unfavourable credit performance information of a data subject is retained in the credit bureau database and is accessible to all subscribers as set out in the Table:

TABLE
CREDIT PERFORMANCE INFORMATION

Categories of credit performance information	Description	Maximum period for which credit performance information is retained from date of commencement of event
1. Details and results of disputes lodged by consumers	Number and nature of complaints lodged and whether complaint was rejected. No information may be displayed on complaints that were upheld	2 years
2. Enquiries	Number of enquiries made on a	2 years

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

	record of a data subject, including the name of the entity or person that made the enquiry and a contact person if available	
3. Payment profile	Factual information pertaining to the payment profile of the data subject	5 years
4. Adverse classifications of consumer behaviour	Subjective classifications of behaviour of a data subject as consumer	1 year
5. Adverse classifications of enforcement action	Classifications related to enforcement action taken by the credit provider	2 years
6. Civil court judgments	Civil court judgments including default judgments	The earlier of 5 years or until the judgment is rescinded by a court or abandoned by the credit provider
7. Administration orders	As per court order	The earlier of 10 years or until order is rescinded by a court
8. Sequestrations	As per court order	The earlier of 10 years or until rehabilitation order is granted
9. Liquidations	As per court order	Unlimited period
10. Rehabilitation order	As per court order	5 years
11. Favourable credit performance information	Factual information other than unfavourable credit information, regarding all credit facilities made available by a credit provider to a data subject, and includes timely payments of loan	Unlimited period
12. Other information	Any other information not included in any category above	2 years

Disposal of information

32. (1) Where a credit bureau terminates business and surrenders its licence due to bankruptcy or liquidation, the data provided to the credit bureau by credit performance information providers and sources stored in the database of the credit bureau is surrendered to the Bank without any compensation.

(2) The Bank may make information in the database mentioned in subregulation (1) available to another credit bureau.

Indemnification

33. (1) The Bank or an employee or representative of the Bank or any person performing a function or exercising the power in terms of these regulations, is not liable for damage caused by any action taken or report presented in good faith to further the objects of these regulations, unless the damage is attributable to the gross negligence of the Bank employee, representative of the Bank or such person.

(2) A credit performance information provider must indemnify a credit bureau for any type of action or damage awards that may result from inaccurate credit performance information

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

reported to it, if the credit bureau takes all reasonable measures to ensure the information is correct when processed by the credit bureau.

Non-compliance notice

34. (1) The Bank may issue a non-compliance notice in the form determined by the Bank to -

- (a) a person whom the Bank on reasonable grounds believes -
 - (i) has failed to comply with a provision of these regulations; or
 - (ii) is engaging in an activity in a manner that is inconsistent with these regulations; or
- (b) a credit bureau whom the Bank believes has failed to comply with a condition of its registration.

(2) A non-compliance notice provided for in subregulation (1) must set out -

- (a) the name of the person or entity to whom the notice applies;
- (b) the provision, or condition not complied with;
- (c) details of the nature and extent of non-compliance; and
- (d) any steps that required to be taken and the period within which the steps are to be taken.

(3) A non-compliance notice issued in terms of these regulations remains in force until -

- (a) it is set aside by a court; or
- (b) the Bank issues a compliance certificate contemplated in subregulation (4).

(4) If the requirements of a non-compliance notice issued in terms of subregulation (1) have been satisfied, the Bank must issue a compliance certificate.

ANNEXURES

To view content without printing, scroll down.

To print at full scale (A4), double-click the icon below.



GN 103/2014
Annexures

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

ANNEXURE 1



APPLICATION FOR REGISTRATION AS A CREDIT BUREAU: BANK OF NAMIBIA ACT,
1997 (ACT NO. 15 OF 1997), CREDIT BUREAU REGULATIONS, 2014
(Regulation 4)

General information

The applicant must submit the completed application form, together with the required documentation and application fee to the Bank of Namibia, 71 Robert Mugabe Avenue, P. O. Box 2882, Windhoek.

PART 1 – APPLICANT’S INFORMATION

1. Name of applicant _____
2. Legal status (Please tick appropriate box)
 - 2.1 Private Company
 - 2.2 Public Company
 - 2.3 Close Corporation
3. Registration number _____
4. Date of commencement of trading _____
5. Financial Year–End _____
6. Income Tax registration number _____
7. VAT registration number _____
8. Contact detail of the applicant
Physical address _____

Postal address _____

Telephone number _____ Fax number _____
Website address (if applicable) _____
9. Contact person
Title _____

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

Name _____ Initials _____

Surname _____

Telephone number (office) _____ Cell number _____

E-mail address (if applicable) _____

10. Auditor/ Accounting Officer

Physical address _____

Postal address _____

Telephone number _____ Fax number _____

11. Name of Auditor or Accountant _____

Telephone number _____ Fax number _____

E-mail address _____

Practice number _____

Name of professional body registered with _____

12. Compliance Officer (if applicable) _____

Name of Compliance Officer _____

Telephone number _____ Fax number _____

E-mail address _____

If external compliance officer, name of firm _____

Postal address _____

Name of professional accredited body _____

Telephone number _____

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

Yes	No
-----	----

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

Receive reports for purposes of credit applications	<input type="checkbox"/>	<input type="checkbox"/>
Receive reports of credit agreements	<input type="checkbox"/>	<input type="checkbox"/>
Receive reports on payment history or patterns	<input type="checkbox"/>	<input type="checkbox"/>
Receive consumer credit information	<input type="checkbox"/>	<input type="checkbox"/>
Investigate credit applications	<input type="checkbox"/>	<input type="checkbox"/>
Investigate credit agreements	<input type="checkbox"/>	<input type="checkbox"/>
Investigate payment history or patterns	<input type="checkbox"/>	<input type="checkbox"/>
Compile and maintain data from such reports	<input type="checkbox"/>	<input type="checkbox"/>

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

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

	Yes	No
A credit provider	<input type="checkbox"/>	<input type="checkbox"/>
A debt collection agency	<input type="checkbox"/>	<input type="checkbox"/>

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

PART 3 – SHAREHOLDING OF APPLICANT

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

Add additional pages if required.

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

PART 4 – QUALIFICATION, COMPETENCE, KNOWLEDGE AND EXPERIENCE

1. MINIMUM QUALIFICATION, COMPETENCE, KNOWLEDGE AND EXPERIENCE REQUIREMENTS

Employees and outsource providers

Do you maintain and impose minimum qualifications, competence, knowledge and experience requirements for employees and outsource service providers who will have the authority to represent the applicant in any function

Yes	No

If so, please indicate the minimum qualification requirements imposed:

PART 5 – HOSTING OF A SERVER

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

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

Add additional pages if required.

PART 6 – HUMAN, FINANCIAL AND OPERATIONAL RESOURCES

1. Human resources

1.1 Indicate the number of staff employed _____

1.2 Does the applicant have a call centre Yes No

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

(a) Average number of calls received daily _____

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

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

1.5 Are any of the services and function of the applicant as a credit bureau out-sourced?

Yes	No

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

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

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

2. Financial resources

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

3. Operational resources (please tick appropriate box)

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

Add additional pages if required.

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

PART 7 – QUESTIONS, CONCERNS AND COMPLAINTS

(Please tick appropriate box)

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

Add additional pages if required.

PART 8 – BUSINESS PREMISES

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

1. Total number of business premises _____

2. Information required per business premises

Trading name _____

Physical address _____

Contact person _____

Telephone number _____ Fax number _____

E-mail address (if applicable) _____

Trading name _____

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

Physical address _____

Contact person _____

Telephone number _____ Fax number _____

PART 9 – DECLARATION BY CREDIT BUREAU

1. The applicant hereby permits the Bank of Namibia or any person authorised by the Bank of Namibia to enter any place at or from which the applicant conducts the registered activities during normal business hours, and to conduct inspection for compliance purposes in accordance with regulation 28(2).

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

Date: _____

Capacity: _____

Signatory: _____

Duly authorised representative of Applicant

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

PART 10 – DISQUALIFICATION OF NATURAL PERSONS

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

Name of natural person completing form: _____

Identity number: _____

Date: _____

Questions:

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

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

<p>5. If your answer on no. 4 is yes, when providing full details in respect thereof, indicate whether you received a grant of amnesty or free pardon for the offence.</p> <p>_____</p> <p>_____</p> <p>_____</p>	
<p>6. Have you ever been convicted during the previous ten years, in Namibia or elsewhere, of a crime involving violence against another natural person and been sentenced to imprisonment without the option of a fine?</p>	<p>_____</p> <p>_____</p>
<p>7. If your answer to no. 6 is yes, when providing full details in respect thereof, indicate whether you received a grant of amnesty or free pardon for the offence.</p> <p>_____</p> <p>_____</p> <p>_____</p>	

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

Signature _____ Date _____

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

ANNEXURE 2



STATUTORY DECLARATION: BANK OF NAMIBIA ACT, 1997 (ACT NO. 15 OF 1997),
CREDIT BUREAU REGULATIONS, 2014
(Regulation 5(3))

Please send completed form to the Bank of Namibia, 71 Robert Mugabe Avenue, P. O. Box 2882, Windhoek.

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

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

Sworn by _____ at the _____ day of _____

Before me,

Commissioner of Oaths

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

ANNEXURE 3



PRIMARY SOURCES OF CREDIT PERFORMANCE INFORMATION: BANK OF NAMIBIA
ACT, 1997 (ACT NO. 15 OF 1997), CREDIT BUREAU REGULATIONS, 2014
(Regulation 14(1))

1. Credit providers
 - (a) Banking institutions
 - (b) Micro lenders
 - (c) Microfinance banking institution
 - (d) Retailers providing credit
2. Utilities
 - (a) Regional Electricity Distributors (REDs)
 - (b) Bulk water suppliers
 - (c) Telecommunication companies
3. State agency, court or judicial officer
4. Local Authorities
 - (a) Municipalities
 - (b) Town Councils
 - (c) Village Councils
5. Any other entity that provides service or goods that give rise to a credit agreement.
6. In this schedule-

“State Agency” means an Office, a Ministry, or an Agency or a board, commission, company, corporation, fund or other entity established by any Act of Parliament and that by nature of their activities may lead to debts by individuals and businesses accruing to such institutions.

REGULATIONS
Bank of Namibia Act 15 of 1997
Credit Bureau Regulations

ANNEXURE 4



APPLICATION AND ANNUAL LICENCE FEES:
BANK OF NAMIBIA ACT, 1997 (ACT NO. 15 OF 1997),
CREDIT BUREAU REGULATIONS, 2014
(Regulations 4(2) and 8(1))

The application and annual fee must be paid to the Bank of Namibia, 71 Robert Mugabe Avenue, P. O. Box 2882, Windhoek.

1. An application for a license to conduct credit bureau business must be accompanied by a proof of payment of N\$ 1,000 payable to the Bank, being a non-refundable application fee.
2. A credit bureau is required to pay to the Bank an annual license fee of N\$ 10,000.00
3. Fees referred to in paragraphs (1) and (2) above must be subject to periodic review by the Minister.